



Annexes to Study to support the preparation of an impact assessment on a potential EU policy initiative on the coordination & cooperation measures to facilitate the exercise of the EU citizens' right to consular protection

Framework Contract JUST/2020/PR/03/0001 for Evaluation, Impact Assessment and Related Policy Support Services in the Justice and Consumers Policy Areas (Lot 1)

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Annexes to

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ACRONYMS AND ABBREVIATIONS

CFSP	Common Foreign and Security Policy
CoOL	Consular Online Tool
CSDP	Common Security Defence Policy
DG ECHO	Directorate-General for European Civil Protection and Humanitarian Aid Operations
DG JUST	Directorate-General for Justice and Consumers
DPREUI	Regulation (EU) 2018/1725 the Data Protection Regulation for the EU Institutions
EC	European Commission
EEAS	European External Action Service
ETD	Emergency Travel Document
EU	European Union
FTE	Full Time Equivalent
GDPR	General Data Protection Regulation
JCT	Joint Consular Team
JFW	Joint frameworks
LCC	Local Cooperation meetings
MS	Member States
PRM	Person with reduced mobility
SO	Strategic Objective
TEU	Treaty of the European Union
TFEU	Treaty on the Functioning of the European Union
UCPM	Union Civil Protection Mechanism
UK	United Kingdom

COVER LETTER

This is the Annex document to the Final Report for the **Study to support the preparation of an impact assessment on a potential EU policy initiative on the coordination & cooperation measures to facilitate the exercise of the EU citizens' right to consular protection** (the "assignment" or the "study").

The Annex document contains the following ten Annexes:

- Annex I: Methodology describes the study methodology and limitations, and research tasks carried out.
- Annex II: the functioning of Directive 2015/637: presents the analysis how the Directive has been applied in practise, identifying shortcomings and lessons learned, as well as the financial and human resources implicated in the implementation of the Directive (costs).
- Annex III: Mapping of the EU consular network and assets
- Annex IV: Mapping of Member States' consular network and assets
- Annex V: Analysis of the online survey EU Delegations
- Annex VI: Methodology and findings of quantitative analysis
- Annex VII: Overview of documents reviewed
- Annex VIII: Document review/analysis on EU citizens' feedback
- Annex IX: Cost assessment of the policy options
- Annex X: Problem Tree of preferred policy package

1. ANNEX I: METHODOLOGY

- The methodology for this impact assessment consisted of desk review, an interview programme, an online survey with EU Delegations and a questionnaire with national authorities. The table below provides an overview of the study tasks carried out, which are further described in the ensuing sub-sections.

Table 1: Overview of data collection and analysis tasks

Task	Sub-tasks	Corresponding section in the report/Annexes
Task 5: Data collection at Member State level	Task 5.1: Mapping of EU Member States' national legislation and procedures implementing the Directive Task 5.2: Mapping of EU Member States' consular networks and consular assets Task 5.3: Collection of quantitative data on the number of unrepresented citizens and the number and type of consular protection provided to EU citizens abroad Task 5.4: Mapping of EU Member States' travel and communication channels	Separate Excel document provided with final Report Annex IV Annex VI Separate Excel document provided with final Report
	Task 5.5: Validation with national authorities: prefilled questionnaire and interviews	Separate Excel document provided with final Report
Task 6: Desk research	Task 6.1 EU level desk research (EU legislation, EU citizens' complaints, mapping of EU consular network and assets) Task 6.2 Desk research for a selection of third countries	Annex III Annex VII Annex VIII
Task 7: Stakeholder consultation	Task 7.1: Survey with EU Delegations	Annex V
	Task 7.2 Interview Programme	Annex II
Task 9: Problem Definition	Step 1 & 2 Assess scale and magnitude of problems Step 3: Identify problem drivers Step 4: Identify relevant stakeholders affected by the problems Step 5: Baseline scenario and evolution of the problem	Chapter 2 Annex II – section 2.6 Annex II – section 2.7
Task 10: Policy objectives and policy options	Task 10.1 Assessment of whether EU should act Task 10.2 Refine the policy objectives Task 10.3 Development of policy options	Chapter 3 Chapter 4 Chapter 5
Task 12: Impacts of policy options	Task 12.1 Refine of list of impacts to be examined Task 12.2 Assessment of impacts of policy options	Chapter 6 Annex VIII
Task 13: Comparison of policy options	Task 13.1 Apply multi-criteria analysis to compare policy options Task 13.2 Assess preferred policy option(s)	Chapter 7 and 8 and Annex I

1.1 DATA COLLECTION AT MEMBER STATE LEVEL (TASK 5)

Introduction

Data collection at Member State level was carried out by a team of national researchers between March and May 2021. Through the use of a comprehensive questionnaire, quantitative data was collected on Member States' national legislation and procedures; on their consular networks and assets; on the consular protection they provided to (un)represented citizens; and on their travel and communication channels. Additionally, Member States were also asked to provide qualitative feedback on the application of the Directive and the problem definition; on the proposed policy options; and on the COVID-19 pandemic lessons learnt.

Methodology

To collect this information, a questionnaire was developed and prefilled by the national researchers on the basis of desk research and existing information shared by DG JUST and the EEAS. Namely:

- Member States' replies to the questionnaire developed by the Expert Group Meeting on Consular Protection of 8 December 2020/ Discussion Note on the implementation of Council Directive (EU) 2015/637, Chapter 1: General Provisions and Scope and Chapter 2: Coordination and cooperation measures.
- 2021 CoOL data on "Member States' presence in third countries" collected and provided by EEAS based on information received from EU Delegations and Member States
- Member States' replies to DG JUST's questionnaires reporting on the implementation of Directive 2015/637.
- Member States' replies to the questionnaire included in the EU Consular work during COVID-19 crisis - Discussion Paper, Consular Affairs Working Party (COCON), 23 June 2020

On March 30th the national researchers sent the pre-filled questionnaire to the national authorities and a Q&A session was held to address any questions they might have. Once completed and returned by the national authorities, the national researchers reviewed the questionnaires and scheduled interviews with the national authorities to discuss any missing information and to elaborate on the answers provided by the national authorities. These interviews were conducted between April 23rd and the May 7th.

Between May 7th and May 21st, the completed questionnaires were reviewed by the study team. Errors, missing data, and inconsistencies were flagged and followed up with the national researchers and when relevant, with the national authorities. The data was then extracted from the questionnaires and compiled into one Excel sheet, to allow for the analysis by the study team to inform the second interim report.

Response rate and data availability / limitations

In total, twenty-six Member States completed the questionnaire¹ with only Greece declining to participate. As Greece did not provide input to the survey launched by DG JUST nor on the questions concerning the implementation of the Directive (with the exception of data for 2020), the information on Greece is limited as reflected in this report.

The extent to which the 26 Member States provided inputs to the different questions in the questionnaire varies depending on the question as described in detail in the relevant Annexes of this report (see under outputs below). The following section highlights the general limitation of the quantitative and qualitative data collected

Quantitative data

Overall, the quantitative data provided by the 26 Member States was very limited, as this information was not collected in a systematic manner by most Member States and had to be compiled especially for the purpose of this study by contacting the Member States' individual representations in the third countries (which was challenging for Member States given the time constraints). For instance, only thirteen Member States provided data on their consular

¹ BE provided their input to the open questions through the interview, rather than through completing the questionnaire.

budget in 2018, 2019 and 2020, seven Member States on their number of consular staff in 2018, 2019 and 2020, and eight Member States on their number of diplomatic staff in 2018, 2019 and 2020 (see Annex IV for more details). Additionally, the information provided by the Member States was in most cases not comparable. For instance, among the 13 Member States that provided data on their consular budget, the amount varied from EUR 3000 to EUR 170 million as the types of expenses included when calculating the budget (i.e. staff cost, facilities cost, etc.) varied between Member States. Similarly, the type of staff which fell under the categories “diplomatic staff” and “consular staff” varied from one Member State to the next due to overlaps between both categories and diverging Member States’ interpretations. Lastly, only ten Member States provided data on the total number of cases of assistance provided by Member States in third countries and only 16 provided data on the number of cases of assistance provided to unrepresented EU citizens in third countries (see Annex VI for more details).

Interviews conducted with the national authorities revealed that most Member States could not provide the data requested as they did not collect these statistics. The reliability of this data is further brought into question due to cases of double reporting (i.e. Member States providing the same data for the total number of cases and the total number of unrepresented cases) and instances whereby Member States reported a higher number of unrepresented citizens assisted than the total number of citizens assisted (i.e. a mathematical impossibility). However, mitigating actions were taken to caveat and address these limitations. For instance, all inconsistent or unexpected data was checked with the national authorities and mistakes and outliers were disregarded. Additionally, estimations such as on the number of unrepresented citizens, were calculated through a process of triangulation of data from both internal and external sources, and ranges between conservative estimate and worse-case scenario were calculated to allow for a margin of error.

Qualitative data

Regarding the mapping of EU Member States’ national legislation and procedures implementing the Directive, all Member States provided their transposition measures in the national language. However, seven Member states (BE, CY, DE, FR, IT, LU and RO) did not provide the English translation of these transposition measures and 13 Member States did not provide the explanatory documents (AT, BE, CY, DE, DK, FR, IT, LT, LU, MT, RO, SE, and SL). Nonetheless, the validation and filling of the questionnaire by the national authorities together with the interviews conducted with them were sufficient to address these limitations and to conduct the legal mapping. The documents provided by DG JUST and EEAS were sufficient to map Member States’ existing bilateral agreements on consular protection (permanent and practical arrangements). Similarly, Member States’ replies to the questionnaire developed by the Expert Group Meeting on Consular Protection of 8 December 2020 and the Discussion Note on the implementation of Council Directive (EU) 2015/637 were sufficient to collect Member States feedback on the COVID-19 lessons learnt. Similarly to the legal mapping, instances of missing data were addressed to a satisfactory extent during the validation of the questionnaires and the interviews conducted with the national authorities.

Overall, while all 26 Member States provided answers to the questions on the application of the Directive, the problem definition and on the proposed policy options, the feedback received to the open questions was in most cases limited to short answers and in a large number of cases left blank or answered by yes/no. Answers to the policy options were particularly limited with several Member States highlighting their reluctance to provide feedback on what they considered to be a political topic. However, during the interviews the national authorities were more open to providing feedback as interviews provided the opportunity to provide further context and nuance to their replies and the oral format of the interview was perceived as less formal and committing than written responses. The study team was thus able to caveat the limitation of the written responses.

Outputs

The analysis of the various tabs of the Task 5 questionnaires has been integrated into the main body of the report, as is presented in further detail in:

- a. **Annex II** – section 2.8 on the cost of providing consular assistance
- b. **Annex IV** – Mapping of the Member State consular network and consular assets
- c. **Annex VI** – section 6.3 on the number of unrepresented citizens assisted

In addition, the full Excel sheets compiling all the answers to the questionnaire (raw data) have been provided as a separate document.

1.2 DESK RESEARCH (TASK 6)

The desk research under Task 6 involved a review of:

- **EU-level legal and policy documents** to inform the political and legal context, the intervention logic of the current Directive, the analysis on the EU legal basis for the new initiative, as well as the mapping of the EU consular network and assets. (Annex III and IV)
- Data on the **countries covered by the EU Delegations**, as well as the **financial and human resources** of the selected EU bodies to inform the mapping of the EU consular network and assets (see Annex III);
- Joint Frameworks in the four out of the five **selected third countries** (Fiji confirmed no such JFW is in place).
- Available documentation which reports **feedback collected from EU citizens directly on their right to consular protection**, including a sample of citizen's complaints received by DG JUST, the responses provided by organisations in response to the Inception Impact Assessment, the EU citizenship report and the Flash Eurobarometer 485 on EU Citizenship and Democracy. (see for further details Annex VIII - document review on EU citizens feedback).

An overview of the data and documents reviewed can be found in Annex VII

1.3 STAKEHOLDER CONSULTATIONS (TASK 7)

This study included the following stakeholder consultations:

- Online survey with EU Delegations (Task 7.1)
- Interviews in selected 5 countries (Task 7.2)
- Interviews with industry stakeholders (Task 7.2)
- Interviews EU bodies with a supporting role in consular protection (Task 7.2)
- Consultation with unrepresented EU citizens that were in need of consular protection

1.3.1 Online survey with EU Delegations (Task 7.1)

The approved survey questionnaire was uploaded into EU survey by the study team, and the survey link was then distributed to the EU Delegations by the EEAS on April 19th. The survey was live for 3 weeks, from April 19th until May 10th, as the initial deadline of May 3rd was extended one week upon request by a number of EU Delegations.

The survey data was then reviewed in the week of May 10th and duplicate entries were clarified with the relevant EU Delegations. Overall **77 EU Delegations completed the survey (response rate of 60%)**. The analysis of the survey responses of the 77 EU Delegations can be found in Annex V.

1.3.2 Interviews in selected 5 countries (Task 7.2)

The table below presents a detailed breakdown of the in-depth interviews carried out within the selected third countries. As no response was received from the relevant contact within the EU Delegation in China, it was agreed with DG JUST and EEAS to replace this country with Russia.

Table 2: Interviews in selected third countries.

Selected third country	Stakeholder contacted/interviewed		
	EU Delegation	MS representation (embassy/consulate)	Other (tourist or expat organisation)
Russia	Interview completed	2 interviews completed (DE and FI)	1 interview conducted with Association of European Business in Russia. Three additional

Selected country	third	Stakeholder contacted/interviewed		
		EU Delegation	MS representation (embassy/consulate)	Other (tourist or expat organisation)
				organisations identified and contacted, but no response.
Ethiopia		Interview completed	2 interviews completed (FR and DE)	Two tour organisation identified and contacted (one interview conducted), one French expat organisation contacted (no response))
Costa Rica		Interview completed	1 interview completed (DE), 1 declined (ES)	No EU tourist identified. One expat organisations contacted (no response).
Montenegro		Interview completed	2 interviews completed (IT and SI)	One EU tourist organisations identified, but no response.
Fiji		Interview completed	1 interview completed (ES), 1 contacted but no response (FR)	No EU tourist or expat organisations identified
TOTAL		5 conducted	8 conducted	2 conducted

Overall, 15 interviews were completed:

- **EU Delegations:** All interviews with EU Delegations were completed across the five selected countries.
- **Member State representations:** Member States were suggested by the EU Delegations, in most cases due to their role as Lead State in the country.
- **Tourist and expat organisations:** Names of relevant organisations representing EU tourists and expats were requested from the EU Delegations and Member States representations using the snowball technique, but this proved to be more challenging. In some countries the stakeholders confirmed no such organisations were present (e.g. in Costa Rica, expats rather organised themselves through a Facebook group, and tourist organisations were mainly from the US), while in other cases the organisations contacted did not reply. It was discussed with the EEAS to go back to the EU Delegations once more to ask about any relevant expat organisations, even if those are only for citizens of a specific Member State. Three further expat organisations were contacted in Russia, Ethiopia and Costa Rica in June, but no responses were received.

1.3.3 Interviews with industry stakeholders (Task 7.2)

The objective of the interviews with industry stakeholders was to gather their views and experiences in the types of challenges their passengers might have faced when seeking consular protection, and their feedback on their awareness and provision of information and communication with their passengers in the field of consular protection. During the data collection phase, we identified the contact details in the selected organisations representing the EU private sector with the help of DG JUST, the EEAS and DG MOVE for suggestions of specific names, with the aim to carry out up to five interviews with these industry stakeholders.

A number of organisations were contacted, but the majority were unable to answer, due to the limited capacity they had over the period or the limited experience they had on the topic. Eight organisations did not respond to our request for an interview. We subsequently decided to extend the scope of the exercise by contacting additional cruise line

companies, and as a result a round table was organised with members of the Costa Cruises Group (AIDA cruises and Costa Cruises).

Table 3: Overview of industry stakeholders contacted and status

Type	Name	Status
Tourism/Travel	The European Travel Agents' and Tour Operators' Association (ECTAA)	Declined
	European Tourism Association (ETOA)	Declined – forwarded the request to ECTAA
	European Travel Commission (ETC)	No answer
	World Travel and Tourism Council (WTTC)	No answer
Aviation	International Air Transport Association (IATA)	Declined
	Airlines for Europe (A4E)	No answer
	European Association of Regional Airlines (ERA)	Declined
	Airlines International Representation in Europe (AIR-E)	No answer
	Cruise Lines International Association Europe (CLIA)	No answer
Cruise Line industries	Carnival	No answer
	MSC	No answer
	Royal Caribbean	No answer
	Costa Cruise Line (AIDA cruises and Costa Cruises).	Completed

1.3.4 Interviews EU bodies with a supporting role in consular protection (Task 7.2)

Interviews were carried out with six EU officials to directly inform:

- The data collected through the document review on the EU consular network and assets (see Annex III);
- The refined policy objectives and policy options
- The final list of interviewees is presented in the table below. In addition, the study team consulted extensively with members of the study team from DG JUST and the EEAS in relation to the feasibility of the proposed policy objectives and policy options.

Table 4: Interviews conducted with EU level stakeholders

EU	Role/Unit
EEAS	Head of Division, Consular Affairs Division ISP.4
	Consular Affairs Division ISP.4
Members of the Consular Task Force set up by the EEAS as part of the COVID pandemic	Information and Communication Officer, SG.AFFGEN.7; <i>formerly Deputy Head of Division, ISP.4</i>
DG ECHO / European Commission's Emergency Response Coordination Centre (ERCC)	Emergency Response Coordination Group, ECHO.A1

EU	Role/Unit
Council Working Party on Consular Affairs	General Secretariat of the Council, RELEX.2.C
Portuguese presidency	Current chair of COCON

1.3.5 Consultation with unrepresented EU citizens that were in need of consular protection

The study originally did not foresee consultations with EU citizens directly, due to the data protection rules and other challenges foreseen in identifying and contacting such stakeholders. However, upon request of the Steering Group the study team agreed to replace some of the interviews foreseen with expat and tourist organisations to seek the opinions from EU citizens directly. The approach proposed as part of the revised inception report, was to organise an online focus group with up to 12 EU citizens who were stranded abroad during the COVID-19 pandemic in the five selected third countries, to discuss experiences of EU citizens related to consular protection in times of crisis, including the challenges they faced abroad, the support they received, the communication channels they identified and used, and any other additional aspects linked to their stories.

As the recruitment of participants through EU Delegations and Member State representations proved to be challenging due to data protection restrictions, additional efforts to obtain this feedback were attempted:

The study team developed a **short survey on EU citizens' experiences on consular protection abroad**, aiming to generate real life stories which would enrich the reporting process, as well as help identify candidates for follow-up interviews if anything particularly relevant came up. It was live between May 18th and June 18th 2021 and was disseminated via **DG JUST's Twitter account**. Seven citizens responded to the survey, including two who required assistance in Venezuela, and five who had travelled to Costa Rica and who were repatriated during the COVID-19 pandemic. The information gathered through the survey has been summarised in Annex VIII and has been integrated into the problem definition where relevant to provide concrete examples of experiences of citizens.

The study team reviewed **additional sources** with potential to provide feedback from the EU citizens' perspective, referenced in the inception impact assessment document (feedback on the review of EU rules on consular protection (five responses), 2020 EU Citizenship report² and Flash Eurobarometer 485 on EU Citizenship and Democracy³). Considering the coverage that these large-scale surveys have provided in terms of consultation opportunities for the public, the study has a derogation for OPC which will not be required. The summary of the review is presented in Annex VII.

1.4 ASSESSMENT OF PROBLEMS

The study collected information on an extensive list of potential issues related to the implementation of the Directive (see list in the table below). However, for some potential issues no evidence was found to confirm this was in fact a problem of significance. As part of the development of the problem definition, the following RAG (Red-Amber-Green) rating was applied to justify which problems would be included in the problem definition:

- **Green: No evidence of problem:** The study has been able to confirm with reasonable certainty that this does not constitute a major problem for stakeholders involved.
- **Amber: Evidence of potential problem:** The problem is mostly theoretical and/or the study found anecdotal evidence indicating a problem/room for improvement (often accompanied with mixed or low levels of support from Member States for change).
- **Red: Evidence of Problem:** We found evidence to suggest there is a problem or room for improvement (often accompanied with strong or mixed levels of support from Member States for change).
- **N/A** – outside of scope of Directive/EU competences

² The public consultation for the 2020 EU Citizenship report, covering the period from 9 July to 1 October 2020 contained questions on consular protection and received 343 valid feedback instances.

³ This Flash Eurobarometer survey was carried out by the Kantar network in the 27 EU Member States between 27 February and 6 March 2021. It was completed by 25,563 respondents in total.

Please note that the rating does not refer to the level of impact the problem may have on the stakeholders involved (i.e. some of the problems rated as amber could potentially have important negative consequences).

Table 5: Overview of potential problems and RAG ratings

Problem area	Area of potential problems	Rating
Personal scope	Problems related to the scope and definition of “unrepresented” EU citizens	Amber: Evidence of potential problem
	Non-EU family members	Amber: Evidence of potential problem
	Dual nationals	N/A – outside of scope of Directive/EU competences
	Vulnerable groups	Amber: Evidence of potential problem
Geographical scope	Application outside the EU (third countries) only	Amber: Evidence of potential problem
	Areas beyond national jurisdiction	Green: No evidence of problem
	Uncovered countries	Amber: Evidence of potential problem
Accessibility	Procedure of redirecting	Amber: Evidence of potential problem
	Types of assistance provided	Green: No evidence of problem
	Consular protection under equal conditions	Amber: Evidence of potential problem
	Level of promptness in providing consular protection	Green: No evidence of problem
	Lack of awareness and/or access to legal remedies and redress	Amber: Evidence of potential problem
Problem area 3.1: Cooperation and coordination	Problems in the cooperation between Member States (bilateral cooperation under Art 10, LCC meetings and CoOL))	Amber: Evidence of potential problem
	Problems related to crisis preparedness and measures applied in times of crisis:	Amber Evidence of potential problem /Red Evidence of Problem
	Problems related to the role of the EU and EU Delegations	Amber Evidence of potential problem /Red Evidence of Problem
Problem area 3.2: communication	Information provision and communication with EU citizens	Amber Evidence of potential problem /Red Evidence of Problem
Problem area 4.1: financial reimbursement	Financial reimbursement procedures under Article 14 and 15.	Red: Evidence of Problem

The assessment of the four potential problems rated as “green”, and the one problem area rated as N/A out of scope are provided below:

i) Dual nationals (problem area 1 – Personal scope)

Driver: There have been instances in which specific third countries have refused to recognise the concept of dual nationality, if the second nationality of the citizen is the nationality of their country. While the Directive is clear in that it “does not concern consular relations between Member States and third countries”⁴ and such non-recognition of dual nationality is principally an issue of international law and diplomacy⁵, Recital 24 of the Directive highlights the potential difficulties arising from situations involving citizens who are also nationals of the host country, and commends that 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.

Problem: EU citizens may hold dual or multiple nationality having the nationality of an EU Member State, and nationality of the third country where consular assistance is sought. A few stakeholders consulted as part of the study (one national authority, one EU Delegation, and two interviews with EU officials) highlighted that there have been cases where the national authorities of the third country generally refuse to recognise dual nationality. By refusing to recognise the EU nationality of the unrepresented EU citizen seeking protection, they therefore block the assisting EU Member State from providing consular protection to the unrepresented EU citizen with dual nationality. One EU official confirmed such cases had been reported in relation to over 15 third countries, including Russia, India, Pakistan, and Iran, and that this problem has existed for centuries.

This issue of third countries refusing the provision of consular protection could potentially also extend to the non-EU family members of the unrepresented citizens, that have the nationality of the third country. However this study has found no evidence of such problems faced in practise.

Problem: EU citizens may hold dual or multiple nationality, and as such be simultaneously considered unrepresented and represented or even have the nationality of the third country where consular assistance is sought. The wording of the Directive does not clearly state the position of an EU citizen holding dual nationality of two EU Member States, of which one does not have a representation in the third country, and whether they are considered represented if one of their Member States of nationality have presence in the third country. Thus, dual nationality may prevent an unrepresented EU citizen to seek assistance from another Member State represented in the third country. The issue could be compounded if the unrepresented EU citizen has the nationality of the third country which could also prevent them from accessing consular assistance. However, based on the national authorities’ feedback, it appears that such cases are non-existent in practice.

The short survey of citizens carried out for the study identified an instance akin to the issues posed by dual nationality – the circumstances of a national of a third country who needed repatriation to an EU Member State from which they had a valid permit of permanent residence, which illustrates the problems arising in this type of cases:

“[I am a national of Venezuela], but have lived and worked in Malta for many years. I travelled to Venezuela to see my family, but the COVID-19 crisis unfolded and I needed assistance to get a humanitarian or repatriation flight to the EU as I couldn’t go home. As I have no other nationality than Venezuelan and as there is no Maltese Consulate in Venezuela, I was not able to take a repatriation flight even though I have a valid Maltese resident card. Looking for assistance I reached out to the EU Delegation to help me get back to Malta, and I was able to board a humanitarian flight.”

Participant in survey of EU citizens

Conclusion: In theory, dual nationality may affect the rights of an unrepresented EU citizens to consular protection offered by another Member State’s representation in a third country, in cases where the citizen has the nationality of

⁴ Article 1(2) Directive

⁵ Recital 6 of the Directive states that the 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.”

the third country. However, the extent to which the EU could regulate this issue is limited, the most plausible solution would be one of diplomacy with the third country involved on a case-by-case basis.

Rating: N/A – outside of scope of Directive and EU competences

(ii) Areas beyond national jurisdiction (problem area 1 – geographical scope)

Driver: The Directive does not make provisions for consular protection in areas beyond national jurisdiction such as the High Seas. The Directive does not seem to have taken into consideration such types of situations.

Problem: This does not seem to constitute a problem in practice: None of the EU Delegations consulted confirmed having ever received a request for assistance from EU citizens because they were in areas beyond national jurisdiction. Representatives of the cruise line industry explained that in practice, aspects of consular protection required when on cruise ships did not vary depending on whether the request was made while navigating in international waters or not. When consular assistance or protection is needed, the staff on the cruise ship acts as intermediates between the passengers and the consular authorities and large cruise lines also have a dedicated crisis team on shore to support passengers experiencing problems. Together they identify whether to contact the relevant consulate (often the closest one to where the ship is located) or directly the Member States' authority.

Conclusion: The study found no evidence to suggest that the lack of provisions for EU citizens stranded in territories beyond national jurisdiction constitutes a problem in practice. However, it could be beneficial, for the sake of legal certainty, if the Directive would specify which Member State diplomatic representation should provide assistance in such situations, e.g. the country of nationality (EU citizen to contact the MFA) or any other EU Member State representation present in the territory of the most nearby third country.

- **RATING: Green** – The study has been able to confirm with reasonable certainty that this does not constitute a major problem for stakeholders involved.

(iii) Types of assistance provided (problem area 2 –accessibility)

Driver: Although the Directive is based on the premise of equal protection, when compared to protection provided by Member States to their own nationals, Article 9 of the Directive aims to streamline the types of situations in which the unrepresented citizens can seek consular protection for, by listing a non-exhaustive list of six types of consular protection which Member State “may” provide to unrepresented citizens.

Problem: The Member States' national authorities all confirmed that they can offer assistance in the six situations specified by the Article 9 of the Directive, and only a few Member States have listed additional types of situations, relating to minors or emergencies. However, as the Directive is linked to national law and consular traditions of the Member States, the Member States offer varied types or assistance in similar situations, which seems to be caused by several factors: potential financial costs, potential time involvement, and certain public expectations associated with consular protection (i.e. help in the case of emergency).

Theoretically, there is a risk that EU citizens may resort to ‘venue shopping’ by seeking protection from representations of particular EU Member States, choosing not to rely on consular protection from others, depending on the types of situations/types of services and/or level of protection to be expected, which could lead to a lowering of standards across the Member States. However this study found no evidence to support this.

Conclusion: The study found no evidence suggesting specific problems in terms of the types of situations that are currently covered by the Directive. Legislating a new minimum level of protection that might harmonise protection across all Member States would infringe on the national competences of Member States to decide how to provide consular protection to their own citizens, and is therefore not further considered in this study as an option.

RATING: Green: The study has been able to confirm with reasonable certainty that this does not constitute a major problem for stakeholders involved.

- (iv) Level of promptness in providing consular protection (problem area 2 –accessibility)

Driver: The low levels of representation in certain third countries (see discussed in Chapter 2 under problem area 1), may pose challenges in the prompt provision of consular services, especially in times of crisis. The Directive does not prescribe a specific timeframe in which the different types of consular protection as laid down in Article 9 should be provided. The only type of consular protection where specific timeframes have been laid down is with regards to ETD, for which Article 4 of the ETD Directive sets out the procedure and maximum timelines. The only indication of time in this respect is Article 10(2) which states more generally that the assisting Member State “shall contact without delay” the Ministry of Foreign Affairs of the Member State of nationality, when an unrepresented citizen has sought consular protection from the Member State. In addition, Article 13(2) specifies that Member States should inform each other of available evacuation capacities “in a timely manner”, which could impact on the timeliness in which Member State can repatriate unrepresented citizens.

Problem: The lack of strict deadlines coupled with limited resources of the Member States may lead to delays and lower level of promptness in consular assistance. According to the EU Delegations which took part in the survey, the second most common problem that (un)represented EU citizens can face when exercising their right to consular protection are delays in the timeframe in which the assistance is provided (14 EU Delegations out of 77 stated that this takes place occasionally and 4 EU Delegations stated this happened frequently). Only one Member State highlighted the varying levels of promptness of Member States in responding to requests for assistance as a problem. In addition, one Member State noted the limited consular representation in the case of some Member States, resulting in limited consular assistance and limited scope for handling complex consular cases.

Conclusion: While occasional delays could be considered to be expected in exceptional circumstances, the study only found anecdotal evidence where delays were a frequent occurrence (reported by 4 EU Delegations only). This thus does not seem to be a structural issue which requires to be addressed. Moreover, it would be difficult to put in place very strict timeframes for the provision of consular protection in the Directive, beyond those already in place, seeing the time required will depend on the specific circumstances of the cases and the type of assistance.

Evidence from EU citizens directly on the time it took from their request to assistance to the provision of assistance was collected anecdotally from a sample of unrepresented citizens through the short survey foreseen. Most of the respondents (four out of seven) received help in a matter of days, one in a few hours and one – a few weeks. The final respondent declined the repatriation flight as they were waiting for a direct flight to Europe which took one and a half months. All but one respondent considered this delay as reasonable. This respondent was from Italy and reported a very negative experience with their consulate in Venezuela, tempered by the can-do attitude of the local EU Delegation though the latter did not resolve their situation. Another respondent received a response on their request for consular assistance in a few days, but not solution and ended up waiting four months for a flight to Europe from Costa Rica (Hungarian national who contacted their national representation in a neighbouring country and the local EU Delegation).

RATING: Green The study has been able to confirm with reasonable certainty that this does not constitute a major problem for stakeholders involved.

1.5 DEVELOPMENT AND ASSESSMENT OF POLICY OPTIONS

This section provides a description of the methodology that was used to carry out the impact assessment analysis of the policy packages, which are presented in Chapter 5 and 6 of the report.

(i) Detailed overview of policy options and their sub-options assessed.

As part of this impact assessment, the following four policy packages were developed to address each the policy objectives:

- **Policy option 1**- soft measures not requiring legal changes to the Directive (i.e. guidelines, training, best practices, awareness-raising campaigns, etc.).
- **Policy option 2A** - legal amendments to the Directive under Article 23 TFEU clarifying the scope, existing procedures for redirecting and access to legal remedies and redress, cooperation, coordination, communication and financial reimbursement, which include both mandatory and voluntary (opt-in) amendments. The legal amendments would be supported by a range of soft measures, similar to those proposed under policy option 1.
- **Policy option 2B** - all measures foreseen under policy option 2A, with the additional legal amendment to Article 11 of the Directive allowing for the direct provision of consular protection by EU Delegations to unrepresented EU citizens, to be proposed under Article 25 TFEU, as well as the limited additional resources for the EU Delegations.
- **Policy option 3** - legal amendments to the Directive under Article 23 and 25(2) TFEU, clarifying the scope and existing procedures for redirecting, cooperation, coordination, communication and financial reimbursement, mostly on a mandatory basis.

The tables below list the different measures that are proposed under each of the four policy options, and show how they link to each of the 6 policy objectives.

Policy Option 1

Table 6: Overview of all policy option 1 sub-options per specific objective

Specific Objective	Description of the sub-options/ measures proposed under policy option 1
1 - Personal Scope	Development of guidance on the definitions and personal scope of the Directive
	Sharing of best practices on the definitions and personal scope of the Directive
	Adding discussion on unrepresented citizens at LCC meetings
	Provision of training on the definitions and personal scope of the Directive
2 - Geographical Scope	No measures foreseen under policy option 1
3 - Accessibility	Development of a user friendly and up to date list of bilateral agreements and other practical arrangements, the development of a guidance document on redirecting, and the organisation of training for consular staff on redirecting.
4 - Cooperation and coordination	Information sharing (incl. development of digital tools or enhancing functionalities of CoOL)
	Prioritisation of resources for EU Delegations
	Development of guidelines and best practice guides for consular staff
	Global joint coordination exercises
5 - Communication	Guidance documents
	Updating of existing EU information and communication channels
	EU to organise an awareness raising campaign for EU citizens on their right to consular protection, including available avenues to complain, legal remedies and mechanisms of redress
6 - Financial Reimbursement	Guidance documents to clarify the way in which Member States can seek reimbursement from each other
	Training to provide greater clarity and awareness of the Directive's financial reimbursement procedures

Policy Option 2A

Table 7: Overview of all policy option 2A sub-options per specific objective

Specific Objective	Description of the sub-options/ measures proposed under policy option 2A
1 - Personal Scope	Clarification of the personal scope of the Directive to cover represented EU citizens (voluntary)
	Clarification of definition incl. presumption of unrepresentedness
	Soft measures similar to option 1, supporting the legal amendments foreseen under option 2A
2 – Geographical Scope	Legal amendment clarifying geographical scope: Clarification allowing Member States to provide a broader level of protection, by applying the Directive within the EU territory (voluntary)
3 - Accessibility	Clarify procedure for redirecting (Art. 3 & 7)
	Strengthen the obligation for Member States to notify bilateral and practical arrangements
	Requirement to provide access to legal remedy and redress under equal conditions
	Soft measures similar to policy option 1, supporting the legal amendments foreseen under option 2A
4 – Cooperation and coordination	Legal amendment aligning supporting role of EU Delegations with wording of EEAS decision (art 11)
	Legal amendment allowing the chairing or co-chairing of LCC meeting by EU Delegation with participation of unrepresented Member States (art. 12)
	Legal amendment enhancing the JFW, incl. integrating Lead State concept (art. 13)
	Legal amendment to include an explicit reference to Joint Consular Teams (art. 13)
	Legal amendment to include explicit reference to the data sharing in line with GDPR and DPREUI
	Soft measure similar to option 1, supporting the legal amendments foreseen under option 2A
5 - Communication	Requirement for Member States to provide the European Commission with up to date information on consular contact points, honorary consuls, bilateral agreements and travel advice, as well as requirement for EU to publicise information
	Central communication with unrepresented EU citizens in crisis agreed at local level
	Option for prior travel registration and sharing of information
	Soft measures similar to policy option 1, supporting the legal amendments foreseen under option 2A
6 – Financial Reimbursement	Legal amendments to Article 14 and 15 Directive: Introduce possibility of direct reimbursement by EU citizens
	Legal amendments to Article 14 and 15 Directive: Development of a standard form for reimbursement of assistance to represented citizens
	Soft measures as under policy option 1, supporting the legal amendments foreseen under option 2A

Policy Option 2B

Option 2 B contains the same measures proposed under policy option 2A (including soft measures), with the exception of the first measures proposed to address policy objective 4 (cooperation and coordination) in relation to the role of the EU Delegations (Art 11), and instead of a prioritisation of resources of EU Delegations, this option includes limited additional resources for EU Delegations.

Table 8: Overview of all policy option 2B sub-options per specific objective

Specific Objective	Description of the sub-options/ measures proposed under policy option 2B
4 – Cooperation and coordination	Legal amendment extending the role and responsibilities of the EU Delegations: – allowing in particular for direct assistance in all Member States (art.11), as well as limited additional resources for EU Delegations
	Soft measures as under policy option 1, supporting the legal amendments foreseen under option 2B, excluding the prioritisation of resources for EU Delegations

Policy Option 3

Table 9: Overview of all policy option 3 sub-options per specific objective

Specific Objective	Description of the sub-options/ measures proposed under policy option 3
1 - Personal Scope	Legal amendment clarifying the personal scope of the Directive to cover represented EU citizens in crisis situations (mandatory)
2 – Geographical Scope	Legal amendment extending the Directive’s geographical scope to cover unrepresented EU citizens within the EU territory
3 - Accessibility	<i>No measures foreseen under option 3</i>
4 – Cooperation and coordination	Legal amendment empowering EU Delegations to provide direct consular protection to unrepresented EU citizens without prior MS request (art.11 Directive)
	Legal amendment appointing EU Delegations as chair of LCC meeting in crisis, as well as in non-crisis situations in countries with low levels of Member State representation (art. 12 Directive)
	Legal amendment extending the role and responsibilities of EU Delegations, incl. leading on JFW (art. 13 Directive)
	Legal amendment adding an explicit reference to Joint consular teams and JCT systematically considered in crisis (art. 13(3) Directive)
	Legal amendment) allowing the UCPM to be activated directly by the EU for crisis situations (art 13(4) Directive)
5 Communication	A common European travel advice provided by EU Delegations
	A common EU channel for crisis communication
	Voluntary prior registration of travellers and expatriates
6 – Financial Reimbursement	An “EU Consular Protection Fund” to pay for the costs incurred to provide consular protection to (un)represented EU citizens.
	An IT system would be set up to digitalise the reimbursement procedures.

(i) Justification of chosen policy packages

The policy packages were developed on the basis of the options presented in the inception impact assessment and further developed on the basis of the findings of the study and discussions with DG JUST and the EEAS.

The principle underlying the four policy packages is that they represent different levels of ambition: option 1 being closest to the current situations and option 3 being the most ambitious. This level of ambition reflects the legal and political feasibility of the options, as well as the extent to which the options are more flexible or more rigid (e.g. option 1 and 2 include some measures to be implemented on a voluntary level, while option 3 mostly includes mandatory changes).

Another decision that was made regarding the soft measures: while the legal amendments proposed under policy option 2A and 2B have been complemented by soft measures, such soft measures were not included for policy option 3. The reason being that option 3 mostly includes mandatory measures which leave less room for interpretation, while option 2A and 2B do include legal amendments which give Member States a certain flexibility in their implementation. While this flexibility increases the political feasibility of these proposals, it can also negatively impact on the clarity of the rules as well as legal certainty. To mitigate this risk, additional soft measures in the form of guidance, training and awareness raising were added to options 2A and 2B.

Moreover, the split in policy option 2 into two packages (A and B), allowed the study team to distinguish those measures in option 2B which may be slightly more ambitious in comparison to option 2A, but where the study team anticipated a higher level of effectiveness.

Finally, the following options have been considered at the early stages of the impact assessment, but were discarded for various reasons:

- **Status quo without soft measures:** Although the inception impact assessment initially foresaw that policy option 1 would reflect the status quo, taking into account the impact of the COVID-19 pandemic and of the UK withdrawal from EU on consular protection, this option was eventually discarded. Instead we chose to supplement this option with soft measures, such as training and guidance as based on the assessment of the implementation of the Directive (see Annex II) it became clear that leaving the situation as it was, would not address the problems identified.
- **EU Delegation as exclusive provider of consular protection to unrepresented EU citizens:** The inception impact assessment initially foresaw that policy option 3 would include “provisions for local EU Delegations to directly and exclusively take care of unrepresented EU citizens and provide them with all types of consular protection beyond crisis situations. Options proposing a minimum level of protection”. However, when such an option was tested with stakeholders during consultations, it became clear that such an exclusive role would have a very low technical, political and legal feasibility. Therefore this option was discarded and replaced with a less far reaching option where EU Delegations and Member States both provide direct consular protection to unrepresented EU citizens side by side.
- **Options aiming to addressing problems/measures that were considering outside of the scope/reach of the Directive:** As further detailed in section 1.4 above, one potential problem that was identified at the inception phase of the study was eventually discarded as it was considered to be outside the remit of the Directive. This related to the problem where national authorities of third countries refuse to recognise dual nationals (EU citizenship and third country nationality), hampering their access to consular protection from EU Member States. In addition, one of the solutions considered to address the delays caused by the lack of clarity around the process of redirecting and lack of up-to-date information of bilateral agreements (problem area 3 – accessibility), was to prohibit Member States to put such agreements in place in the first place. However it was then agreed that such a prohibition would not be legally feasible, as it is the prerogative of Member States to make such bilateral agreements.

(ii) Criteria and framework for rating options and sub-options

For each of the policy package' sub-options, an assessment was carried out using the following six criteria:

- 1- The **effectiveness** of the option in achieving the relevant policy objective;
- 2- The **technical feasibility** of the option, in terms of the level of effort it would take to implement the option;
- 3- The **legal feasibility** for the option, based on an analysis of whether the sub-option could be proposed under the existing legal basis, or whether a different legal basis would need to be used;
- 4- The **political feasibility** for the option, based on the consultation exercise undertaken with national authorities as part of this study;
- 5- The **costs** for each option (detailed cost assessment can be found in Annex IX), and
- 6- The **coherence** of the option with other policy instruments.

The assessment is accompanied by a rating ranging from --- to +++, which are further defined in the table below.

Table 10: Ratings used for the assessment of the policy options

Rating	Effectiveness to achieve relevant objective	Feasibility			Costs	Coherence
		Technical	Political	Legal		
---	Large negative impact	Very low feasibility		Very low feasibility	Very high costs (above 10 Million EUR)	Highly incoherent
--	Negative impact	Low feasibility		Low feasibility	High cost (between 1 and 10 Million EUR)	Not coherent
-	Small negative impact	Somewhat low feasibility		Somewhat low feasibility	Limited costs (under 1 Million EUR)	Somewhat not coherent
0	No impact	No impact / not relevant		Not relevant	No costs	Neutral / not relevant
+	Somewhat positive impact	Somewhat feasible		Somewhat feasible	Limited savings	Somewhat coherent
++	Positive impact	Feasible		Feasible	High savings	Coherent
+++	Very positive impact	Very feasible		Very feasible /no changes required	Very high savings	Highly coherent

The actual ratings provided for each of the measures proposed under each of the 4 policy options are summarised in the tables below and further explained in Chapter 6 of the report.

Table 11: Ratings for each measure proposed under Policy Option 1

Specific Objective	Cross reference	Effectiveness to achieve relevant objective	Feasibility			Costs	Coherence
			Technical	Political	Legal		
1	Development of guidance on the definitions and personal scope of the Directive	+	++	++	+++	-	+
	Sharing of best practices on the definitions and personal scope of the Directive	+	++	++	+++	-	+
	Adding discussion on unrepresented citizens at LCC meetings	+	++	++	+++	0	+
	Provision of training on the definitions and personal scope of the Directive	+	++	++	+++	0	+
3	Development of a user friendly and up to date list of bilateral agreements and other practical arrangements, the development of a guidance document	+++	++	++	+++	0	0

Specific Objective	Cross reference	Effectiveness to achieve relevant objective	Feasibility			Costs	Coherence
			Technical	Political	Legal		
	on redirecting and available legal remedies and mechanism of redress, and the organisation of training for consular staff on redirecting.						
4	Information sharing (incl. development of digital tools or enhancing functionalities of CoOL)	+	++	++	+++	-	0
	Prioritisation of resources of EU Delegations	++	+	++	+++	-	0
	Development of guidelines and best practice guides for consular staff	+	++	++	+++	-	0
	Global joint coordination exercises	+	++	++	+++	0	0
5	Guidance documents	++	++	+++	+++	-	0
	Updating of existing EU information and communication channels	++	++	+++	+++	-	0
	EU to organise an awareness raising campaign for EU citizens on their right to consular protection	++	++	+++	+++	-	0
6	Guidance documents to clarify the way in which Member States can seek reimbursement from each other	+	++	+++	+++	-	0
	Training to provide greater clarity and awareness of the Directive's financial reimbursement procedures	+	++	+++	+++	0	0

Table 12: Ratings for each measure proposed under Policy Option 2A

Strategic Objective	Cross reference	Effectiveness to achieve relevant objective	Feasibility			Costs	Coherence
			Technical	Political	Legal		
1	Clarification of the personal scope of the Directive to cover represented EU citizens in crisis situations (voluntary)	+	+	-	++	-	+
	Clarification of definition incl. presumption of "unrepresentedness"	+	+	-	++	-	+
	Soft measures similar to option 1	See ratings of soft measures (policy option 1) in table 11					
2	Legal amendment clarifying geographical scope: Clarification allowing Member States to provide a broader level of protection, by applying the Directive within the EU territory (voluntary)	+	+	-	+	-	+
3	Clarify procedure for redirecting (Art. 3 & 7)	+++	++	++	++	0	0
	Strengthen the obligation for Member States to notify bilateral and practical arrangements	+++	++	++	++	0	0
	Requirement to provide access to legal remedy and redress under equal condition	+++	++	++	++	0	0
	Soft measures similar to those foreseen under option 1	See ratings of soft measures (policy option 1) in table 11					
4	Legal amendment aligning supporting role of EU Delegation with wording of EEAS decision (art 11)	+	+	+	++	-	+

Strategic Objective	Cross reference	Effectiveness to achieve relevant objective	Feasibility			Costs	Coherence
			Technical	Political	Legal		
	Legal amendment allowing the chairing or co-chairing of LCC meeting by EU Delegation with participation of unrepresented Member States (art. 12)	+	++	+	++	0	0
	Legal amendment enhancing the JFW, incl. integrating lead state concept (art. 13)	++	+	+	++	0	0
	Legal amendment to include an explicit reference to Joint Consular Teams (art. 13)	++	++	+	++	0	0
	Legal amendment to include explicit reference to the data sharing in line with GDPR	++	++	+++	++	0	+
	Soft measures similar to those foreseen under option 1	See ratings of soft measures (policy option 1) in table 11					
5	Requirement for Member States to provide the EC with up to date information on consular contact points, honorary consuls, bilateral agreements and travel advice + requirement for EU to publicise information	++	++	++	+	-	0
	Central communication with unrepresented EU citizens in crisis agreed at local level	++	-	+	+	-	0
	Option for prior travel registration and sharing of information	++	--	--	+	-	0
	Soft measures similar as those under policy option 1	See ratings of soft measures (policy option 1) in table 11					
6	Legal amendments to Article 14/15 Directive: Introduce possibility of direct reimbursement by EU citizens	+++	++	-	++	0	+
	Legal amendments to Article 14/15 Directive: Development of a standard form for reimbursement of assistance to represented citizens	+++	++	+++	++	0	+
	Soft measures similar as those under policy option 1	See ratings of soft measures (policy option 1) in table 11					

Option 2 B contains the same measures proposed under policy option 2A, with the exception of the amendment of Article 11 on the role of the EU Delegations. All ratings of these measures under option 2A mentioned in the table above (table 12) thus also apply to policy option 2B.

Table 13: Ratings for each* measure proposed under Policy Option 2B

Strategic Objective	Cross reference	Effectiveness to achieve relevant objective	Feasibility			Costs	Coherence
			Technical	Political	Legal		
4	Legal amendment extending the role and responsibilities of the EU Delegations: – allowing for direct assistance in countries with no/low Member State representation (art.11), including limited additional resources for EU Delegations	+++	0	+	0	--	++

Table 14: Ratings for each measure proposed under Policy Option 3

Strategic Objective	Cross reference	Effectiveness to achieve relevant objective	Feasibility			Costs	Coherence
			Technical	Political	Legal		
1	Legal amendment clarifying the personal scope of the Directive to cover represented EU citizens in crisis situations (mandatory)	++	+	---	---	-	+
2	Legal amendment extending the Directive's geographical scope to cover unrepresented EU citizens within the EU territory	++	-	--	--	-	+
4	Legal amendment empowering EU Delegations to provide direct consular protection to unrepresented EU citizens without prior Member State request (art.11 Directive)	+++	--	--	--	--	0
	Legal amendment appointing EU Delegations as chair of LCC meeting in crisis, as well as in non-crisis situations in countries with low levels of Member State representation (art. 12 Directive)	+	++	+	++	0	0
	Legal amendment extending the role and responsibilities of EU delegations, incl. leading on JFW (art. 13 Directive)	++	--	+	-	0	0
	Legal amendment adding an explicit reference to Joint consular teams, JCT systematically considered in crisis (art. 13(3) Directive)	++	++	+	++	-	0
	Legal amendment) allowing the UCPM to be activated directly by the EU for crisis situations (art 13(4) Directive)	+++	++	+	-	0	0
5	A common European travel advice provided by EU Delegations	+	--	---	--	--	0
	A common EU channel for crisis communication	+	--	---	--	--	0
	Voluntary prior registration of travellers and expatriates	+	--	---	--	--	0
6	An "EU Consular Protection Fund" to pay for the costs incurred to provide consular protection to (un)represented EU citizens.	+++	--	---	++	---	+
	An IT system would be set up to digitalise the reimbursement procedures.	+++	--	---	++	---	+

(vi) Methodology for comparison of options

The methodology used to compare the options (as presented in Chapter 7 of the report) is based on the ratings provided in the section above (--- to +++). For the purposes of the multi-criteria analysis, each sub-option/element of the four policy options were converted in a numerical value (from -3 to +3).

For each of the policy options below, we have followed the following process:

- **Step 1: Discarding measures within the option with certain negative ratings** which would make the option unsuitable:
 - o Rated with a negative impact in its effectiveness in achieving the specific objective

- Rated with a very low technical feasibility score (---)
- Rated as highly incoherent (---).

However, none of the options were discarded, as none were rated with these ratings.

- **Step 2: Aggregate rating per criteria per policy option:** Once these measures were discarded, we have aggregated the rating of all the measures proposed under each policy option, to reach one single average rating for each of the policy options, for each of the criteria.
- **Step 3: Weighting of aggregated ratings:** We have then applied a weight to each of the criteria in order to reflect the relative importance of each of them. The weighting applied is presented in the table below. The rationale for providing effectiveness with a higher weighting than the other criteria is because this criterion is deemed to be most important: if a policy option is not well suited to provide a solution to the problems identified in the problem definition, and therefore achieve a specific policy objective, it is not worth pursuing. When looking at the feasibility criteria, we weighed technical feasibility slightly higher than legal and political feasibility, as the latter criteria are barriers that are considered to be easier to overcome than when an option is technically difficult to implement. Given the costs of the policy options are generally relatively low, the cost criterion is given a similar low weighting as the political and legal feasibility. To assess the extent to which the weighing would change the ratings and ranking, a sensitivity analysis for each of the options is undertaken, of which the findings are presented below.

Table 15: Options weighting

Criteria	Effectiveness to achieve relevant objective	Feasibility			Costs	Coherence
		Technical	Political	Legal		
weighting	1	0.3	0.2	0.2	0.2	0.2

Step 4: Comparison and ranking of options: On the basis of this multi-criteria analysis, we rank the policy packages to assess which one would be the preferred one.

Sensitivity analysis

The key findings of the sensitivity analysis carried out for each of the options to assess the extent to which the weighing would change the ratings and ranking are as follows:

- **Option 1:** The sensitivity analysis of the weighing shows that the effectiveness criterion is important for Option 1. A change of +/- 10% in the weighting results in a variation of +/- 7.93% in the total score of an option. By comparison, the range of change for the other criterion varies between +/- 0.06% (coherence), and +/-0.68% (technical feasibility).
- **Option 2A:** The sensitivity analysis of the weighing shows that the effectiveness criterion for Option 2A is important. A change of +/- 10% in the weighting results in a variation of +/- 8.71% in the total score of an option. By comparison, the range of change for the other criterion varies between +/- 0.06% (coherence), and +/-0.4% (technical feasibility).
- **Option 2B:** The sensitivity analysis of the weighing shows that the effectiveness criterion for Option 2A is important. A change of +/- 10% in the weighting results in a variation of +/- 8.80% in the total score of an option. By comparison, the range of change for the other criterion varies between +/- 0.07% (coherence), and +/-0.42% (technical feasibility).
- **Option 3:** The sensitivity analysis of the weighing shows that the effectiveness criterion is important. A change of +/- 10% in the weighting results in a variation of +/- 10.63% in the total score of an options. By comparison, the range of change for the other criterion varies between +/- 0.06% (coherence), and +/-0.42% (costs).

Additional benefits

Additional benefits would stem from the introduction of all the measures proposed under each of the policy options, as the cost ratings presented in Chapter 6 and in aggregated form in Chapter 7 stem from looking at each measure individually. The additional benefits include in particular:

- **Effectiveness synergies.** Taken together, all the elements of the policy packages would develop synergies and potentially increase their effectiveness in achieving the objectives. For example,
 - Option 1: the activities envisaged as part of the guidance to be developed under relating to the scope of the Directive, on up-to-date list of bilateral agreements and other practical arrangements, on communication to EU citizens taken together would add more value than the sum of their individual parts.
 - Option 2A and 2B: the voluntary expansion of the role of the EU Delegations across the different components of the option would significantly increase the effectiveness of the option in addressing the problems and the different policy objectives.
 - Option 3: the more extensive expansion of the role of the EU Delegations and the mandatory expansion of the scope of the Directive to unrepresented citizens and the EU territory would significantly increase the effectiveness of the option in addressing the problems and the different policy objectives, although falling short in addressing specific objective 3 (accessibility).
- **Cost savings** are also expected to take place if each policy options is implemented as a package:
 - Option 1: The overall costs would be expected to be smaller. As an example, the different types of training could be joined together with an overall expected reduction of their costs.
 - Option 2A, 2B and option 3: The increased workload for EU Delegations if options 2A, 2B or 3 were to be adopted as a whole would reach a lower cost than the sum of its parts as the synergies discussed above would also result in efficiency. As a result of these synergies, the overall cost of implementing the options together would be lower, and the overall score for costs is expected to be higher.
- The internal **coherence** of the policy package would also be enhanced if all measures under each policy option 3 were to be adopted. For example:
 - Option 2A and 2B: extending the scope of the Directive to unrepresented citizens in the measures addressing problem area 1, and the change to the form for reimbursement to also cover represented citizens in measures addressing problem area 4 would increase coherence.
 - Option 3: extending the roles and responsibilities of EU would be coherent with their additional tasks of providing travel advice for EU citizen.

2. ANNEX II: THE FUNCTIONING OF DIRECTIVE 2015/637

This section provides a description of the legal basis and objectives of Directive 2015/637⁶, as well as how the key provisions of the Directive have been transposed into the national law of the Member States, and implemented in practice, grouped by the four operational objectives of the Directive. For each objective the shortcomings and lessons learned are highlighted as well. The chapter also presents an overview of the evolution of the problem, of who is affected and how, as well as on the data collected on the cost borne by the Member States to implement the Directive. A summary of the implementation of the Directive by evaluation criteria is provided at the end of the Annex.

- 2.1 Introduction: Legal basis and objective of the current Directive
- 2.2. Implementation of Article 4 to 6 of the Directive (scope)
- 2.3 Implementation of Article 2, 7 and 9 Directive (Conditions for access)
- 2.4 Implementation of Article 10,11,12 Directive (Cooperation and coordination)
- 2.5 Implementation of Article 14 and 15 Directive (financial reimbursement)
- 2.6 Who is affected and how
- 2.7 Evolution of the problem
- 2.8 Cost of providing consular protection
- 2.9 Conclusion

2.1 INTRODUCTION: LEGAL BASIS AND OBJECTIVES OF THE DIRECTIVE

This section provides an introduction to the Directive 2015/637, by presenting its legal basis and objectives.

Legal basis

The key legal basis for the adoption of the Consular Protection Directive are Articles 20(2)(c) and 23(2) of the TFEU which build on Article 8(c) of the TEC, as introduced by the Maastricht Treaty in 1992. The right of unrepresented EU citizens to consular protection on the same conditions as nationals of the assisting Member State has thus been part of the core of EU citizenship rights since the beginning. However, until the entry into force of the Lisbon Treaty, the implementation of the EU citizenship right to consular and diplomatic protection was left up to the Member States to “establish the necessary rules among themselves” (see former Article 22 of the EC Treaty). This method of implementation was replaced by the Lisbon Treaty by conferring upon the European Commission a right to propose directives for the implementation of this particular EU citizenship right, which would be adopted by qualified majority, and after consulting the European Parliament.⁷ The Consular Protection Directive contains the definitions and procedures necessary to implement the equal consular protection part of the EU citizenship right, which is particularly important in crisis situations. The Directive is, however, not an instrument of harmonisation of domestic consular protection services, but one of “cooperation and coordination”.⁸

⁶ Council Directive (EU) 2015/637 of 20 April 2015 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

⁷Art. 23(2) TFEU reads as follows: “The Council, acting in accordance with a special legislative procedure and after consulting the European Parliament, may adopt Directives establishing the coordination and cooperation measures necessary to facilitate such protection.”

⁸ Art. 23(2) TFEU reads: “The Council ... may adopt Directives establishing the coordination and cooperation measures necessary to facilitate such protection.”

Before the adoption of the Directive, most of the problems concerning the effective enforcement of the EU citizen's right to equal protection abroad was hindered by an imprecise personal and substantive scope of the right (e.g. which individuals benefit from this right, and under which circumstances they can exercise it), the different forms of transposition of the previous Consular Protection Decision, and the fragmented domestic implementation regimes,⁹ which had led in practice to the limited awareness, understanding and exercise of this right by the EU citizens.¹⁰ In particular, the ambiguous scope, content and conditions set out by the policy instruments preceding the Directive, and their failure to meet EU citizens' needs and expectations were invoked by scholars¹¹ and EU institutions¹² as main causes for the continued minimal awareness and operability of the EU citizenship right to equal protection outside the EU.

Objectives

The initial proposal for the Council Directive specifies that the Directive "**lays down the cooperation and coordination measures necessary to facilitate consular protection for unrepresented EU citizens** and carries out action 8 of the "EU Citizenship Report 2010 - Dismantling the obstacles to EU citizens' rights" pursuant to which the Commission is committed to **increase the effectiveness of the right of EU citizens to be assisted in third countries** by the diplomatic and consular authorities of all Member States, including by proposing legislative measures in 2011."¹³ The proposal further states that "the main objective of this proposal is to (1) **clarify content and operability of right of unrepresented EU citizens** to consular protection **under equal conditions**, and (2) **simplify cooperation and coordination** between consular authorities.

Recital 4 and Article 1(1) of the Directive state that the aim of the Directive is to **lay down the cooperation and coordination measures necessary to further facilitate consular protection for unrepresented citizens of the EU**. The Directive's preamble further refers several times to the need to "**ensure effective protection**".

It is important to note that although the Directive mentions consular protection "under equal conditions", it **does not aim to harmonise the provision of consular protection to unrepresented citizens**, but rather refers to the need for Member States to provide equal/the same consular protection to unrepresented citizens as they would have provided to their own nationals. This is due to the fact that the provision of consular protection to nationals is an area of national competence, and therefore firmly grounded in the national traditions of Member States. This means that in practice it is to be expected that unrepresented EU citizens will receive different types of protection and different levels of service depending on which Member State they seek protection from. The Directive rather seeks to further define, clarify and operationalise the citizen's right to consular protection, for the sake of legal certainty and to ensure that unrepresented citizens can access the protection they are entitled to under equal conditions.

The four areas in which the Directive aims to provide further clarification is:

- The **personal scope**, thus clarifying who is entitled to consular protection under the Directive;
- The **conditions for access**: under what conditions citizens are entitled to protection under the Directive: namely which Member State they can seek protection from and what type of body (e.g. embassies and consulates or also Honorary Consuls), the material scope (what types of consular protection citizens are entitled to), and what the requirements are for identification.

⁹ See, the CARE (Citizens Consular Assistance Regulation in Europe) project Report (2009-2011); Madalina Moraru, 'An Analysis Of The Consular Protection Directive: Are EU Citizens Now Better Protected In The World?' (2019) 56 Common Market Law Review, 417–461.

¹⁰ See the 2017 EU Citizenship Report: Strengthening Citizens' Rights in a Union of Democratic Change.; Eurobarometer No. 430/2016 and Flash EB No 294/2010, European Union Citizenship; Eurobarometer(2010), Flash EB No 294, European Union Citizenship, 34.

¹¹ Moraru, "Protection of EU citizens abroad: A legal assessment of the EU citizen's right to consular and diplomatic protection", (2011) *Perspectives on Federalism*, 67; Saliceti, op. cit. previous note, 191.

¹² Flash Eurobarometer No. 430, "European Union Citizenship", October 2015; Flash Eurobarometer No. 294, "EU citizenship", March 2010; Communication from the Commission to the European Parliament and the Council, Consular protection for EU citizens in third countries: State of play and way forward, COM(2011)149/2 Brussels, 23 March 2011, 4. (Hereafter: "2011 Communication").

¹³ Proposal for a COUNCIL DIRECTIVE on consular protection for citizens of the Union abroad /* COM/2011/0881 final - 2011/0432 (CNS).

- **Cooperation and coordination:** assigning responsibilities to Member States and the EU, in terms of how the assisting MS and MS of nationality of citizen should cooperate to provide consular protection in a given case, but also includes requirements for crisis cooperation and lays down the coordination role of EU Delegations.
- **Financial procedures:** the Directive starts from the premise that the costs and expenses made in relation to a citizen should be carried by the Member State of nationality or the citizen itself. It thus does not aim to put in place a full system of financial burden sharing. In this context, the Directive puts in place rules to operationalise the way in which Member States can seek reimbursement from each other by putting in place standard forms in Annexes I and II. The Directive aims to ensure that the reimbursement sought from citizens are undertaken on the same conditions as for the nationals of the assisting Member State.

To this end, and for the purpose of the Directive's reconstructed intervention logic, **the general objective of the Directive is "to ensure effective and equal consular protection to unrepresented EU citizens in third countries"**.

This overarching objective can be further articulated in the following **specific objectives**, which reflect the four areas that the Commission identified as requiring clarification during its preparatory work supporting the proposal for a Consular Protection Directive¹⁴:

- **Specific objective 1: Enhancing legal certainty for EU citizens and their family members with respect to their equal right to consular protection by clarifying the personal scope (i.e. the beneficiaries) of the right to equal consular protection:**
 - **Operational objective 1.1:** clarify the definition of when an EU citizen considered to be unrepresented; and
 - **Operational objective 1.2:** clarify to which extent third country family members of unrepresented EU citizens are beneficiaries of consular protection;¹⁵

The specific objective 1 is reflected in the following articles of the Directive:

- *Article 4 and 6: definition "unrepresented" citizens*
- *Article 5: family members of unrepresented citizens in third countries*

- **Specific objective 2: Ensure legal certainty for EU citizens and their family members with respect to their equal right to consular protection by clarifying the conditions for access to consular protection:**
 - **Operational objective 2.1:** Clarify which types of bodies can provide consular protection (e.g. embassies, consulates or also Honorary Consuls)
 - **Operational objective 2.2:** put in place provisions clarifying who provides the protection (e.g. the procedure to establish which Member State is providing the protection, and the extent to which citizens can be redirected in cases of existing permanent arrangements or when the Member State of nationality wishes to take on the case,
 - **Operational objective 2.3:** put in place provisions clarifying how citizens seeking consular protection should identify themselves
 - **Operational objective 2.4:** put in place a provision clarifying which types of consular protection unrepresented EU citizens are typically entitled to (e.g. in case of death, victim of crime, etc.).

Specific objective 2 is reflected in the following articles of the Directive:

- *Article 1(1) and Article 2(1)) on right to equal protection*
- *Article 2: General principle*
- *Article 3 Consular Protection by Member State of nationality*
- *Article 7: Access to consular protection and other arrangements*

¹⁴ Idem.

¹⁵ In particular there was no common understanding about when an embassy or consulate is accessible, and Ibid, p.3.

- *Article 8: Identification*
- *Article 9: Types of assistance*

- **Specific objective 3: Increased efficiency in the cooperation and coordination of the provision by of consular protection to unrepresented citizens by the EU Delegations and Member States and to improve the information provision to EU citizens**, including in times of crisis by:
 - o **Operational objective 3.1:** put in place a procedure on how consular assistance is to be coordinated between the assisting Member State and the citizen's Member State of nationality;
 - o **Operational objective 3.2:** put in place rules on the organisation of local coordination and cooperation between institutional actors of consular protection (Member States, EEAS, EUDEL) which appeared to be lacking structure as to the respective roles and responsibilities, especially in times of crisis,
 - o **Operational objective 3.3:** put in place the requirements for Member States and EU Delegations in terms of the information that needs to be made available for unrepresented EU citizens.

Specific objective 3 is reflected in the following articles of the Directive:

- *Article 2(2): the requirement to inform citizens on honorary consuls*
- *Article 7(2) on the requirement to publicise practical arrangements to citizens,*
- *Article 10: General rules on coordination and cooperation*
- *Article 11: the role of Union delegations*
- *Article 12: local cooperation*
- *Article 13: Crisis preparedness and cooperation*

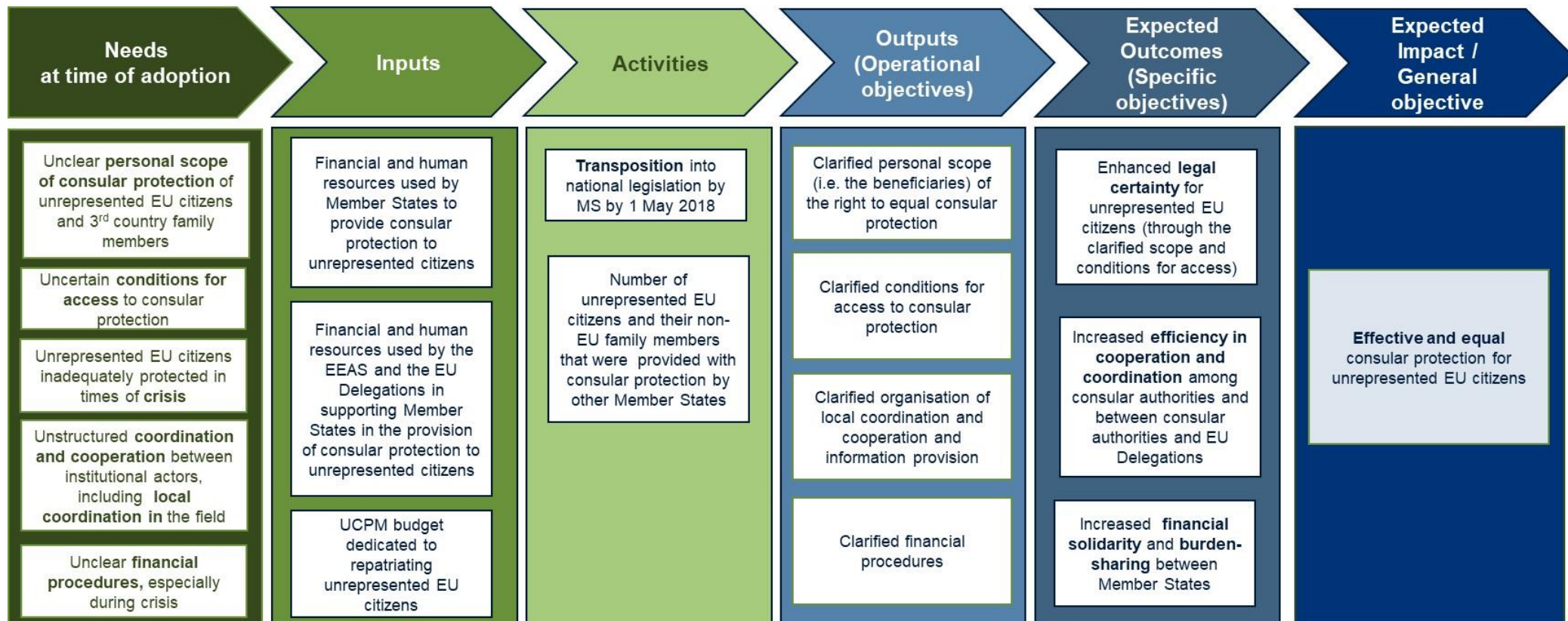
- **Specific objective 4: Ensure** timely reimbursements of costs made in providing consular protection to unrepresented citizens by assisting Member States and ensure equal conditions for the repayment of costs by unrepresented EU citizens, by:
 - o **Operational objective 4.1:** put in place rules which require unrepresented citizens to repay costs of consular protection under equal conditions
 - o **Operational objective 4.2:** put in place efficient financial reimbursement procedures between the assisting Member State and Member State of nationality, including a simplified procedure in crisis situations.

Specific objective 4 is reflected in the following articles of the Directive:

- *Article 14: General rules Chapter 3 on Financial procedures*
- *Article 15: Facilitated procedure in crisis situations*

An Intervention Logic (IL) is a model that graphically illustrates the different components of an intervention. These are (1) needs, (2) objectives, (3) inputs, (4) outputs, (5) outcomes and (6) impacts. The diagram represents how they are expected to link with each other, what is called a results chain. An Intervention Logic provides a blue print for a theoretical “optimal” intervention against which the actual intervention can be assessed. Or, as explained in the Better Regulation Guidelines the intervention Logic should summarise how the intervention was (originally) expected to work (i.e. at the time of adoption / implementation).

Figure 1: Intervention Logic of the current Directive



2.2 IMPLEMENTATION OF ART. 4 TO 6 DIRECTIVE (SCOPE)

This section presents the evidence collected on the transposition and implementation of Articles 4 to 6 of the Directive, in order to assess the extent to which the Directive was able to meet its first specific objective, namely to clarify the scope of the right to equal consular protection.

2.2.1. Definition of “Unrepresented” (Articles 4 and 6)

Definition

Articles 4 and 6 of the Directive define the concept of unrepresented citizen to include nationals of an EU Member State who find themselves in a third country where their own state of nationality does not have a permanent embassy or consulate or where the existing representation is unable to effectively provide consular protection.

Recital 6 further states: “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.”

Findings on transposition

Articles 4 and 6 are transposed in every Member State except for Belgium and Germany where the application of the Consular Code is simply extended to unrepresented citizens.

Findings on the application in practice

Most Member States do not see any issue in determining the scope of the Directive with regard to “unrepresented citizens”, particularly read in conjunction with Recitals 1 and 8, with some even welcoming the flexibility provided.

In terms of how Member States assess whether a request for assistance is within scope of the Directive, this is different depending on the type of “unrepresented” citizen covered by the Directive (see below).

The survey with EU Delegations suggests that cases in which consular protection to an unrepresented is refused by another Member State on the basis that the EU citizen was considered to be represented (i.e. not considered unrepresented as under the Directive) is a rare occurrence: of the 77 EU Delegations that answered the survey, only 8 EU Delegations stated that they had encountered cases where the EU citizen was refused assistance because the citizen was not considered “unrepresented”, of which only two EU Delegations stated this happened frequently (three EU delegations noted this happened rarely, and three stated this happened occasionally).

Type 1: nationals of an EU Member State who find themselves in a third country where their own state of nationality does not have a permanent embassy or consulate

Member States base their approach on a (formal) *prima facie* assessment, namely whether or not an embassy or consulate is present on the territory of the given third country. Problems arise where information on existing representations is not up-to-date, or where embassies or consulates are temporarily closed.

Complications could also arise where the Member State of nationality does not have a physical representation, but does provide online services. In accordance with Recital 11, digitalisation of consular protection may allow Member States to provide assistance even where they are not present on the ground, however Article 4 and 6 do not really provide for this option. However, the stakeholders consulted did not highlight this as a specific issue in practise.

Type 2: nationals of an EU Member State where the existing representation is effectively unable to provide consular protection.

A third of Member States voiced some uncertainty, however, in determining the absence of “effective representation” as a title for consular protection by another Member State. It is considered a sensitive issue to determine what

constitutes “effective” representation where an embassy, consulate or honorary consul exists but cannot provide consular protection. This may be the case where:

- an Honorary Consul is present in the country, but is unequipped to render the requested form of consular protection – some Member States reported that unrepresented citizens had not been assisted in the past on the grounds that Honorary Consuls existed, and, therefore, the citizen was considered represented, even though that specific representation did not have the capacity to provide consular protection;
- there is a lack of capacity of a representation (particularly, as pointed out, Honorary Consuls may not be in the position to provide consular protection in all affairs);
- there is temporary unavailability or respective closure of a representation – here Recital 8 calls for Member States’ representations to inform each other about any exceptional circumstances that may temporarily affect their capacity to provide consular protection;
- the representation cannot be safely reached – here Recital 8 calls for Member States to take into consideration accessibility and proximity (consular protection might not be effectively provided in remote areas even if a Member State has a representation in that third country).

As to the latter point, Member States have voiced different positions. While some may even consider large distances irrelevant and expect citizens to make the effort to access the representations of their home state, a few have confirmed that they experienced difficulties in determining whether a citizen was “effectively” represented on the grounds of accessibility and proximity.

In cases of doubt, Member States will directly contact the Ministry of Foreign Affairs of the Member State of nationality and Member States will, as a rule, defer to the assessment by that Member State in determining whether an individual may be viewed as “unrepresented”.

Most Member States take the view that the threshold for assessing whether an individual falls within the scope depends on the nature and urgency of the situation.

Lessons Learned/ simplification potential

There is some evidence to suggest that the way the concept of unrepresented citizen is defined in the Directive has led to inconsistencies in the application of the Directive across the Member States. Insufficient information on the competences of representations, particularly of honorary consuls, led to instances of false assessments of citizens as represented. In addition, some Member States consider the issue of remoteness or capacity as a factor in the assessment whereas others do not. While most stakeholders are content with the current wording, there appears to be agreement that further clarification would be helpful. In addition, digitalisation of consular protection may allow Member States to provide assistance even where they are not present on the ground and, thereby, reduce pressure on represented Member States.

2.2.2 Non-EU family members (Article 5)

Definition

Article 5 of the Directive clarifies the personal scope of the right to consular protection which should, in principle, be extended to the family members accompanying the unrepresented citizens who are themselves not nationals of an EU Member State. The protection should be provided 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, in accordance with its national law or practice.

Findings on transposition

Only three Member States do not provide consular assistance to the family members accompanying the unrepresented citizen, who are not themselves citizens of the EU (BG, EE and PL). These countries have the same policy regarding family members of represented citizens, and it is due to the fact that there are no provisions in their national law regarding family members. While Article 5 on the provision of consular assistance to family members has not been transposed in BE, CZ, FR and SK, these Member States provide such assistance in line with national law provisions considered as sufficiently addressing the issues.

Findings of the application in practice

In a majority of Member States, the provision of consular protection for family members originating from a third country is assessed on a case-by-case basis, without hard and fast rules. Most of these Member States embrace flexibility

which allows them to adjust to the circumstances at stake and address the specific needs of each situation. The trend among Member States was found to be an increased level of protection in times of crisis (compared to Member States practice in non-crisis times), depending on and proportional to the gravity / emergency of the crisis situation. The feedback from national authorities suggests that most Member States would apply a broader approach in emergency situations such as the COVID-19 crisis, a natural or manmade disaster. For Instance, Belgium who did not transpose Article 5 and therefore does not, in principle, provide assistance to family members who are not themselves citizens of the Union, “exceptionally” provide this assistance in crisis situation. Similarly, Member States apply a broader understanding of family in times of crisis. For instance, Germany only provides repatriation to parents, partners, brothers, sisters, uncles, and aunts of the EU citizens during crisis situation (and only when living in the same household).

While some Member States welcome a flexible definition of the terms “family member” and “accompanying” allowing them to align the provisions with their national law, the lack of a precise definition in the Directive has enabled vast differences in the way Member States define these terms. Depending on the Member State’s national law and practice, a family member can be an individual from the immediate family (e.g. parents, children, spouses) but also may refer to a much wider group of extended family (e.g. sister, brother, uncle, aunt, cousin). Similarly, in different Member States to accompany the unrepresented citizen can be construed from being part of the same household, regularly dependent of the citizen to just being with the EU national at the time of the circumstances leading to need for consular protection.

Most respondents to the survey of EU Delegations either did not know or did not encounter situations in which a Member State would reject the request for assistance from an unrepresented citizen for the reason that a relative was not considered a family member under Article 5 of the Directive- only three EU Delegations stated this happened frequently.¹⁶

Similarly, among the 22 Member States that provided feedback, only three mentioned having experienced problems in the practical application of Article 5 due to Member States, national laws creating obstacles. - For example one Member State, stated that when coordinating repatriation flights from Moscow to Vienna during the COVID19-crisis, some EU countries followed a different approach regarding the repatriation and re-entry of non-EU family members. Therefore, it was necessary to evaluate the entry requirements for each passenger – especially third-country family members– to ensure that upon arrival their entry will not be denied. The Member State suggested in this regard that a unified approach on the question of how to assist family members during a crisis would significantly ease repatriation efforts, usually made under intense logistical pressure and a tight time schedule.

Member States are divided in their opinions on the need for a more precise definition of the term ‘family member’ at the level of the Directive. Most national authorities agree that first degree relatives are prioritised for assistance (parent, child, spouse), as shown in the table below summarising the coverage of the different types of non-EU family members to which consular assistance is offered when accompanying an unrepresented EU citizen. The Member States offering consular assistance to extended family mention doing so in cases of exceptional circumstances (e.g. emergencies). In their open responses, three Member States indicated that there are other types of extended family members that could benefit for consular assistance when accompanying an unrepresented national but again only in cases of extreme hardship.

Table 16: Types of non-EU family members to which consular assistance is offered (N=19)

Type of non-EU family member that Member States provide assistance to	Number of Member States
Parent	12
Child	19
Spouse	19
Partner	16

¹⁶ 3 EU Delegations considered this to happen frequently; 2 – occasionally; 3 rarely and 36 did not encounter this issue

Brother/Sister	4
Uncle/Aunt	2
Other	<ul style="list-style-type: none"> • DE: family members who live or have lived in the same household • DK: Legal guardian • HR: Other relative

Source: Member States' responses to Open Question 4.2.

Member States may make the provision of consular assistance to non-EU family members conditional to the fulfilment of certain **prerequisites**, such as actually travelling together with the unrepresented EU citizen or the existence of extraordinary circumstances of hardship. The feedback from national authorities on prerequisites they require in order to provide consular assistance to non-EU family members is summarised in the table below.

Table 17: Prerequisite to consular assistance to non-EU family members (N=18)

Type of prerequisite to provide consular assistance to non-EU family members	Number of Member States
To accompany the non-EU family member at the time consular assistance is needed	14
Existence of crisis situation / extraordinary circumstances	14
The country of the nationality of the family member is not represented in the third country	12
The non-EU family member is resident / has a legal status within your MS	11
Other	<ol style="list-style-type: none"> 1) DK: Acceptance of the assistance of the receiving state. 2) PT: That the same level of assistance would be provided to family members of Portuguese citizens abroad, who are not citizens of the EU and accompany them.

Source: Member States' responses to Open Question 4.3.

In practice, 11 Member States confirmed that they provided consular protection to non-EU family members of unrepresented EU citizens since 2018. Very few noted that their consular authorities (either in assisting Member State or Member State of nationality of the EU citizen) experienced issues in the practical application of this provision. The French authorities noted that there had been an increase in the number of “family members” in crisis situations compared to figures previously given in bilateral agreements and the Austrian authorities pointed to obstacles stemming from national law of the Member State of nationality of the unrepresented EU citizen (e.g., concerning travel restrictions or issuing of visa).

According to the survey of EU Delegations, issues related to the consular protection provided to non-EU family members of unrepresented citizens are the third most frequently encountered problem unrepresented EU citizens face when exercising their right to consular protection when travelling or living abroad.¹⁷ For instance, the EU Delegation in the United Arab Emirates had to intervene with Emirati authorities in 2018 to ensure that they funded the medical costs for a family member of an EU citizen working for the Emirati authorities.

Lessons learned/ simplification potential

The Directive does not provide a precise definition of the terms “family member” and “accompanying”. As a result, the Member States' approaches towards these individuals greatly vary as they apply different definitions aligned with their national law. The approach in times of crisis also varies with some Member States applying a broader approach in their definition of family member. While Member States are divided in their opinions on the need for a more precise definition of these terms at the level of the Directive, the lack of consistency may lead to unequal treatment and could present challenges, especially in times of crisis. The feedback from a majority of national authorities that first degree relatives

¹⁷ 11 EU Delegations claimed that this happens occasionally, and 1 EU Delegations stated this happened frequently.

are prioritised for assistance could support the establishment of a minimum definition of non-EU family member of unrepresented citizens to include first degree relatives.

2.3. IMPLEMENTATION OF ARTICLE 2, 7 AND 9 DIRECTIVE (CONDITIONS FOR ACCESS)

This section presents the evidence collected on the transposition and implementation of Articles 2,7 and 9 of the Directive, in order to assess the extent to which the Directive was able to meet its second specific objective namely, to ensure legal certainty for EU citizens and their third-country family members with respect to their equal right to consular protection by clarifying the conditions for access to equal consular protection.

2.3.1 Honorary Consuls (Article 2)

Definition

Article 2(2) of the Directive leaves it to each Member State to decide whether it applies the Directive to Honorary Consuls.

Findings on transposition

The transposition of Article 2(2) can be categorised into the following groups:

- **Member States with national laws specifying that the Directive can apply to Honorary Consuls:** Only the legislation in eleven Member States explicitly foresees for the provision of consular protection to unrepresented citizens by Honorary Consuls (AT, BE, DK, FR, HU, HR, IT, LT, LU, LV, and SE). The national legislation of six of these Member States limit this by specifying that Honorary Consuls can only provide such assistance to unrepresented citizens if these have been expressly instructed to do so by the Ministry of Foreign Affairs (AT, HU, HR, IT, LU, LT, LV and BE).
- **Member States with national laws specifying that they do NOT apply the Directive to Honorary Consuls:** The legislation in six Member States expressly specifies that the Directive does not apply to Honorary Consuls (BG, CZ, PT, RO, IE, and SK).

Member States with national laws not explicitly specifying whether or not they apply the Directive to Honorary Consuls: Nine Member States chose not to apply the Directive to Honorary Consuls simply by not adopting a provision on this matter (CY, EE, EL, ES, FI, MT, NL, PL, and SI). In one Member State, the national law does not specifically transpose the provisions on Honorary Consuls but extends the provisions of the already existing Consular Law to unrepresented citizens (DE).

Findings on the application in practice

Irrespective of the transposition in national law of Article 2(2):

- Of the Member States that do not have legal provisions, some confirmed they could decide to involve their Honorary Consuls on a case-by-case basis even if Article 2 (2) Directive was not transposed into national law . Conversely, some Member States of which the national law explicitly states that Honorary Consulates can provide consular protection have confirmed that, in principle, honorary consulates do not take such a role.
- In terms of the frequency in which Honorary Consuls provide consular protection of unrepresented EU citizens in practice, most Member States confirmed that Honorary Consuls were **rarely or never involved in the provision of consular protection to unrepresented citizens**. Only one Member State highlighted that their Honorary Consuls were involved in a moderate amount (10-25% of consular protection provided to unrepresented citizens was provided by Honorary Consuls).

Most Member States confirmed that Honorary Consuls are generally only involved in crisis situations and/or in very exceptional circumstances. Reasons mentioned for not applying the Directive to Honorary Consuls included their limited scope and powers in general (also vis a vis their own nationals), the limited services they can provide and their limited capacity. In this regard, the large majority of Member States (25) confirmed that the consular protection powers of Honorary Consuls are more limited than those of consular officials.

One Member State highlighted that citizens of a Member State represented only by an Honorary Consul are often referred to another EU Embassy regardless of the kind of assistance needed.

- The majority of Member States responding to the DG JUST questionnaire (17) did not agree that the application of the Directive to Honorary Consuls should be further harmonised. Only one Member State was in favour of harmonisation. Most Member States appreciated the current flexibility within the Directive. One Member State mentioned in this regard the need to be very careful not to overburden Honorary Consuls in crisis situations.

Information to EU citizens

Even though Article 2(2) of the Directive specifies that Member States shall ensure that unrepresented citizens are duly informed about the extent to which Honorary Consuls are competent to provide protection in a given case, Member States do not seem to be taking specific steps to inform citizens on this particular aspect. One Member State confirmed information on the Honorary Consul would be available on the website of the competent Embassy. Another Member State explained that providing information on all its Honorary Consuls would not make sense as Honorary Consuls would require consent to provide consular protection and assistance, and it would only be given under exceptional circumstances.

One Member State highlighted it would be important to clarify the role of Honorary Consuls, their tasks and authorisations, vis-à-vis EU citizens and the other EU Embassies, as currently uncertainty arises as to whether or not an unrepresented citizen is effectively represented by an Honorary Consul.

A few Member States referred to the need for sharing of information on Honorary Consuls with other Member States via JFW and on CoOL. Two Member States highlighted the need to amend the information on Honorary Consuls on CoOL, so that it indicates whether an Honorary Consul of a Member State is empowered to issue ETDs to unrepresented EU citizens or not.

Lessons learned/ simplification potential

In conclusion, it seems that there is no obvious need, nor support from Member States, to amend the current Article 2(2) of the Directive. Honorary Consuls have generally more limited powers and are only involved in exceptional circumstances such as crisis situations. However, there is a need to improve the way in which Member States inform each other, and EU citizens, on the existence of Honorary Consuls and the extent to which they are mandated / able to provide consular protection to unrepresented EU citizens.

3.3.2 Practical arrangements (Article 7)

Definition

According to Article 7 (1) of the Directive “Unrepresented citizens shall be entitled to seek protection from the embassy or consulate of any Member State.”

According to Article 7 (2) of the Directive, Member States may conclude practical arrangements for sharing responsibilities for consular protection to unrepresented citizens, of which the Commission and EEAS should be notified. The article further requires that these arrangements shall be publicised by the EU and Member States to ensure transparency for unrepresented citizens.

Article 7(3) Directive requires that where prior practical arrangements exist, Member States that receive requests for protection should redirect the citizen seeking assistance to the relevant embassy or consulate designated as competent according to the arrangement already in place, unless consular protection would thereby be compromised, in particular if the urgency of the matter requires immediate action by the requested embassy or consulate

While the Directive provides that unrepresented citizens should be able to seek consular protection from the embassy or consulate of any Member State, it also highlights that Member States are encouraged to enter into practical arrangements with each other. On the one hand, such arrangements facilitate the spread of the burden of providing consular protection to unrepresented citizens between Member States as they are sharing responsibilities. On the other, they are beneficial to citizens since they allow for better preparedness to ensure effective protection.

Findings on transposition

The Directive outlines two types of consular arrangements:

Permanent arrangements (also called bilateral agreements), in which a Member State may represent another for consular matters on a permanent basis; and

Ad-hoc arrangements (also referred to as local arrangements or informal arrangements), in which Member States' embassies or consulates agree, wherever deemed necessary, to share responsibilities for providing consular protection to unrepresented citizens.

Member States should notify the Commission and the EEAS about the arrangements concluded, and they are recorded on the CoOL system managed by EEAS.

According to the data provided by EEAS, all EU Member States have concluded arrangements in one form or the other. However, Bulgaria disputed the accuracy of the data provided and stated that they have no consular arrangements at all. However cross referencing showed that Italy, Belgium, Germany and Hungary had local consular arrangement with Bulgaria which suggests that Bulgaria's response is most likely an error or mis-understanding.

Findings of the application in practice

According to the data on practical arrangements notified to the EEAS, there are currently 871 arrangements in place between the EU Member States – 832 "local" or ad-hoc arrangements and 35 permanent arrangements. The mapping of consular arrangements concluded between Member States to date shows that the approaches on the conclusion of consular arrangements between Member States to provide assistance to their citizens in third countries where they are not represented vary greatly across the EU. Member States can choose between informal (via the conclusion of arrangements on a case-by case basis / ad-hoc cooperation) and formal cooperation (via bilateral representation agreements or permanent arrangements notified to EEAS), or pick and mix both, and do so in practice. At least Germany and the Netherlands have noted that informal arrangements can be organised on a case-by-case basis with other Member States at the level of the representations themselves, rather than organised centrally at capital level.

Such arrangements are usually concluded in third countries with a low number of national representations, often with regards to small or remote third countries. Germany is the Member State which represents another Member States in the highest number of third countries. The largest number of permanent arrangements to be represented by another EU Member State have been notified by Latvia which has permanent arrangements with Estonia, Greece and Lithuania. Member States usually entering such agreements to be represented tend to be those with less representations in third countries. Practical arrangements also reflect longstanding diplomatic relationships, such as the one between Belgium and Luxembourg, or the Czech Republic and Slovakia who have a bilateral arrangement covering several third countries.

Beyond arrangements with other EU Member States under the Directive, some Member States have also concluded consular arrangements with third countries. For example:

- Austria has a bilateral arrangement with Switzerland covering 18 third countries.
- Croatia has a bilateral agreement on consular protection with Montenegro that enables consular protection of Montenegrin nationals in given third countries.
- Poland also has an understanding with Montenegro, covering eight third countries.
- Portugal has a multilateral agreement on consular protection with the countries that belong to the Community of Portuguese Language Countries (Portugal, Brazil, Angola, Mozambique, Cape Verde, Guinea-Bissau, São Tomé and Príncipe). Cyprus concluded four bilateral agreements with non-EU countries, namely USA, Russia, Mexico, Norway.

The appetite of Member States to negotiate new bilateral agreements or practical arrangements with other countries (EU Member States or third countries) to cover third countries without national representation appears limited in the near future, as only three indicated such interest. This can be explained by the existence of sufficient agreements of representation already in place which cancels the need to conclude new ones unless circumstances would change. For example, Ireland confirmed it signed a Memorandum of Understanding on consular cooperation with the UK already in 2012. Only one Member State (NL) indicated they plan to enter a practical arrangement for consular protection with the UK in response to Brexit.

Article 7(2) Directive further requires the EU and its Member States to publicise practical arrangements for consular protection to ensure transparency and easy access to information for unrepresented citizens. The data collection generated little information on the ways in which practical arrangements are publicised, except through the EU

Delegations. More than half of the EU Delegations (c. 64%) reported having dedicated communication channels to provide information on the provision of consular protection by Member States in the form of updated contact details of consulates of represented Member States and information on existing bilateral agreements concerning unrepresented citizens between Member States. It is unclear, however, whether these channels effectively reach unrepresented citizens in need of consular protection. A few National Authorities stated that further efforts in publicising the arrangements should be made, for instance by referencing all permanent arrangements between Member States in a centralised location, such as the website Your Rights in the EU¹⁸. One Member State (EE) noted that it was not always clear which Member State is responsible for assisting the unrepresented citizens of other Member States, and that this could be improved by “making this information to be found more easily on CoOL, e.g. by creating an additional column in the Countries and Missions section with the heading „Responsible for unrepresented citizens of”.

In terms of the implementation of Article 7(3) on redirecting unrepresented citizens, the feedback from National Authorities on this issue was limited. Member States which provided details on this question report that they have not experienced any shortcomings in the matter, but that is often due to the fact that their citizens are well aware of long-standing cooperation agreements (Luxembourg with France and the Baltic trilateral consular assistance and cooperation agreement). However, some Member States had more critical feedback:

- One Member State noted that this was at times used as an excuse of providing consular protection and we should consider to change the text of Article 7.
- One Member State noted that re-directing of unrepresented citizen is in our view not practical, as there is risk of delay.
- One Member State noted a tendency of unrepresented citizens to approach either bigger embassies on a given country or, more often, the ones that are culturally closer to them and another Member State expressed concerns as to the risk of delays that the re-directing of an unrepresented could cause and its potential effects on the situation in which they have found themselves.
- One Member State reported that in some cases where assistance was sought on the ground, individual missions of other Member States have requested that a bilateral agreement first be put in place between the respective foreign ministries before assistance was provided, even though the Directive does not include such a requirement. The Member State highlighted that this could be a source of delay and inefficiency, particularly where there is a need for rapid action in crisis situations. The Member State further noted an inconsistency in how often these bilateral arrangements are required and that greater clarity would be welcome, as the same Member State may indicate a need for a bilateral agreement in one world region but not in another.
- One Member State reported some instances in countries where it is not represented, where the represented Member States denied providing support to their unrepresented citizens (i.e. issuing emergency travel documents), arguing this is the responsibility of other represented Member States even though Article 7(1) is clear in stating that “unrepresented citizens shall be entitled to seek protection from the embassy or consulate of any Member State”. In this context, the Member State highlighted that the existence of bilateral arrangements between Member States should not serve as a justification to deny unrepresented citizens right to consular protection. The Member State noted that although Articles 7 and 10 of the Directive are clear, further clarification (e.g. in the form of awareness raising of the obligations on the ground) by the EU would be needed.

Lessons learned/ simplification potential

The Member States make good use of the possibility to enter into practical arrangements with each other, as shown by the sheer number of individual cooperation instances of this type. While the overall high number compounded by the informal nature of some practical arrangements could make their navigation difficult for EU citizens in need of consular assistance, concluding such arrangements is at the discretion of the Member States and could not be organised by the Directive. However, the evidence collected also suggests that these arrangements are not clearly signposted, as required by the Directive, to ensure transparency and easy access to information for unrepresented citizens. While many EU Delegations report publicising practical arrangements via dedicated communication channels, it is unclear whether these channels effectively reach unrepresented citizens in need of consular protection. This supports the

¹⁸https://ec.europa.eu/info/aid-development-cooperation-fundamental-rights/your-rights-eu/know-your-rights/citizens-rights/diplomatic-and-consular-protection_en

statement that the communication on practical arrangements to unrepresented citizens (and Member States) could be improved and the provisions on publication of practical arrangements – re-evaluated.

In terms of the possibility to redirect unrepresented citizens if practical arrangements exist, there seem to have been cases where Member States have requested for bilateral agreements to be put in place before assistance could be provided to their unrepresented citizens, or confusion as to whether a Member State of nationality request to take back the case would take precedence, which could lead to citizens facing delays in receiving the assistance they are entitled to. Although the Directive allows for bilateral agreements to be put in place between Member States, this should not be a precondition for providing assistance. The cases, although reported by a limited number of Member States, may suggest there is a lack of clarity on the meaning of Article 7 among some Member States.

3.2.3. Types of consular protection (Article 9)

Definition

Article 9 of the Directive specifies the different situations in which unrepresented citizens may seek consular assistance, namely:

- arrest or detention;
- being a victim of crime;
- a serious accident or serious illness;
- death;
- relief and repatriation in case of an emergency;
- a need for emergency travel documents.

In any of those situations, EU Member States must provide unrepresented EU citizens with whatever assistance they would provide to their own nationals. This support can be different from one EU Member State to another. However, the Directive does not specify the types of services/assistance the Member States may be asked to provide in each of these situations.

Findings on transposition

Most Member States explicitly mention the six situations foreseen in Article 9 in their national law, with the exception of 2 Member States (IE, PT) where the six situations are rather covered through policy or practice. In addition, several Member States foresee the application of the Directive in a number of additional situations beyond those listed in Article 9 of the Directive. The three most frequent additions are: (1) an “other” category (BG, FI, NL); and (2) wider interpretation of “relief and repatriation in case of an emergency” (the SK law refer to situations in which “the life, health or property of a larger number of persons may be endangered”, BE law refers to “major consular crisis” and the CZ law refers to “extraordinary event, i.e. disaster”; and (3) additional provisions in relation to (unaccompanied) minors (BE refers to “disappearance or kidnapping of a minor”, CZ also lists “unaccompanied minors”, PT law refers to “Safeguarding of minors and other incapable persons who are unprotected and in danger, intervening in the taking of precautionary measures and in the organization of guardianship”, and RO refers to “unaccompanied minors or minors subject to institutional protection measures abroad”). A few Member States also provide further details about “being a victim of crime” to include disappearances (BE) / locating missing Portuguese abroad (PT) and in relation to the situation of “death” (FI, PT). Finally, although the Directive uses the wording “may include” to indicate the list is non-exhaustive, the national laws of Member States use the word “may” and others the wording “shall”, which could lead to divergent application in practice.

Findings on the application in practice

From the data provided by the national authorities it seems that in practice requests for assistance in situations where the unrepresented EU citizen is arrested or detained, is a victim of crime, is seriously ill, was in an accident or there is a need for assistance in situations of death, are very rare. Overall, in 2018 and 2019, the “**need for an emergency travel document**” represented the majority of cases for both years (73% and 76% respectively) suggesting that the latter is the main case of assistance provided by Member States to citizens of other Member States during non-crisis situation. “**Queries/information requests**” represented the second category of cases for both years (23% and 19%) respectively. In 2020, 81% of the cases of assistance provided to unrepresented EU citizens were for “**relief and repatriation in case of emergency**”. In comparison, this type of assistance was not requested in 2018 and in 2019.

This suggests that it is not only the demand for assistance that fluctuates from year to year but also the type of assistance needed. This finding was also confirmed by the EU Delegations. Further details on the number of cases reported by type can be found in Annex IV.

The survey with EU Delegations suggests that cases where consular protection to an unrepresented citizen is refused by another Member State on the basis that the type of assistance they needed was considered out of scope is a rare occurrence: of the 77 EU Delegations that answered the survey, only 9 EU Delegations stated that they had encountered cases where an EU citizen was refused assistance because the assistance did not relate to any of the types foreseen under Article 9, of which only two EU Delegations stated this happened more frequently (five EU Delegations noted this happened rarely, two stated this happened occasionally).

National authorities in the Member States (24 took part in the survey) confirmed that the exact types of assistance they provide to their own citizens (and therefore in the same vein to unrepresented citizens) differ by type of situation, and are decided on a case-by-case basis:

- **Types of assistance in arrest/detention situations.** All Member States (except Belgium – no data) confirmed that they can assist in providing information to and maintaining contact with family members of the detainee. Similarly, all (except Belgium – no data) can help in maintaining contact with the detainee/arrested person. Almost all the Member States can assist in providing for basic needs in countries with a hard detention regime (22). However, in terms of the provision of legal information and assistance to the detainee, some Member States provide only legal information (5), or do not offer any assistance (5). Only a handful of countries offer assistance in the form of representation of the arrested/detained person in court (4). Some Member States would not assist in liaising with the national authorities/courts in the third country on behalf of the arrested person/detainee (7).
- **Types of assistance in situations when an EU citizen is a victim of a crime.** The great majority of Member States consulted confirmed that they can assist in the following situations: informing the next-of-kin of the victim of the crime (22), maintaining contact with the victim (23), providing information to the victim (22), supporting the repatriation procedure (22), and providing additional assistance to vulnerable victims, victims of human trafficking, or victims of rape/sexual assault (22). About half of the Member States confirmed that they could act as liaison with the national authorities/ courts in the third country on behalf of the victim and provide legal information and assistance (15). Only a few Member States declared that they could provide financial advances for hospitalisation (4) or for legal representation, including in relation to the judicial cost for proceedings connected with the crime (2).
- **Types of assistance in situations of accident/illness.** Almost all the Member States consulted would provide information and maintain contact with family members of the individual that was involved in an accident or is hospitalised (23), maintain contact with the ill/victim (23), provide information to ill/victims (21), or assist/liaise with the national authorities in the third country on behalf of the victim/ill (19). More than one third of the Member States would provide financial assistance with medical care or repatriation for medical care (9). Only a few Member States would provide accommodation in the embassy or the consulate or pay the cost of accommodation at hotels (5).
- **Types of assistance in situations of death.** Almost all the Member States consulted would provide information and maintain contact with family members of the deceased (22) and assist/liaise with the national authorities in the third country on behalf of the family of the deceased (22). Only a few would provide financial assistance with repatriation of the deceased (3), and exercise investigative powers in instances of death abroad (3).
- **Types of assistance in situations of emergency.** In situations of emergency, almost all the Member States consulted would inform citizens (23), support citizens in contacting family or their national authorities (23), ensure that the citizens' rights are respected (21), support citizens in cases of kidnappings, disappearances or

death of close relatives (21), keep the relatives of the citizens informed (23), maintain contact with the competent national and local authorities (23), maintain contact with EU Delegations (23), and organise evacuations during for example a natural disaster (22). More than half of Member States would assist by visiting a place of crisis (18) and organising search activities/ trying to locate the citizens (15).

Lessons learned/ simplification potential

- In conclusion, it seems that there is no obvious need to amend Article 9 of the Directive. Member States seem to provide consular protection in all of the six situations listed in the Article. However, the exact types of assistance that Member States are able to provide in each situation are not specified in the Directive. The types of assistance provided in practise seem to vary greatly across the Member States and is decided upon on a case-by-case basis. Clarity of the consular services provided by the MSs as part of the six situations listed in the Article could be improved.

2.4. IMPLEMENTATION OF ARTICLE 10,11,12 DIRECTIVE (COOPERATION AND COORDINATION)

This section presents the evidence collected on the implementation of Articles 10-13 of the Directive¹⁹, in order to assess the extent to which the Directive was able to meet its third specific objective namely, to clarify the coordination and cooperation between institutional actors of consular protection (Member States, EEAS, EUDEL) including in times of crisis, as well as the requirements for Member States and EU Delegations as regards the provision of information to unrepresented EU citizens.

The section is structured as follows:

- Coordination and cooperation between Member States (Article 10 and 12)
- Crisis preparedness and measures applied by Member States in times of crisis (Article 13)
- The role of the EU and EU Delegations (Articles 11 and 13)
- Information provision to EU citizens (Article 10)

2.4.1. Coordination and cooperation between Member States (non-crisis situations)

Definition

-Article 10 (1) calls upon Member States to closely cooperate and coordinate with one another and with the EU to ensure protection of unrepresented citizens. Article 10(2) and (3) specify the way in which the assisting Member State should cooperate with the Member State of nationality of the unrepresented citizen, when receiving a request for consular protection. It also includes requirements for the exchange of information on the request for assistance (e.g. cost) and the identity of the unrepresented citizen and their non-EU family members requesting assistance. The Assisting Member State also has a facilitation role, between the citizen and his/her Member State of nationality, while the Member State of nationality is responsible for contact with the family members of the citizen, as well as “any other relevant persons or authorities”.

-Article 12 specifies that the regular exchange of information on matters relevant to unrepresented citizens should take place at local cooperation meetings, chaired by a Member State in close cooperation with the EU Delegation. The article further specifies that during the meetings practical arrangements (as per Article 7) should be agreed between Member States where necessary.

Findings on the application in practice

¹⁹ Please note that the legal mapping carried out for this study did not include Articles 10-13 as in most Member States these articles do not require transposition into national law. Therefore, this section does not include information on transposition.

The key cooperation mechanisms used in the implementation of Articles 10 and 12 Directive are further described below.

(i) Bilateral cooperation between Member States in response to a request for assistance (Article 10)

The large majority of Member States²⁰ found the overall cooperation and coordination between Member States effective and assessed it from “very good” to “good”. While most Member States consulted stated there were no specific shortcomings in this regard, a few Member States highlighted the following issues:

- One Member State reported that there had been cases where its unrepresented citizen had requested assistance from another EU Member State who had then forwarded the request to the nearest Embassy of the citizen's nationality in a neighbouring jurisdiction. The Member State further noted that these instances are sufficiently frequent to suggest that further work was required to increase awareness of the principles and requirements outlined in the Directive.
- It was noted that represented Member States could be overwhelmed by the number of bilateral requests in crisis situations, also due to the limited access of unrepresented Member States to information circulated in local coordination networks. The risk highlighted by some Member States is that representations who are the quickest in responding to requests tend to receive the highest volume of requests over time, or therefore disincentivising for prompt action.
- Two Member States noted the need for further digitalisation of consular services. Another Member State also highlighted that those Member States not present on the ground, could provide large part of consular assistance remotely with limited involvement of represented Member States, which would reduce pressure on the Member States present.
- One Member State highlighted to have experienced delays when it was taking the role of the assisting Member State, presumably in the cooperation with the Member State of nationality of the unrepresented citizen.
- One Member State noted that Article 10(4) regarding the requirement for Member States to notify the EEAS needed clarification, as it was not clear what information had to be notified to the EEAS and in which way.
- In relation to the exchange of information required under Article 10 (2) and 10 (3), it was mentioned during a few interviews that some Member States refused to provide information on citizens due to GDPR concerns.

Finally, as already discussed in section 2.3 on the implementation of Article 7, it was reported by two Member States' that there had been cases where representations had requested bilateral agreements between the respective foreign ministries before providing assistance, which was considered to be a source of delay and inefficiency, and is not in line with the requirements of the Directive.

(ii) Local consular cooperation meetings (Article 12)

The majority of Member States expressed positive views on the level of local cooperation and considered the local consular cooperation meetings to be useful and efficiently run. A few Member States noted that differences existed in the level and effectiveness of local cooperation, and the meetings, from one third country to another. Since the outbreak of the COVID-19 pandemic, local cooperation meetings have largely been held remotely and the use of tools such as mailing lists, WhatsApp groups, Signal, Viber groups has increased significantly.

In practice, there does not seem to exist a clear hierarchy or designation of meeting chairs (with the EU Delegations often taking the lead over individual Member States). It appears that Member States and EU Delegations host such meetings alternately on a voluntary basis every six weeks to three months. Beyond the provision of consular protection, Member States also discuss general issues relevant to the third country.

Member States with lightly staffed representations highlighted how local coordination remained crucial, both as a source of information and as a practical tool to solve issues arising from the provision of consular protection. However, it could also be difficult for these lightly staffed representations to participate in all discussions, or for unrepresented Member States to access these local cooperation networks. This might occur following an initial situation where consular protection is provided for an unrepresented citizen. While Recital 19 requires that local cooperation meetings include

²⁰ Fifteen out of 17 Member States that responded to this question)

the regular exchange of information on matters relevant to unrepresented citizens, including for example safety of citizens, prison conditions, consular notification and access and crisis cooperation, there was no indication that the Member States discussed such issues specifically with regard to unrepresented citizens, but rather that this group is discussed within the wider “EU citizens” group (i.e. whether represented or unrepresented).

A few Member States noted as a shortcoming that the information discussed during the local consular cooperation meetings is not always available or accessible to those Member States not present locally (e.g. capitals or geographically close embassies). One Member State noted in this regard the lack of sharing of information about repatriation flights, which was considered an issue in COVID-19 crisis. One Member State noted that although the minutes of meetings are uploaded onto CoOL, in order to facilitate discussion and feedback, the EU Delegations could inform the unrepresented Member State capitals of agenda of LCC meetings in advance to ensure that continuous information flow takes place. In a similar vein, another Member State highlighted that the functionality of the meetings could be further improved by identifying one channel through which reporting is coordinated and disseminated to all Member States.

In terms of who should be invited to participate in the meetings, one Member State recommended for the unrepresented Member States to participate remotely through video conference, in order to ensure their active involvement. Another Member State stated that, while it was not always necessary and possible to involve unrepresented Member States with a low number of citizens present in the country, their involvement in times of crisis was crucial. Two Member State highlighted the need for the invitations to the meetings to be extended to consuls accredited to the respective third countries, while explaining that during the COVID crisis this had been done and was seen as a positive change. One Member State highlighted the need for Article 12 to accommodate matters pertaining to represented citizens and not only those relevant to unrepresented ones, as this would be in line with the actual role played by LCC.

(iii) The EEAS Consular OnLine Tool (CoOL)

As envisioned by Recital 16, most Member States consult EEAS Consular OnLine tool (CoOL), the secure website of the EEAS, to access contact details and third country information of other Member States. In the case that local arrangements are included in the joint frameworks, it is crucial that the information can be easily accessed. However, this is not currently the case for all third countries and may vary depending on the extent to which Member States upload their information. Such mechanisms are particularly relevant for unrepresented Member States since they are generally not included in the local cooperation networks and lack access to the immediate circulation of information.

During a follow-up interview in the data collection phase, EEAS noted that the revision of the Directive would offer the perfect opportunity to create a legal basis for the processing of personal data of unrepresented citizens e.g. between EU and third countries, which is currently non-existent. This was flagged as important as the only way of knowing the number of unrepresented citizens in a third country is via the national authorities thus it would be helpful to consider the processing of personal data of unrepresented citizens in the Directive.

Lessons learned/need for simplification

- Although the overall majority of Member State is satisfied with the effectiveness of the cooperation between Member States regarding the provision of consular protection to unrepresented citizens, a number of Member States provided examples of inefficiencies which could lead to delays in these citizens receiving assistance (e.g. the lack of digital tools, capacity issues in times of crisis, confusion on requirements to redirect citizens to Member State of nationality under Article 3 Directive or redirecting under Article 7 Directive, varying approaches regarding the repatriation and re-entry of family members of EU citizens, GDPR issues in exchanging information). There also is a lack of clarity among some Member States what information is to be notified to the EEAS under Article 10(4) Directive
- Although overall the local consular cooperation (LCC) meetings were considered to be useful and efficient, information exchange with and participation of unrepresented Member States could be strengthened.
- Information provided on CoOL, such as information on bilateral agreements and information on honorary consuls, should be updated regularly and made accessible by Member States. (See also under section 2.3 on Article 2(2) and Article 7)

- 2.4.2. Crisis preparedness and measures applied in times of crisis

Definition

Article 13 of the Directive provides general rules for crisis preparedness and cooperation measures to include unrepresented citizens in local contingency planning and to exchange relevant information in the event of a crisis. The provision further incorporates the concept of the Lead State and recourse to the crisis management structures of the EEAS and the Union Civil Protection Mechanism (UCPM).

Findings on the application in practice

In the context of crisis preparedness and cooperation, the Directive calls for joint contingency planning (JFWs, exchange of information between Member States (e.g. on evacuation capacities), assigning a coordination role to the Lead State (or any other Member State coordinating the assistance), and foreseeing potential support from the Union Civil Protection Mechanism (UCPM). The extent to which these have been used in practice is detailed below.

The EU's "Consular response to the COVID-19 crisis" (WK 6381/2020REV 1)" working paper highlights several lessons learned, which were validated with the Member States through a COVID-19 lessons learned questionnaire. The replies ranged from "yes" to "broadly corresponded to our views" both in terms of positive outcomes and areas for consideration and improvement. Some Member States caveat their answers, pointing to the difficulties in formulating definitive conclusions due to the COVID-19 crisis being "ongoing". Within the positive element highlighted, several Member States stressed the critical added value of EU cooperation, in particular in regards to the joint demarches (putting the combined weight of the EU and its Member States behind initiatives to pave the way for evacuation/repatriation operations); the sharing of analyses and information (such as on transport options, at HQ level and among Missions abroad in many places spearheaded by the local EU Delegation); and the support provided to represented and unrepresented citizens alike.

(i) Joint Frameworks (JFW)

In order to prepare for times of crisis, Article 13(1) of the Directive requires Member States to coordinate local contingency plans among themselves (and with the EU Delegation), taking into account unrepresented EU citizens. The EEAS has issued a "Vademecum" document²¹ which is a tool to be used in conjunction with the JFW for use in crisis situations. EU delegations played a very vital role in this context, particular by adding updated and reviewed versions onto COOL. COCON WP approved the Vademecum "Practical suggestions for cooperation in consular crisis situations", in the form of a checklist of questions for practical guidance at times of crisis in February 2021.

JFW are considered particularly useful by the national authorities of Member States, already by the mere fact that they raise awareness on the need for crisis preparedness as such. They also allow for contributions from the different capacities, experiences, and resources of all Member States to be shared. But already the simple fact that they provide contact numbers to reach representations through satellite phones is essential in cases where other channels become unavailable. A few Member States further noted that a clear division of responsibilities between represented and unrepresented Member States and the EU Delegation was essential to ensure adequate crisis preparedness and crisis management.

However, such JFW do not exist for each country or in the same level of quality. The EEAS estimates that about 87 JFWs are in place worldwide. Of the 77 EU Delegations that responded to the survey, two thirds reported that such a JFWs were in place.

The EU's COVID-19 lessons learned exercise highlighted the need to review the JFWs locally in view of the local experiences.²² In this regard, some Member State noted the JFWs required further development to become a common

²¹ approved by COCON in February 2021

²² "Consular response to the COVID-19 crisis" (WK 6381/2020REV 1)" working paper.

reference and tool for all Member States, which had been illustrated by the shortcomings that became apparent during the current Covid-19 pandemic:

- JFWs should be validated and tested via tabletop/practical exercises held on a regular basis (due to the rotation of diplomatic personnel) for which the EU delegations might serve as the focal point .
- JFWs have to be as flexible, and as user-friendly as possible and adaptable to all types of crises that could appear in the respective third country .
- JFW should not constitute mandatory obligations, particularly for hypothetical future crises .
- There needs to be a joint effort (including by unrepresented Member States) to keep the JFW more up to date through, especially the points of contacts .

In terms of information sharing in times of crisis, Recital 20 of the Directive calls upon “Member States which do not have an embassy or consulate established locally” to also “provide all available and relevant information regarding their citizens in the territory” and that this “information should be updated as appropriate in the event of a crisis”. A large majority of all newly adopted JFWs are reviewed by COCON and therefore all Member States have an opportunity to contribute to the process, even when unrepresented. However, the extent to which the JFW includes information regarding the citizens of the unrepresented Member States in the territory, and the extent to which this is updated is different in each third country, notably because Member States may not have available data regarding the number of their citizens present in countries where they are not represented.

Several Member States credited the joint response to the COVID-19 crisis by the EU and its Member States as having helped advance cooperation between Member States, which prior to that was perceived in some cases rudimentary and did not go beyond the exchange of general information at meetings organised by the local EU Delegations. In the aftermath of COVID-19, there has been a greater focus on such information sharing and keeping up-to-date the JFW.

Extent to which the JFW includes specific provisions on unrepresented EU citizens

The study team reviewed four JFW to evaluate the existence and content of provisions related to consular assistance of unrepresented EU citizens. The context of each JFW is country-specific, their provisions vary greatly from one to the other and the level of attention to unrepresented EU citizens is also variable. Three JFW (Costa Rica, Montenegro, Russia) make specific reference to the Directive in their introductory sections and outline the importance of including the interests of unrepresented citizens in contingency planning, so that it is ensured they are provided with the necessary assistance in the event of a consular crisis.

The JFW for Costa Rica constitutes the best practice example among the reviewed sample in relation to the extent to which they cover the treatment of unrepresented EU citizens in crisis times. Beyond a specific reference to the Directive, this JFW expressly mentions the COVID-19 pandemic as an event to learn from in the provision of consular protection. In this view, the local EU Delegation organised a meeting with contact persons of all unrepresented Member States, who were asked to appoint a contact person, in case another consular crisis occurs such as the one witnessed in March 2020. EU Member States were also invited to discuss and agree upon measures regarding assistance to unrepresented EU citizens. Though the JFW outlines a non-committal rule for unrepresented EU citizens encountering consular problem – to request assistance from their respective embassies in the region or their Honorary Consul (if applicable), it also has a specific Annex on local consular arrangements for unrepresented citizens stating that the unrepresented citizens will be taken into account in repatriation under the same conditions as represented citizens. It then includes the unrepresented Member States in all stages of the crisis preparedness approach, ensuring that they are fully apprised of any critical information via designated contact points.

The JFW for Ethiopia is also detailed in its content with regards to unrepresented citizens. It provides an overview of the unrepresented EU countries upfront, as well as their responsible embassy or contact point and the status of communication. Furthermore, the JFW outlines corresponding measures in the division of responsibilities between the EU Delegation and Member State embassies in times of crisis. EU Delegations would ensure the inclusion of unrepresented Member States in information flow and direct unrepresented EU citizens in case of consular assistance to the Member States’ Embassy best placed to assist them, and Member States’ representations would assist unrepresented EU citizens (based on formal agreements or on an ad-hoc basis).

The Montenegro JFW includes multiple references to unrepresented citizens, including in the objective of the cooperation, and commends that EU Member States' missions should discuss and agree measures regarding assistance to unrepresented EU citizens in the context of exchange of information of national contingency plans.

(ii) Lead State (or coordinating Member States)

Lead States²³ or coordinating Member States under the Directive are Member States which voluntarily take on the responsibility of preparing for and, if necessary, coordinating a crisis response covering unrepresented citizens. They then also serve as a focal point to which Member States can direct relevant information concerning their unrepresented citizens. Recital 23 states: "The concept of Lead State, as established in the relevant Union guidelines (4), **could be further developed** in compliance with Union law and, in particular, with this Directive." This indicates an open perspective with regard to the application of the Directive in relation to the concept of the Lead State. The EU's COVID-19 lessons learned Working Paper²⁴ also noted the need to adapt the 'Lead State' concept in light of the shortcoming observed during this crisis.

While the concept is generally viewed favourably, particularly by states regularly unrepresented, some Member States mentioned that the concept had its limitations in practice and should be subject to review.

The relevance of the concept was seen as dependent on the effort and capacity of the respective Member State acting as Lead State or coordinating Member State.

- Some Member States questioned the overall relevance or feasibility of the concept, particularly in immediate crisis situations, when the Lead State may be overburdened.
- Although one Member State noted the need for the Lead State to share responsibilities with EU Delegation in cases where they are overburdened or short of capacity, some Member State stated that EU delegations sometimes take on the same role as the Lead State and that this overlap could possibly lead to confusion. The EU delegations were also mentioned as a potential focal point of joint exercises which should be conducted on a regular basis due to the constant rotation of diplomatic personnel.
- A minority view expressed scepticism with regard to the possibility of favouritism towards Lead State's own citizens.
- It was emphasised that the Lead State concept must remain open, allowing it to be adapted to different countries and realities.

Of the 77 EU Delegations that responded to the survey, only 11 reported that the Lead State concept was in place. However, others insisted that the Lead State is still an operational concept but stressed the need for fairer burden sharing among Member States.

The interviews in selected third countries showed that there will often be groups of Member States that act together (and with the EU Delegations) who are already in contact through the local cooperation networks.

(iii) UCPM and other crisis management structures

According to Article 13(4) of the Directive, the Lead State or the Member State(s) coordinating assistance for unrepresented citizens may seek support from instruments such as the crisis management structures of the EEAS and the Union Civil Protection Mechanism (UCPM). However, the **relationship** between the UCPM and the Directive is not made clear by the Directive, although it appears from the recitals that the UCPM may be relied on as a subsidiary means at the discretion of Member States.

There was broad consensus that the UCPM was paramount during the COVID-19 repatriation crisis in organising repatriation flights. During the COVID-19 crisis support from the UCPM was requested an unprecedented number of

²³ "European Union guidelines on the implementation of the consular Lead State concept" (2008/C 317/06).

²⁴ "Consular response to the COVID-19 crisis" (WK 6381/2020REV 1)" working paper.

times. Though it offers opportunities to support other consular crisis activities, prior to this extraordinary event, the UCPM for consular support was rarely used - up to 10 times in 20 years for natural and man-made disasters (for instance Hurricane Irma in 2017). Its use depends on a Member State triggering it which may be difficult in third countries with a low density of representations (particularly where there is no Lead State or coordinating Member States). In addition, initiating the UCPM may be cumbersome and prove inflexible in changing situations as it is currently organised by the Decision establishing it.

Some Member States stated that they faced a high administrative burden when applying for funding under the mechanism. On the other hand, Member States with smaller numbers of citizens requiring assistance did not rely on the Mechanism, also due to the mere fact that they lacked first-hand experience in activating it.

(iv) Joint consular teams

Article 13 (2) provides that “Upon their request, Member States may be supported by existing intervention teams at Union level, including consular experts, in particular from unrepresented Member States”. The EEAS also set up a concept note on the joint EU consular crisis response teams, in which the EEAS and the EU Delegation would have an initiating and coordinating role. The EU’s COVID-19 lessons learned working paper²⁵ highlighted the need to further investigate the multi-disciplinary crisis / intervention teams or Joint EU Consular Response Teams (JCT) concept to help to provide consular support to EU citizens in third countries in challenging and complex crises.

A number of Member States highlighted the cooperation among the Member States in the form of Joint Consular Teams since the COVID-19 crisis, as well as ad-hoc facility sharing (e.g., of giving a working space for an unrepresented MS consul or allowing a consul to board a repatriation flight to be able to provide assistance at the third country). Joint Consular Teams are teams of national consular staff, which are set up by a group of Member States in response to a specific crisis situation in relation to a specific third country to enhance the capacity to provide consular protection to unrepresented citizens on the ground. The team can include additional consular staff from represented Member States, as well as those Member States not represented in the third country. According to an EU official interviewed, this concept proved to be very effective in Wuhan, China during the COVID-19 pandemic, especially to ease the burden on the represented Member States. Another interviewee at EU level also mentioned such teams had been set up during the 2018 football world cup in Russia and in the earthquake in Indonesia in 2018. With regards to the latter, one Member State noted that joint information posts had been set up at airports which had worked very well to provide information to (unrepresented) EU citizens. One Member State also recalled flying consular support was sent by a number of Member States during the crisis in Nepal. In this context, some interviewees at EU level noted the need to better integrate this concept into the Directive. Another Member States noted that JCTs would provide clear procedure for unrepresented Member States to engage in crisis more actively and balance out the burden of responsibilities.

Lessons learned/potential for simplification

The Directive makes reference to different existing concepts to be used in times of crisis (e.g., Lead State, JFW and UCPM, joint consular teams), however the extent to which these are used and how these are used varies across the third countries. Although most Member States are convinced of the usefulness of JFW, these are not in place in all third countries and their quality and content is mixed. Similarly, the role of Lead State has been taken up in a number of countries, albeit with additions, but their responsibilities could be further clarified or the concept revised to reflect actual practice. Moreover, Member States seem to be less aware/familiar with the concept of the UCPM and how it should be triggered (see also discussion in section 2.4.3 below), which could point to a need to provide further guidance and adopt the concept to practical needs. It should be borne in mind that activating the UCPM is a prerogative of the Member States to offer support to their, and other EU citizens, as a last resort when all national action have failed or when operations are too complex to be organised by a single Member State (e.g. sweeper/feeder flights). Finally, although the use of joint consular teams has been limited to date, it seems to have been an effective and efficient tool to alleviate the burden on the represented Member States in times of crisis. Although the Directive makes a reference to the concept, this could be further elaborated on in the Directive, or as part of a best practices guide.

²⁵ “Consular response to the COVID-19 crisis” (WK 6381/2020REV 1)” working paper.

2.4.3. The role of the EU and EU Delegations

Definition

The following articles provide for the cooperation between national authorities and EU Delegations, as well as the coordination role of the EU Delegation in the provision of consular protection to unrepresented citizens:

-Article 11 lays down the role of EU Delegations in cooperation and coordination such as providing logistic support and facilitating communication between representations of Member States and local authorities.

-Article 13 of the Directive provides that the EU and Member States shall closely cooperate in the event of a crisis and specifically. The article further outlines a supporting role to the EU Delegations and EEAS in the coordination of the support provided to unrepresented citizens, including in the setting up of joint contingency plans. The Article also states that Member States may be supported by existing intervention teams at Union level, including consular experts, in particular from unrepresented Member States. Thus, in incorporating the concept of the Lead State, the Directive points to the support of the EU Delegations and the EEAS headquarters.

The crisis management structures of the EEAS and the UCPM have already been covered in the previous section.

Findings on the application in practice

In practice the majority of the Member States consulted found the overall cooperation with and coordination by EU Delegations effective, emphasising their positive track record working jointly with them. Thereby, the EU Delegations take on a proactive role both in non-crisis and crisis situations.

In a Eurobarometer on EU Citizenship and Democracy from March 2020, more than nine in 10 respondents agreed that, if they were in a country outside the EU where their Member State of nationality was not represented, they would like to seek support from an EU Delegation instead.²⁶

- (i) Non-crisis situations

EU Delegations are often essential for the functioning of local cooperation networks. The commitment and activity of EU Delegations are key to guaranteeing local cooperation, particularly where the post of consular correspondent is staffed with former members of representations of Member States experienced in the provision of consular protection.

The role of EU Delegations with regard to unrepresented citizens primarily consists in the coordination and establishment of contacts between these and the representations of Member States available to provide consular protection. The interviews in selected third countries showed that the EU Delegations generally approach those Member States most likely to assist based on traditional geographical, linguistic, or cultural ties with the Member State of nationality of the unrepresented citizen. There appears to be no clear allocation of responsibilities but rather informal practical workflows that are applied in identifying a Member State willing to assist.

Information between the EU Delegation and EU Member States diplomatic presence is exchanged through various channels (see section 2.4.2 on the mechanisms for cooperation used by the Member States) and EU Delegations take a proactive approach, establishing and fostering networks in anticipation of future needs (e.g., with public officials, tour operators, airport authorities etc.).

²⁶ Flash Eurobarometer 485: EU Citizenship and Democracy; February/March 2020; https://data.europa.eu/data/datasets/s2260_485_eng?locale=en.

- (ii) Crisis situations

The responsiveness, efficiency, and assistance from the EEAS and the relevant EU Delegations in supporting cooperation between Member States was specifically highlighted as positive or even essential by most Member States, both during the COVID-19 pandemic and during situations of political crisis or (natural) disasters. The EU's COVID-19 lessons learned exercise highlighted the role and added value of EU Delegations as one of the key coordination actors of repatriation efforts. Both Member States and EU Delegations interviewed indicated that where EU Delegations are staffed with former or seconded consular staff of Member State representations they tend to take on a more proactive role beyond the requirements of the Directive, for example by also meeting with unrepresented citizens or joining the representation of the Member State providing consular protection in situations on the ground and facilitating the assistance.

During the COVID-19 pandemic, almost all EU Delegations were particularly active in the overall coordination of Member State action, including repatriation flights and exchanging information, both with professional representations and Honorary Consuls. However, in practice some Member States were unsure of which relevant information to provide, which slowed down repatriation. Some Member States (the exception) were reluctant to share information concerning their own citizens. There had been multiple increases of the UCPM budgetary envelope to match the extraordinary effort required by the COVID-19 crisis, with EEAS sometimes requiring additional time to distribute the relevant information. In 2020, financial assistance was provided by DG ECHO in organising repatriation flights to the level of 68.3 million EUR spent on repatriation to co-finance up to 75% of the costs, after deducing the passengers' contribution

The networks established and fostered prior to the crisis situations led EU Delegations to assist Member States even in third countries other than where they are actually stationed (e.g. to establish contact with local airlines). In case that Member States are not themselves aware of the relevant networks and contacts of specific EU Delegations, this information is provided to Member States by the EEAS upon request.

Regarding the UCPM, there was consensus that it remained to be desired that the EU Delegations could trigger the mechanism, particularly in third countries with a low density of representations. Respondents to the EUDEL survey highlighted that the situations relating to third-country family members and third country residence permit holders demanding the same "consular evacuation" assistance and support were problematic. In view of those consulted, there needs to be clearer communication on what can be done and what is beyond the scope of consular protection.

Lessons learned/simplification

Overall, the Member States have positive views on the coordination role the EU Delegations have taken up in implementing the Directive, especially during the COVID-19 pandemic. EU Delegations generally take active role, serving as a focal point for Member States (and in some cases EU citizens), and their role has in some cases gone beyond the requirements of the Directive. There may therefore be a need to redefine the role of EU Delegations as is currently presented in the Directive to better reflect the reality on the ground. In reviewing concepts referred to by the Directive such as Lead State or UCPM, a lead role could be assigned to EU Delegations.

The establishment of (informal) networks benefits all Member States both present and those without representation in combatting problems arising on the ground. However, there is also room for greater efficiency in the flow of information during times of crisis between EEAS, EU Delegations, Member States and their representations, and, where applicable, DG ECHO. In reviewing concepts referred to by the Directive such as Lead State or UCPM, a lead role could be assigned to EU Delegations.

2.4.4 Information provision to EU citizens

Definition

There are no specific articles in the Directive which are dedicated specifically to communication and the provision of information to EU citizens. However, the following articles touch upon the topic stating both the activities foreseen by the Directive and the role of the Union and the Member States in these activities:

Article 2 (2) states that Member States need to **inform unrepresented citizens regarding the extent to which honorary consuls are competent** to provide protection in a given case.

Article 7 (2) states that Member States and the Union need to **publicise existing practical arrangements** between Member States to ensure transparency for unrepresented citizens

Article 10 (2) sets out the procedure for consultation between the consulate or embassy of a Member State and the National Authorities of an unrepresented EU citizen. It requires the assisting Member State to facilitate **the exchange of information between the unrepresented citizen requesting the assistance and the authorities of the citizen's Member State of nationality.**

Article 11 highlights the role of the EU delegations and the EEAS headquarters in regard to facilitating the exchange of information between Member States' embassies and consulates and, if appropriate, with local authorities. It highlights the role of the Union delegations in making general **information available about the assistance that unrepresented citizens could be entitled to**, particularly in regard to agreed practical arrangements if applicable.

Article 13 (3) stresses the responsibility of the Member States in **providing the Lead State or the Member State(s) coordinating assistance with all relevant information regarding their unrepresented citizens** present in a crisis situation.

Findings on the application in practice

(1) Responsibilities of EU Member States to communicate with EU citizens

Under the Directive, as per Article 2 (2), the EU Member States need to ensure that unrepresented citizens are duly informed about the extent to which Honorary Consuls are competent to provide protection in a given case. However, as highlighted in section 3.2, Member States do not seem to be taking specific steps to inform citizens on this particular aspect. Similarly, as per Article 7(2) Member States have to publicise their practical arrangements for consular protection. However, the data collected and presented in section 2.3 suggest that these arrangements are not being shared in a consistent and transparent manner by Member States. As a result, unrepresented EU citizens do not have easily accessible and/or adequate information regarding the competency of their honorary consuls or the existence of practical arrangements between their Member State of nationality and other Member States.

The Ministries of Foreign Affairs of the EU Member States are responsible for providing travel advice to their citizens, and, under the current regime on consular protection, the Directive does not organise the communication between Member States and their nationals, even in the event of a crisis situation. Some Member State highlighted they did not consider providing travel advice a consular task.

EU Member States' Communication Channels: A review of the existing travel information channels and emergency communication channels used by Member States to provide information to EU citizens shows that Member States are using a range of different communication tools: websites, travel advice portals, emergency communication centres, apps for registering one's travel abroad and social media. A common feature is that most of these tools are not specialised, but rather offer information of various purposes and aims, i.e. both travel advice and emergency information. An overview of different communication channels used in non-crisis and crisis situations is provided below.

According to the EU Delegations participating in the survey, problems related to the lack of travel information or emergency communication provided to (un)represented EU citizens are the most common issues that these citizens can face when exercising their right to consular protection (20% of EU Delegations consulted considered this to happen very frequently, frequently, or occasionally).

a) Non-crisis situations:

- Travel advice:** In terms of the provision of travel advice, all Member State provide this type of information to citizens, either through a website or an app. Language-wise only six Member States do not provide travel information that is available in English for non-nationals. The extent to which Member States coordinate this travel advice varies: **13** Member States confirmed that they coordinate the information on travel (travel advice) targeted at their own citizens

with other Member States. Nevertheless, they differ in what they mean by coordination. Some Member States claimed that they maintain close cooperation with their closest geographical neighbours or coordinate on a bilateral basis. Other countries use common EU tools, such as CoOL. Among the Member States which do not coordinate, only one Member State revealed its reasons: it considers travel advice as a strictly sovereign issue.

- **Consular information:** Almost every Member State (except one) maintains a webpage which provides information on the Member States' consular offices abroad that is updated on an ongoing basis (one Member State updates it monthly).

b) Crisis situations:

- **Emergency communication:** The most common way for Member States to transfer emergency information to citizens is through websites or online platforms, almost all of which have an English language version (except for six Member States). The second most frequent method of communication is through a dedicated app: while apps are easy for non-nationals to download, their functionality is sometimes impaired by the languages they are available in (13 Member States do not provide an English version). All Member States also maintain SMS alert systems and four Member States have consular information centres. In the specific case of cruise lines, the information provided to passengers and the interaction between passengers and their consular authorities generally goes through the cruise line staff. Any information to be communicated goes through the staff on board who either liaise directly with the relevant consulate or national authority in the Member State. When the volume of communication is too high, or the situation too complex, cruise lines have a crisis management unit on shore who can take up the communication and have direct lines of communication with some Member States and are used to collect information and liaise with them. As such, they play a key intermediary role in passing on information in crisis situations and in supporting passengers requiring consular assistance or protection.
- **Registration of nationals travelling abroad:** The large majority of Member States offer their nationals a possibility to register their contact details on a dedicated website/app for the purpose of emergency communication during their travel (with the exception of one Member State which requires their nationals to send an email to the Consular Directorate General and respective diplomatic mission/consular post about the trip). These websites/apps are divided in their functionality: some are limited only to travelling citizens (six Member States), others also allow citizens living abroad to register (18 Member States). However, the extent to which these websites/apps are used is debatable: those Member States which collect the data claim that only a minority of travellers register their trips (c. 10-20%). The figure is higher regarding the nationals living abroad: for instance, France maintains that 60-70% of people living abroad register.

Under Article 13 (3) Member States have the responsibility provide the Lead State or the Member State(s) coordinating assistance with all relevant information regarding their unrepresented citizens present in a crisis situation. In order to meet this obligation, Member States need to first collect this information from their citizens. However as highlighted, citizens living and traveling abroad do not systematically register with their Member States. As a result, during crisis, Member States are not aware of the number of (un)represented citizens requiring assistance and thus cannot provide this information to the Lead State or the Member State(s) coordinating assistance.

Example of problems faced in practice (Fiji)

The case of repatriation of EU citizens from Fiji exemplifies well the difficulties associated with emergency communication during crisis situations. Since there are only two Member States which maintain diplomatic presence in Fiji, the main role in coordinating the repatriation flights for EU citizens was assumed by the EU Delegation. The main issue, however, was to reach out to EU citizens: while the EU Delegation prepared a questionnaire through which EU citizens could provide their personal information necessary for repatriation, the Member State's own channels of communication were needed to succeed. Most of the Member States were eager to share the collected information on their citizens registered abroad but not all (DE was reluctant to share the data that had been collected through their national registration system presumably due to GDPR concerns). This reduced the outreach to EU citizens. Member

States also relayed information back to the EU Delegation, however the information they shared was not always complete and did not always include the information needed and requested. This resulted in delays as information had to be requested again.

(2) The EU's responsibility in communicating with EU citizens

Under Article 7 (2) of the Directive, the Union needs to publicise existing practical arrangements between Member States. Additionally, Article 11 of the Directive specifies that EU Delegations are responsible for making general information available on the assistance that unrepresented citizens could be entitled to, such as on the agreed practical arrangements. However, only half of the surveyed EU Delegations (c. 64%) have dedicated communication channels to provide information on the provision of consular protection by Member States in the form of updated contact details of consulates of represented Member States and information on any existing bilateral agreements between Member States concerning unrepresented citizens. Far fewer have at their disposal communication channels to provide travel advice information on the country (c. 18%) and crisis communication for EU citizens (c. 22%). Of potential concern is the fact that almost one quarter of the EU Delegations (c. 22%) do not have any dedicated channels to provide support in any of the afore-mentioned situations.

Similarly, the Europa website does not provide information on the existing consular arrangements between Member States. Instead, the European Commission's webpage on consular protection^[66] explains the right to consular protection outside the EU and provides links to:

- A search engine on a database of EU Member States' representations, enabling EU citizens to find out whether their country of nationality has an embassy or a consulate in a given country or territory outside the EU. When this is not the case, the database provides contact details of consulates of other EU Member States that are represented in the third country and that they could contact to seek assistance²⁷;
- Websites of the Ministries of Foreign Affairs of the EU Member States, which should provide travel advice applicable to their nationals;
- An information campaign on consular protection, ran by the European Commission during the 2018 summer holiday season²⁸.

Lessons learned/ simplification potential

Member States are responsible for providing travel advice and emergency communication to their citizens. This is achieved through websites, applications, and social media and varies among Member State both in terms of the communication tools/channels used and their accessibility (i.e. language). Under the current regime on consular protection, the Directive does not organise the communication between Member States and their nationals, even in the event of a crisis situation. As a result, communication between the EU, its Member States and its citizens is inconsistent and could lead to delays or unequal treatment. A more effective communication would facilitate cooperation and the spread of information and therefore, consular protection as a whole. EEAS, the Commission and EU Delegations could play a stronger role in that regard by streamlining the information and/or providing a central point of access. This would ensure that relevant communication and information reach the EU citizens.

2.5. IMPLEMENTATION OF ARTICLE 14 AND 15 DIRECTIVE (FINANCIAL REIMBURSEMENT)

This section presents the evidence collected on the implementation of Articles 14-15 of the Directive, in order to assess the extent to which the Directive was able to meet its fourth specific objective namely, to **ensure timely reimbursements of costs incurred in providing consular protection to unrepresented citizens by assisting Member States in ensuring equal conditions for the repayment of costs by unrepresented EU citizens.**

²⁷ https://ec.europa.eu/consularprotection/content/find-embassy-consulate_en

²⁸ https://ec.europa.eu/info/files/consular-protection-infographic_en

Definition: Articles 14 and 15 of the Directive lay out **financial procedures for reimbursement** in crisis and non-crisis situations, respectively. In both situations, the procedure foresees the assistance of Member State to provide an advance for costs of providing consular protection, which it can request as reimbursement from the Member State of nationality of the unrepresented EU citizen. The Member State of nationality can then request reimbursement from its citizen.

The principle of equal treatment applies to financial procedures as well, meaning that unrepresented citizens will have to repay “only those costs that would have to be borne by nationals of the assisting Member State under the same conditions.” (Article 14(1) Directive). The unrepresented citizen may be required to sign a note (standard form in Annex I Directive) to repay the expenses to their own state of nationality (Article 14(1) Directive).

Article 14(2) foresees that the assisting Member State may request reimbursement by the Member State of nationality of the unrepresented citizen using the standard form in Annex II of the Directive. The Directive requires that reimbursement should take place “within a reasonable amount of time, not exceeding 12 months”.

Article 14(3) Directive further states that the assisting Member States can request reimbursement from the Member State of nationality for any “unusually high but essential and justified costs” in relation to assistance provided in cases of arrest or detention. However, the Member State of nationality cannot ask the unrepresented citizen for reimbursement of these costs if these would not be borne by nationals of the assisting Member State.

Article 15 Directive allows a simplified procedure for reimbursement in crisis situations, in which reimbursement can be requested without providing the signed standard form of Annex I. In addition, the Member State of nationality can only be asked to reimburse costs to their Member State of nationality on a pro-rata basis, after deduction of any UCPM assistance.

The Directive has no specific provisions on the financial reimbursement of incurred by providing consular protection to the non-EU family members of unrepresented citizens.

Findings on the application in practice

From the evidence provided by 26 Member States, different reimbursement procedures were identified in relation to assistance provided to unrepresented citizens:

- **Requesting reimbursement from the Member State of nationality of the unrepresented citizen:** Six Member States (EE, ES, FI, FR, LV, and PL) confirmed they would seek reimbursement from the Member State of nationality. One Member State clarified in this regard that their national laws did not allow for bailiffs to perform their functions outside the territory of their country (in case reimbursement was not made in time) and therefore direct reimbursement from other EU citizens was not possible.
- **Requesting direct reimbursement from assisted unrepresented EU citizen:**
 - Twelve Member States provide the option of recovering their expenses directly from the assisted unrepresented citizens (AT, BG CZ, DK, HR, LU, MT, NL²⁹, PT, RO, SI, SK) Of these, five Member States (BG, HR, MT, PT, and SI) appear to first try attempt direct reimbursement from the unrepresented citizen and, only if this fails, seek it from the national authorities. For example, one Member State noted that they would first ask the unrepresented citizen to reimburse the expenses made and only if the citizen is unable to do so would the Member State ask the citizens to sign the standard form in Annex I to allow for a reimbursement by the Member State of nationality. Another Member State also clarified that this option was mainly used when organising repatriation flights, where its nationals would also be asked to repay the authorities directly.

²⁹ In relation to ETD and repatriation only

- **Combined approach:**

- One Member State (IE) confirmed to have applied both afore-mentioned approaches in practice and that reimbursement to the national authorities would often happen between diplomatic missions of Ireland and another Member States on the ground.
- DE confirmed that due to legal and administrative reasons, it could only seek direct reimbursement from unrepresented citizens of Austrian nationality, while for other nationalities they would seek reimbursement from the Member State of nationality.

A few Member States did not answer this question due to lack of experience on the matter (e.g. BE, CY, HU, LT, SE). One of these Member States however, noted that they were concerned about the practise of Member States on direct reimbursement from their unrepresented citizens, without their administration being aware of it, or what types of costs were being sought to be reimbursed. An example mentioned in this regard was that the respective Member State did not cover medical repatriation as it was considered too costly. However, some Member States did cover this type of assistance for their nationals and thus for unrepresented citizens. Therefore, in theory these costs could be sought to be reimbursed if their nationals received such assistance. The Member State recommended in this regard for a better way of managing and monitoring the requests for reimbursements that are made. Another Member State also noted it was better left for the Member States to organise the reimbursement between themselves rather than involving individuals. On the other hand, other Member States noted that the practise of direct reimbursement to be more efficient.

In addition, in terms of requesting reimbursement of the represented citizen:

- One Member State stated they would seek reimbursement from the Member State of nationality of the represented citizen, even though it goes beyond the regulatory scope of the Directive.
- Another Member State confirmed that reimbursement for represented citizens was sought from the citizen directly.

Most Member States stated they had no experience, either as an assisting Member State or Member State of nationality of unrepresented citizens, with cases of consular protection provided for arrest or detention involving unusually high but justified costs (Article 14(3) Directive), with the exception of Finland (1-2 cases).

In practice, however, it appears the reimbursement rules have not been applied much in general. Of the 26 Member States that replied to the questions on the implementation of the Directive, only four Member States (DE, DK, NL, IE) confirmed they applied the rules in practice (i.e. requested reimbursement from another Member State or reimbursed another Member State). Member States present different justifications for their decision to refrain from using financial procedures. Belgium does not follow the reimbursement procedure because it considers it to be detrimental to the good relations with other Member States. Other Member States simply do not see the purpose as the costs are not high and the potential paperwork too cumbersome, and that the majority of costs are already covered by the UCPM (FR). Other Member States simply pass on most of the costs of consular assistance to citizens (AT, CZ, DK) or waive the costs in general in case of unrepresented citizens (LV). Even those Member States which used reimbursement rules did that in different ways.

For the four Member States that confirmed to have requested reimbursement/or received reimbursement requests in practise, the following additional information was collected:

- **Represented/unrepresented:** DK and NL sought reimbursement for services provided to represented citizens in the majority of cases, while DE to unrepresented citizens; IE did not specify.
- **Type of situations:** In all cases reimbursement of the costs was related to evacuation of citizens from third countries.
- **Time it took to reimbursed:** Article 14 of the Directive stipulates that the costs should be reimbursed within a reasonable period of time, not exceeding 12 months. Only one Member State provided information on the timeframes (DE), stating that it received reimbursement within 2 months.

- **Use of Standard form:** DE, DK and NL confirmed that they used the standard form in Annex I of the Directive frequently. They did not specify if they used it solely for reimbursement related to assistance provided to unrepresented citizens or if it was also used for assistance provided to represented citizens. However, a number of other Member States also mentioned to have used other types of forms, such as “with “Agreements to repay” or a document stating the cost of the repatriation flight would be borne by them (the citizen), or reimbursement commitment form”. It is unclear whether these in fact were in the format of the Annex I standard form. However if not, this could lead to problems, as some Member States have confirmed not to process reimbursement requests, unless these are provided using the standard form provided in Annex 1 of the Directive.

In terms of the facilitated procedure under Article 15, Member States again confirmed its limited use or stated it was too early to say as the COVID crisis was still ongoing. Two Member States highlighted issues when seeking reimbursement from unrepresented citizens directly after they had been repatriated, where the citizens did not sign an undertaking to repay the cost of assistance (which the Directive does not require under the facilitated procedure). In this context, one Member State stated it would be more efficient to request the payment from the citizen before boarding the flight. Two Member States noted the issue of reimbursement of costs in relation to assistance provided to represented citizen, which is not covered by the Directive. One Member State further noted the need for the simplified procedure to be used in all crisis situations systematically, while another Member State noted that while useful in extreme crisis situations, it should only be applied as a last resort and only after the agreement of both Member States. One Member State referred to the need for the Member State of nationality to reimburse within certain deadlines.

In terms of the UCPM, only one Member State highlighted to have used it during the COVID crisis, referring to it as a very useful tool, but with a quite complex process. Another Member State noted the need for clarity on the eligibility requirements.

The interviewed representatives of the EU Delegations and representations of the Member States consulted as the sample of the third countries both confirmed that reimbursement procedures are rarely used (most of them did not use it personally), usually as a last resort. They also claimed that the costs of consular assistance are usually low and paid by the citizens themselves (e.g. for issuing Emergency Travel Documents). Furthermore, the Slovenian diplomatic representative in Montenegro described a reciprocal provision of services: Slovenia does not seek reimbursement for consular assistance and it expects similarly not be charged by other Member States.

The majority of EU Delegations which responded to the survey (c. 65%) claimed that they did not know whether the financial rules on reimbursement between Member States challenged Member States’ willingness to repatriate citizens during the Covid-19 crisis, 4% responded that it had impacted Member States willingness to a great extent, 20% to some extent and 4% to a limited extent. Only 4% responded to no extent. Despite the limited responses, this suggest that financial rules of reimbursement may have somewhat challenged Member States willingness to repatriate citizens during the COVID-19 crisis. Among the identified issues, the lack of clarity regarding the financial rules was raised as well as the “high cost” of using the UCPM. However, the main reasons provided was that it was not needed due to the low number of citizens stranded in the country and that it was more practical for the Member States to organise commercial flights whereby the citizens paid for their ticket directly and on an individual basis.

It should be noted however that the UCPM reimbursement rules were also highlighted by some respondents as providing an incentive for Member States to include unrepresented citizens in repatriation flights together with their own nationals. This was assessed as a positive development. A few EU Delegations had a more positive view: Three EU Delegations – in Gambia, India, and Uruguay – stated that the rules on reimbursement were a factor of great significance in the successful organisation of return repatriation flights for EU citizens from unrepresented countries. In particular, they worked as an incentive to also include citizens from unrepresented counties on board of a plane.

Lessons learned/simplification

The Directive is not explicit about the possibility for the assisting Member State to seek reimbursement from the unrepresented EU citizens directly, even though Member States are using this method of reimbursement in practice.

There is also some evidence to suggest that the lack of use of the Annex I form under the facilitated procedure may mean citizens are not always clear about the need to reimburse the costs of assistance.

Moreover the reimbursement procedure (i.e. seeking reimbursement from the Member State of nationality) seem to be rarely used in practice, which on the one hand could be explained by the relatively short duration of the implementation of the Directive, the low number of assistance provided to unrepresented citizens, and the common practise of seeking reimbursement from citizens directly instead. However it may also indicate a lack of understanding of the operationalisation of the reimbursement procedure or a perception the procedure entails a disproportionate administrative burden when compared to the relatively low cost of providing consular assistance to a low number of unrepresented citizens.

2.6 WHO IS AFFECTED AND HOW?

This table below presents an overview of the types of stakeholders identified as being affected by each of the four problem areas described above.

In accordance with the EU Better Regulation Guidelines for Impact Assessments, the table also aims to provide an insight to the question “How much does the problem affect their daily life?”. The following categories have been used:

X = To a limited extent

Xx = To a moderate extent

Xxx = To a large extent

Table 18: Assessment of the stakeholders affected by the problems identified, and the extent to which the problems affect their lives or activities.

	EU Delegations	Other EU stakeholders (DG JUST, EEAS, DG ECHO)	EU27 National Authorities (MFA and diplomatic representations)	Unrepresented EU citizens & their non-EU family members	Industry (tourist, travel and transport organisations)
Definition			X	X	
Geographical scope				X	
Personal scope				XX	
Level of protection				XX	
Coordination & Cooperation	XX	X	XX		
Information and communication to EU citizens	X ³⁰	X ³¹	XX	XXX	X
Financial reimbursement			XX	X	

The need for consular protection by unrepresented EU citizens is a fairly rare occasion in the lives of most EU citizens: they would need to find themselves in the very specific situations of living or travelling abroad, in need of consular assistance, in a country where their Member State is not represented. Our research also confirmed that Member States’ representations in third countries are not receiving such requests for assistance on a regular basis, and the case number

³⁰ Article 11 of the Directive specifies that 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.

³¹ Article 7 (2) states that Member States shall notify the Commission and the EEAS of practical arrangements, which shall be publicised by the Union and Member States to ensure transparency for unrepresented citizens.

is overall relatively low (see also next section). Therefore, none of the problem areas are considered to affect the daily lives of any of the stakeholders “to a high extent”. However it should be noted that when these situations do occur, they can of course have an important impact on a citizen’s life (e.g. crisis situation leading to a need to repatriate). When assistance is not provided in a timely manner this can also have important consequences..

How are Member States affected: Uneven sharing of “burden”

Larger Member States have more representations in third countries than smaller ones. For example, while France, Germany, Italy and Spain (combined population of 257,461,029)³² have external representations in more than 58%³³ of all third countries, Luxembourg, Malta, Estonia, Latvia and Cyprus (combined population of 5,301,000) have representations in less than 13%³⁴ of all third countries. As a consequence, based on the obligation of consular cooperation required under Art. 23(1) TFEU, it was assumed that there was a direct correlation between the size of the Member State’s consular network and the extent to which the Member State provided consular assistance to unrepresented citizens. The assumption was that the Member States with the larger consular network were more likely to be “providers” of assistance to unrepresented EU citizens (the “supply” side), coming from smaller Member States (“demand” side). However this was not entirely confirmed by the data collected which highlighted that **Member States with large and medium size consular network provided assistance to unrepresented citizens to a similar extent while Member States with small consular network provided significantly less assistance to unrepresented citizens (see Annex IV)**. In addition, the Member States with the highest number of unrepresented expatriate citizens, such as Cyprus, Denmark, Latvia, etc., are usually the Member States with a smaller consular network (see section 4.3). This suggests that Member States with large and medium consular network shoulder most of the burden of providing consular assistance to unrepresented citizens. However, it should be noted that these countries often also have the largest number of represented nationals travelling or living abroad who benefit from their Member States consular presence.

2.7 EVOLUTION OF THE PROBLEM

This section provides a picture of the expected evolution the number of unrepresented EU citizens (and non-EU family members) needing consular protection under the Directive over the next ten to 30 years, and their impact on the four problem areas described above.

2.7.1 Evolution of the number of unrepresented EU citizens needing assistance

How the number of unrepresented EU citizens needing assistance will evolve will depend on three factors, which are further described below:

- i. Changes in the consular network and its capacity, including the provision of (online) services:
- ii. Changes in the number of EU citizens travelling or living abroad
- iii. Changes in political and environmental situation impacting on the frequency of the need for consular assistance.

(i) Expected evolution of the consular network and capacity

About half of the EU Member States plan to increase their consular network in the future, in particular Member States with smaller level of representation, which could result in a decrease in the number of uncovered countries (depending on the countries in which representations would be set up) and would decrease the number of unrepresented citizens.

³² Eurostat, 2021 [Statistics | Eurostat \(europa.eu\)](https://ec.europa.eu/eurostat)

³³ Italy 58%, Spain 60%, Germany 73% and France 79%

Additionally, the planned and on-going digitalization of consular services may further decrease this number, if these services are offered to nationals in which the Member State is not represented.

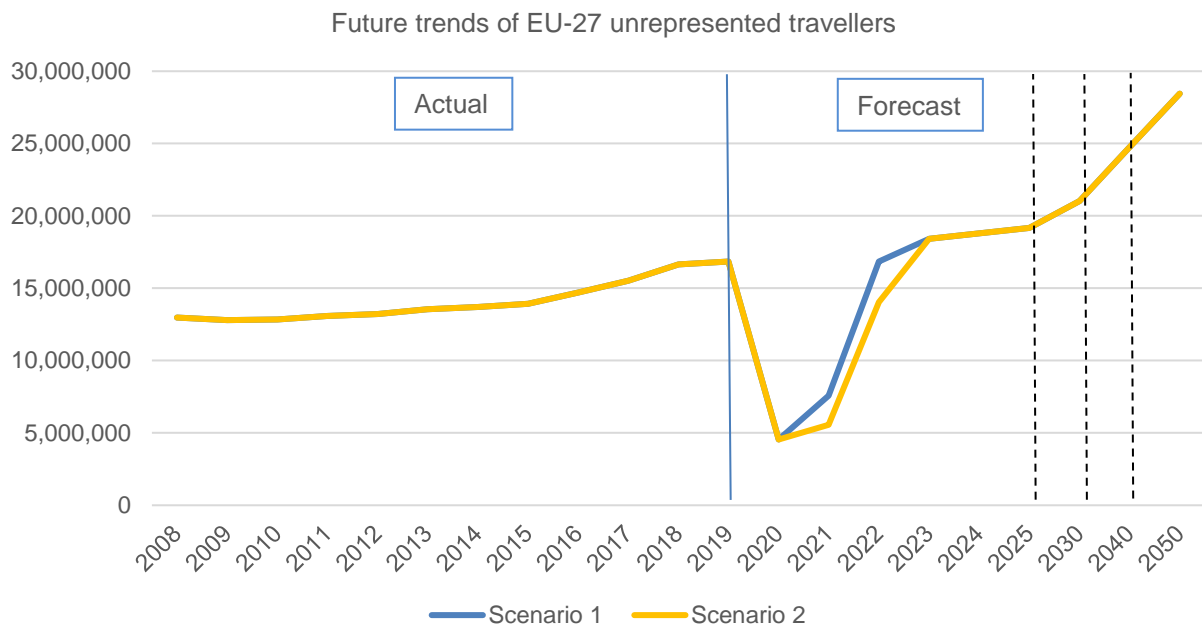
However, although most Member State expect the number of third countries in which the EU Member States are represented to increase or to remain the same, the question remains whether these representations would have the same level of staff and resources. Moreover, where digital consular services replace existing services and communication channels, the access to services may in fact become more difficult, especially for citizens with lower digital literacy or in the event the services are only offered in the national languages of the Member State.

Additionally, although Brexit happened in 2020, the effects will only be felt in the years to come. Brexit has reduced Member States' consular network and resulted in six countries previously covered by the UK now being uncovered. Member States are not planning on signing bilateral agreements with the UK or other third countries in the future which means that the loss of the UK consular network will not be attenuated. Brexit has thus increased the number of uncovered countries and unrepresented EU citizens. Member States have not yet felt the full consequences of this as travel was limited since Brexit came into effect due to the ongoing COVID-19 crisis.

(ii) Future trends in number of EU travelers and expats.

The global Covid-19 outbreak has had an almost immediate and devastating effect on worldwide travel with international tourist arrivals dropping by almost 95% year-on-year in April 2020 according to UNWTO. It is unlikely that international travel will come back to its 2019 level before the end of the year 2021.

In order to estimate how the number of EU travelers will evolve in the future, the study followed the two scenarios used by UNWTO in their latest update on International Tourist Arrivals dated 31 March 2021³⁵.



Note: the above slope appears broken after 2025 but it still follows the same trend as in the past. This apparent break is only due to the change of scale of the horizontal axis (from one year to five years).

³⁵ This publication is available at <https://www.unwto.org/taxonomy/term/347> and in PDF format (without graphs):

https://webunwto.s3.eu-west-1.amazonaws.com/s3fs-public/2021-03/NR_31_03_EN.pdf?uo9bAkJJ8omQQ65_BxtuVZqPBliy6Tc International tourist arrivals have decreased by 73% worldwide in 2020 compared to 2019. Under the first scenario, international arrivals for year 2021 would be 55% below their 2019 levels. Tourism will then resume to its 2019 level in 2022 and follow pre-2020 trends onwards. Under the second scenario, rebound will take place with a two-month delay and international arrivals for year 2021 will be 67% lower than in 2019. For year 2022, they will be 17% lower than in 2019, after which they will go back to pre-pandemic "normal".

The Figure above shows the number of unrepresented EU-27 travelers under these two scenarios, based on linear extrapolation of 2008-2019 trends of international visitors from the OECD outbound tourism dataset, and assuming that the consular presence of EU Member States in third countries will remain constant.

According to our estimates, the number of unrepresented EU travelers decreased from 16.8 million in 2019 to 4.5 million in 2020. We then see a slow increase up to 2023, reaching pre COVID levels of travel by 2023. The number of unrepresented travelers from the EU-27 is estimated to continue to increase to 21.0 million citizens in 2030, 24.7 million in 2040 and 28.5 million in 2050. These estimates thus show an projected increase in EU travel of 63.7% between 2010 and 2030, which also aligns with UNWTO projections³⁶.

Although the number of unrepresented EU expatriates (excluding dual nationals, who hold an EU passport but were born in the relevant third country) is currently estimated to be relatively low (225,000), it is also expected to increase steadily, and to reach an increase of 40% by 2050 (315,000).

(iii) Changes in political and environmental situation

Based on different projects, it is likely that serious crisis situations will become more frequent in the future, which would increase the number of unrepresented citizens seeking assistance. For example, it is expected that natural disasters will continue to increase in frequency and severity worldwide³⁷. The World Health Organisation also warned that health crisis and health related death will become more common in the future³⁸. Moreover, according to Uppsala Conflict Data Program (UCDP) the number of interstate and extra state armed conflict has almost doubled since 2009³⁹. Similarly, the number of political crisis has also increased and is expected to continue to do so in the wake of the COVID-19 pandemic

Moreover where these crisis are global, the pressure on Member States consular network is even greater. The global health crisis triggered by the pervasive coronavirus SARS-CoV-2 at the beginning of 2020 provided the biggest stress test to date for national consular representations and the EEAS. It underscored the importance of coordination and cooperation in consular protection and ultimately of the underlying value of European solidarity in critical situations. The Covid-19 pandemic also exposed shortcomings and gaps in the representation concept for consular protection in crisis and non-crisis situations. According to some estimates, more than 600,000 EU citizens were stranded abroad since the beginning of the coronavirus outbreak.⁴⁰ Under the extraordinary conditions of **reduced flights** and the **closing of borders** in the context of a global rather than local crisis, Member States struggled to organize and coordinate the repatriation of their citizens. The vast majority (about 590,000) were brought back on commercial flights.

2.8 THE COST OF PROVIDING CONSULAR ASSISTANCE

This section provides an analysis of the data reported by Member States and the EU and its network of Delegations on the financial and human resources dedicated to consular protection, with the aim to estimate the cost incurred by those stakeholders in providing consular assistance to unrepresented citizens in line with the Directive.

For this final Report, an additional effort has been made to provide a more accurate estimate of the cost to EU Member States in times of crisis. This analysis is further detailed in the second sub-section.

2.8.1 The cost to EU Member States based on reported budget data

When the Task 5 questionnaire was developed, DG JUST, EEAS and the study team agreed that it would be unlikely for Member States to be able to provide an accurate estimate on the cost of providing consular assistance to

³⁶ According to the 2011 publication of UNWTO Tourism Towards 2030, the number of tourists from Europe will increase by 63.5% between 2010 and 2030. See https://www.globalwellnesssummit.com/wp-content/uploads/Industry-Research/Global/2011_UNWTO_Tourism_Towards_2030.pdf

³⁷ Borgen Project, Natural Disasters, Available on: [Are Natural Disasters Increasing? | The Borgen Project](#)

³⁸ World Health Organisation, Climate change and health (Website), Available at: [Climate change and health \(who.int\)](#)

³⁹ Uppsala Universitet, Department of Peace and Conflict Research (Website), Available at: [Charts, Graphs and Maps - Department of Peace and Conflict Research - Uppsala University, Sweden \(uu.se\)](#)

⁴⁰EEAS https://eeas.europa.eu/headquarters/headquarters-homepage/76203/good-stories-consular-support-eu-citizens-stranded-abroad_en

unrepresented citizens specifically. It was therefore agreed to ask the Member States for data on their budget and staff dedicated to consular protection overall (i.e. including for consular protection provided to their own citizens). The budget available for the provision of consular assistance to unrepresented citizens would then be estimated by looking at the proportion of consular protection provided to unrepresented citizens, over the total number of cases of consular protection (i.e. including consular protection provided to their own citizens).

Only 14 Member States reported data on the human and financial resources dedicated to providing consular protection in general (i.e. to their own citizens and other EU citizens). As the data was incomplete and not comparable, the information has been presented in ranges in the table below. The data collected shows that the number of staff and the amount of the budget varies greatly between Member States: Member States reported between 45 to 2600 of staff dedicated to consular services, and budgets ranging from EUR 3,000 to EUR 170 million. The data shows that the higher the level of a Member State’s consular representation in third countries, the higher the Member State’s budget and diplomatic and consular staff. However, the large disparities between the Member States’ annual budget for consular protection suggest that Member States may have included different expenses in their calculation. For instance, the Member State that reported EUR 3000 most likely excluded staff and facilities costs while the Member State that reported EUR 170 million may have included these costs.

For 2020, only four Member States⁴¹ provided reliable⁴² data on the total number of cases of assistance, the total number of unrepresented cases of assistance and the annual budget for consular protection. Based on this data we estimated that the cost to EU Member States to provide consular protection to unrepresented citizens lies between EUR 100 and EUR 52,600. However, it should be noted that Member States are also saving money, by not providing consular protection to their citizens in those cases where they were unrepresented and supported by another EU Member State (unless reimbursement was requested from the assisting Member State).

Table 19: Overview of MS reported human and financial resources dedicated to consular protection in 2020

Level of Member States representation	Range in the number of diplomatic staff (N=10 ⁴³)	Reported number of consular staff (N=10 ⁴⁴)	Reported annual budget on consular protection overall (In Euro) (N=11 ⁴⁵)
Below 40	100-500 (N=5)	45-190 (N=5)	3000 – 30,000 (N=5)
Between 41-100	200-2000 (N=3)	130-630 (N=3)	40,000 – 430,000 (N=3)
Above 101	4000-12000 (N=2)	2400 – 2600 (N=2)	2.3 million – 170 million (N=3) ⁴⁶

Source: 2020 data on consular assets collected through the questionnaire with national authorities

Cost by type of assistance

In addition to the quantitative data collected, the questionnaire also asked the national authorities to rank the cost of the type of consular assistance they provided from 1 to 6 (1 being most costly, and 6 least costly). Out of the 17 Member States that provided data, 76% of them considered “emergency travel documents” to be the least costly type of consular assistance. “Arrest or detention” was considered by 65% of respondents as the second least costly type of consular assistance and “Being a victim of crime” and “serious accident or serious illness” closely followed one another as third and fourth least expensive. There were mixed responses on the most expensive type of consular assistance, with 29% of respondents considering “Death” as the most expensive type while another 29% considered it to be “relief and

⁴¹ Austria, Malta, Latvia and Romania

⁴² Most Member States “double reported” their data, providing the same number for the total number of cases of consular assistance and the total number of unrepresented cases of consular assistance. Additionally, some Member States provided a very high budget which most likely included staff cost and potential facilities cost. The budget provided by this four Member States ranged between 15,000 and 150,000 and thus is more in line with the expected cost of providing consular assistance.

⁴³ AT, BG, DE, EE, LT, LV, FR, HR, RO, and SI

⁴⁴ AT, BG, DE, EE, LT, LV, FR, HR, RO, and SI

⁴⁵ AT, DE, EE, ES, FR, HR, LT, LV, PL, RO, and SI

⁴⁶ Three Member States: Germany, Spain and France

repatriation in case of an emergency”. The latter was also considered as the second most expensive type of consular assistance.

2.8.2 The estimated cost to EU Member States in crisis situations

The cost of Member States providing consular protection to unrepresented citizens in crisis was estimated from the primary data collected at Member State level through Task 5. Two questions were relevant to this analysis: Question 2 asked Member State authorities about the total number of unrepresented EU citizens assisted in third countries per year, while Question 3 inquired about the number of cases of consular assistance provided to unrepresented EU citizens by type of assistance. Both were asked for the years 2018, 2019 and 2020.

23 Member States provided data for Question 2, but figures were usually related to the provision of emergency travel documents, most of which taking place outside crisis times. It was therefore decided to discard Question 2 data for this analysis and rely on the findings from Question 3, keeping the only two types of assistance that directly relate to crisis situations: “relief and repatriation” and “other”. The inclusion of the “other” category was justified by most Member States including emergency repatriation or support provided to unrepresented citizens during the Covid-19 crisis in 2020 under this category. 12 Member States provided data for these two types of assistance⁴⁷.

The sum of cases of consular assistance provided across those 12 Member States was linearly extrapolated to 27 Member States. For the costing aspect, we used costs associated to the main five types of assistance in crisis times retrieved from the 2011 Impact Assessment, adjusted by EU inflation rates between 2011 and 2020, as well as the percentage of unrepresented citizens provided with each support type. Detailed figures by type of assistance are shown in the table below.

Table 20: Type of assistance in crisis times and associated costs and shares

Types of assistance in crisis times	Cost per citizen (EUR)	Cost per citizen adjusted by inflation (EUR)	Share of citizens requiring type of assistance
Subsistence (1 day)	200	220	50%
Long-haul flight	1 000	1 100	100%
Medical assistance	2 500	2 750	25%
Other costs (special assistance)	2 000	2 200	10%
Other costs (i.e. repatriation of corpses)	3 000	3 300	2%
Total	8 700	9 570	/

Source: 2011 Impact Assessment adjusted by cumulative EUR inflation rates estimated at 10% between 2011 and 2020.

The adjusted costs and shares were then multiplied by the total number of cases of consular assistance provided to unrepresented citizens over the years 2018, 2019 and 2020 in order to obtain the costs of providing consular protection to unrepresented citizens in each of these three years (see table below).

Table 21: Costs of providing consular protection to unrepresented citizens

	2018	2019	2020
Cases of consular assistance provided	29	72	17 125
Costs of consular assistance provided			
Subsistence (1 day)	3 000	8 000	1 900 000
Long-haul flight	32 000	80 000	18 800 000
Medical assistance	20 000	50 000	11 800 000
Other costs (special assistance)	6 000	16 000	3 800 000
Other costs (i.e. repatriation of corpses)	2 000	5 000	1 100 000
Total cost (EU-27)	63 000	159 000	37 400 000

⁴⁷ Some cases mentioned in the other categories (arrest and detention, death, serious illness or accident, victim of crime and ETD) may have arisen during crisis situations. However, the data did not allow us to distinguish between crisis and non-crisis cases, which is why these categories were not included in our analysis. As a result, our estimates may be slightly biased downward.

Total cost per Member State	2 300	5 900	1 385 000
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Source: Own calculations based on primary data collected through Member States (Task 5).

The total cost of providing consular protection to unrepresented citizens at the EU-level was estimated to EUR 63,000 in 2018, EUR 159,000 in 2019 and EUR 37.4 million in 2020, mostly as a result of the Covid-19 crisis and the wide scale of relief and repatriation support provided that year. The average cost per Member State was of EUR 2,300 in 2018, EUR 5,900 in 2019 and EUR 1.4 million in 2020. These figures show the extent to which the costs of assistance in crisis times are impacted by large crisis events. In this respect, 2018 and 2019 can be considered 'normal years' with crisis events of limited scales and impact, while the year 2020 gives an example of a global, large-impact crisis resulting in much higher costs of consular protection.

The data collected did not allow us to distinguish between the protection provided to unrepresented citizens in third countries and the protection provided to unrepresented citizens in the EU. We however know from the analysis of the magnitude of the problem that about 16% of all EU-27 unrepresented citizens live or travel into the EU, while 84% of them live or travel in third countries. Under the assumption that EU and non-EU citizens have been assisted in shares proportional to their numbers and the costs of assisting them is the same⁴⁸, we can derive the costs associated to each category as shown in the next table.

Table 3: Costs of providing consular protection to unrepresented citizens in and outside the EU

At the EU-27 level (in EUR)	2018	2019	2020
Total cost	75 000	188 000	44 300 000
Total cost within the EU	12 000	29 000	6 900 000
Total cost in third countries	63 000	159 000	37 400 000

Overall, we estimate the total cost of providing consular protection to unrepresented citizens within the EU to EUR 12,000 in 2018, EUR 29,000 in 2019 and EUR 6.9 million in 2020. In third countries, this cost was equal to around EUR 63,000 in 2018, EUR 159,000 in 2019 and EUR 37 400 million in 2020.

2.8.3. Costs to the EU

The table below summarises the data collected on the EU level financial and human resources dedicated to the provision of consular protection, which are described in more detail in Annex III.

There was only limited information available on the budgets available and staff deployed by the EU institutional actors in the field of consular protection, let alone specifically in relation to the implementation of the Directive (i.e. in relation to unrepresented citizens in third countries).

Table 22: Cost of consular protection incurred by key EU institutional actors

Institutional actor in consular protection	Annual budgets dedicated to consular protection (2020)	Staff involved in consular affairs (2020)
DG JUST Union citizenship rights and Free movement unit (JUST.D.3)	<p>Consular protection website - yearly budget around €78-79,000 (operation, maintenance and development).</p> <p>Ad-hoc costs such as in for 2022 - Support the initial production of the EU Emergency Travel Document – €200,000</p> <p>Resources for actions in the area of consular protection (conferences/workshops, studies and communication campaigns) – it can range from €50 – 100,000.</p>	1 FTE

⁴⁸ In practice, the costs of certain types of assistance, such as repatriation (e.g., flight costs), are likely to be slightly lower when assistance is provided within the EU rather than in third countries.

Institutional actor in consular protection	Annual budgets dedicated to consular protection (2020)	Staff involved in consular affairs (2020)
TOTAL: c. €380,000		
EEAS Consular Affairs Division – EEAS ISP.4	No data available	<ul style="list-style-type: none"> • 11 positions including 2 Seconded National Experts from 1 August 2021.
EU Delegations	No data available. EU Delegations confirmed in the survey that no specific budgets exist to support the coordination of consular protection in crisis situations. Only very few EU Delegations dedicated specific parts of their budget to consular protection during the COVID pandemic.	<ul style="list-style-type: none"> • 135 Consular Correspondents, which are also DG ECHO-ERCC EUCPM Focal points, and 133 Backup Consular Correspondents. • This varies per EU Delegation. Most consular correspondents would spend c. 20% of their time on consular matters (except in times of crisis. At the peak of the COVID-19 crisis some EU Delegations reported 3-5, or even more than 5 FTEs, spent exclusively on the provision of consular assistance.
DG ECHO (UCPM)	<p>The budget covers all transport co-financing (repatriations, as well as delivery of in-kind assistance). The financing of emergency response actions under the Union Civil Protection Mechanism for 2021 is fixed at €42.6 million (maximum Union contribution, in line with the Commission implementing decision C(2021).⁴⁹</p> <p>According to DG ECHO, in 2020 the corresponding Decision was amended several times during the year as the budgetary needs increased. In the final version, the total budget for 2020 was €135.1 million EUR for <u>all response activates</u>. The proportion of activates focussed on consular protection could not be ascertained. €68.3 million were spent on repatriation to co-finance up to 75% of the costs, after deducing the passengers' contribution.</p> <p>TOTAL: c. €68.3 million on repatriation in 2020 (largely due to the COVID-19 crisis and unclear how many directly attributable to consular protection needs)</p>	<ul style="list-style-type: none"> • 4 positions (Emergency Officers and support team) •

⁴⁹ COMMISSION IMPLEMENTING DECISION of 9.6.2021 amending Commission Decision C(2020)9064 of 18.12.2020 on financing emergency response actions under the Union Civil Protection Mechanism for 2021;

C(2021) 4035 final.

2.9 CONCLUSION

As the Consular Protection Directive had a derogation from the usual requirement of an evaluation, no evaluation assessment has been carried out as part of this study. Nevertheless, upon request of DG JUST, an attempt has been made to summarise the findings on the functioning of the Directive by evaluation criteria:

- **Effectiveness:** The Directive has been mostly effective in achieving its objectives: through the various provisions of the Directive the scope, beneficiaries, procedures and cooperation and coordination mechanisms were clarified to a large extent. However, the full impact of Brexit is yet to manifest itself once international travel returns to pre-pandemic levels. The next step is now to add further specificity to these provisions to further increase the legal certainty for unrepresented EU citizens and increasing the effectiveness of their right to consular protection.
- **Efficiency:** While the implementation of the Directive can be largely considered efficient, some procedures and processes could be further clarified and streamlined to improve the efficiency of the provision of consular protection to unrepresented EU citizens and their non-EU family members, including with regards to the coordination and cooperation by EU Member States and EU Delegations.
- **Relevance:** As showcased by the high numbers of unrepresented EU citizens needing consular protection in the form of repatriation during the COVID-19, the Directive is still very much relevant (i.e. the objectives of the Directive still correspond to the needs of unrepresented EU citizens, and cooperation needs of EU Member States and EU Delegations). However additional needs have been identified that could be addressed or streamlined by this Directive as well, including the needs of vulnerable groups, represented EU citizens, and unrepresented EU citizens within the EU territory.
- **Coherence:** The implementation of the Directive is broadly coherent with other EU policies, although more explicit references could be made with regards to the EU Victims' Rights Strategy, as well as the GDPR. Further alignment with regards to the role of EU Delegations with the EEAS Decision could also be explored, as well as with the UCPM tool and the ETD Directive.
- **EU added value:** The Directive has provided EU-added value by putting the rules in place for implementing the right to consular protection. However the lack of clarity and specific provisions around the role of EU Delegations is limiting the EU added value – by strengthening their role and empowering Delegations, the Directive would have the potential to contribute to increased burden sharing and increase the overall pool of available EU resources in third countries.

3 ANNEX III: MAPPING OF THE EU CONSULAR NETWORK AND ASSETS (TASK 6)

Introduction

This Annex is the output of the desk research carried out under Task 6.1 presenting the mapping of the EU institutions, bodies and agencies involved in consular protection of unrepresented citizens and the EU consular network and assets. The purpose of the mapping is to provide an overview of EU bodies' consular assets (financial and human resources for providing consular protection to unrepresented EU citizens (or other EU nationals) and their non-EU family members)..

To map EU consular assets, we followed a similar approach to the mapping of the national consular assets in Task 5, with a focus on the following asset categories:

- **Human resources:** number of staff available in the different EU bodies who can be deployed in a crisis, as well as to collect qualitative data on the tasks they perform to support the coordination and provision of consular protection in crisis and non-crisis situations;
 - **Financial resources:** funding which EU bodies can mobilise to support the provision of consular protection in a crisis, for instance to host meetings with Member States' representatives, fund communication activities informing citizens about their access to consular protection in the event of a crisis and to acquire specific logistical capabilities.
- Beyond the description of the respective roles and responsibilities of the institutions in relation to consular protection in times of crisis and in peace, there was limited information to inform the mapping on the existing human and financial resources available to the institutional actors.

The mapping of the EU consular network relied on data provided by the EEAS on the third countries where EU Delegations are present, which was cross-checked with the list of EU Delegations around the world available on the website of the EEAS (as of 18 May 2021).⁵⁰

EU institutions, bodies and agencies involved in consular protection of unrepresented citizens

The table overleaf presents the study team's understanding of the key institutional actors (indirectly) involved in the provision of consular protection to unrepresented citizens at EU level, namely within DG JUST, the EEAS, DG ECHO and the Council.

Each entry summarises the capabilities/activities of different EU bodies in which they have coordinated or provided assistance in the context of consular protection since the entry into force of the Consular Protection Directive. The focus is on EU crisis preparedness and response and, where relevant, distinguishing between crisis and non-crisis situations. To the extent possible, with the data provided, the study team attempted to quantify the numbers of staff available in the different EU bodies who can be deployed in a crisis on the basis of the information provided by DG JUST and EEAS, and the European institutions Who's Who⁵¹. The data for financial and human resources assets is not complete in the table, but could be mapped in upcoming reports if the data is provided to the study team.

⁵⁰ https://eeas.europa.eu/headquarters/headquarters-homepage/area/geo_en (last visited 18.05.2021).

⁵¹ <https://op.europa.eu/en/web/who-is-who>.

Table 23: EU institutional actors in the field of consular protection

EU Body	Roles and responsibilities	Financial and human resources/other assets
<p>EC – DG JUST</p> <p>Union citizenship rights and Free movement unit (JUST.D.3)</p> <ul style="list-style-type: none"> part of Equality and Union Citizenship (JUST.D) 	<ul style="list-style-type: none"> Responsible for the right to consular protection legislative and policy development reviewing its implementation and assessing the need for any additional measures; Leads on consular protection for unrepresented EU citizens by continuing to include and negotiate consent clauses in bilateral agreements with third countries to ensure that these countries agree that represented EU Member States give assistance to unrepresented EU citizens. Keeping up to date the European Commission Consular Protection website providing information to EU citizens⁵² 	<ul style="list-style-type: none"> FINANCIAL RESOURCES: Consular protection website - yearly budget around €78-79,000 (operation, maintenance and development). Ad-hoc costs such as in for 2022 - Support the initial production of the EU Emergency Travel Document – €200,000 Resources for actions in the area of consular protection (conferences/workshops, studies and communication campaigns) – it can range from €50 – 100,000. HUMAN RESOURCES:, 1FTE
<p>EEAS</p> <p>Consular Affairs Division – EEAS ISP.4</p> <ul style="list-style-type: none"> part of Crisis Response Department (EEAS ISP) <p>EU Delegations in third countries</p>	<ul style="list-style-type: none"> Assists the Presidency in the coordination of consular policies; Assists the Presidency and/or Lead States to coordinate action in times of crisis; Manages the CoOL Platform; Provides training and guidance to EU Delegations. <p>→ Responsible for representing the EU and its citizens in third countries;</p> <p>→ Cover all policy areas of the relationship between the EU and the host country (political, economic, trade, human rights and others) and maintain the visibility, awareness and understanding of the EU;</p>	<ol style="list-style-type: none"> FINANCIAL RESOURCES: No information available. HUMAN RESOURCES: 11 positions as of 1 August 2021), In addition, there are currently two Seconded National Experts from FI and DE, working on Joint Frameworks and Crisis preparedness. FINANCIAL RESOURCES: When asked in the survey, the broad majority of EU Delegations answered that they don't have a budget to support the coordination of consular protection in crisis situations, and that they did not have a specific budget dedicated to the support to the provision of

⁵² https://ec.europa.eu/info/policies/justice-and-fundamental-rights/eu-citizenship/consular-protection_en

EU Body	Roles and responsibilities	Financial and human resources/other assets
	<ul style="list-style-type: none"> ➔ Analyse and report on political developments in their host country, programme development cooperation through projects and grants; ➔ Support Member States in the organisation of the Local Consular Cooperation meetings, in close cooperation with the Local Consular Chair (when designated) and, if requested by Member States, provide support with the logistics (e.g. use of an EU Delegation's meeting room) for these meetings; ➔ Facilitate the exchange of information on consular matters between Member States embassies and consulates and, if appropriate, with local authorities; ensuring that a contact list with all information concerning Member States, EU Delegation, local authorities, etc. is available and regularly updated; ➔ In a situation of crisis: <ul style="list-style-type: none"> ○ Hold consular crisis meetings; ○ Provide available logistical support, including office accommodation and organisational facilities; ○ Facilitate communication, sharing of information, and cooperation between involved institutions; ○ If requested by a MS, contact and negotiate on its behalf with local authorities regarding a matter concerning EU citizens; ○ Ensure inclusion of unrepresented MS in information; ○ Has access to CoOL (Consular Online) 2.0 platform (Exchange of information on a particular crisis 	<p>consular protection throughout the COVID-19 crisis.</p> <p>4. HUMAN RESOURCES: 135 Consular Correspondents, who are also DG ECHO-ERCC EUCPM Focal points, and 133 Backup Consular Correspondents. The staff involved in consular affairs varies per EU Delegation. Most consular correspondents would spend c. 20% of their time on consular matters (except in times of crisis. At the peak of the COVID-19 crisis some EU Delegations reported 3-5, or even more than 5 FTEs, spent exclusively on the provision of consular assistance.</p>

EU Body	Roles and responsibilities	Financial and human resources/other assets
	<p>situation, number of citizens in third countries, travel advice, etc.);</p> <ul style="list-style-type: none"> ○ Being the Focal point of the EUCPM in EU Delegation and liaise with DG ECHO-ERCC on the use and implementation of the mechanism. 	
<p>EC – DG ECHO</p>	<p>Emergency Response Coordination Centre (ECHO.A.1)</p> <ul style="list-style-type: none"> ➔ Responsible for coordination of the delivery of assistance to disaster-stricken countries, such as relief items, expertise, civil protection teams and specialised equipment, as explained in section 3.3.; ➔ Ensures cooperation and coherence of EU action at an inter-institutional level through the European Union Civil Protection Mechanism (UCPM)⁵³, focusing on coordination mechanisms with the EEAS, the Council and EU Member States;⁵⁴ ➔ Ensures the rapid deployment of emergency support and acts as a coordination hub between all EU Member States, the 6 additional Participating States, the affected country, and civil protection and humanitarian experts; ➔ Manages a reserve of pre-committed assistance from EU Member States; identifies eventual gaps in the assistance and proposes how these should be covered; 	<p>5. FINANCIAL RESOURCES:</p> <ul style="list-style-type: none"> • The budget covers all transport co-financing (repatriations, as well as delivery of in-kind assistance). • The financing of emergency response actions under the Union Civil Protection Mechanism for 2021 is fixed at 42.6 million EUR (maximum Union contribution, in line with the Commission implementing decision C(2021)).⁵⁵ • According to DG ECHO, in 2020 the corresponding Decision was amended several times during the year as the budgetary needs increased. In the final version, the total budget for 2020 was EUR 135.1 million EUR for all response activates. 68.3 million EUR were spent on repatriation to co-finance up to 75% of the costs, after deducing the passengers' contribution. <p>6. HUMAN RESOURCES: 4 positions within the Emergency Response Coordination</p>

⁵³ Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism Text with EEA relevance

OJ L 347, 20.12.2013, p. 924–947.

⁵⁴ In total 74,673 citizens and 9,283 non EU citizens (total 83,956) were repatriated under the EUCPM by the 29th of May. Clarification will be sought from DG ECHO regarding the proportion which are unrepresented citizens.

⁵⁵ COMMISSION IMPLEMENTING DECISION of 9.6.2021 amending Commission Decision C(2020)9064 of 18.12.2020 on financing emergency response actions under the Union Civil Protection Mechanism for 2021; C(2021) 4035 final.

EU Body	Roles and responsibilities	Financial and human resources/other assets
	<ul style="list-style-type: none"> ➔ Improves coordination between civil protection and humanitarian aid operations by maintaining a direct link to civil protection and humanitarian aid authorities in EU Member States, enabling real-time exchange of information; ➔ Acts as the central 24/7 contact point when the Solidarity Clause is invoked; ➔ Provides emergency communications and monitoring tools through the Common Emergency Communication and Information System (CECIS), a web-based alert and notification application enabling a real-time exchange of information. 	<p>Centre, which has two teams (Emergency Officers who are on call and a support team). In any crisis for which the mechanism can be activated all duty officers were involved.</p>
<p>The Council of the EU</p>	<p>Working Party on Consular Affairs (COCON)</p> <ul style="list-style-type: none"> ➔ Responsible for coordination of consular cooperation within the EU and decision making on appropriate EU approaches to consular matters; ➔ Exchanges of views on consular crises and related consular cooperation issues; ➔ Monitors projects of consular cooperation initiatives (CCIs), examines legislative proposals and discusses coordination and cooperation measures to facilitate consular protection of EU citizens in third countries, such as <i>the EU Consular response to the COVID-19 crisis questionnaire</i>, to which all the Member States replied; ➔ Maintains consular dialogue with Canada, the United States, New Zealand and Australia 	<p>7. FINANCIAL RESOURCES: No information available.</p> <p>8. HUMAN RESOURCES: Composed of experts from each Member State and is chaired by the delegate of the country holding the rotating six-month presidency of the Council</p>

EUDEL Consular Network

We have summarised the available data to showcase the extent to which the **EU Delegations are present across 134 third countries⁵⁶ in the world** and have highlighted regions / countries where there is no presence and for which alternative representation arrangements have been made.

Europe and Central Asia

In most European states which are not members of the EU, the EU is represented by its Delegations. The exception is **Kosovo**, where the EU is represented by an office. Countries without EU presence are:

- **Andorra and Monaco** – EU Delegation in Paris is accredited for representing the EU
- **Liechtenstein** – EU Delegation in Switzerland is accredited for representing the EU
- **Holy See and San Marino** – EU Delegation in Rome is accredited for representing the EU

Africa

The EU has a Delegation in most African countries, with the following exceptions:

- **Comoros** – EU Delegation in Madagascar is accredited for representing the EU
- **Equatorial Guinea** – EU Delegation in Gabon is currently undergoing accreditation by the authorities of Equatorial Guinea
- **Sao Tome and Principe** – EU Delegation in Gabon is accredited for representing the EU
- **Seychelles** – EU Delegation in Mauritius is accredited for representing the EU

Middle East and North Africa

The EU has a Delegation in most Middle East and North African countries, with the following (temporary) exceptions:

1. **Libya**, with its EU Delegation in Tunis
2. **Syria**, with its EU Delegation in Lebanon
3. **Yemen**, with its EU Delegation in Jordan

In addition, the EU has made the following representation arrangements:

- **Bahrain** – EU Delegation in Saudi Arabia is accredited for representing the EU
- **Iran** – Represented by the Member State holding the Presidency of the Council of the EU
- **Oman** – EU Delegation in Saudi Arabia is accredited for representing the EU
- **Qatar** – EU Delegation in Kuwait is accredited for representing the EU

Asia

In most countries in Asia, the EU is represented by in-country Delegations. In **Hong Kong SAR** and **Taiwan**, the EU is represented by representation offices. Countries without immediate EU presence are:

- **Bhutan** - EU Delegation in India accredited for representing the EU
- **Brunei Darussalam** – EU Delegation in Indonesia is accredited for representing the EU
- **Macao SAR** – EU Delegation in Hong Kong is accredited for representing the EU
- **Maldives** – EU Delegation in Sri Lanka is accredited for representing the EU

There is no representation of the EU in the **Democratic People's Republic of Korea**.

North America

In the North American region, there is an EU Delegation in all the countries.

Latin America and the Caribbean

In most Latin American and Caribbean countries, the EU is represented by in-country Delegations. The exceptions are the following:

⁵⁶ Based on CoOL data extracted on 22 February 2021. Including those marked as “offices”, excluding any countries covered by accreditation.

- **Antigua and Barbuda** – EU Delegation in Barbados is accredited for representing the EU
- **Bahamas** – EU Delegation in Jamaica is accredited for representing the EU
- **Belize** - EU Delegation in Jamaica is accredited for representing the EU
- **Dominica** - EU Delegation in Barbados is accredited for representing the EU
- **Grenada** – EU Delegation in Barbados is accredited for representing the EU
- **Saint Kitts and Nevis** – EU Delegation in Barbados is accredited for representing the EU
- **Saint Lucia** – EU Delegation in Barbados is accredited for representing the EU
- **Saint Vincent and the Grenadines** – EU Delegation in Barbados is accredited for representing the EU
- **Suriname** – EU Delegation in Guyana is accredited for representing the EU

Pacific

In the Pacific region, there is an EU Delegation in most countries with the following exceptions:

- **Cook Island; Kiribati; Marshall Islands; Micronesia; Nauru; Palau Republic; Samoa; Solomon Islands Tonga Tuvalu Vanuatu:** EU Delegation in Fiji is accredited for representing the EU.

4 ANNEX IV: MAPPING OF MEMBER STATES' CONSULAR NETWORK AND ASSETS (TASK 5.2)

This Annex presents (output of task 5.2) the data collection of Member States **consular networks** in third countries and Member States **consular assets**. The outputs presented below are the following:

- i.
- ii. **Mapping of the Member States' consular network:** A global mapping of consular network providing an overview of the third countries in which EU Member States provide consular services and the countries which are uncovered by the EU 27 Member States.
 - Comparison of the COOL data and the data collected through the questionnaire
 - Evolution of the Member States' consular network
 - Impact of Brexit on consular network
- iii. **Mapping of Member States' consular network in large / remote countries:** A country level mapping providing an overview of the EU Member States' consular networks within the seven biggest country in the world in terms of geographical land surface area
- iv. **Mapping of the Member States' consular :** A global mapping of consular assets providing an overview of the EU Member States' human resources, financial resources and material resources dedicated to consular protection.

i. Mapping of the Member States' consular network in third countries

The table below provides an overview of the level of representation in third countries by Member States, based on data collected from the Member States, through the questionnaire. It shows in which third country Member States have a low presence in (0-25% of Member States represented) and a high presence (27 Member States represented) in 2021.

Methodological caveat

The overall methodology for the data collection at the Member State level, including on Member States' consular network, is presented in Annex I. This methodological box further explain the caveat of this mapping, namely that for the purpose of this mapping, only embassies and consular posts (consulates and consulates general) have been taken into account. The following types of diplomatic presence were thus excluded:

-Honorary consuls were not included in the mapping as the national authorities of most Member States confirmed that these generally provide consular protection to a more limited extent when compared to the assistance provided by embassies and consulates. In addition, the legal mapping confirmed that only very few Member States have decided to extend the application of the Directive to Honorary Consuls (see Chapter 3.1) for further details.

-While an accredited embassy and/or consular post has the same consular protection competences in the country it is accredited to as an embassy/ consulate post located in that country would have, accredited embassies and consular posts were excluded from the mapping as they may not offer consular protection as effectively, in particular in cases of emergency requiring fast action or in times of crisis impacting transport routes such as during COVID. For instance if travel to third country A is restricted or reduced, an accredited consul or ambassador based in third country B may not be able to fulfil his obligation to EU citizens in the third country A. As such, and according to the 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.

According to the data collected the following conclusions can be drawn on the level of representation of the EU Member States in 2021:

1. Only 5 third countries (China, India, Russia, UK, and USA) are covered by all 27 Member States (3% of third countries).
2. 41% of third countries are covered by seven Member States or less
3. In 21 of the 173 third countries listed, Member States are not present. Thus, 12% of the 171 third countries identified can be considered "**uncovered**". Six of these third countries (the Bahamas, Barbados, Belize, Grenada, Guyana, Solomon Islands) were previously covered by the UK. The departure of the UK from the EU has therefore decreased Member States' consular coverage of third countries by 3%.

4. The Member States that have the largest consular network and that are therefore **represented in the most third countries** are France (present in 136 third countries), Germany (127), Spain (103), Italy (101), Sweden (95) and the Netherlands (88).
5. The Member States that have the smallest consular network and that are therefore **represented in the least third countries** are Estonia (present in 19 third countries), Luxembourg (19), Malta (19), Cyprus (22), Latvia (22) Lithuania (24), and Slovenia (24).

Table 24: level of representation based on the data collected through the Questionnaire

Level of Member States representation	Number of third countries covered (2021)	%
No EU Member States representation	21 countries (Antigua and Barbuda, the Bahamas, Barbados, Belize, Bhutan, Cook Island, Dominica, Eswatini, Grenada, Guyana, Kiribati, Lesotho, Liechtenstein, the Maldives, Marshall Islands, Micronesia, Nauru, Palau Republic, Samoa, Solomon Islands, Tonga, Tuvalu)	12% of third countries (21 out of 173)
0-25% of EU Member States represented (7 MS or less)	71 countries (Andorra, Bahrein, Bangladesh, Benin, Bolivia, Botswana, Brunei Darussalam, Burundi, Cambodia, Cameroon, Cabo Verde, Central African Republic, Chad, Comoros, Congo Republic, Costa Rica, Cote d'Ivoire, Djibouti, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Eritrea, Fiji, Gabon, The Gambia, Guatemala, Guinee Bissau, Guinea Republic, Haiti, Holy See, Honduras, Iceland, Jamaica, Korea Pyongyang, Kyrgyzstan, Lao PDR, Liberia, Macao, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mongolia, Namibia, Nepal, Nicaragua, Papua New Guinea, Paraguay, Rwanda Republic, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Sao Tome and Principe, Seychelles, Sierra Leone, Somalia, South Sudan, Sri Lanka, Suriname, Syria, Tajikistan, Timor Leste, Togo, Trinidad and Tobago, Turkmenistan, Vanuatu, West Bank Gaza, Yemen, and Zambia.	41% of third countries (71 out of 173)
All EU27 are represented	6 countries (China, India, Russia, UK, USA, and Japan)	3% of third countries (6 out of 173)

Source: Study questionnaire to Member States (March 2021) providing an overview of Member States presence in 173 third countries⁵⁷ in 2021.

Our mapping only considered embassies and consular posts however, if we include honorary consulates and accredited embassies and consular posts, there are no uncovered third countries. While honorary consulates can only provide partial consular protection and accredited embassies/consular posts may not be able to provide consular protection as effectively as in-country embassies/consular posts, their presence should not be overlooked. For instance, while Bhutan may be uncovered, 16 Member States have accredited embassies and consular post in neighbouring countries. Similarly, while Lesotho and Eswatini may be uncovered, these two countries are located within South Africa from where 20 Member States have accredited embassies and/or consular post providing consular protection to EU citizens in Lesotho and 18 accredited embassies and/or consular post providing consular protection to EU citizens in Eswatini. Additionally, while third countries may be uncovered, their proximity to EU Member States territory should not be overlooked. For instance, Dominica may be uncovered however it is situated less than 50km away from Guadeloupe and Martinique, two French departments. Similarly, Antigua and Barbuda is situated less than 100km from Guadeloupe.

⁵⁷ Including islands (e.g. Cook Islands), and countries not formally recognised by all Member States (e.g. Hong Honk)

However, it should be stressed that proximity and/or coverage by accredited embassies/consulates is not a solution that compensate for the lack of in-country representation. There are multiple limitations such as the lack of contacts with local authorities, the possible difficulties in accessing the country in times of crisis (i.e. if the borders are closed), the lack of situational awareness, etc which make the provision of consular protection more difficult. Additionally, an oversea territory or department may also not have the logistic capacity to help, or to be in a position to do so for legal and/or political reasons.

When compared to the consular network of EU Delegations, among the 21 third countries uncovered by the EU27 Member States, four of these third countries are covered through EU Delegations (Barbados, Eswatini, Guyana, Lesotho).

Comparison of the COOL data and the data collected through the questionnaire

The data collected through the questionnaire for the purpose of this study largely correspond to the data extracted from the COOL tool. The table below provides an overview of the CoOL data. The differences between both data sets are the following:

6. Macao SAR, New Caledonia, Saint Kitts and Nevis, St Vincent and the Grenadines were reported as uncovered in the COOL data. Our study did not consider New Caledonia as a third country but as a territory of France and therefore did not include it in our mapping. Portugal reported being present and providing consular protection in Macao. Sweden reported being present and providing consular protection in Saint Kitts and Nevis and in St Vincent and the Grenadines.
7. Andorra and the Holy See were not included in the COOL Data. However, as both are recognised third countries, the study team has decided to include them in the mapping. Six Member States reported being present and providing consular protection in the Holy See and two Member States in Andorra.
8. Burkina Faso, Hong Kong SAR, Myanmar, and Niger were previously included in the CoOL data among the third countries with seven or less Member States present. However, results collected through the questionnaire revealed a higher level of representation (Nine Member States in Burkina Faso, eleven Member States in Hong Kong SAR, eight Member States in Myanmar and eight Member States in Niger.)

Table 25: level of representation based on CoOI Data

Level of Member States representation	Number of third countries covered (2021)	%
No EU Member States representation	26 countries (Antigua and Barbuda, the Bahamas, Barbados, Belize, Bhutan, Cook Island, Dominica, Eswatini, Grenada, Guyana, Kiribati, Lesotho, Liechtenstein, Macao SAR, the Maldives, Marshall Islands, Micronesia, Nauru, New Caledonia, Palau Republic, Saint Kitts and Nevis, St Vincent and the Grenadines, Samoa, Solomon Islands, Tonga, Tuvalu)	15% of third countries (26 out of 171)
0-25% of EU Member States represented (7 Member States or less)	72 countries (Bahrein, Bangladesh, Benin, Bolivia, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cabo Verde, Central African Republic, Chad, Comoros, Congo Brazza, Costa Rica, Cote d'Ivoire, Djibouti, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Eritrea, Fiji, Gabon, The Gambia, Guatemala, Guinee Bissau, Guinee Conakry, Haiti, Honduras, Hong Kong SAR, Iceland, Jamaica, Korea Pyongyang, Kyrgyzstan, Lao PDR, Liberia, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mongolia, Myanmar, Namibia, Nepal, Nicaragua, Niger, Papua New Guinea, Paraguay, Rwanda Republic, Saint Lucia, San Marino, Sao Tome and Principe, Seychelles, Sierra Leone, Somalia, South Sudan, Sri Lanka, Suriname, Syria, Tajikistan, Timor Leste, Togo, Trinidad and Tobago, Turkmenistan, Vanuatu, West Bank Gaza, Yemen, and Zambia.	42% of third countries (72 out of 171)

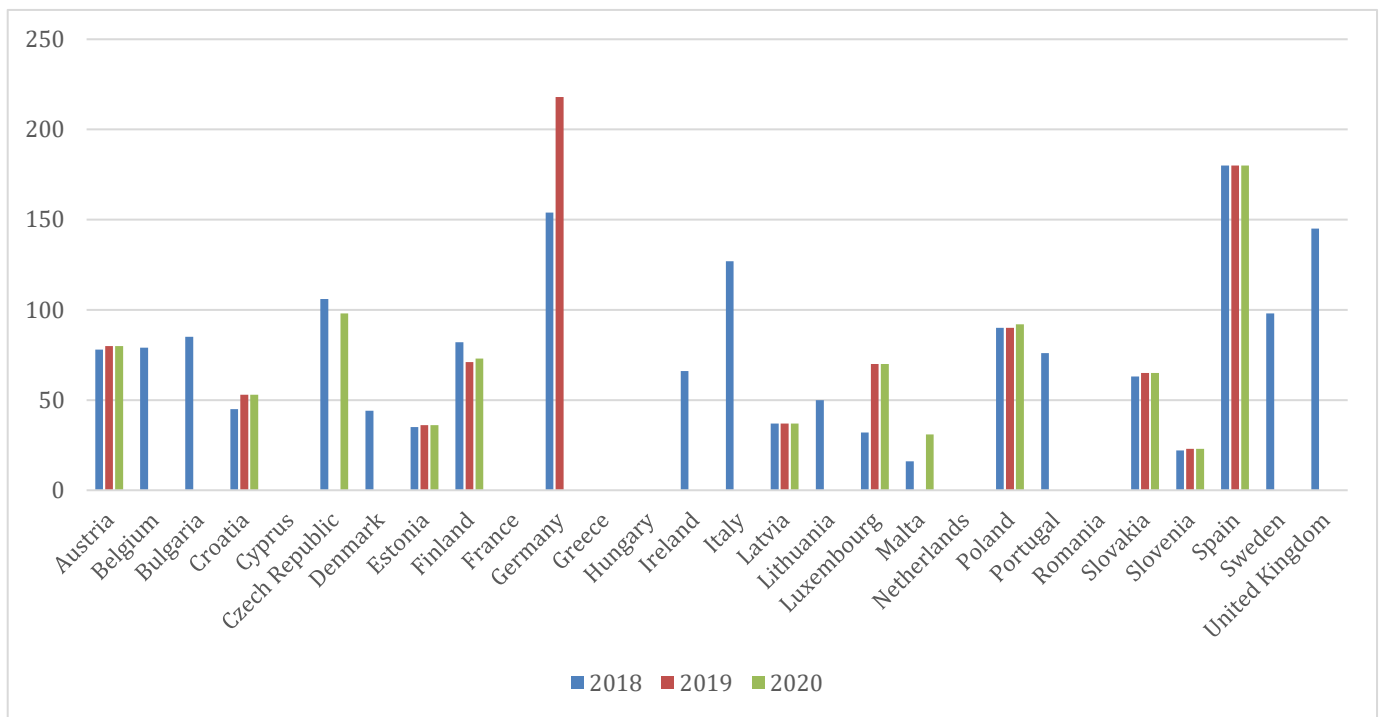
All EU27 are represented	5 countries (China, India, Russia, UK, and USA)	3% of third countries (72 out of 171)
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Source: EEAS 2021 CoOL data which provides an overview of Member States presence in 171 third countries⁵⁸ in 2021.

Evolution of the Member States consular network

In order to understand the evolution of the consular network between 2018 and 2020, it is relevant to look at the information provided by Member States to the DG JUST’s survey reporting on the implementation of Directive 2015/637. Only 12 Member States provided data on their consular network both in 2018 and in 2020. **Of these 12 Member States, eight saw an increase in the number of embassies and consulates exercising consular functions** (not counting honorary consuls or countries covered from other countries). Two had a decrease and two remained unchanged. Together, these 12 Member States had a 7% collective increase in the number of embassies and/or consulate exercising consular functions from 786 in 2018 to 838 in 2020. While these findings are limited due to missing **data they nonetheless suggest that EU Member States have increased their consular footprint between 2018 and 2020**. This was further collaborated by the data collected from the questionnaire’s qualitative questions which asked the national authorities whether their consular network increased decreased or remained the same between 2018-2021. Out of the 26 Member States that replied, 14 (BG, EE, FI, HR, HU, LT, LU, MT, RO, SI, PL, ES) reported an increase and only two reported a decrease (DK and FR). Seven replied “remained the same” (AT, BE, DE, PT, SE, NL, LV) and one Member State (CZ) did not know.

Figure 2 - Question 1. In how many countries do you have an embassy or a consulate exercising consular functions (not counting honorary consuls or countries you cover from other countries)?



Source: EEAS 2021 COOL data which provides an overview of Member States presence in 171 third countries⁵⁹ in 2021.

Impact of Brexit on consular network

⁵⁸ Including islands (e.g. Cook Islands), and countries not formally recognised by all Member States (e.g. Hong Honk)

⁵⁹ Including islands (e.g. Cook Islands), and countries not formally recognised by all Member States (e.g. Hong Honk)

Post-Brexit (per January 2021), EU citizens are no longer able to request consular protection from UK missions abroad under the Directive and the UK is longer able to serve as a Lead State, i.e. leading the assistance of unrepresented EU citizens during crises, and shouldering the burdens of non-crisis consular assistance.⁶⁰ In 2018, the UK was the third most important Member States in terms of number of embassies and consulates exercising consular functions (France did not provide replies to the 2018 questionnaire). The departure of the UK from the EU therefore results in a considerable loss in consular footprint. The 21 Member States and the UK, who provided data for 2018 had 1710 embassies and consulates exercising consular functions in 2018. Factoring in the 6⁶¹ Member States who did not provide data on their consular network results in an estimated 2176 EU Member States' embassies and consulates in 2018.⁶² The UK's departure from the EU therefore represents an estimated 7% lost in the number of EU Member States' embassies and consulates providing consular functions.

Currently, in 2021, our mapping identified 21 uncovered countries out of 173 third countries, six of these third countries (the Bahamas, Barbados, Belize, Grenada, Guyana, Solomon Islands) were previously covered by the UK. The departure of the UK from the EU has therefore decreased the EU's Member States' consular coverage of third countries by 3%.

Post-Brexit, unrepresented EU citizens need to rely on the other EU representations available⁶³, which add **additional burdens to certain Member States** that are “second in line” regarding the density of their representations. At the same time, Brexit also **relieves the strain on the EU network of consular protection** in that British citizens are no longer subject to protection by other EU Member States under the Directive. Beyond quantitative data on the number of representations, the UK also plays an important role in many aspects of consular affairs due to its **long-standing diplomatic tradition** and **extensive local networks** which make it an effective player in consular matters. For example, according to a Final Report on Consular Cooperation Initiatives (CCI) by the Council, the UK had a lead role in joint lobbying activities in Cambodia and was primarily in charge of providing assistance in Nepal, which were two out of five countries where the CCI ran.⁶⁴

ii. Mapping of the Member States' consular network in the EU

The table below provides an overview of the level of representation in the EU by Member States, based on data collected from the Member States, through the questionnaire. Overall, 82% of EU Member States are present in at least 75% of all EU Member States (i.e. 75% of EU Member are present in 20 or more other EU Member States).

The same methodology was applied as for the mapping of Member States consular network in third countries. Namely, only embassies and consular posts (consulates and consulates general) were taken into account (honorary consuls and accredited embassies and/or consular posts were excluded).

Level of Member States representation	Number of EU countries covered (2021)	%
Member States are represented in between 40% (10) and 65% (17) of the other EU Member States	2 Member States: Luxembourg, Malta	7% of Member States
Member States are represented in between 65%	3 Member States are present in over 65% of all other Member States: Lithuania, Slovenia , Latvia	11% of Member States

⁶¹ Cyprus, France, Greece, Hungary, Netherlands and Romania

⁶² (1710/22= an estimated 78 embassies and consulates per Member State; 78*28 Member States= 2176).

(17) and 75% (20) of the other EU Member States		
Member States are represented in between 75% and 99% (25) of the other EU Member States	13 Member States are present in over 75% of all other Member States: Czechia, Sweden, Austria, Romania, Finland, Slovakia, Bulgaria, Croatia, Denmark, Estonia, Portugal, Belgium, Cyprus	49% of Member States
Member States are represented in all EU countries (26)	9 Member States are present in all other Member States: France, Germany, Greece, Hungary, Ireland, Italy, Netherlands, Poland, Spain	33% of Member States

Source: Study questionnaire with Member States (March 2021)

iii. Mapping of Member States' consular network in large / remote countries

In addition to third countries with no or low level of representation, the study also considered large land surface third countries which, while covered by Member States, raise the issue of unrepresentativeness due to the size of the country. This is linked to the issue of remoteness country (i.e. EU citizens being left stranded in remote areas) and article 6 of the Directive which refers to Member States being "effectively in a position to provide consular protection". That is, while Member States may be represented in the capital or in the main cities of a large country, large section of the territory of that country may remain uncovered, resulting in the Member States not being in a position to effectively provide consular protection. This issue was visible during the outbreak of the Covid-19 pandemic where, despite China being covered by all Member States, only France had a consulate in the province of Wuhan. As a result, during the pandemic, Member States were unaware of how many of their citizens were living in the province of Wuhan.

To assess the extent of this issue of remoteness, the study team conducted a country level mapping of the EU Member States' consular networks within the seven biggest country in the world in terms of geographical land surface area (Russia, Canada, USA, China, Brazil, Australia, and India). This was achieved by mapping the cities where the EU Member States' embassies and Consular Posts providing consular services are located within these seven countries. Honorary consuls and accredited embassies were not taken into consideration. The aim of this exercise was to assess, for each of these selected countries, whether the EU Member States' consular networks are clustered within a few cities or if they are spread out across the country.

Maps of Russia and the USA were prepared based on the data collected. Each blue pin represents a location where one or multiple Member State(s) are present. The number next to the blue pin provides the number of Member States present in a given location.

Figure 3: Map of EU Member States consular representation in Russia



Source: Study questionnaire with Member States (March 2021) which provides an overview of Member States presence in Russia in 2021.

The map of Russia highlights a high level of EU Member States representation in the West and to a lesser extent, the south of the country. Large areas of the Russian territory in the Centre, North and Central/North East in particular are uncovered. This suggests that the issue of remoteness in Russia could be a challenge. However, when consulted on the topic of remoteness, Member States consular authorities in Russia interviewed as part of the study, did not rank this as a common or particularly challenging issue. They noted that the good level of cooperation between consulates and embassies in Russia ensures that Member States which are closer to EU citizen requiring consular assistance assist that citizen on behalf of the citizen's national authority. They also noted that very few EU citizens travelled or resided in the more remote areas of Russia. Those that did could be split into two groups - scientists sent by universities/organisations or tourists group traveling with a tourist's organisations. Both these groups are supported and assisted by the respective organisations and therefore rarely require consular assistance from the national authorities. For instance, in case of a health accident, the insurance of the tourist group will handle repatriation if needed. As a result, interviewees did not consider remoteness as an issue and could not recall any cases (either prior or during the COVID-19 crisis) whereby an EU citizen requiring consular assistance, was too far away or located in a place too remote to be provided with effective consular assistance.

Figure 4: Map of EU Member States consular representation in the United States of America



• Source: Study questionnaire with Member States (March 2021) which provides an overview of Member States presence in the USA in 2021.

The map of the USA highlights the same issue of remoteness as Russia’s mapping of the Member States’ presence. Member States’ embassies and consular post are located mainly on the East and West Coast of the country and large section of the country in the centre, North and to a lesser extent, South, are uncovered. Interviews were not conducted with stakeholders from the USA however, anecdotal evidence provided by EEAS suggest that while the issue of remoteness may pose a challenge during crisis where consular assistance is requested on a larger scale than under normal circumstances, this challenge is resolvable. For instance, when a cruise ship docked in Oakland, USA, and repatriation became necessary, Member States moved consular representatives from Los Angeles to provide consular services in Oakland in less than 24h.

The EU Delegation survey also raised the issue of remoteness with EU stakeholders whom were asked “In your experience, how frequently did EU citizens turn to the EU Del in the following situations?: They are unrepresented in the country concerned, but the Embassy / Consulate of the other EU Member States that are present in the country are too far to travel to”. Among the six largest third country selected, only four provided answers to the question. Australia answered “never”, Brazil answered “Rarely”, the USA answered “Occasionally” and Russia answered “Frequently”. The interview with the EU delegation in Russia revealed that the frequent demands were due to a lack of knowledge from the citizens who did not know who to turn to for consular assistance in cases of emergencies. When queried, the EU Delegation redirected the citizen to the nearest consulate and/or Member State’s consulate of origin in Moscow. The answers provided to the survey were diversified which suggest that the issue does not apply to the same extent to all large countries but on a case by case basis. The interview with the EU Delegation in Russia suggest that the issue is not due to the Member States not being able to provide consular assistance but due to a lack of knowledge from the citizens regarding his rights to turn to another Member State for consular protection. This could be linked to a lack of adequate communication from the Member States.

Overall, both maps confirm the assumption that Member States are mostly present in the larger cities and more populated regions of the respective countries. As a result, and despite all EU 27 Member States being present in both Russia and the USA, large areas of the more remote part of the countries are uncovered. Similar findings resulted from the review of Member States consular presence in China, Australia, India and Brazil. In the event of an accident/case whereby an EU citizen, residing or traveling in uncovered parts of these countries, and requiring consular assistance, the sheer size of the countries could result in difficulties in complying with the request. As such, representation in a third country does not necessarily mean that effective consular protection can be provided, as large land surface countries

may have large part of their territory which are uncovered. This issue can be particularly challenging during crisis situation as a result of high demands for consular protection. However, interviews conducted with relevant Member States' stakeholders suggest that these issues are uncommon and solvable through cooperation between Member States, better communication, and a flexible approach to consular representation by which consulates staff can travel to where they are required in cases of emergency.

iv. Mapping of the Member States' consular assets in third countries

Methodology

The study team conducted a mapping of EU Member States' consular assets in third countries in order to understand the available resources the Member States had to their disposal to provide consular assistance to unrepresented EU citizens since 2018. This information also gives an idea of the cost incurred by Member States to provide consular protection to unrepresented citizens.

As part of the mapping of consular assets the following types of data were collected from national authorities, through the Task 5 questionnaire:

9. **Human resources** dedicated to consular protection in terms of staff within consular network and diplomatic network as the latter can be called upon to provide consular services in crisis situations. Additionally, data was also collected on consular staff deployed from headquarters in responses to a crisis between 2018 and 2020.
10. **Financial resources** dedicated to consular protection, both the annual budget used for the provision of consular protection to MS own citizens (in third countries and within the EU) and additional budgets available in crisis situations.
11. **Material resources** available in crisis situations (e.g. planes, vessels, etc.)

As can be seen in the table below, the availability of data varies by type of data and year. The availability of the data provided by the Member States was scarce overall and in particular for 2018 and 2019 as Member States found it difficult to recover data retroactively. Additionally, the information provided by the Member States was in most cases not comparable. For instance, the type of expenses included within the annual budget used for consular protection varied between Member States as did the type of staff which fell under the categories "diplomatic staff" and "consular staff".

Table 26: Data provided by Member States

Consular asset questions asked in the questionnaire	Year	Number of Member States that provided data	Share of Total of Member States (N=27)
Human Resources			
Total number of staff in the diplomatic network (i.e. non-consular staff/personnel present and which can be called upon to provide consular services in crisis situation)	2018	7	26%
	2019	7	26%
	2020	14	52%
Total number of staff/personnel within the consular network (dedicated to consular services)	2018	8	30%
	2019	10	37%
	2020	14	52%
Number of additional consular staff from headquarters that have been deployed to third countries in response to a crisis in 2018-2020.	2018	10	37%
	2019	10	37%
	2020	11	41%
Financial Resources			
	2018	13	48%
	2019	13	48%

Consular asset questions asked in the questionnaire	Year	Number of Member States that provided data	Share of Total of Member States (N=27)
Annual budget (in EUR) for consular protection (as per Article 9 Directive) to your citizens in third countries and within the EU	2020	14	52%
Additional budgets available for crisis situations (in EUR). Please clarify which in the comment box	2018	5	19%
	2019	5	19%
	2020	5	19%
Material resources			
Other assets available for crisis situations		16	59%
Organisation of exercises for crisis preparedness		18	67%

Source: Study questionnaire with Member States – March 2021- data reported to questions within the “quantitative tab” on consular assets

Financial Resources

Overall, and as evidenced by the table below, the data suggest that there is a correlation between the level of a Member State’s consular representation in third countries and the Member State’s budget and diplomatic and consular staff. Member States such as France, Germany and Spain, with more extensive consular networks in third countries, have a significantly larger budget (in the millions) and numbers of staff (in the thousands) compared to Member States with small and medium sized consular networks (annual budgets in the low hundreds to the low thousands respectively and staff ranging in the dozens for the Member States with smaller consular networks to the mid hundreds for Member States with medium consular networks). Member States with a larger consular network also carry out more frequent crisis preparedness exercises than Member States with smaller consular networks. Overall, the data suggest that Member States that have larger consular networks spend considerably more resources on consular protection than Member States with smaller consular networks.

Table 27: Member States’ consular assets in 2020 (N=14)

Level of Member States representation	Range in the number of diplomatic staff	Estimated number of consular staff	Estimated annual budget (In Euro)
Below 40	100-500	45-190	3,000 – 30,000
Between 41-100	200-2000	130-630	40,000 – 430,000
Above 101	4000-12000	2400 - 2600	2.3 million – 170 million

Source: Study Questionnaire with Member States - March 2021

The table below presents a more detailed analysis of the data reported by the Member States on the questions on their financial resources.

Table 28: Analysis of the questionnaire consular assets question 9 on Member States’ financial resources dedicated to consular protection.

Consular asset	Analysis
Annual budget (in EUR) for consular protection (as per Article 9 Directive)	Member States annual budget dedicated to consular protection (to both their national citizens as well as unrepresented citizens) for 2020 can be categorised in three

	<p>categories⁶⁵: low (EE (EUR 8000), and LT (EUR 3000), LV (EUR 11 144)), medium (AT (EUR 150 000), PL (EUR 435 533)) and high (FR (EUR 130 Million), DE (EUR 100 Million) and ES (EUR 2.3 Million)). However, it should be noted that this very large discrepancy between reported budget is most likely due to Member States including different expenses within their budget (i.e. some may have included staff and building costs while others did not). Similarly to the number of staff, the higher the level of representation, the higher the budget and vice versa. 11 Member States⁶⁶ provided their annual budget for all three years. An analysis of the data shows that the annual budget remained stable between 2018 (total of EUR 134,393, 095) and 2019 (total of EUR 135,225,399) but increased considerably in 2020 (total of EUR 273,680,601) presumably as a result of the COVID-19 pandemic. This suggest that the Member States' budget is flexible to respond to needs. This was confirmed by several Member States that reported that their budget was non-limitative and could be increased on an ad doc basis.</p>
<p>Additional budgets available for crisis situations (in EUR). Please clarify which in the comment box</p>	<p>Only five Member States provided data on their additional budgets available for crisis situations. Three Member States confirmed that there was no additional budget available, Austria reported a budget of EUR 150 000 for 2018 and EUR 153 000 for 2019 and 2020; Romania reported an additional budget of EUR 13 191 for 2018, EUR 11, 326 for 2019 and EUR 16, 140 for 2020. While this data suggest that an additional budget for consular protection is not provided by most Member States, interviews conducted with the national authorities highlighted anecdotal evidence that the annual budget dedicated to consular protection was an open one that could be increased on a case by case basis. This suggest that there is no need for an additional budget if the annual budget is not limited.</p>

Source: Study questionnaire with Member States – March 2021

Eleven Member States provided data on their annual budget for consular protection for the years 2018, 2019 and 2020. Overall the Member States budget remained similar between 2018 and 2019 and doubled in 2020. This highlights the additional financial burden caused by the COVID 19 pandemic and the need it generated for additional resources. It also testifies to the flexibility of the consular protection budget. This was mentioned in several interviews with national authorities who stressed that their budget for consular protection could be considered as limitless as they could draw on more financial resources on a case by case basis when necessary.

Human resources

Table 29: Analysis of the questionnaire consular assets question 8 on Member States' human resources dedicated to consular services.

Consular asset	Analysis
<p>Total number of staff in the diplomatic network (i.e. non-consular staff/personnel present and which can be called upon to provide consular services in crisis situation)</p>	<ul style="list-style-type: none"> There seem to be vast differences between Member States in the total number of staff in the diplomatic network: the data reported in 2020 ranges from the hundreds such as BG (92), AT (100), SI (161) to the thousands such as FR (12 000) and DE (4080). However, different Member States included various categories in these numbers with some Member States omitting local staff or consular staff or and other providing an overview of all staff available including consular staff as their statistics did not differentiate between different categories. As a result, a precise comparison between Member States is not possible. However, overall, the difference in the total number of staff in Member States' diplomatic network is largely proportionate to the

⁶⁵ Data for 2018

⁶⁶ AT, DE, EE, ES, FR, HR, LT, LV, PL, RO, SI

	level of representation that Member States have. The larger the Member States' consular network, the greater number of diplomatic staff the Member State will have and vice versa.
Total number of staff/personnel within the consular network (dedicated to consular services)	<ul style="list-style-type: none"> The amount of consular staff reported in 2020 can be categorised in three categories: low (EE (54), LU (50), MT (44) and SI (54)), medium (AT (160), BG (132), HR (128), LT (190), LV (130)) and high (FR (2589) and DE (2406)). Similarly, to the number of staff within the Member States diplomatic network, there is a direct correlation between the level of representation of a Member State and the number of consular staff it has. The more consulates and embassies, the higher the number of consular staff.
Number of additional consular staff from headquarters that have been deployed to third countries in response to a crisis in 2018-2020.	<ul style="list-style-type: none"> Eleven Member States provided data on the number of additional consular staff from headquarters that have been deployed to third countries in response to a crisis in 2020. Among these Member States, nine had zero additional staff deployed, France had 15 and Portugal had 3. From the available data, we can infer that additional consular staff are only deployed by a few Member States and the number of staff deployed is relatively small.

Source: Study questionnaire with Member States (March 2021)

Data on the number of diplomatic staff between 2018-2020 is too limited to draw any useful conclusions. Only six Member States provided data on the number of consular and diplomatic staff for the years 2018, 2019 and 2020:

Number of consular staff: two Member States did not record any changes in their number of consular staff, three Member States recorded an increase in 2020 and two Member States recorded an increase in both 2019 and 2020. No Member State recorded a decrease.

Number of diplomatic staff: Two Member States did not record any changes in their number of diplomatic staff, two Member States recorded an increase in 2020, and one Member State recorded an increase in both 2019 and 2020. Only one Member State recorded a decrease between 2018 and 2020. Overall, and as evidenced by the chart in Annex 2, the number of staff slightly increased across both categories.

Overall, the number of staff slightly increased across both categories, for the six Member States which reported this data.

Material assets

Table 30: Analysis of the questionnaire consular assets question 10 on Member States' other consular assets.

Consular asset	Analysis
Other assets available for crisis situations (N=16)	<ul style="list-style-type: none"> Member States were asked whether they had additional assets available for crisis situations. Among the 16 Member States that replied, half (eight) said no. The remaining Member States explained that additional assets, such as military planes and other modes of transport (e.g. vehicles) were at the disposal of the Member States in specific circumstances and upon request. For examples 3 Member States mentioned having access to military planes through the Ministry of Defense (CZ, LT, LU). A few other Member States stated to have access to planes for the purpose of repatriations, through the agreements in place with the private sector, such travel and insurance industry (e.g. Danish Travel Agency Associations (DK)) or corporate transport foundations (e.g. Airbus foundation (FR)). Member States also mentioned having available transport assets such as planes and vehicles available during crisis situation (HR) as well as access to satellites (PL).

Consular asset	Analysis
<p>Organisation of exercises for crisis preparedness (N=18)</p>	<ul style="list-style-type: none"> The majority of Member States confirmed that they organise exercises for crisis preparedness and the frequency of such trainings seem to higher for countries with a higher level of representation: Among the 18 Member States that replied, three said no and sixteen said yes. Exercises mentioned included workshops, seminars, trainings and scenario-based exercises targeted at consular staff in embassies and consulates as well as rapid reaction teams and staff at headquarters. The frequency of the exercises varied depending on the Member States. For instance, AT mentioned that crisis management exercise for a specific country or region were held twice a year in HQ and in the embassies; EE mentioned a yearly training in HQ and consular exercise every second year for consuls posted at Embassies and FI mentioned a crisis preparedness exercise held every year. In contrast the Netherlands conduct two to four exercise every year and France conducts exercises every month. This difference in the number of trainings organised, correlates with the level of representation the MS have. The higher the level of representation, the more trainings and exercises of crisis preparedness are being organised.

Source: Study questionnaire with Member States (March 2021)

5 ANNEX V: ANALYSIS OF SURVEY WITH EU DELEGATIONS (TASK 7.1)

This Annex presents the analysis of the survey with EU Delegations, which was live from April to May 2021.

This Annex first presents the key information about the respondents to the survey, before providing the analysis to the three distinct parts of the survey:

Part I: Functioning of the Directive - questions on the application of the Directive in practice (2018-2020)

Experience EU Delegations in providing direct assistance to EU citizens

Experience of EU Delegations in providing assistance to EU Member States

The role of the EU Delegations in crisis situations

Existing information and communication channels offered by the EU Delegations

Application of the rules on financial reimbursement

Part II: Policy options - questions on the potential impacts of the policy options on EU Delegations






Part III: Quantitative questions - Estimation on number of unrepresented EU citizens & Resources

5.1 ANALYSIS ON SURVEY RESPONDENTS

The following 77 EU Delegations responded to the online survey:

Afghanistan, Albania, Algeria, Argentina, Armenia, Australia, Bangladesh, Barbados, Benin, Bolivia, Botswana, Brazil, Burkina Faso, Cameroon, Canada, Chile, Congo, Costa Rica, Cuba, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Eswatini, Ethiopia, Fiji, Gambia, Georgia, Ghana, Guyana, Honduras, Hong Kong*, Iceland, India, Indonesia, Israel, Japan, Kazakhstan, Kosovo, Kyrgyzstan, Laos, Lebanon, Lesotho, Libya, Malawi, Malaysia, Mali, Mauritania, Mauritius, Mongolia, Montenegro, Mozambique, Myanmar, Nepal, Nicaragua, Norway, Panama, Papua New Guinea, Peru, Philippines, Republic of Moldova, Russian Federation, Rwanda, Singapore, Somalia, South Korea, Togo, Trinidad and Tobago, Turkmenistan, Ukraine, United Arab Emirates, United States of America, Uruguay, Uzbekistan, Venezuela, Zimbabwe.

Level of Member State representation of countries in which EU Delegations are posted (N=77):

		Answers	Ratio
No EU Member State is represented		4	5.19%
Low: Between 1- 7 Member States are represented		30	38.96%
Medium: Between 8-14 Member States are represented		15	19.48%
High: Between 15-26 Member States are represented		23	29.87%
All 27 Member States are represented		5	6.49%
No Answer		0	0%

The four third countries where no EU Member State is represented include: Guyana, Lesotho, Barbados, Eswatini.

The five third countries where all EU Member States are represented include: Canada, India, USA, Japan and Russia.

5.2 ANALYSIS OF ANSWERS ON THE FUNCTIONING OF THE DIRECTIVE (PART I)

(i) Experience EU Delegations in providing direct assistance to EU citizens

Figure 5: Since 2018, how frequently has your Delegation received requests for assistance relating to consular protection from EU citizens? Period 2018-2019 (prior to the COVID-19 pandemic), N=77:

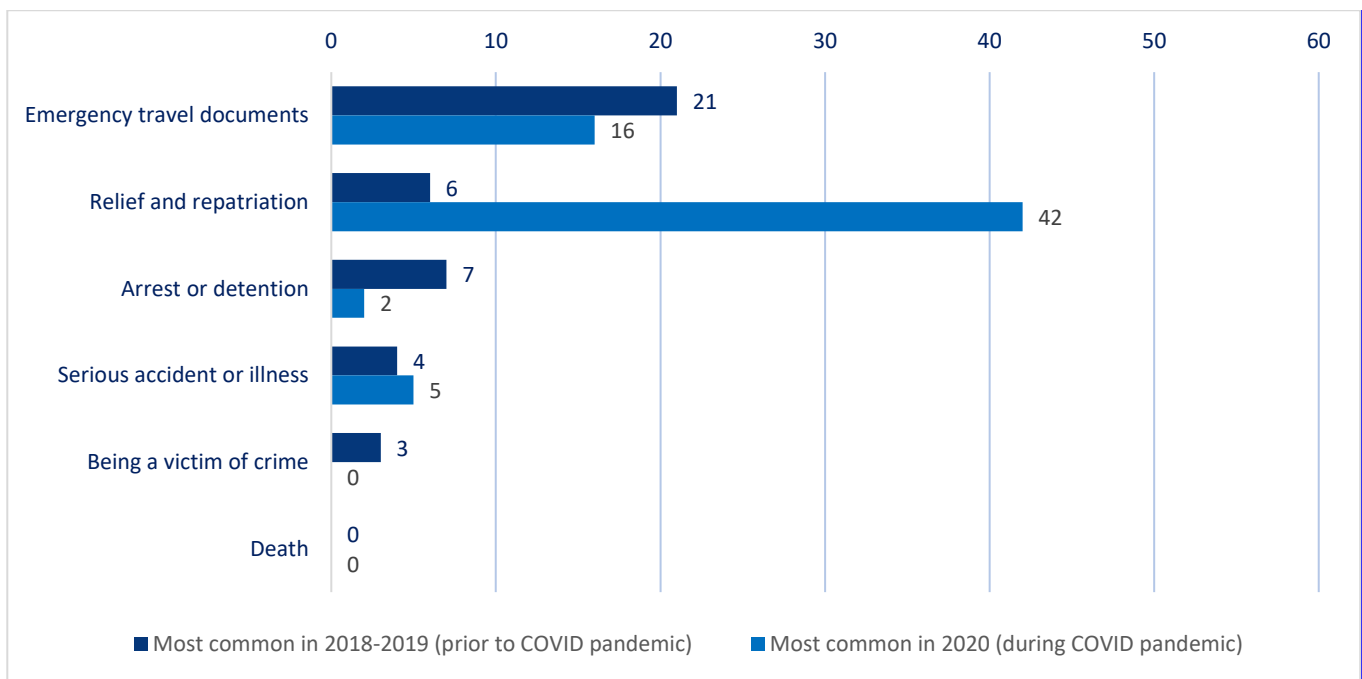
		Answers	Ratio
On a weekly basis		0	0%
On a yearly basis		37	48.05%
Never received any requests from EU citizens		23	29.87%
Not applicable / I don't know		17	22.08%
No Answer		0	0%

Figure 6: Since 2018, how frequently has your Delegation received requests for assistance relating to consular protection from EU citizens? Period 2020 (during the COVID-19 pandemic), N=77:

		Answers	Ratio
On a weekly basis		23	29.87%
On a yearly basis		41	53.25%
Never received any requests from EU citizens		10	12.99%
Not applicable / I don't know		3	3.9%
No Answer		0	0%

Prior to the COVID-19 pandemic (period 2018-2019), the majority of EU Delegations (c. 48%) responded that they receive such requests sporadically / on a yearly basis. The rest of the EU Delegations did not receive any requests for assistance from EU citizens (c. 30%) or do not know of any such requests (c. 22%). Since the beginning of the COVID-19 pandemic, there appears to be a substantial growth in the number of EU Delegations receiving requests for assistance from EU citizens directly: c. 82% of respondents stated they received requests on a weekly or yearly basis. Furthermore, the frequency of requests also increased: c. 30% EU Delegations claimed they receive requests on a weekly basis. The increase in requests seems to be dependent on the diplomatic presence of the EU Member States in a given country: For example, the EU Delegation in Egypt stated that it did not notice any rise in the number of requests which is to be explained by the presence of 26 Member States' diplomatic missions in Cairo. Other Delegations residing in the countries with all or nearly all 27 Member States present (e.g. the U.S., India, Australia) also did not see an increase in the number of requests with EU Delegation in Russia being an exception. Whereas EU Delegations in residing in countries with a smaller diplomatic presence of the Member States (e.g. Costa Rica, Mauritius, Montenegro, Nicaragua, Rwanda) did experience an exceptionally large increase in the number of requests.

Figure 7: In what types of situations did EU citizens most commonly request the assistance from your Delegation? (N=77, "I don't know" and "No answer" answers not included)










Prior to the COVID-19 pandemic, the greater part of the EU Delegations (21) was most commonly approached by EU citizens with requests concerning the issue of emergency travel documents.

Other categories of consular assistance were much less frequent and mostly restricted to countries with a limited diplomatic presence of the Member States. For instance, assistance in the case of ‘arrest or detention’ was one the most frequent category of requests in EU Delegations in Bolivia, Honduras, Laos, Mozambique, and Rwanda (exception: Australia), while ‘being a victim of crime’ category was especially common in EU Delegations in Congo and Eswatini. Similarly, EU citizens’ requests concerning ‘serious accident or illness’ were most recurrent in EU Delegations in Armenia, Kosovo, Papua New Guinea, and Eswatini.

This changed after the start of the pandemic, when the EU citizens were seeking help in returning home: consequently, the majority of EU Delegations (42) most commonly received requests concerning ‘relief and repatriation’. In contrast, the number of EU Delegations which received most frequently requests concerning ‘arrest or detention’ or ‘being a victim of crime’ decreased even further. The increase of requests concerning repatriations was again very noticeable in countries with Member States’ lack of diplomatic presence on ground, like Burkina Faso, the Dominican Republic, Eswatini, Eritrea, Kosovo, Nicaragua, Togo, or Turkmenistan.

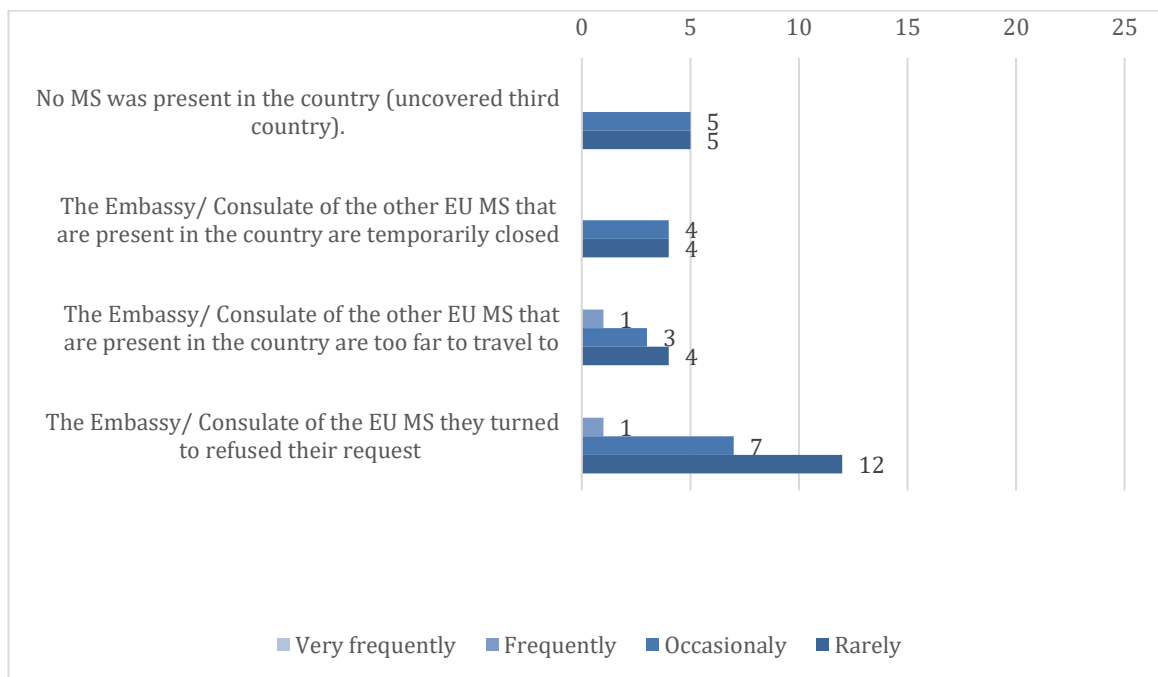
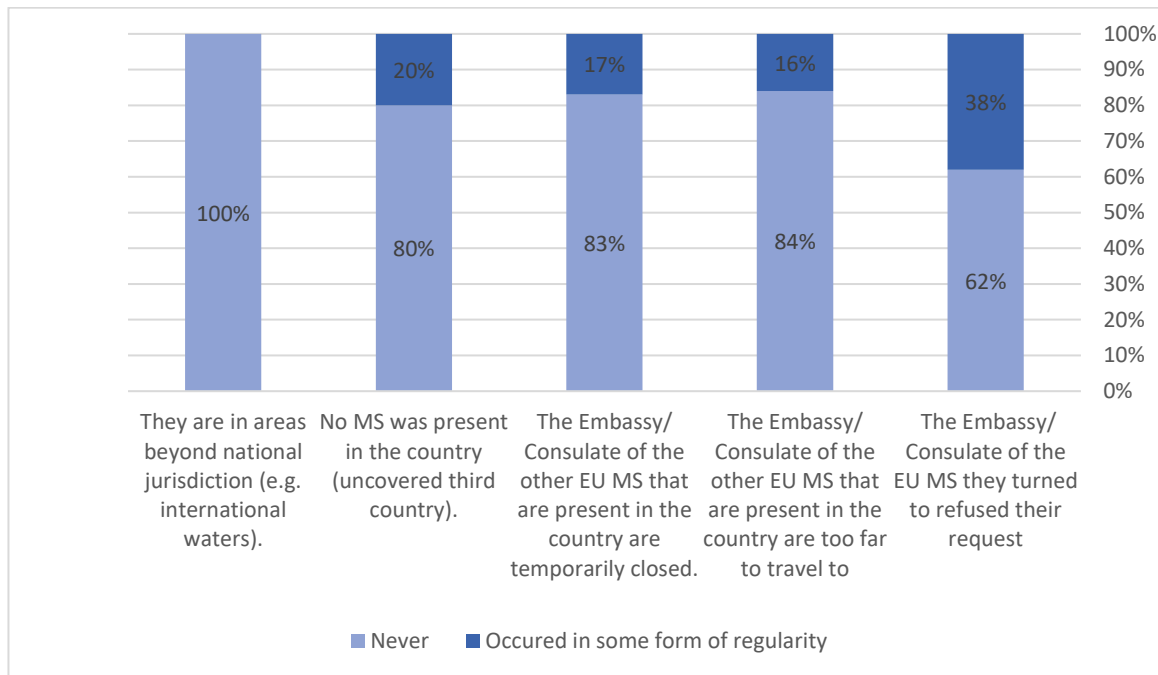
EU Delegations also pointed out other categories of requested assistance coming from EU citizens. It was fairly common for some EU Delegations to perform an informant role: they often received general questions concerning visa and travel restrictions or local law regulations (Armenia, Bangladesh, Georgia, Japan, Panama, Russia, Rwanda, Ukraine, Venezuela). Two EU Delegations were also asked to intervene with authorities on behalf of EU citizens (Cuba – political harassment; United Arab Emirates – non-execution of contractual obligations by the UAE government).

Figure 8: Types of assistance EU citizens generally requested from EU Delegation (N=77):

		Answers	Ratio
Travel advice		28	36.36%
Contact details of embassies or consulates		43	55.84%
Repatriation		40	51.95%
Complaints		17	22.08%
Other, please specify		2	2.6%
I don't know		4	5.19%
No Answer		13	16.88%

EU Delegations most frequently received requests concerning 'contact details of embassies or consulates' (55%), 'repatriation' (c. 52%), and 'Travel advice' (c. 36%). Only one fifth of the EU Delegations that responded stated that EU citizens contacted the EU Delegation with 'complaints'.

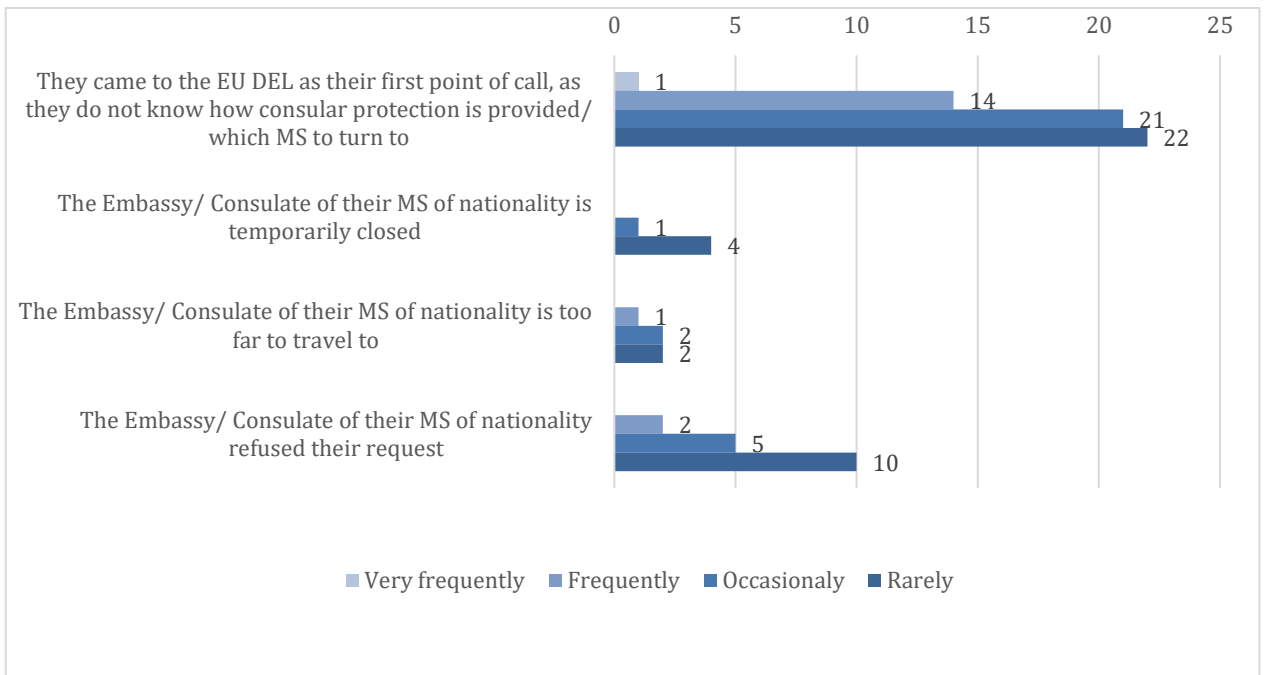
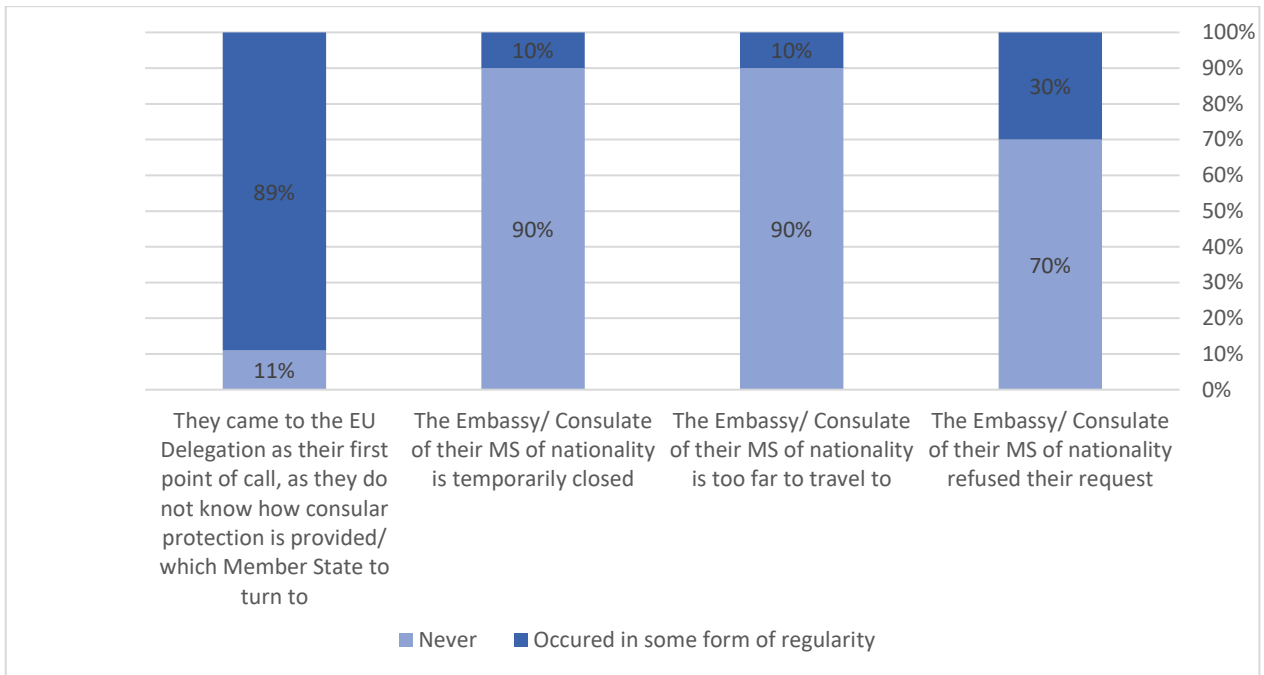
Figure 9: How frequently did unrepresented EU citizens turn to the EU Delegation in the following situations? (N=77, "I don't know" and "No answer" answers not included)



The majority of EU Delegations stated that requests for assistance from unrepresented citizens come most frequently when an Embassy/ Consulate of an another EU Member State they turned to refused their request (8 EU Delegations considered this to happen frequently or occasionally). Other reasons for contacting an EU Delegation are less common. 8 EU Delegations responded that it happens frequently, occasionally or rarely when the country is too far to travel, while 10 EU Delegations stated that such requests take place occasionally or rarely when there is no Member State present

in the country of residence. About 8 EU Delegations are of the view that requests for assistance happen occasionally or rarely when the diplomatic representation is closed.

Figure 10: How frequently did represented EU citizens turn to the EU Delegation in the following situations? (N=77, “I don’t know” and “No answer” answers not included)



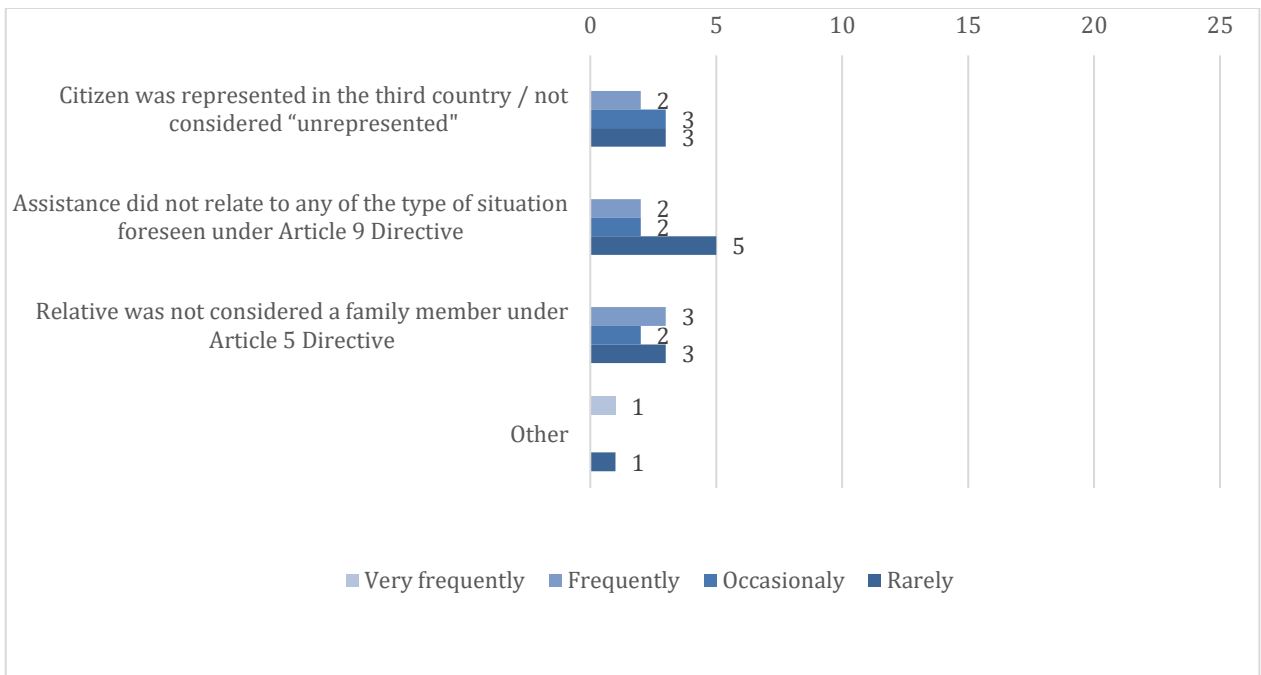
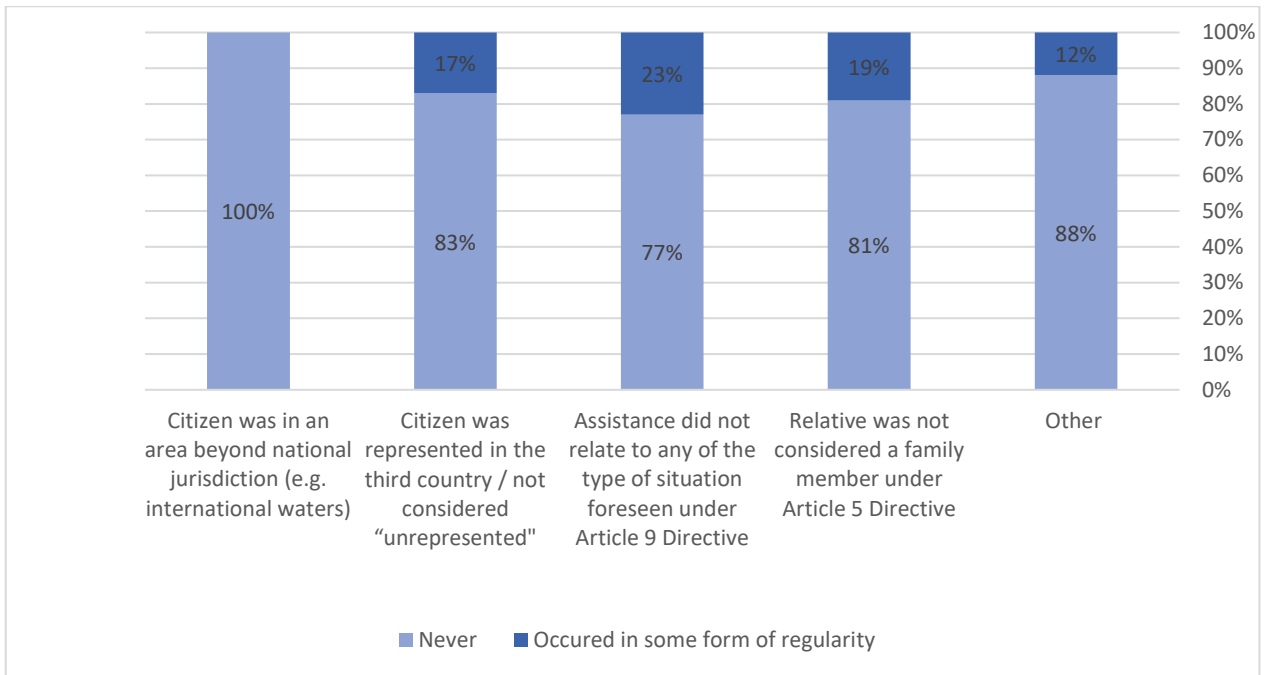
The majority of EU Delegations claimed that requests for assistance come most frequently from EU citizens who decided on the EU Delegation as their ‘first point of call’ in a situation when they do not know how consular protection is provided or to which Member State turn to (36 EU Delegations responded that this takes place very frequently, frequently, or occasionally). Somewhat concerning is the second reason – refusal by the Member States’ Embassy/ Consulate represented in the country concerned to offer assistance (7 EU Delegations stated that this happens frequently or occasionally). Other surveyed situations – the fact that an Embassy is too far to travel or that the embassy is temporarily closed – happen very rarely.

Table : Feedback on how frequent the following types of problems or issues (un)represented EU citizens can face when exercising their right to consular protection when travelling or living abroad? (N=77, “I don’t know” and “No answer” answers not include

	Very frequent	Frequent	Occasional	Rare	Not encountered
Problems related to the travel information or emergency communication provided to them (e.g. information not up to date or provided late)	2	3	11	13	33
Delays in the timeframe in which the assistance was provided	0	4	14	15	27
Problems related to the consular protection provided to their non-EU family members	0	1	11	17	32
A refusal of a request for consular protection from another Member State	0	4	5	11	45
Problems related to the type of assistance provided	0	1	6	10	40
Problems related to the verification of the identity (e.g. which resulted in delays)	0	0	6	12	41
Problems related to special needs for vulnerable groups	0	0	1	10	48
A refusal of a request for consular protection from their own Member State	0	1	2	10	54
Other	0	0	1	4	11

According to the EU delegations, the most common problem or issue that (un)represented EU citizens can face when exercising their right to consular protection when travelling or living abroad are problems related to the travel information or emergency communication provided to them (16 EU Delegations considered this to happen very frequently, frequently, or occasionally). Almost equally often an EU citizen may experience delays in the timeframe in which the assistance is provided (18 EU Delegations stated that this takes place frequently or occasionally). The third most recurring problem that was identified were problems related to the consular protection provided to their non-EU family members (12 EU Delegations claimed that this happens frequently or occasionally). The fourth category of possible issues are refusal of a request for consular protection from another Member State (9 EU Delegations claimed that this happens frequently or occasionally).

Figure 11: Feedback on how frequent were these reasons for another Member State to refuse to provide consular protection to an EU citizen? (N=77, “I don’t know” and “No answer” answers not included)



The vast majority of the EU Delegations either did not notice behind another Member State’s refusal to provide consular protection to an EU citizen. However, if they did, the most common explanation according to them was the fact that a Member State would claim that a relative was not considered a family member under Article 5 of the Directive (3 EU Delegations considered this to happen frequently; 2 – occasionally). Almost equally frequently a Member State could refuse a request because an EU citizen was ‘represented’ in the country of their residence (2 EU Delegations considered this to happen frequently; 3 – occasionally). The third most often reason was that a request does not relate to any problems foreseen under Article 9 of the Directive (2 EU Delegations considered this to happen frequently; 2 – occasionally).

The EU Delegation to Costa Rica mentioned that a very frequent reason was work overburden: the represented member states claimed that the burden was too high during the pandemic to take care of unrepresented citizens.

- (ii) Experience of EU Delegations in providing assistance to EU Member States

Figure 12: Answers to: “Since 2018, have you received requests for assistance in the field of consular protection from EU Member States (N=77)? (Represented in the country concerned)









		Answers	Ratio
Yes		23	29.87%
No		45	58.44%
Not applicable / I don't know		8	10.39%
No Answer		1	1.3%

Figure 13: Answers to: “Since 2018, have you received requests for assistance in the field of consular protection from EU Member States (N=77)? (Not represented in the country concerned)

		Answers	Ratio
Yes		39	50.65%
No		26	33.77%
Not applicable / I don't know		10	12.99%
No Answer		2	2.6%

The majority of the EU Delegations answered that they did not receive requests for assistance in the field of consular protection from EU Member States with a representation in the country concerned (58%). However, half of the EU Delegations responding to the survey stated that they received requests for assistance from EU Member States which do not have a representation (c. 50%).

What types of assistance did EU Member States generally require...

a) in non-crisis situation.

The Member States requested the EU Delegations to assist in a few distinct ways:

- to facilitate contacts with the authorities (e.g. the U.S., Venezuela),
- to share information on local situation (e.g. Uruguay, Ukraine),
- to help in communicating with EU citizens (Mongolia),
- to coordinate demarches for specific consular matters (e.g. Kosovo, Malaysia), and
- to provide support in obtaining permits for medical evacuation for their citizens (Eritrea).








b) in crisis situation.

Almost every EU Delegation mentioned that Member States were seeking assistance in repatriating their citizens and evacuating the ill. Furthermore, the Member States also asked EU Delegations to facilitate contacts with the local authorities (e.g. Venezuela), share information about local situation (e.g. Mali) or to provide travel advice (e.g. Uruguay).

- (iii) The role of the EU Delegations in crisis situations

Table 31: Answer to: Which coordination mechanisms are there between the EU Delegation and the Member States represented in the country concerned? Please select all that apply. (N=77)

		Answers	Ratio




Information sharing mechanisms (e.g. COOL, local consular cooperation meetings, WhatsApp/Signal groups)		72	93.51%
Contingency planning / JFWs		50	64.94%
Joint exercises		16	20.78%
Appointment of a Lead State (if yes, please specify which MS is the Lead State in the country where you are posted)		11	14.29%
Other		5	6.49%
None		1	1.3%
Not applicable / I don't know		3	3.9%
No Answer		0	0%

Almost every EU Delegation (c. 94%) answered that the most common mechanism of coordination is information sharing. Examples of such coordination mechanisms mentioned by the EU Delegations include: WhatsApp groups (e.g. Ukraine, Libya), Signal groups (e.g. India), mailing lists (e.g. US.), Local Consular Coordination meetings (e.g. Kazakhstan), COOL (e.g. Trinidad and Tobago). Joint contingency plans were also mentioned as a coordination tool by the majority of EU Delegations (c. 65%). Joint exercises seem to be carried out in about a quarter of the third countries for which EU Delegations responded (c. 21%).

Only c. 14% of EU Delegations stated the appointment of a Lead state as a coordination mechanism. This was more frequently selected in countries where one particular Member State has a strong diplomatic presence. One good example here is France which is a lead state in Burkina Faso and Togo.



One of a more sophisticated information sharing mechanisms was established in Iceland. First, there is an agreed list distributing the responsibility for dealing with citizens of the (20) non-resident Member States among the (7) resident Member States. In addition, many non-resident Member States have honorary consuls in the country. There is also an agreed annual rotation of the chair of the local consular cooperation group. The EU Delegation maintains and distributes an emergency contact list for the EU27, as well as a single joint EU entry for the EU27 on the 'Bjargir' 112 app, which diffuses civilian protection messages in case of an emergency. In 2017, a thread was created on COOL in order to gather information on EU citizens resident in - or visiting - Iceland. However, this is not frequently up-dated by Member States - also due to the complicated arrangements for access.




Table 32: Answer to: Do the local coordination mechanisms include specific measures for unrepresented citizens? (N=77)

		Answers	Ratio
Yes		33	42.86%
No		26	33.77%
Not applicable / I don't know		18	23.38%
No Answer		0	0%

Less than half of the EU Delegations responded that the local coordination mechanisms include specific measures for unrepresented citizens (c. 43%).

Table 33: Answer to: To what extent do you think the Lead State concept is still relevant to organise/ coordinate the provision of consular protection in the country concerned? (N=77)

		Answers	Ratio
Completely		10	12.99%
Rather relevant		25	32.47%

Rather irrelevant		12	15.58%
Completely irrelevant		9	11.69%
Not applicable / I don't know		21	27.27%
No Answer		0	0%

The majority of the EU Delegations consider the Lead State concept is still relevant (c. 45% responded “completely” or “rather relevant”). The EU Delegations believe that only certain Member States have resources to play active role on the ground (e.g. France in Burkina Faso, Spain in Venezuela) and that the role provide necessary continuity and steering (e.g. Romania in Moldova).

However, over a quarter of all respondents (21 EU Delegations) considered the Lead State “rather irrelevant” or “completely irrelevant”. Concerning the reasons for the concept’s irrelevancy, varied from country to country: either the number of represented Member States is either too low (e.g. Barbados) or too large (Cuba). The EU Delegation in Australia considers the residing country too big for one Member State to assume this position (hence none so far accepted this role). The EU Delegation in Dominican Republic is of the view that no Member State will have capacity to coordinate in a case of crisis situation. Furthermore, some EU Delegations believe that their perform coordination function adequately, so there is no need for a Lead State (e.g. Kosovo).

Table 34: Answer to: To your knowledge, approximately how many EU citizens, and if available how many unrepresented citizens, were stranded due to Covid-19 in your country? (N=77)







Afghanistan	N/A
Albania	A few hundred, of which a few dozen unrepresented
Algeria	N/A
Argentina	Total stranded: 30,000. Non represented: 100/200
Armenia	Only individuals. The air traffic has never been completely interrupted.
Australia	approximately 25,000
Bangladesh	several hundred each
Barbados	In April 2020 the Delegation coordinated jointly with Delegation in Trinidad and Tobago and the German Embassy in Trinidad and Tobago two repatriation flights (operated by Condor) from across the Eastern Caribbean totaling 409 European and non-European nationals: - EU+Area: DE 268, GB 17, NOR 15, FR 11, CZ 10, PL 10, CH 9, IT 9, AT 7, ES 5, HR 4, EE 4, BE 4, SK 4, NL 3, HU 3, FI 3, BG 2, IE 2, LT 2, SE 1, DK 1 - Non-EU+Area (mainly residents in EU+): TTO 5, BRB 3, IND 2, RUS 2, UKR 1, USA, 1, JAM 1, LCA 1
Benin	350
Bolivia	ca. 4.000
Botswana	maybe 200
Brazil	Approximately 15000 European citizens were counted on the basis of information provided in the LCC group. These citizens were able to travel back to Europe with the help of consular coordination.
Burkina Faso	Approximately 300, out of which around 50 non-represented
Cameroon	Around 3000-4000 EU citizens
Canada	Thousands, including the transit passengers

Chile	Difficult to answer. The consulate based in Chile can't provide an accurate number of their own citizen. During the Estallido social and the Pandemic, unregistered EU citizen requested information or assistance
Congo	500 of whom approx. 30 unrepresented
Costa Rica	10000 in total, around 3000 unrepresented citizens
Cuba	15000
Dominican Republic	Around 25,000 EU citizens. Unrepresented 2,000 citizens and candidate countries/San Marino/Andorra
Ecuador	more than 6000
Egypt	Don't have information.
El Salvador	less than 100
Eritrea	EU citizens during COVID were mostly double Eritrean/EU citizens of represented MS. Most of them cannot be considered "stranded" as they have a home/family in Eritrea, and many did not want any repatriation. The same is valid of unrepresented citizens: they mostly had also Eritrean nationality and some sort of livelihood in Eritrea. 3 or 4 of them addressed the delegation to enquire about repatriation flights.
Eswatini	Less than 20.
Ethiopia	Nobody stranded
Fiji	Around 1000
Gambia	2500
Georgia	
Ghana	In the thousands but in the end they were all repatriated thanks to Repat flights (especially NL / KLM)
Honduras	Around 600 EU citizens in total, 40% unrepresented
Hong Kong*	None stranded for a significant period as far as we know.
Iceland	As commercial flights from Iceland to several European capitals remained available during 2020, EU citizens were not stranded in the country. Given the large number of Polish citizens living in Iceland (around 20.000), Poland nevertheless organized several repatriation flights, which were not fully subscribed.
India	more than 25.000 EU citizens were expatriated, many thousands decided to remain in the country
Indonesia	
Israel	
Israel	Generally, all EU citizens who wanted to leave were able to do so (some with delay) and were closely advised by their embassies.
Japan	Strictly speaking there were no EU citizens stranded in Japan due to unavailability of flights and some airlines never stopped flying, although there were many flights cancellations and some important delays.
Kazakhstan	up to 100 EU citizens were stranded
Kosovo	around 2000
Kyrgyzstan	below 100 stranded citizens (2/5 - unrepresented)

Laos	Around 2000 people were looking for ways to return to Europe but exact numbers are not known as many were expats who later returned. Unrepresented EU MS nationals accounted for about 1/4 - 1/5.
Lebanon	I took up duties in Lebanon on 1 December 2020 only, and don't have any info on the time period referred to.
Libya	I was not yet consular correspondent but I was told a below 50 in all
Malawi	6-10
Malaysia	E.g. In April 2020 there were some 1468 tourists and 27,832 residents out of which 13,000 UK citizens. Only 350 were willing to leave. The numbers are reduced now as the Malaysian authorities decided that all the foreigners with expired visas must leave the country until 21 April 2021. Visa extensions were offered for only one more month, under exceptional circumstances. Some of the residents, spouses of Malaysian citizens have problems to have their visas extended.
Mali	hundreds
Mauritania	Difficult to assess - Nobody was really stranded (or not for long) as commercial flights with Air France continued to operate with fewer frequency .
Mauritius	30.000 EU citizens, of which half unrepresented
Mongolia	less than 50
Montenegro	More than 1,500 citizens, repatriation was provided with more than 30 flights and trips by road.
Mozambique	0
Myanmar	N/A
Nepal	
Nicaragua	more than 500
Norway	not know that citizens were stranded since Norway is has been a quite safe country compared to many others during COVID-19
Panama	7500 persons
Papua New Guinea	Less than 100
Philippines	4000 citizens of which probably 800 non represented
Republic of Moldova	About one hundred, but I di not know for sure. Unrepresented 3-4 cases that I know. However, there were many citizens with dual citizenship (including of the country of residence)
Russian Federation	3000
Rwanda	Tourists managed to get out of the country with a couple of last outbound ad hoc and repatriation flights, after the lockdown had been introduced. After that, there were constantly around 50-100 persons (residents or family members) who were looking for opportunities to leave, and the number stayed at this level, even after there were more such ad hoc flights, as other people started to think of departing. The share of unrepresented citizens in this group could be estimated at 10%.
Singapore	This was before I took up my post at the EUDEL.
South Korea	0
Togo	110 EU citizens were repatriated in March 2020 with a DE - flight. No data on unrepresented citizens.

	<p>1 226 EU citizens were repatriated by FR on 8 special "commercial" flights. 170 of these were "non-French" nationals. 100 were Togolese citizens with a FR resident.</p> <p>NOTE: The Delegation has a nominative list of 64 EU Citizens - all from unrepresented MS - repatriated in July 2020 via one of these FR special flights. They were likely counted among the 170 "non french" mentioned above.</p>
Trinidad and Tobago	140 EU citizens were repatriated on 8 April 2020; no further data available
Turkmenistan	70
Ukraine	Fluctuated rapidly following imposition of travel restrictions by both EU MS and UA in March 2020, followed by repatriation efforts, facilitated by EU (MS and coordination) and UA (allowing usage of repatriation flights for UA citizens abroad). Approximately 10,000 EU citizens were present in UA subsequent to initial repatriation efforts (based on informal calculations involving MS consuls) but few if any could be considered stranded within a few weeks of the initial imposition of restrictions.
United Arab Emirates	Quite a lot of EU citizens were stranded in the UAE either as residents, through transit or through work (notably seafarers). Difficult to assess the actual number as it is not clear how many EU residents were actually stranded but it was in thousands. Only very few unrepresented citizens (Croats who were stranded in Yemen/Socotra) and where the EUDEL were asked to assist in a joint repatriation.
United States of America	More than 10,000 EU crew members on cruise ships on U.S. waters.
Uruguay	around 2-3.000 in total
Venezuela	<p>Approximately 8 550 represented EU citizens returned to Europe on 33 extraordinary flights.</p> <p>Approximately 450 unrepresented EU citizens returned to Europe on 33 extraordinary flights.</p>
Zimbabwe	20

Table : Answer to: What role has the EU Delegation played in the provision of consular protection during the Covid-19 crisis? (N=77)

		Answers	Ratio
Coordination of MS response to consular crisis overall.		64	83.12%
Facilitation of MS meetings (logistical support including office accommodation and organisational facilities such as temporary accommodation for consular staff and intervention teams)		38	49.35%
Coordination of MS response to the need for consular protection of unrepresented EU citizens (e.g. repatriations).		50	64.94%
Communication to EU citizens to inform them about their right to consular protection and how they can get support		38	49.35%
None of the above		3	3.9%
Not applicable / I don't know		2	2.6%
No Answer		0	0%

The EU Delegations played a plethora of roles in the provision of consular protection during the Covid-19 crisis. The role that was performed by the majority of the EU Delegations was to coordinate Member States' response to consular crisis overall (83%). In most cases, the EU Delegations coordinated the response of all the EU Member States with diplomatic representations (e.g. Canada), as well as unrepresented ones (e.g. Bolivia). Sometimes a division of labour was instituted: in Barbados Germany organised a return flight for EU citizens, whereas the local Delegation was responsible for coordination and process of the data related to the non-German passengers. In Australia, the EU Delegation' support went beyond Member States: this EU Delegation coordinated the joint effort of all the Member States and candidate countries. In addition, c. 65% of EU Delegations responded that they took a role in the coordination of the provision of consular protection to unrepresented citizens. Their tasks were usually executed jointly with the general coordinating role. One of the exceptions here is the EU Delegation in Cameroon which cooperated with Franco-German diplomatic services on behalf of the unrepresented countries' nationals.

Furthermore, the EU Delegations were also involved in facilitating the Member States' meetings (c. 49%).

Almost half of the EU Delegations (49%) also reported to have taken in a role in the communication to EU citizens on their right to consular protection and how to get support.

Only 3 EU Delegations stated to not having played any of such role during the COVID crisis.








1 Did the Covid-19 crisis create the need for new coordination mechanism(s) to ensure the provision of consular protection between the EU Delegation and Member States?

The EU Delegations stated that the COVID-19 crisis revealed the need to strengthen the already existing coordination mechanisms between the EU Delegation and Member States (LCC, WhatsApp group, regular meeting between the missions etc.), rather than showing the necessity to develop new ones. In some cases, the EU Delegations created special coordination mechanisms for the purpose of transporting EU citizens to airport hubs or helping with establishing passenger lists (e.g. India), but such mechanisms are limited to those specific situations.

Did the Covid-19 crisis create the need for new coordination mechanism(s) to ensure the provision of consular protection between the EUDEL and other EU institutions, bodies and services (e.g. DG ECHO ERCC, the EEAS consular affairs division, DG JUST)?

Most of the EU Delegations responded that the COVID-19 crisis did not show the need to develop new coordination mechanisms between the EU Delegations and other EU institutions. Some EU Delegations (e.g. Kazakhstan) call for more rapid and clear guidance from the EEAS HQ in the future. Furthermore, a number of EU Delegations praise the cooperation and support they were given by DG ECHO when it comes to exchanging information on repatriation flights (e.g. Mauritius).







Table : Answer to: Other than the COVID-19 crisis, has the country where you are posted been through any of the following crisis since 2018 (when the Directive came into force)? (N=77)

		Answers	Ratio
Political / civil unrest		29	37.66%
War		7	9.09%
Natural disaster		25	32.47%
Man-made disaster		6	7.79%
Pandemic		13	16.88%
Other		2	2.6%
No other crisis since 2018		34	44.16%

No Answer		0	0%
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More than a half of the EU Delegations stated that the country in which they reside experienced a different crisis than COVID-19 since 2018. The most common answers were political/civil unrest (c. 38%) and natural disaster (32%).

Table 35: Answer to: What has been the EUDEL’s role in the provision of consular protection? Please select all that apply. (N=77)

		Answers	Ratio
Coordination of MS response to consular crisis overall		53	68.83%
Facilitation of MS meetings (logistical support including office accommodation and organisational facilities such as temporary accommodation for consular staff and intervention teams)		41	53.25%
Coordination of MS response to the need for consular protection of unrepresented EU citizens (e.g. repatriations).		41	53.25%
Communication to EU citizens to inform them about their right to consular protection and how they can get support		30	38.96%
Other		5	6.49%
No Answer		5	6.49%

The EU Delegation’s role in the provision of consular protection was very similar to the role it played during the COVID-19 crisis. Most of the EU Delegations coordinated Member State’s response to consular crisis overall (c. 69%), more than a half played a role in facilitating Member State’s meetings (c. 53%) and coordinated the response of the Member States (c. 53%). About 40% helped by engaging in communication with EU citizens.

Table 36: Answer to: To what extent did you think the EU Delegation was successful? (N=77)

		Answers	Ratio
Very successful		26	33.77%
Rather successful		40	51.95%
Rather unsuccessful		2	2.6%
Completely unsuccessful		0	0%
Not applicable / I don't know		9	11.69%
No Answer		0	0%








The large majority of EU Delegations consider that their response during the COVID-19 pandemic was rather successful or very successful (86%). The exceptions are the EU Delegation in Mauretania – which believes that they did not manage to find a consensus on the prioritization of passengers during the return flights – and the EU Delegation in Singapore (did not state its reasons).

In what ways the role of the EUDEL could have been stronger?

While many EU Delegations were satisfied with their performance, a few recommendations for the future were made. The EU Delegation in Argentina criticizes the concept of the lead state as contributing to the confusion during the crisis. The EU Delegations in Australia and Kazakhstan call for more streamlined communication flow with EEAS HQ. Many EU Delegations point out their lack of resources in terms of people and expertise as inhibiting during the crisis (e.g. Burkina Faso, Congo, Fiji, Gambia, Ghana, Nicaragua, Panama, Venezuela). Moreover, EU Delegations in Mauritius and Rwanda claim the need to prepare contingency plans for similar crisis events.

- (iv) Existing information and communication channels offered by the EU Delegations





Table : Answer to: Does your EU DEL have dedicated communication channels to provide support in the following? Please select all that apply. (N=77)

		Answers	Ratio
Information on the provision of consular protection by MS (updated contact details of consulates of represented MS and information on any existing bilateral agreements concerning unrepresented citizens between MS)		49	63.64%
Travel advice providing information on the country		14	18.18%
Crisis communication for EU citizens		17	22.08%
Other		1	1.3%
None of the above		17	22.08%
Not applicable / I don't know		4	5.19%
No Answer		1	1.3%

More than half of the EU Delegations (c. 64%) have dedicated communication channels to provide information on the provision of consular protection by Member States in the form of updated contact details of consulates of represented MS and information on any existing bilateral agreements concerning unrepresented citizens between MS. Far fewer have at their disposal communication channels to provide travel advice information on the country (c. 18%) and crisis communication for EU citizens (c. 22%). Potentially concerning is the fact that almost one quarter (c. 22%) of the EU Delegations do not have any dedicated channels to provide support in any aforementioned situations.

- (v) Application of the rules on financial reimbursement

Table 37: Answer to: In your view, to what extent have the financial rules on reimbursement between Member States challenged Member States' willingness to repatriate citizens during the Covid-19 crisis? (N=77)

		Answers	Ratio
To a great extent		3	3.9%
To some extent		15	19.48%
To a little extent		3	3.9%
To no extent		6	7.79%
Not applicable / I don't know		50	64.94%
No Answer		0	0%

The majority of EU Delegations (c. 65%) claim that they either do not know whether the financial rules on reimbursement between Member States challenged Member States' willingness to repatriate citizens during the Covid-19 crisis or that the financial rules on reimbursement did not apply in their cases. Three EU Delegations – in Gambia, India, Uruguay – stated that the rules on reimbursement were a factor of great significance in a successful organisation of return flight for EU citizens from unrepresented countries: they worked as an incentive to also include citizens from unrepresented countries on board of a plane. However, there were also contrary opinions. The EU Delegation in Botswana and in Chile are of view that they were of little importance, since most citizens paid for their tickets themselves. According to the EU Delegation in Costa Rica, the financial rules were important to some extent, since some Member States prefer to have on board of their repatriation flights EU citizens from other countries in order to qualify for financial reimbursement of repatriation flights.






- (vi) Challenges related to the Directive

Overall, were there any particular challenges related to the Directive you have faced in the last three years in the field of consular protection? Can you briefly describe them?

Most of the EU Delegations do not mention any particular challenges related to the Directive. However, many EU Delegations describe their difficulties in meeting the inflated expectations of EU citizens related to consular protections with their limited resources (e.g. Gambia, Iceland, Kosovo, Rwanda, Venezuela). Consequently, they can hardly support EU Member States in providing consular protection in an adequate manner. In addition, the EU Delegation in Russia recommends an information campaign dedicated to the Member States encouraging them not to be afraid to issue ETDs to non-nationals and to be ready to cover costs they will be reimbursed.








- (vii) Brexit

Table : Answer to: In your view, how important has the UK consular representation been in the country you are posted in for the provision of consular protection to unrepresented EU citizens since 2018? (N=77)

		Answers	Ratio
Very important		7	9.09%
Rather important		15	19.48%
Rather unimportant		19	24.68%
Completely unimportant		16	20.78%
Not applicable (UK has not been present) / I don't know		20	25.97%
No Answer		0	0%

The EU Delegations were quite divided on this question: Almost half of the EU Delegations considered the UK consular representation “rather unimportant” or completely unimportant”, while about a quarter of the EU Delegations considered the UK consular representation as “rather important” or “very important” for the provision of consular protection to unrepresented EU citizens since 2018. As one would expect, the UK’s presence was particularly important in its former colonies (e.g. Bangladesh, Barbados, Canada, Fiji). However, the UK provided also important assistance in some Asian countries (Indonesia, Laos) and South American ones (Bolivia).

Table 38: Answer to: What do you expect will be the impact of the UK’s exit from the EU and the loss of the UK’s consular network and assets on the provision of consular protection for unrepresented EU citizens in the country in which you are posted? Please select all that apply. (N=77)

		Answers	Ratio
Brexit will result in this country to become “uncovered” or very scarcely covered		5	6.49%
Brexit will reduce the EU’s soft power in consular matters due to the loss of the UK’s long-standing diplomatic tradition		21	27.27%
Brexit will make the “Lead State” concept less relevant in consular affairs		4	5.19%
Brexit will add a financial burden to certain MS which will need to take up the consular role previously assumed by the UK (even if British citizens will no longer be subject to consular protection by other EU MS)		12	15.58%
Other impact		14	18.18%
Not applicable / I don't know		36	46.75%
No Answer		2	2.6%

The majority of EU Delegations agree that Brexit will have an impact on the provision of consular protection for unrepresented EU citizens in the country in which they reside. The most frequently chosen answer as to the expected consequences was that Brexit will reduce the EU's soft power in consular matters due to the loss of the UK's long-standing diplomatic tradition (c. 26%). This is especially the case of countries with former colonial ties to the UK which do not have big Member State's presence (Botswana, Malawi, Zimbabwe). Brexit will also lead to five countries becoming "uncovered" or very scarcely covered (Barbados, Gambia, Guyana, Mauritius, Papua New Guinea). Furthermore, in the countries with only a few diplomatic missions of the Member States, like Mozambique, the present Member States will need to share additional financial burdens related to the take up of the consular role previously assumed by the UK (15% of answers).

5.3 ANALYSIS OF ANSWERS ON POLICY OPTIONS (PART II)

Please note the policy option descriptions presented below are those provided to the survey respondents, and differ from the policy options presented in this Final Report.





Policy option 1: Status quo

Council Directive 2015/637 would remain in force and only soft measure would be introduced, like for instance providing more effective outreach for travel advice and communication channels, or carrying out better training and exercises for consular protection and joint consular crisis preparedness.

What types of soft measures would improve the way in which consular assistance is provided to unrepresented EU citizens (e.g. training for consular staff, guidelines, best practice guides, coordination exercises)? Describe and specify if these should be targeted at the Member States, the EU Delegations or both.

The EU Delegations identified a number of soft measures that would improve the way in which consular assistance is provided to unrepresented EU citizens. One of the most common suggestions were more training to be offered for the staff (e.g. Eswatini, Fiji), as well as clearer guidelines and instructions by the HQ (e.g. Albania). Some EU Delegations also pointed out the fact that they require more personnel in order to properly perform their consular responsibilities (e.g. Malaysia). This could be potentially amended if additional resources were assigned to employ local staff and agents with consular attributions (e.g. Papua New Guinea). Furthermore, some EU Delegations mentioned the need to organise joint EU Delegation – Member State consular coordination exercises (e.g. Barbados, Mauritania). Lastly, there are challenges in reaching out to EU citizens in countries where local conditions make it very difficult to use modern media (e.g. Eritrea). The EU Delegation in Panama proposed to create and maintain an updated database that would contain information on the citizens present in the country; and all contacts of relevant persons tasked with consular responsibilities from embassies, consulates and/or concurrent embassies.

Table 39: In your opinion, does this policy option suffice to address the issues identified? (N=77)

		Answers	Ratio
Yes		28	36.36%
No		16	20.78%
Not applicable / I don't know		31	40.26%
No Answer		2	2.6%

Only around one third of the EU Delegations considered soft measures as sufficient in addressing the identified issues; almost an equal number did not have an opinion or viewed soft policy options as not applicable in their case. As previously, a notable number of EU Delegations claimed that the problems are due to capacity constraints which will not be solved with soft measures (Gambia, Iceland, India, Malaysia). Furthermore, some EU Delegations highlighted the need for more consular tools under their disposal (El Salvador). The EU Delegation in Russia also emphasised the need for Member States to persuade their diplomatic missions to make use of the Directive more actively.







- **Policy Option 2: Measures establishing further and tighter rules on coordination and cooperation.**

- A new legal instrument would amend the existing Directive and aim to achieve the following results:
- - enhance cooperation among Member States
- - strengthen the EU's supporting role, making best use of its unique network of EU delegations.
- - preparation and implementation of joint contingency plans would be further elaborated.
- - the voluntary use, by Member States, of joint consular teams in crisis situations.
- - clarify the possibilities under the Union Civil Protection Mechanism,
- - clarify provision of travel advice to citizens and information in times of crisis.
- - financial procedures overhauled, including by adding provisions on the reimbursement of costs for the assistance provided to represented citizens in crisis situations.

Under this policy option, the scope of the Directive would be extended to also cover represented citizens in crisis situations. This would mean that any EU citizen could turn to any MS embassy/consulate present in a third country, in crisis situations, to seek consular protection, even when her/his country is represented. What would be the impact of this extended scope on your Delegation, considering your current role in supporting Member States?

The proposed policy option raised certain concerns among EU Delegations surveyed. In the first place, there was a shared view is a potential lack of resources to manage a new stream of requests. This is especially the case of countries with a limited diplomatic presence of Member States but with a significant population of EU citizens (e.g. Uruguay). On the other side, EU Delegations in third countries with a minor population of EU citizens (e.g. Ethiopia) or with a large network of diplomatic missions of the Member States (e.g. the U.S.) did not consider this policy option as providing significant change. EU Delegations in countries like Papua New Guinea were more supportive of this policy option, as they considered it offers better protection for the citizens. The second potential concern is that the proposed policy option would lead to confusion and 'forum shopping' (e.g. Fiji), as the EU citizens would try to choose diplomatic representation that would offer better chances of receiving more comprehensive consular assistance. However, the EU Delegation in Gambia considered that this policy option could offer greater visibility for the EU, provided that it will be able to meet its new responsibilities.

Table 40: To what extent do you think the role foreseen for EU Delegations as captured in the Directive is in line with the role and activities currently carried out by your Delegation in practice in non-crisis situations? (N=77)

		Answers	Ratio
To a great extent		27	35.06%
To some extent		23	29.87%
To a little extent		12	15.58%
To no extent		2	2.6%
Not applicable / I don't know		10	12.99%
No Answer		3	3.9%

The broad majority of the Delegations participating from the survey agreed to a great extent or to some extent that the role foreseen for EU Delegations as captured in the Directive is in line with the role and activities currently carried out by the Delegation. Almost one fifth of Delegations consulted were of the view that this is the case to a little or no extent.

Do you think that there is a need to strengthen the mandate and further define the role of the EU Delegations in the provision of consular protection to unrepresented citizens in the Directive? If so, in what way?

The EU Delegations were mostly open to new ways to strengthen their mandate and further define their role in the provision of consular protection to unrepresented citizens in the Directive. Among the suggestions, it was proposed to

create a position of an EU Consul recognised by the third country (e.g. Bangladesh). In view of the EU Delegations, the strengthened mandate should also help in the situation where Member States are unwilling to comply with the provisions of the Directive. Furthermore, a clearer division of labour between the Member States and EU Delegations would benefit every party. However, as highlighted above, there is some concern in relation to the limited resources of EU Delegations for consular assistance (e.g. Iceland, Malaysia)

Do you see a role for the EU Delegation in the setting up of joint consular teams in crisis situations? If yes, what would this role be? What would be the benefits and challenges? If no, why not?

The broad majority of EU Delegations saw benefits in establishing joint consular teams in crisis situations. They viewed it as a chance to establish a more comprehensive assessment of the situation, to better coordinate, and share information (e.g. Cuba, Mauritania). The EU Delegation in Russia was of the view that EU Delegations can act as central information points - gathering all relevant information from all stakeholders, streamlining and systematising it, and then sharing it back with the Member States.

Some EU Delegations raised their reservations on a more active role in the setting up of joint consular teams in crisis situations because of the perceived lack of resources (e.g. Malaysia). Others considered that the present arrangements (for e.g. the joint coordination within the LCC) offer enough coordination between the EU Delegation and the Member States in crisis situations (e.g. Egypt). EU Delegations in third countries with a large presence of Member States (e.g. Russia) did not see the need for additional coordination activities by the EU Delegation.

If the Directive would foresee a role for the EU Delegation to provide consular protection to unrepresented EU citizens directly, what would this mean for your Delegation in practice? Would you need additional staff, budget, or tools? What would be the main benefits and challenges?

The great majority of EU Delegations agreed that such a role would bring enhanced visibility to the work of the Delegations and provide unrepresented citizens with better and easier access to consular protection.







Most EU Delegations agreed that the main challenge to exercising a more active role is the lack of resources. Some EU Delegations were also concerned about potential reactions of the Member States and meeting increased expectations of EU citizens (e.g. El Salvador, Eswatini).




With the exception of Egypt – where it is stated that nothing would really change, since almost all Member States maintain their diplomatic presence – the consulted EU Delegations agreed that they would need additional staff, budget and tools to provide consular protection to unrepresented EU citizens directly.

How would your answer change if the Directive would also foresee a role for the EU Delegation to provide consular protection to represented EU citizens directly in crisis situations?

When consulted if they would be willing to provide consular protection to represented EU citizens, EU Delegations confirmed that they would need additional resources for this, including an increased budget and more staff. Without an increase in capacity, this change would overwhelm EU Delegations. However, many Delegations agreed that Member States with diplomatic missions on the ground are better equipped to assist their citizens in crisis situations, which would minimise the need for such change.

Figure 14: In which types of situations do you think it is appropriate/feasible for the EU Delegation to provide consular protection directly to unrepresented EU citizens? Please select all that apply. (N=77)

		Answers	Ratio
Arrest or detention		29	37.66%
Being a victim of crime		24	31.17%
Serious accident or serious illness		24	31.17%
Death		20	25.97%
Relief and repatriation in case of an emergency		36	46.75%
Need for emergency travel documents as provided for in Decision 96/409/CFSP		26	33.77%

None of the above		19	24.68%
Not applicable / I don't know		10	12.99%
No Answer		2	2.6%

The EU Delegations held divergent views on the types of situations where it is appropriate for the Delegation to provide consular protection directly to unrepresented EU citizens. “Relief and repatriation in case of an emergency” was the most common response, with c. 47% of choices, followed by “arrest and detention” with c. 38% of choices. While many EU Delegations chose every possible option, they also emphasised the need for greater resources. One quarter of the EU Delegations did not see the need to provide consular protection directly to unrepresented EU citizens.

If the EU Delegations would be responsible for providing up to date information to EU citizens (such as contacts of Member States consulates) and summarising travel advice, what would this mean for your Delegation in practice? Would you need additional staff, budget, or tools? What would be the main benefits and challenges?

The great majority of the EU Delegations consulted would need additional staff, budget and tools if they were responsible for providing information to EU citizens and summarising travel advice. Only 14 EU Delegations stated they have adequate resources: some have mentioned that they already do this on a routine basis (e.g. Togo, Philippines).

In terms of the benefits that this could bring, most EU Delegations agreed that it would bring new visibility to the Delegations and provide unrepresented citizens with better and easier access to consular protection.

When asked to reflect on the challenges, the broad majority of the EU Delegations consulted would have limited resources to perform these tasks and be overburdened with work. Some EU Delegations mentioned difficulties associated with communicating in certain EU languages and the possible reactions of the Member States (e.g. India, Mongolia, Panama).

If in crisis situations, the EU Delegations would be responsible to reach out and provide emergency communication to EU citizens, what would this mean for your Delegation in practice? Would you need additional staff, budget, or tools? What would be the main benefits and challenges?

If the EU Delegations were responsible to reach out and provide emergency communication to EU citizens in crisis situations, the great majority would need additional staff, budget and tools for this task. Only 4 EU Delegations stated they have adequate resources (Dominican Republic, Egypt – if joint effort with the Member States, Mauritius, Togo).







In terms of the benefits that this could bring, most EU Delegations agreed that it would bring new visibility to the Delegations and provide unrepresented citizens with better and easier access to consular protection.

When asked to reflect on the challenges, the broad majority of the EU Delegations consulted would have limited resources to perform these tasks and be overburdened with work. Some EU Delegations mentioned difficulties associated with communicating in certain EU languages and the possible reactions of the Member States (e.g. Bangladesh, Congo, El Salvador).

Can any improvements be made to the development and implementation of the joint contingency plans/joint frameworks? What additional role could the EU Delegations have?

The great majority of the EU Delegations consulted welcomed potential changes to the development and implementation of the joint contingency plans / joint frameworks with a view to making these plans more practical, with better defined roles for EU Delegations, Lead Country, and other Member States. Some EU Delegations would also seek more guidance from HQ on how to make the joint frameworks as operational as possible (e.g. Albania). However, there were a number of EU Delegations that questioned the utility of having joint contingency plans/joint frameworks (e.g. Bolivia, Burkina Faso, Singapore; they all were of the view that no amount of planning can really prepare for a crisis situation) or argued that Member States did not see the real utility of the joint contingency plans/joint frameworks in real life (e.g. Malawi, Russia; they prefer to act ad hoc in a crisis situation).

Figure 15: To what extent do you see the need to clarify the possibilities under the Union Civil Protection Mechanism? (N=77)

		Answers	Ratio
To a great extent		19	24.68%
To some extent		27	35.06%
To a little extent		5	6.49%
To no extent		3	3.9%
Not applicable / I don't know		21	27.27%
No Answer		2	2.6%

The majority of the EU Delegations consulted in the survey agreed to a great extent or to some extent on the need to clarify the possibilities under the Union Civil Protection Mechanism (c. 58%). In their view, both the EU Delegations and the Member States were not entirely aware of the possibilities under the UCPM. The EU Delegations mentioned that the Union Civil Protection Mechanism was difficult to understand (e.g. Mauritius), difficult to implement (e.g. Guyana) or that there was difficulty in finding reliable information (Bolivia). Only three EU Delegations claimed to have an adequate knowledge about the Union Civil Protection Mechanism (Iceland, Mozambique, Norway). One in every four Delegations consulted had no opinion or considered the matter not applicable to their specific situation.

- Policy Option 3: Measures enabling EU Delegations to provide consular protection to EU citizens beyond crisis situations

- This option would build on option 2 by introducing further elements of a harmonised approach:
- - provisions for local EU delegations to directly and exclusively take care of unrepresented EU citizens and provide them with all types of consular protection beyond crisis situations.
- - Creation of a common information tool to advise EU citizens travelling to third countries,
- - establish a single channel for communicating with EU citizens in third countries in times of crisis.

If EU Delegations would directly and exclusively take care of unrepresented EU citizens in non-crisis situations and provide them with all types of consular protection, what would this mean for your Delegation in practice? Would you need additional staff, budget, or tools? What would be the main benefits and challenges?.

If the EU Delegations were responsible for taking care of unrepresented EU citizens in non-crisis situations and providing them with all types of consular protection, the great majority would need additional staff, budget and tools for this task.

In terms of the benefits that this could bring, most EU Delegations agreed that it would bring new visibility to the Delegations and provide unrepresented citizens with better and easier access to consular protection.

When asked to reflect on the challenges, the broad majority of the EU Delegations consulted would have limited resources to perform these tasks and be overburdened with work. The also would not have the required expertise (e.g. Eswatini), would require additional office space (e.g. Chile), would have difficulties in tracking unrepresented citizens (e.g. Ecuador), would need to set up additional representations outside the capitals (India), and would encounter potential obstacles from the resident state (Russia).

What do you see as the main benefits and challenges of this policy option (e. mandatory extension of scope, mandatory use of joint consular teams, creation of Common European Travel advice tool and crisis communication channel, direct activation of UCPM, EU consular protection fund and/or IT system to digitalise reimbursement)?

The great majority of EU Delegations agreed that while this policy option would bring greater clarity, better protection for citizens, greater efficacy, more visibility, and money savings.

However, they would not have sufficient resources to implement the measures in practice. Furthermore, the EU Delegations mentioned that Member States are better qualified for this kind of responsibilities (Bangladesh). Also, this policy option would require to overcome cultural challenges (Cameroon), could create confusion as to the delineation of responsibilities between the Member States and Delegations (Congo), would not be welcome by the Member States (e.g. Dominican Republic, Eswatini), and would create new responsibilities that would be very difficult to meet (e.g. Uzbekistan).

5.4 ANALYSIS OF ANSWERS TO QUANTITATIVE QUESTIONS (PART III)

Could you please provide an estimate of the number of EU citizens under the following categories? (N=25*)

*Please note that the number of EU Delegations that answered this question varied from category to another, and from one year to another. Those that did not answer, often did so mentioning they did not have such statistics readily available.

Figure 16: Number of EU citizens travelling (N=30)

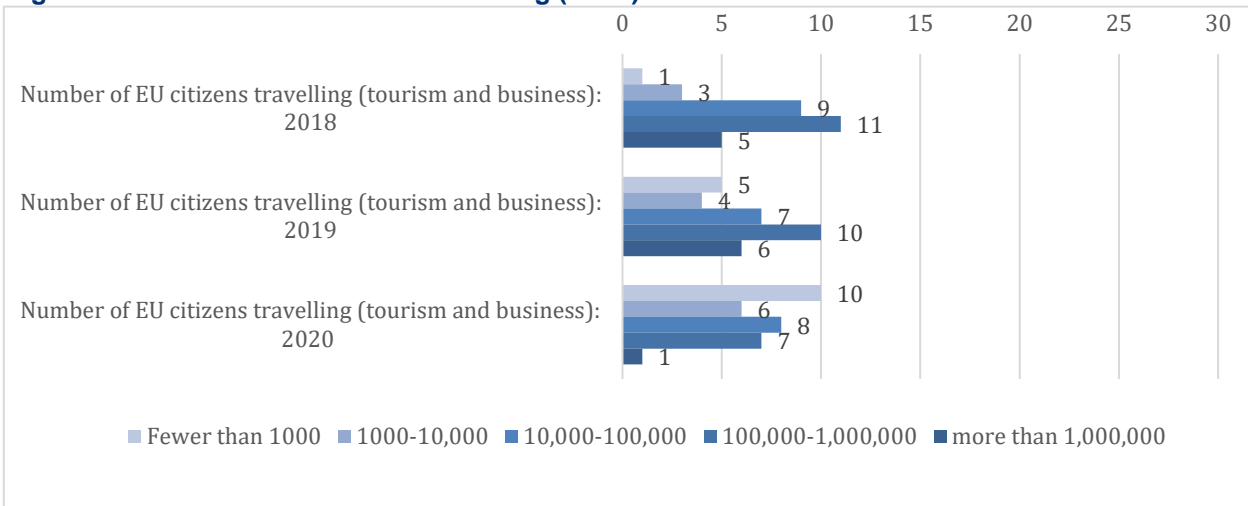
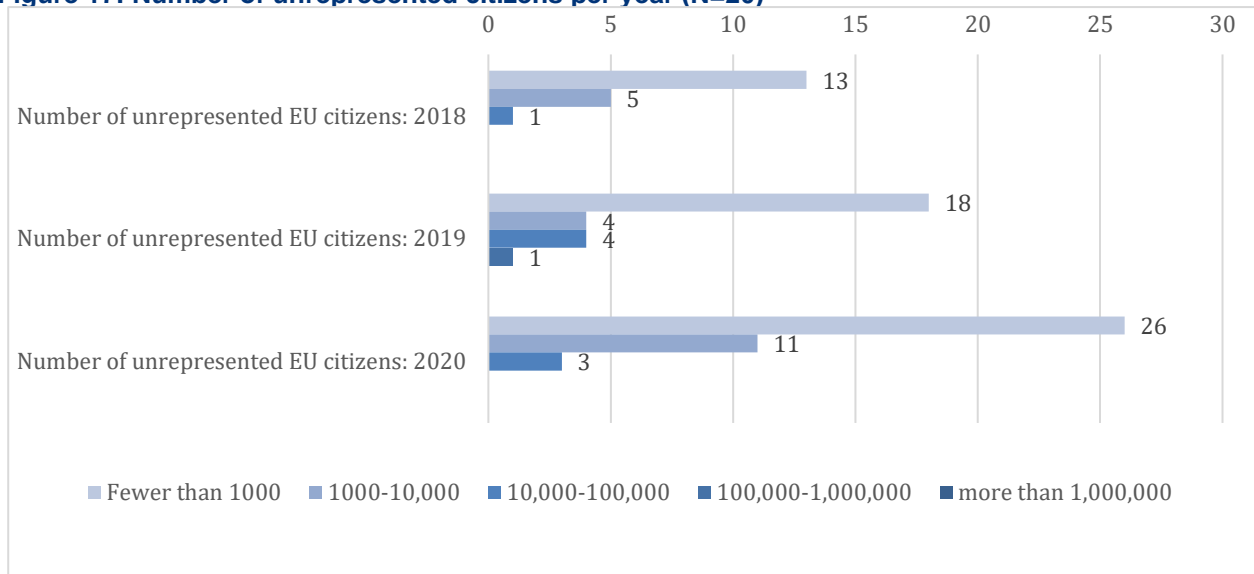





Figure 17: Number of unrepresented citizens per year (N=20)



The above information should be read with the caveat that EU Delegations could only provide scant data on the number of EU citizens in their countries of residence. Nevertheless, some patterns may be observed. In particular, the number of unrepresented EU citizens is fairly small in most third countries, i.e. under 1000 citizens, and this number increases over time.





Table 41: What is your expectation about the number of EU citizens travelling abroad in your country? (N=77)

		Answers	Ratio
Increasing trend	<div style="width: 41.56%; height: 10px; background-color: #0070C0;"></div>	32	41.56%

Decreasing trend		26	33.77%
Staying at the same level		16	20.78%
No Answer		3	3.9%

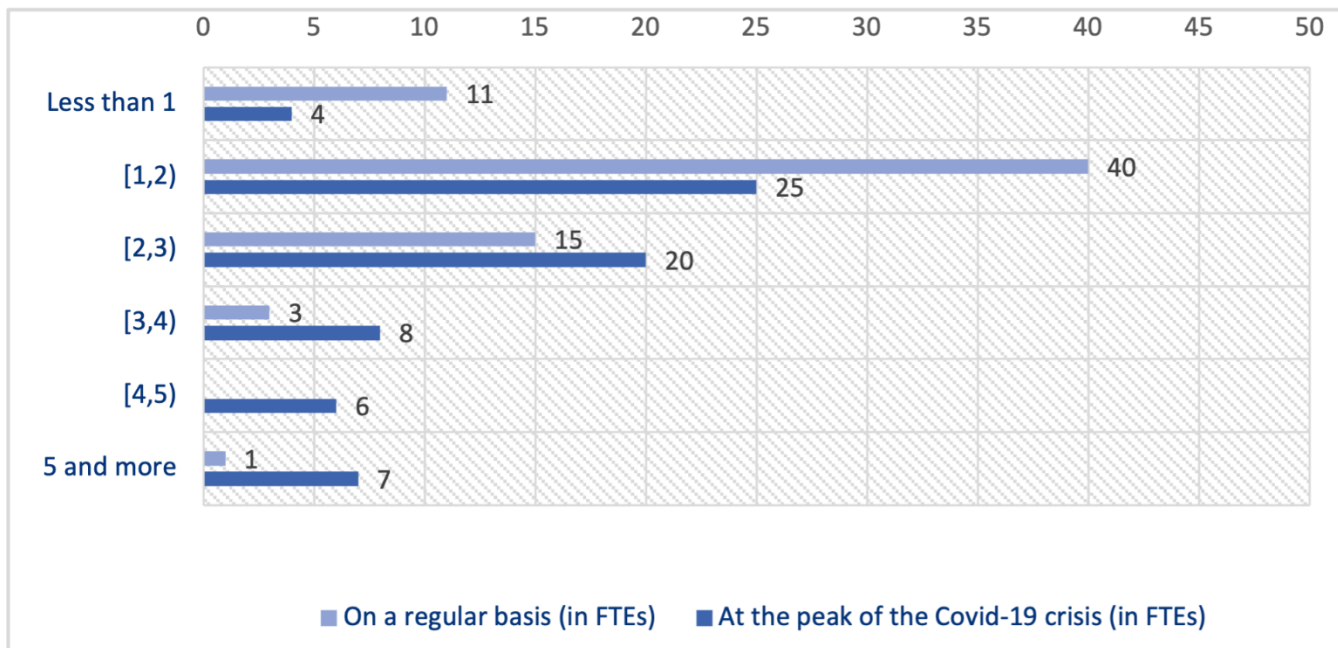
The majority of EU Delegations observed an increasing trend in the number of EU citizens travelling to the country where they reside (c. 42%). On the other hand, one third of EU Delegations observed a decreasing trend (c. 33%).

Table : What is your expectation about the number of EU citizens living abroad in your country? (N=77)

		Answers	Ratio
Increasing trend		17	22.08%
Decreasing trend		27	35.06%
Staying at the same level		29	37.66%
No Answer		4	5.19%

The majority of EU Delegations observed a stagnating trend in the number of EU citizens living abroad in the country where they reside (c. 38%), whereas those which highlight a decreasing trend constitute only a slightly smaller group (c. 35%).



Table 42: How many staff at the EU Delegation are involved in consular affairs on a regular basis (in FTEs)? (N=77)



Note: The notation [1,2) is used to indicate an interval from 1 to 2 that is inclusive of 1 —but exclusive of 2 . That is, [1 , 2) would be the set of all real numbers between 1 and 2, including 1 but not 2. Intervals were used in this question as some respondents answered with ranges (e.g. 1-2 FTE) while others used exact numbers (1.5 FTE).

Since the beginning of the COVID-19 pandemic, EU Delegations increased the number of staff involved specifically in consular matters.

Table 43: Does the EU Delegation have a budget to support the coordination of consular protection in crisis situation? (N=77)

		Answers	Ratio
Yes		0	0%
No		59	76.62%
Not applicable / I don't know		18	23.38%
No Answer		0	0%

The broad majority of EU Delegations highlighted that they don't have a budget to support the coordination of consular protection in crisis situations.

What budget did the EU Delegation dedicate to the (support to the) provision of consular protection throughout the Covid-19 crisis? From which budget line were these funds allocated?

Almost all EU Delegations did not have a dedicated budget for the provision of consular protection throughout the Covid-19 crisis, only EU Delegations in Brazil, Congo, and India allocated specific parts of their budget to consular protection (respectively: from Press and Information, Communication and Representation, and general meetings and IT equipment).

6 ANNEX VI: METHODOLOGY AND FINDINGS OF THE QUANTITATIVE ANALYSIS (OUTPUT TASK 5.3)

This Annex presents the methodology (including limitations), and findings of the quantitative analysis carried for the purpose of this study, namely:

1. Estimation of the number of unrepresented EU expatriates
2. Estimation of the number of unrepresented EU travellers
3. Estimation of the number of cases: number of unrepresented EU citizens assisted
4. Estimation of the cost of providing consular protection to unrepresented EU citizens in times of crisis

6.1 ESTIMATION OF THE NUMBER OF UNREPRESENTED EU EXPATRIATES

This section presents the methodology used to estimate the total number of EU citizens currently residing in another than their home country. We first present our estimate of the number of unrepresented expats within third countries, followed by the estimate of EU expats residing in EU countries.

(1) Estimated number of unrepresented EU expats in third countries

a) Estimating the number of EU expatriates in third countries

Data on the number of EU expatriates in third countries are not published Eurostat in a way that allows you to break down the data by country of origin of the expatriate⁶⁷. This level of disaggregation is important, as it is needed to compare this against the mapping of the consular network (which is by country of origin) to estimate the number of unrepresented EU expatriates.

The dataset which provides such a breakdown for countries in the world is the UN dataset on total migrant stock at mid-year by country of origin and destination⁶⁸. The dataset is based on national-level estimates of foreign-born population and citizens. The quality and exact scope of the estimates provided therefore varies by country. It also excludes dual nationals, who hold an EU passport but were born in the relevant third country. The latest available data is from 2019. The dataset covers all countries within the EU and third countries, but only provides data for 126 third countries. Based on this data, the estimated number of EU expatriates are 15.1 million across these 126 countries, with an average of 119,866 EU expats per third country.

One way of completing the picture would be to extrapolate the average number of 119,866 EU expats per third country across the 48 countries that are missing⁶⁹. On the basis of this average, we would arrive at a total estimation of **20,85 million EU expatriates in third countries**⁷⁰.

However this may be too simplistic as this estimate does not take into account that the types of countries for which data is missing. More accurate would be to estimate the number of EU expatriates on the basis of the number of US and UK expatriates in these countries, which is available for 20 out of the 48 countries. These 20 countries include most of the larger countries for which data was missing, including China, Malaysia, Singapore and Bangladesh. A multiplicative coefficient corresponding to the ratio of EU expatriates has therefore been applied across the 20 third countries where UN data is available, over US/UK expatriates across all third countries (accounting for the fact that the EU-27 has about

⁶⁷ See all relevant Eurostat datasets here: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Migration_and_migrant_population_statistics

⁶⁸. Available at: <https://www.un.org/en/development/desa/population/migration/data/estimates2/estimates19.asp>

⁶⁹ Afghanistan, Bangladesh, Barbados, Burkina Faso, China, Congo Democratic Rep, Cote d'Ivoire, Djibouti, Eswatini, Ethiopia, Fiji, Gambia, Republic of the Grenada, Guyana, Holy See, Iran, Iraq, Jamaica, Kenya, Kiribati, Korea Democratic People's Republic of Lao People's, Democratic Republic, Lesotho, Malawi, Malaysia, Marshall Islands, Micronesia, Federated States of Myanmar (Burma), Nauru, Nepal, Niger, Nigeria, Pakistan, Palau, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Somalia, South Sudan, Sudan, Syrian Arab Republic, Tonga, Tuvalu, Yemen, Zimbabwe.

⁷⁰ Estimating that 5.75 million EU expatriates live in these 48 countries for which data is missing from the UN dataset

This would mean that the number of EU expatriates in third countries is 15.1 million + 5.75 million = 20,85 million EU expats.

the same number as US, and about three times more as UK) expatriates in third countries. On this basis, we estimate that about 200,000 EU expats live in these 20 countries.

The remaining 28 countries where no data was available for UK and US expatriates either⁷¹, include mostly countries in Africa and the Middle East, as well as smaller territories or islands (see table below). For these countries an estimate was provided by grouping countries with an expected high or low number of expatriates and the geographical location. The ratio of the number of EU expatriates over total third country population was calculated for each country where UN data was available. The median of this ratio⁷² over the relevant group was then calculated and applied to the total population of the third countries where data was missing to obtain estimates of the number of EU expatriates living there.

List of countries for which data is missing	Groups of countries used for extrapolation
Burkina Faso, Côte d'Ivoire, Gambia, Niger, Nigeria	Western Africa: Benin, Cabo Verde, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Senegal, Sierra Leone, Togo
DRC	Angola, Cameroon ⁽²⁾
Djibouti, Ethiopia, Kenya, Somalia, South Sudan, Sudan	Eastern Africa: Burundi, Comoros, Eritrea, Madagascar, Mauritius, Mozambique, Rwanda, Seychelles, Uganda, Tanzania, Zambia
Iran, Iraq, Saudi Arabia, Syria, Yemen	Western Asia ⁽¹⁾ : Armenia, Azerbaidjan, Bahrain, Georgia, Jordan, Kuwait, Lebanon, Oman, Qatar, United Arab Emirates
Afghanistan, Pakistan, Nepal	Southern Asia: Bhutan, India, Maldives, Sri-Lanka
Lao People's Democratic Republic, Myanmar	South-Eastern Asia: Brunei, Cambodia, Indonesia, Philippines, Thailand, Timor-Leste, Viet Nam
Nauru, Tonga	Cook, Samoa
Grenada, Saint Kitts and Nevis, Holy See	Saint Lucia

Notes: (1) Turkey and Israel, which were obvious outliers with very large shares of EU expatriates, were not included in this group. (2) due to large variations of the ratio of the number of expatriates over total population among Central Africa countries, we decided to restrict our extrapolations to Angola and Cameroon, the two-largest countries of the area along with DRC.

The estimates for the number of EU expatriates for these 3 groups of countries is presented in the table below. As can be seen this gets us to an estimate of 16.1 million EU expats in third countries.

Table 44: Estimated number of EU expatriates in third countries

⁷¹ Afghanistan, Burkina Faso, Democratic Republic of the Congo, Côte d'Ivoire, Djibouti, Ethiopia, Gambia, Grenada, Holy See, Iran, Iraq, Kenya, Lao People's Democratic Republic, Myanmar (Burma), Nauru, Nepal, Niger, Nigeria, Pakistan, Rwanda, Saint Kitts and Nevis, Saudi Arabia, Somalia, South Sudan, Sudan, Syria, Tonga, Yemen.

⁷² The median was used instead of the mean as it is less sensitive to extreme values.

Countries	Methodology/Source	Estimate number of EU expatriates in third countries
122 countries for which UN data is available	UN dataset on total migrant stock at mid-year for 2019	15,103,202
20 countries for which UN data on US and UK expatriates is available	UN dataset on total migrant stock at mid-year for 2019 – taking US and UK expatriates as proxy	191,547
28 countries which no UN data is available	UN dataset on total migrant stock at mid-year for 2019 – extrapolating from ‘similar’ countries	828,906
TOTAL (170 third countries)		16.1 million

b) Number of unrepresented EU expatriates in third countries

Based on the mapping of the Member State consular network, we have an overview of the Member State representations in each third country. We consider that expatriated citizens are unrepresented, if their country of origin is not represented in the country of destination according to our data from the mapping of the MS consular network. The figures thereby obtained provide an estimate of the number of unrepresented EU citizens living abroad at mid-year 2019.

Among the 16.1 million EU expats, 250,000 EU-27 citizens reside in third countries where their Member State does not have a consular presence.

Note: This estimate is significantly smaller than the figure of 1.74 million unrepresented residents found in the 2011 Impact Assessment. This difference appears to be largely due to:

- Methodological differences: the estimate in the 2011 Impact Assessment is based on the premise that 30.1 million EU citizens are living outside the EU, which is almost twice as much as our estimation of 16.1 million. However the methodological annex of this report does not provide an explanation on where this number was derived from, not does it present the breakdown by third country which would allow a comparison.

- Changes in the consular mapping: the increased consular presence of EU MS in third countries compared to ten years ago. For example, Ireland alone accounted for 225,000 unrepresented residents in the IA, which is more than our 2019 estimates across all EU-27 Member States. At the time, Ireland had been found to have consular representation in 31 third countries. In our mapping, Ireland has consular representation in 45 third countries. While this amounts to “only” 50% more, the effect of unrepresented citizens is bigger. Indeed, Ireland has usually expanded its presence in the

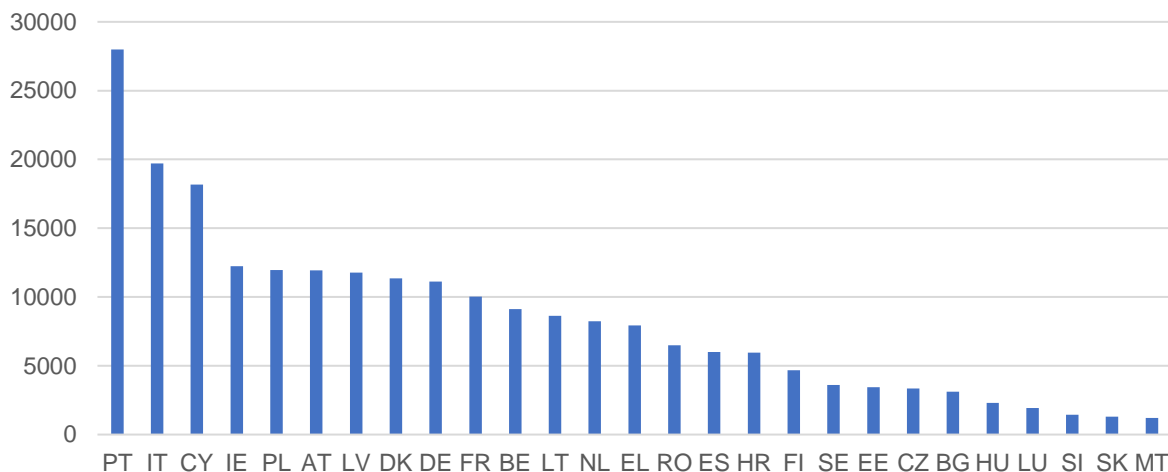
largest third countries where it was not represented, which are also those with the largest shares of unrepresented citizens.

As mentioned above, the numbers retrieved from the national authorities through Task 5 were not sufficiently consistent to inform our analysis. Only eight Member States provided data on their number of unrepresented expatriates, which ranged from 613 in Estonia to 67,000 in Slovenia (one outlier Member State which mentioned more than 1,500,000 unrepresented citizens was excluded from our analysis). Other provided figures between 1,000 and 10,000 unrepresented expatriates, which broadly tallies with our estimates: 12,000 for Austria (against 9,000 from our analysis), 8,000 from Croatia (5,000 in our analysis), 7,000 for Portugal (17,000 in our analysis), 10,000 for Romania (7,000 in our analysis), and only 1,000 to 2,000 for Spain and France (both estimated below 1,000 in our analysis).

The EU delegations survey shares the same limitations in terms of data consistency and only provided estimates across all EU Member States, of the number of EU expatriates as a whole (whether they are represented or not). These figures showed discrepancies with our analysis for some third countries. However, the orders of magnitude were usually similar.

The following table shows the number of unrepresented citizens by Member State of origin estimated through our analysis. Please note that the high figures for Portugal are due to the 11,000 unrepresented Portuguese expatriates in Andorra.

Unrepresented EU-27 expatriates in third countries (2019 - by Member State of origin)



(2) Estimated number of EU expats in EU Member States

For the EU countries, UN expatriate data was available for all EU 27 Member States. In total we estimate that 16.7 million EU citizens reside in another EU Member State than their own. This number cannot be compared against the 2011 Impact Assessment, as their estimate excluded EU countries.

Table 45 Estimated number of EU expatriates in EU countries

Countries	Methodology/Source	Estimate number of EU expatriates in EU countries
EU 27	UN dataset on total migrant stock at mid-year for 2019	16.7 million

Number of unrepresented EU expatriates in third countries: Based on the mapping of the Member State consular network, we can estimate that the number of unrepresented EU citizens living in the EU at mid-year 2019 is 24,700.

6.2 ESTIMATION OF THE NUMBER OF UNREPRESENTED EU TRAVELLERS

Estimates of the number of EU travellers in third countries required relying on multiple secondary datasets, as none of the sources identified provides country-level data for *both* origin and destination countries. Eurostat provides outbound tourism data split by destination country, but it is restricted to European countries⁷³. The World Bank website offers annual datasets on the total number of international arrivals⁷⁴ and departures⁷⁵ for all countries between 1995 and 2019, based on UNWTO data⁷⁶. The OECD provides similar data for overnight visitors specifically (excluding same-day visitors or ‘excursionists’) which was deemed more relevant to our analysis⁷⁷. Annual data is available between 2008 and 2019.

Our analysis relied on multiple sources and included the following steps:

1. OECD outbound tourism 2019 data was extracted for all EU-27 Member States separately (overnight visitors coming from the EU);
2. World Bank 2019 data on tourist arrivals was extracted for all world countries separately. UNWTO shares of inbound/outbound tourism by region (e.g. share of European tourists travelling to African countries, or of Asian tourists travelling to American countries) were used to obtain, for each destination country, its share of the world inbound travel coming from Europe⁷⁸;
3. these shares were then combined with OECD estimates of overnight visitors coming from the EU-27 to obtain the total number of citizens from each EU-27 Member State travelling in each third country; and
4. as done for expatriate citizens, these figures were combined with our binary consular mapping to obtain the number of unrepresented EU citizens travelling in third countries.

As can be seen in the table below, EU citizens travelled **363 million** times **abroad** (i.e. number of trips to third countries and other EU Member States) in 2019. **Out of them, about 16.8 million travelled to countries (2.6 million within the EU and 14.2 million to third countries) where their Member State did not have consular representation.**

Table 46: Estimated number of EU travellers and unrepresented travellers

Countries	Estimates number of EU citizen’s trips	Estimate number of <u>unrepresented</u> EU citizen’s trips
In third countries	125 million	14.2 million
EU countries	238 million	2.6 million
TOTAL	363 million	16.8 million

The distribution of unrepresented travellers by Member State of origin is shown below.

⁷³ See <https://ec.europa.eu/eurostat/databrowser/view/tin00190/default/table?lang=en>

⁷⁴ See <https://data.worldbank.org/indicator/ST.INT.ARVL>

⁷⁵ See <https://data.worldbank.org/indicator/ST.INT.DPRT>

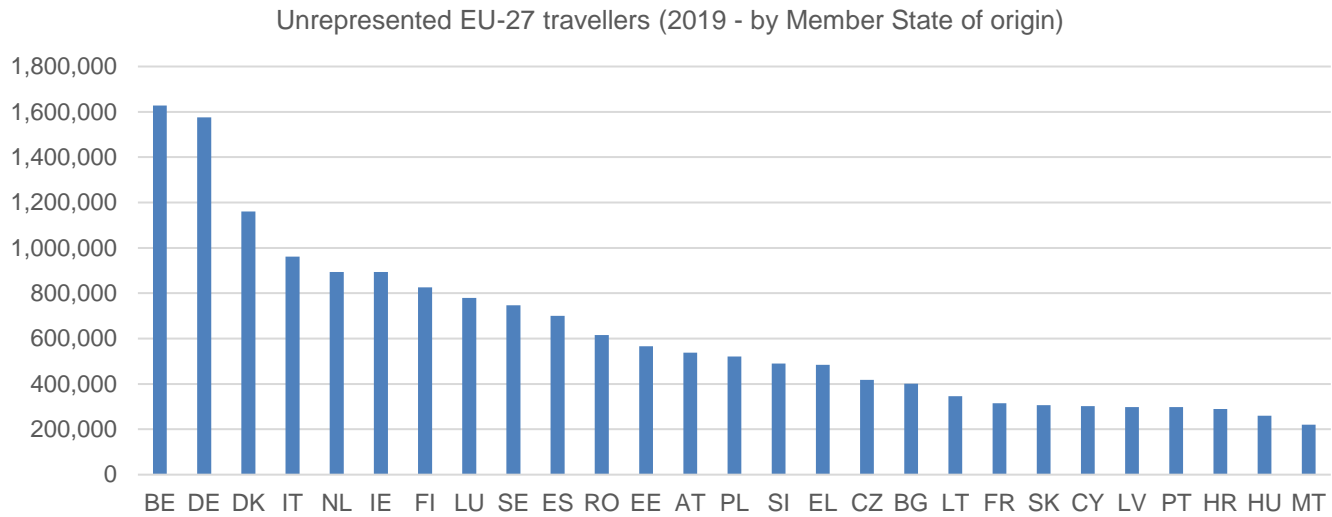
⁷⁶ Country-specific inbound and outbound tourism indicators can be obtained from UNWTO’s eLibrary: <https://www.e-unwto.org/toc/unwtotfb/current>

⁷⁷ See https://stats.oecd.org/Index.aspx?DataSetCode=TOURISM_OUTBOUND

A visitor is described by the OECD as “a traveller taking a trip to a main destination outside his/her usual environment, for less than a year, for any main purpose (business, leisure or other personal purpose) other than to be employed in the country or place visited”. For Cyprus and Greece, data on overnight visitors was not available. World Bank data on international departures was therefore used for these two Member States.

⁷⁸ In other words, it is the share, among all third countries, of European travellers traveling to a specific third country. For the purpose of our analysis, it has been considered equal to the share of EU-27 travellers going to that third same country (this proxy is valid because these shares are calculated among destination countries, not among world travellers).

Figure 18: distribution of unrepresented travellers by Member State of origin (within EU and third countries)



It is worth noting that, although the OECD dataset counts ‘visitors’ rather than ‘visits’, visitors may have been counted multiple times when taking multiple trips in the same year. These figures, and our estimates, are therefore likely to be overestimated compared to the number of *single* visitors travelling in a year. For the purpose of assessing the magnitude of the problem, we have assumed that the approach of counting travellers multiple times when they do multiple trips is more relevant than counting them only once in a year: indeed, the problem of their consular representation arises at each of their trips.

The Member States that show the highest numbers of unrepresented travellers are commonly those with the highest numbers of travellers in any country: 17 million of travellers were estimated to come from Belgium overall, which is about the same number as the number coming from Spain and more than half of those coming from France. Denmark sent five times more tourists than Croatia and more than three times as much as Portugal. Germany alone accounted for about 100 million travellers, which is almost one third of all travellers from the EU-27 Member States, and almost three times as much as the second Member State, Italy (35 million).

It is worth noting that this number is over three times higher than the figure of 5.12 million EU travellers found in the 2011 Impact Assessment. Part of this gap may result from differences in the methodology and data used. The IA analysis was based on Eurostat data and only included trips outside the EU, while we also accounted for trips in unrepresented EU Member States⁷⁹. Most importantly, these differences also reflect the significant increase of international tourism over the past decade. According to the 2020 edition of UNWTO International Tourism Highlights, the number of tourist arrivals worldwide went from about 1,000 million to 1,500 million between 2011 and 2019⁸⁰. More precisely, the IA estimated that the number of EU travellers would go increase by about 10 million within ten years (2021), which broadly corresponds to the gap between the IA estimates and the findings from our analysis.

6.3 ESTIMATION OF THE NUMBER OF CASES: NUMBER OF UNREPRESENTED EU CITIZENS ASSISTED

This section presents the analysis of the quantitative data reported by the EU27 national authorities on the number of unrepresented EU citizens that were provided consular protection in third countries (Task 5).

⁷⁹ It is however worth noting that, if the EU Member States (as countries of destination) account for two-thirds of trips made by EU-27 travellers (238 out of 363 million), they only account for 16% of the total number of EU *unrepresented* travellers (2.6 out of 16.8 million).

⁸⁰ See <https://www.e-unwto.org/doi/book/10.18111/9789284422456>

The section is structured as follows:

- **Section 6.3.1** Reported data on the number of nationals and other EU citizens assisted (2018-2020)
- **Section 6.3.2** Reported data on the number of unrepresented EU citizens assisted (2018-2020), by
 - year (2018-2020)
 - as compared to total assistance provided (to own nationals)
 - by level of representation
 - by type of consular protection
- **Section 6.3.3.** Reported data on number of unrepresented citizens refused assistance
- **Section 6.3.4** Reported data on number of non-EU family members of unrepresented citizens assisted
- **Section 6.3.5** Estimation on the number of unrepresented EU citizens requesting consular protection in crisis and non-crisis situations

Limitations

As outlined in the methodology of Task 5 in Annex I, data on the number of (un)represented EU citizens assisted between 2018-2020 was collected directly from the Member States first through a questionnaire and then complemented through an interview with the Member States' national authorities.

Overall we can conclude that Member States do not collect and report data on the number of citizens assisted in a complete or comparable manner, nor in the level of granularity required. This is not surprising as no EU level data reporting requirements are in place, in relation to the implementation of the Directive. As a result of the lack of reliable data on the number of EU citizens assisted, this study is unable to give an precise picture of the number of EU citizens Member States have provided assistance to since the Directive into force, including the prevalence of certain types of assistance, and whether certain Member States are bearing a heavier burden than others.

The following can be said about the data reported by Member States:

Firstly, 15 Member States did not report data on the number of EU citizens assisted (nationals and unrepresented EU citizens) across all three years (BE, CY, DE, DK, ES, EL, FI, FR, HU, IE, IT, LT, PT, SE and SK). In addition, for some of the Member States that did report data, the figures are based on estimations rather than actual figures (e.g. LU provided this explanation). Two Member States reported data for one or two years only (e.g. BG only provided data for 2020, PL only for 2018 and 2019).

Secondly, although a higher number of Member States reported data on the number of unrepresented EU citizens assisted (all but ES and EL), this data is considered to be complete only for 11-15 Member States (depending on the year)⁸¹, as the remaining countries only included data for some types of assistance. In some cases, Member States explained this data was not collected. For instance, Austria confirmed not to collect statistics on queries or information request, likely as this is not a specific type of consular protection listed in Article 9 of the Directive. Moreover, France and Lithuania only collect statistics on ETDs and Luxembourg was only able to provide statistics on repatriation. Moreover, even if data was reported for a specific type of assistance, this number is not always complete. For example, most Member States that organised flights with commercial airlines did not count the citizens being repatriated under these flights in their repatriation statistics as it was the responsibility of the citizen to contact the airline to book and pay for his/her flight home. For instance, France only considers repatriation to take place when the (un)represented citizen is taken care of throughout the whole process by the French consular authorities, from the booking of the flight (and payment for the ticket) to the reception at the accommodation centre upon arrival in France. As most repatriation flights were not carried out in this manner (but with citizens buying their own tickets), the data reported on the number of repatriations should be taken with caution.

Thirdly, of those Member States that did report data on the number of unrepresented EU citizens assisted, we found that very few Member States collect data on the non-EU family members of unrepresented citizens assisted in third countries, or if they do, they do not differentiate between the unrepresented EU citizens and the non-EU family members in their data.

Finally, Member States do not always collect data on the number of citizens assisted within the EU, as this is currently not within the geographical scope of the Directive.

⁸¹ The following Member States that provided data on the number of cases of consular assistance provided to unrepresented EU citizens by type of assistance, 15 Member States in 2018 (BE, BG, DE, DK, HR, IE, IT, LU, LV, MT, PL, PT, SE, SI, SK), 11 Member States in 2019 (BG, DE, DK, FI, HR, LU, LV, MT, PL, SI and SK) and 12 Member States in 2020 (BG, DE, DK, EL, FI, HR, LU, LV, MT, PL, SI and SK).

The sections below (section 6.3.1 to 6.3.4) present an analysis of the limited data that was reported, while highlighting the actual number of cases may be higher. An attempt to estimate the actual numbers that could be reached on an annual basis is presented in section 6.3.5.

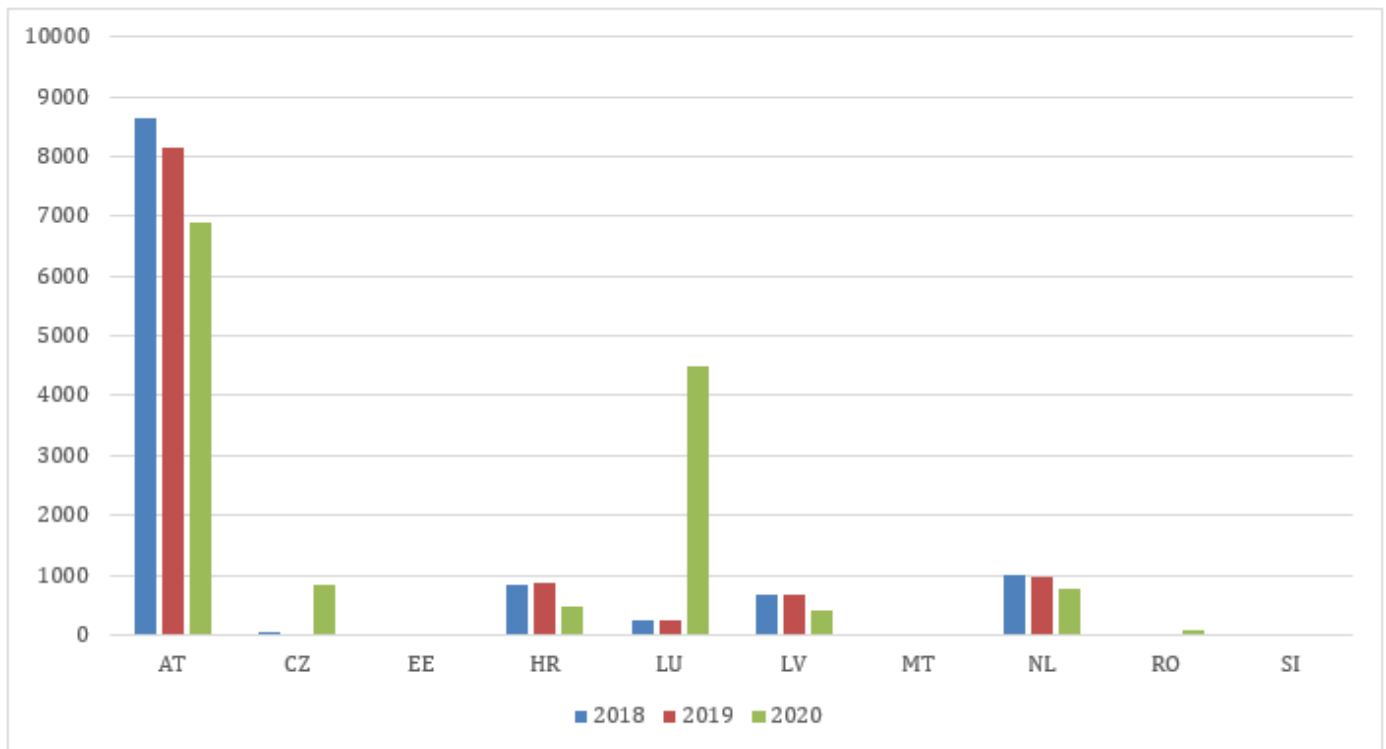
6.3.1 Number of nationals and other EU citizens assisted (2018-2020)

Most Member States (17) did not provide statistics on the number of cases in which they provided consular assistance in third countries (whether represented or unrepresented, nationals or other EU nationals) in 2018, 2019 and 2020, including Member States with the largest consular network (FR, DE, ES and IT).

The figure below presents the number of assistance provided by the 10 Member States (AT, CZ, EE, HR, LU, LV, MT, NL, RO, SI) who provided data for all three years (2018, 2019 and 2020). The number of cases ranged from 0 to 8653 per year and per Member States with only one Member State (AT) consistently ranging in the thousands, four Member States ranging in the hundreds and five Member States ranging in the dozens.

In total, these ten Member States handled 11488 cases of consular protection in 2018, 10961 in 2019 and 13992 in 2020. This highlights largely similar result between 2018 and 2019 (a 4% difference) and a 28% increase between 2019 and 2020, presumably due to the COVID-19 pandemic. However, this increase between 2019 and 2020 is due to a large increase reported by Luxembourg who provided an estimate for 2020. Notwithstanding the data provided by Luxembourg, there is a noticeable decrease in the total number of cases of consular assistance between 2019 and 2020. The study team has reached to the national authorities concerned to clarify the reason. The assumption is that while Member States provided consular services in 2020, most of the consular services involved organising repatriations. However, while the Member States organised the repatriation such as by organising flights with commercial company, they did not repatriate the citizens themselves. This could potentially explain the low number witnessed in 2020.

Figure 19: Total number of citizens of assisted by Member States (outside the EU) in 2018-2020 (N=10).



Source: DG JUST Questionnaire data for the 10 Member States who provided data for 2018, 2019 and 2020

Unexpectedly, the number of cases of consular assistance provided does not seem to be closely linked to the level of representation of the Member States. For instance, Austria had, by far, the highest number of cases despite having a smaller consular presence in third countries than the Czech Republic, the Netherlands, Poland or Romania. Similarly, despite being the Member States with the smallest consular presence in third countries (compared to the other Member States who provided data) Luxembourg reported the second highest number of cases of consular assistance. This, in addition to comments made during the interviews with national authorities regarding the unreliability of the data provided, suggest that this data may not reflect the reality of the situation. The differences between Member States could nonetheless be explained by the destination chosen by tourists. For instance, Austrian tourists may travel to third countries where there is a higher probability of requiring consular protection. The differences could also be linked to the wealth of a country and its citizens. The wealthier the citizens, the more likely the citizen is to travel and therefore the more likely he/she is to require consular protection. Lastly feedback received during the interviews conducted with the national authorities highlighted that most Member States did not collect these statistics for all types of cases of assistance. Additionally, among the Member States that did collect these statistics, not all Member States differentiated between nationals of EU Member States and nationals of third countries. Slovakia, for instance, does not differentiate between the two. Germany also noted the difficulty of collecting these statistics in 2020 due to the COVID crisis resulting in less accurate data for the year in question.

However, despite the low confidence of reliability in this data which makes comparability between Member States unreliable, the data is nonetheless useful to calculate the number of unrepresented citizens as a share of the total number of cases per Member State. This analysis is provided in the “Magnitude of the problem” section in the “Problem definition” chapter.

6.3.2. Number of unrepresented EU citizens assisted (2018-2020)

The table below provides an overview of the number of unrepresented EU citizens assisted between 2018-2020 by the EU27, as reported by Member States in the questionnaire (Task 5).

Based on the data provided by those Member States which reported this data, we calculated the average number of unrepresented citizens who have been assisted in 2018, 2019 and/or 2020 by Member State and multiplied this number with the number of Member States for which data was missing. This methodology was outlined and agreed upon in the inception report.

Table 47: Number of unrepresented EU citizens assisted between 2018-2020, as reported by Member States

Year	Number of Member States (N=)	Member States for which data is missing	Total number of cases reported	Average number of cases by Member State	Estimated total number of cases of EU 27 Member States ⁸²
2018	22 Member States	CY, EL, ES, NL, FI ⁸³	886	40	1087
2019	18 Member States	BE, CY, EL, ES, IE, IT, NL, PT, SE	903	50	1354
2020	17 Member States	BE, BG, CY, EL, ES, IE, IT, NL, PT, SE	3807	223	6046

• Source: Study questionnaire with Member states March 2021

The number of cases of assistance provided to unrepresented citizens varied between Member States in 2018: the majority of Member States (18 of the 22 Member States) reported figures below 100 cases per year, three Member

⁸³ FI reported 1204 cases of “queries/information request” in 2018. FI did not however provide data for this type of assistance in 2019 or 2020. This data was therefore not included in the “total number of cases reported” in the table in order to avoid skewing the estimated average number of cases per Member States and to allow a more accurate comparison between 2018, 2019 and 2020.

States (DK, DE and FR) reported figures between 100 and 250, In total, these 22 Member States assisted 886 unrepresented EU citizens from other Member States in 2018. We estimate **that in total 1087 unrepresented citizens were assisted in 2018 by the EU 27.**⁸⁴

The figures reported by 18 Member States for 2019 show a similar picture: overall most Member States (14 Member States) reported to have assisted under a 100 unrepresented EU citizens over the entire year across all third countries, and four Member States (DK, DE, FR and AT) reported figures between 100 and 250. We estimate that in total **1354 unrepresented citizens were assisted in 2019 by the EU 27**

Of the 17 Member States that reported data for 2020, ten Member States reported figures below 100, three Member States reported figures between 100 and 250 (AT (228), RO (120) and DE (200)) and four Member States reported figures above 250 (CZ (825), DK (359), LU (432), PT (363)). We estimate that in total **6046 unrepresented citizens were assisted by the EU 27.**

Overall, the number of unrepresented citizens assisted by EU Member States on an annual basis across the world appears to be quite low based on these reported figures.

The low number could be due to the fact that, as reported by Member States, unrepresented citizens are not in need of assistance very frequently. Lastly, it could also be due to the fact that unrepresented citizens do not tend to request assistance from other EU Member States but instead, prefer to contact the accredited embassies in neighbouring countries of their own nationality or the MFA in their capitals. The latter explanation is supported by the 2011 Impact Assessment which estimated that 84% of unrepresented citizens potentially in need of consular protection do not ask for or received assistance.

However, as highlighted in **Error! Reference source not found.**, it is more likely that the low figures are explained by the limitation of the data collected by the Member States. Therefore, a further estimation on the number of number of requests for consular protection from unrepresented EU citizens in third countries is presented in section 6.3.4Box 1, it is more likely that the low figures are explained by the limitation of the data collected by the Member States. Therefore, a further estimation on the number of number of requests for consular protection from unrepresented EU citizens in third countries is presented in section 6.3.4

6.3.3. (a) Number of cases of assistance by Member State, by level of representation

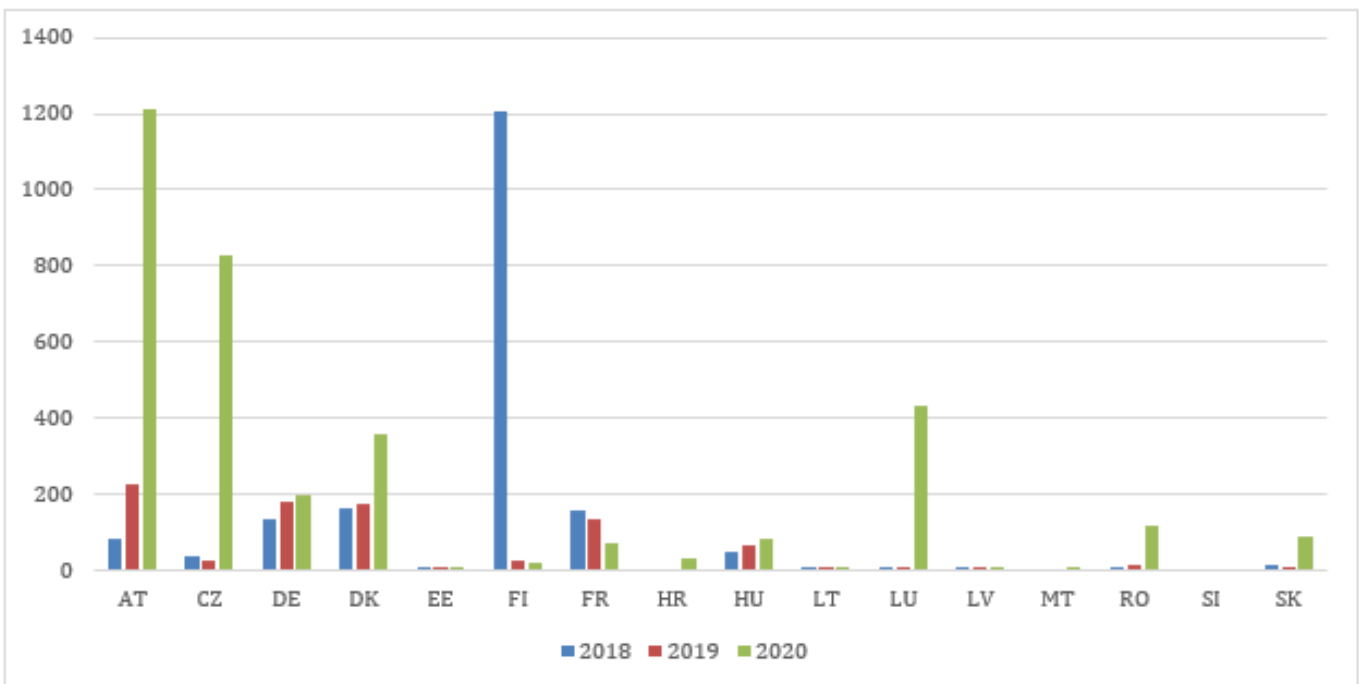
As evidenced by the chart below, the amount of cases of unrepresented citizens assisted does not appear to be always directly linked to the size of the Member States consular networks as both Member States with large consular network (DE (127⁸⁵)) and Member States with medium consular networks , DK (47*), AT (60*) CZ (68*), PT (56*) and RO (70*)) are reporting similarly high number of cases of assistance to unrepresented citizens in 2018, 2019 and 2020. This suggest that while Member States with a larger consular network (>90*) may, by nature of having a larger network, assist a higher number of unrepresented citizens than Member States with a medium network (>40*), the difference is marginal. However, the data does highlight that apart from Luxembourg, Member States with a smaller consular network (below 40*) assist a considerably lower number of unrepresented citizens. Slovenia (24*) did not provide assistance to any unrepresented citizens in 2018, 2019 or 2020 and Malta (19*) and Croatia (33*) only provided assistance in 2020 and only to two and 30 unrepresented citizens respectively.

These findings thus suggest that the burden of consular protection is shared between Member States which a medium to large consular network but not with Member States that have a smaller consular network. This can be explained by the fact that Member States with smaller consular network tend to be present in third countries where other Member States are already present and where there are therefore less unrepresented citizens. However, as previously noted, this finding is based on limited data, for example data from a few of the largest Member State was missing (e.g. ES and FR only provided data on ETDs). Therefore this finding should be made with caution.

⁸⁴ (886/22= an estimated 40 unrepresented citizens assisted per Member States; 40*27 Member States=1087).

⁸⁵ Number of third countries where the Member State in question has embassies and/or consular post (not considering accredited embassies or honorary consuls), This applies to all numbers with an asterix in this section.

Figure 20: Total number of unrepresented citizens of other Member States assisted by the EU 27 (outside the EU) for 2018-2020 (N=16).



Source: Study Questionnaire with Member States (March 2021)

6.3.3. (b) *Proportion of unrepresented citizens assisted compared to total assistance provided (to own nationals)*

The following section estimates the extent to which Member States provide consular assistance to unrepresented EU citizens as a proportion of the number of consular assistances they provide to their own nationals. This will enable us to examine the extent to which consular assistance to unrepresented citizens represents an additional burden on the Member States.

Ten Member States provided data on both the total number of cases in which they provided consular assistance in third countries (whether represented or unrepresented citizens, nationals or other EU citizens) in 2018, 2019 and 2020 and the total number of cases of consular assistance provided to unrepresented citizens. Only three of these Member States⁸⁶ (AT, HR and LV) also reported on the total number of consular assistances they provided to unrepresented citizens. While this data is limited⁸⁷, it still provides an idea of the proportion of cases of unrepresented citizens.

The data shows that the number of assistance provided to unrepresented citizens is only a fraction when compared to the number of consular assistance provided to Member States' own citizens. For Austria, the total number of consular assistance provided to unrepresented citizens corresponds to 1% (2018), 3% (2019) and 18% (2020) of the total number of citizens assisted. For Croatia, it corresponds to 0% for 2018 and 2019 and 6% for 2020. For Latvia, it corresponds to 1% for all three years. The share of unrepresented citizens assisted significantly increased in 2020 for two out of the three Member States looked at (it remained the same for the third Member State). This could suggest that in a crisis situation, unrepresented citizens place a higher burden on Member States, and in particular on Member States which have a bigger consular network.

Table 48: Total number of all cases of consular assistance and total number of unrepresented cases (N=3)

⁸⁶ Omitting Member States which double reported data (i.e. MS which provided the same data for the total number of citizens assisted and total number of unrepresented citizens assisted)

⁸⁷ While this could indicate that they only provided assistance to unrepresented citizens, this is unlikely. Interviews conducted with the national authorities revealed that most MS could not provide the data requested as they either did not collect these statistics or did not differentiate between both categories.

Member States	Number of countries in which Member States is represented	Total number of cases of consular assistance			Total number of unrepresented cases		
		2018	2019	2020	2018	2019	2020
AT	60	8653	8142	6911	83	228	1210
HR	37	850	861	477	0	0	30
LV	19	683	670	408	6	6	4

Source: Study Questionnaire with Member States (March 2021)

6.3.3. (c) Number of unrepresented citizens assisted by type of situation.

Most Member States did not provide statistics broken down by cases of assistance as they did not collect these statistics. The table below provides an overview of the number of Member States who provided data on the number of cases of consular assistance provided to unrepresented EU citizens by type of assistance, across all three years.

As shown in the table, the very few Member States reported data on requests received to provide ETDs, or on the requests for information (queries).

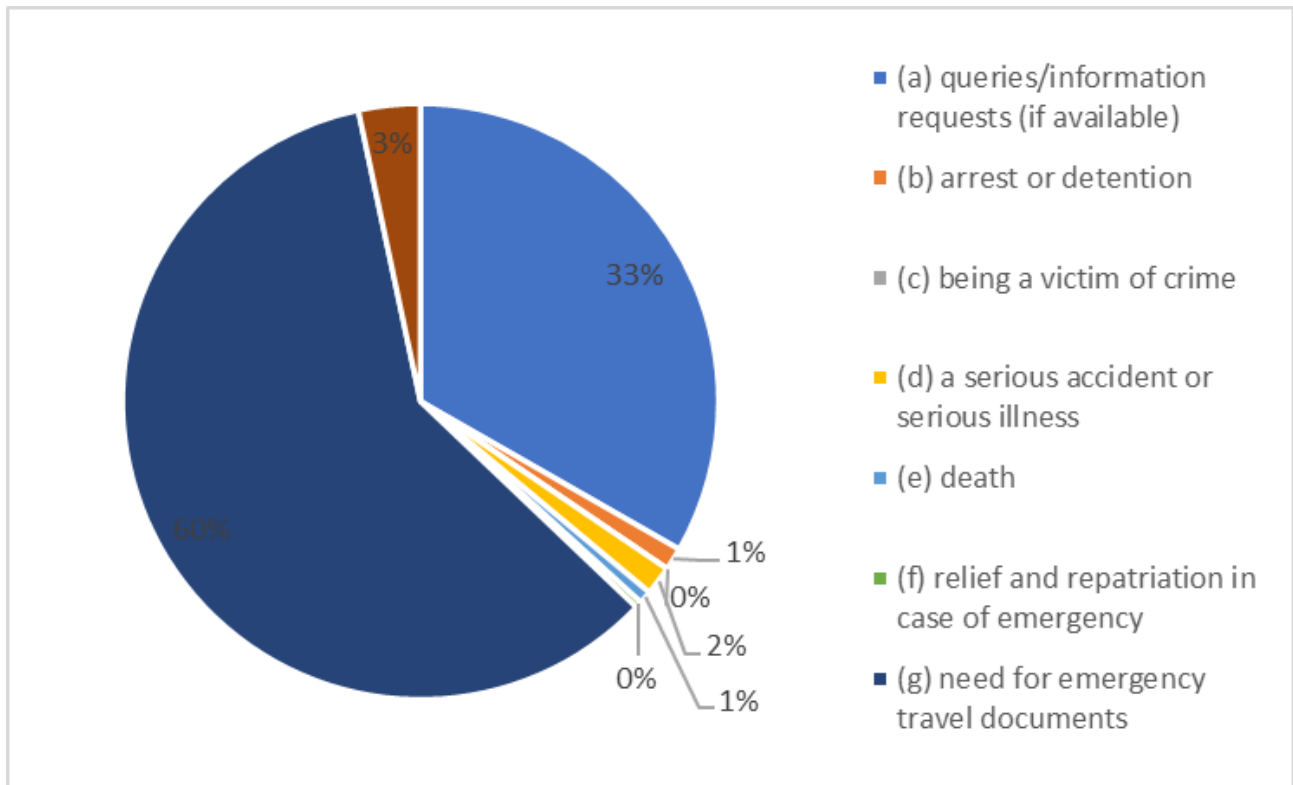
Table 49: Number of Member States who provided data on the number of cases of consular assistance provided to unrepresented EU citizens by type of assistance (Art. 9 Dir. 637/2015) (n=27)

Type of Case of assistance	Number	Share of total EU 27 Member States
(a) queries/information requests (if available)	7	26%
(b) arrest or detention	11	41%
(c) being a victim of crime	12	44%
(d) a serious accident or serious illness	11	41%
(e) death	12	44%
(f) relief and repatriation in case of emergency	12	44%
(g) need for emergency travel documents	6	22%
other (please specify in comment box)	10	37%

Source: Study Questionnaire with Member States (March 2021)

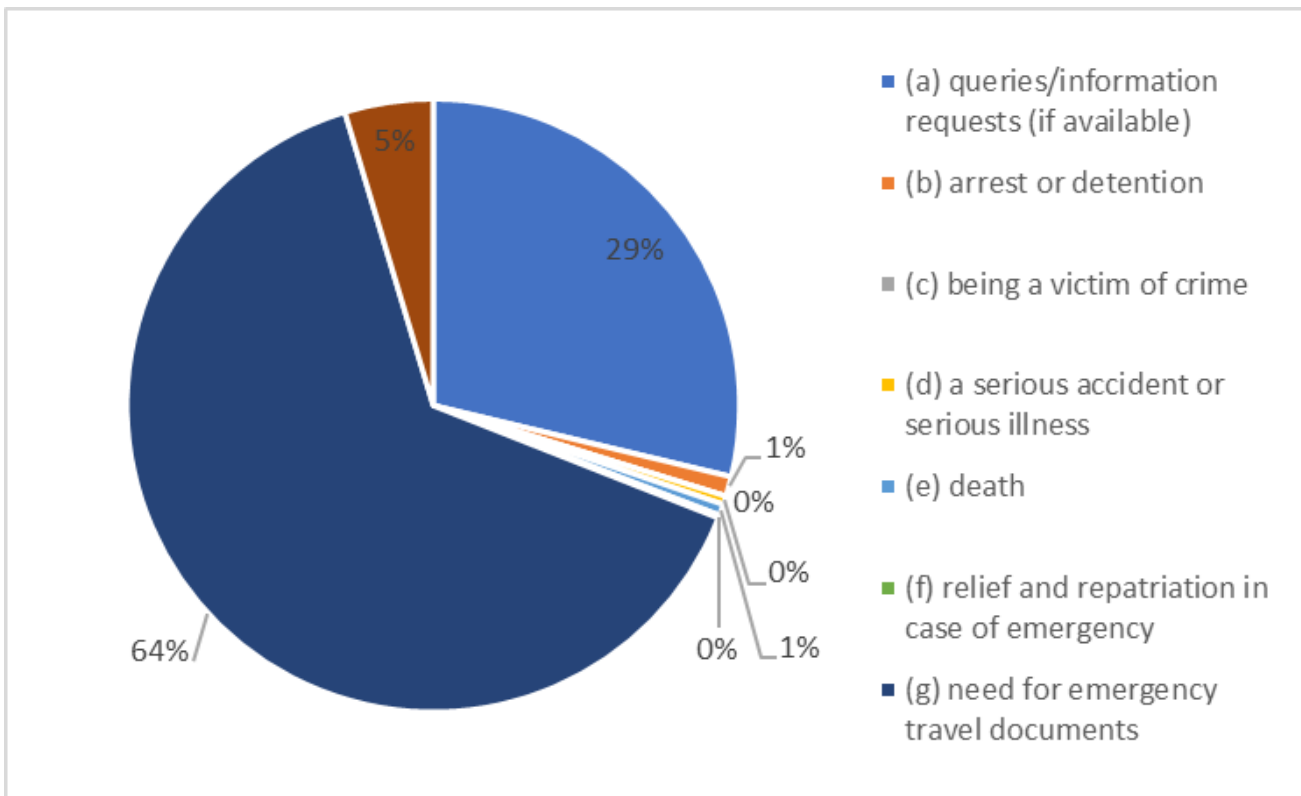
Overall, in 2018 and 2019, the “**need for an emergency travel documents**” represented the majority of cases for both year (60% and 64% respectively) suggesting that the latter is the main case of assistance provided by Member States to citizens of other Member States during a non-crisis situation. “**Queries/information requests**” represented the second category of cases for both year (33% and 29%) respectively. In 2020, 81% of the cases of assistance provided to unrepresented EU citizens were for “**relief and repatriation in case of emergency**” presumably as a result of the need for repatriation brought upon by the COVID-19 crisis. In comparison, this type of assistance only amounted to 0% of cases in 2018 and in 2019. This suggest that it is not only the demand for assistance that fluctuates from year to year but also the type of assistance needed. The other cases of assistance provided to unrepresented citizens are rare, accounting for 3% or less of the total number of cases.

Figure 21 Member States' answers to Question 3. Number of cases of assistance provided to unrepresented EU citizens per type of assistance (Article 9 of Council Directive 2015/637) in 2018



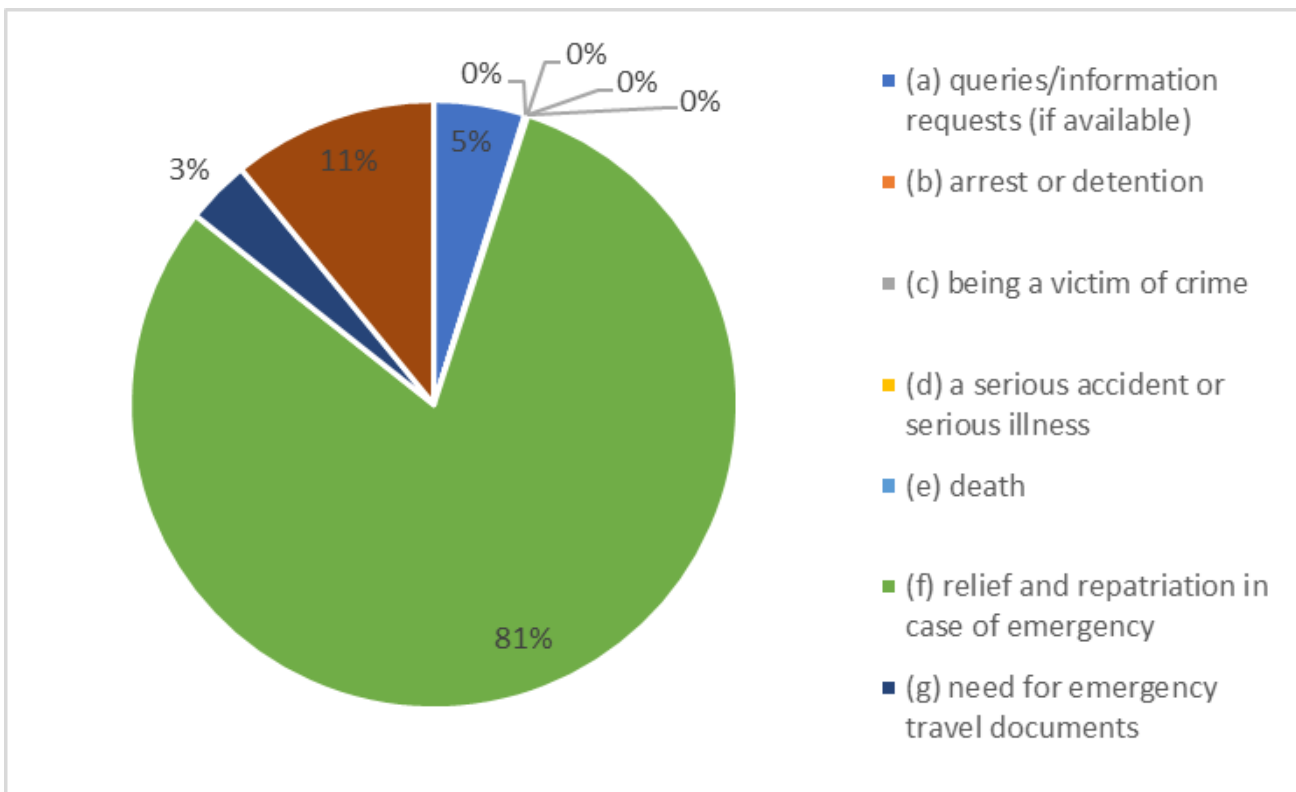
Source: Study Questionnaire with Member States (March 2021)

Figure 22-Question 3. Number of cases of assistance provided to unrepresented EU citizens per type of assistance (Article 9 of Council Directive 2015/637) in 2019



Source: Study Questionnaire with Member States (March 2021)

Figure 23-Question 3. Number of cases of assistance provided to unrepresented EU citizens per type of assistance (Article 9 of Council Directive 2015/637) in 2020



Source: Study Questionnaire with Member States (March 2021)

Table 50: Analysis of consular assistance provided to unrepresented EU citizens by type of assistance (Art. 9 Dir. 637/2015)

Type of cases	Analysis
Queries/information requests (if available):	<p>Ten Member States reported on the number of cases for 2018, 2019 and 2020. Seven Member States provided partial data (one or two year missing). Ten Member States did not provide any data.</p> <p>The highest number of cases was 117 (DK) in 2018, 117 (DK) in 2019 and 271 (DK) in 2020.</p> <p>The total number of cases was similar in 2018 and 2019 with 158 and 160 reported for the respective years. In 2020 the number increased to 335, representing a 45% increase from one year to the next.</p>
Arrest or detention:	<p>Twelve Member States reported on the number of cases in 2018, 2019 and 2020. Nine Member States provided partial data (one or two year missing). Five Member States did not provide any data.</p> <p>The highest number of cases was 21 (CZ) in 2018, 4 (DE) in 2019 and 6 (CZ) in 2020. Overall the number were very low with most Member States reporting zero cases. There were no noticeable patterns (increase or decrease) across the years.</p>
Being a victim of crime	<p>Twelve Member States reported on the number of cases for 2018, 2019 and 2020. Eleven Member States provided partial data (one or two year missing). Five Member States did not provide any data.</p> <p>The highest number of cases was 4 (CZ) in 2018, 0 in 2019 and 3 (PT) in 2020. Overall, the number were low with most Member States reporting</p>

	<p>zero cases. There were no noticeable patterns (increase or decrease) across the years.</p>
Serious accident or serious illness	<p>Twelve Member States reported on the number of cases in 2018, 2019 and 2020. Nine Member States provided partial data (one or two year missing). Six Member States did not provide any data.</p> <p>The highest number of cases was 30 (CZ) in 2018, 2 (DE and FI) in 2019 and 2 (DE and FI) in 2020. Overall, the number of cases were low with most Member States reporting zero cases. There were no noticeable patterns (increase or decrease) across the years.</p>
Death	<p>Twelve Member States reported on the number of cases in 2018, 2019 and 2020. Nine Member States provided partial data (one or two year missing). Six Member States did not provide any data.</p> <p>The highest number of cases was 25 (CZ) in 2018, 3 (DE and FI) in 2019 and 2 (DE and FI) in 2020</p> <p>Overall, the number of cases were low with most Member States reporting zero cases. There were no noticeable patterns (increase or decrease) across the years.</p>
Relief and repatriation in case of emergency	<p>Twelve Member States reported on the number of cases in 2018, 2019 and 2020. Eight Member States provided partial data (one or two year missing). Seven Member States did not provide any data.</p> <p>The highest number of cases was 17 (CZ) in 2018, 1 (RO) in 2019 and 6079 (DE) in 2020 (followed by Finland (818), Czech Republic (782), and Luxembourg (354)). Looking at the evolution of the number of cases for the 12 Member States who provided data across all three years highlights an increase with one case in 2018, two cases in 2019 and 6704 cases in 2020.</p>
Need for emergency travel documents	<p>Eighteen Member States reported on the number of cases in 2018, 2019 and 2020. Five Member States provided partial data (one or two year missing). Four Member States did not provide any data. The highest number of cases was 158 (FR) in 2018, 172 (AT) in 2019 and 108 (DE) in 2020.</p> <p>The combined number of cases for the eighteen Member States that provided data across the three years was 509 in 2018, 645 in 2019 and 423 in 2020. The drop between 2018 and 2019 could be a consequence of the COVID 19 pandemic which shift the need towards repatriation.</p>
Other	<p>Ten Member States reported on the number of cases in 2018, 2019 and 2020. Seven Member States provided partial data (one or two year missing). Ten Member States did not provide any data.</p> <p>Overall, the number of cases were low with most Member States reporting zero cases. The type of cases included in this category varied between Member States such as the issuance of passports, specific cases of attestation/certification of documents or repatriation related cases.</p>

Source: Study Questionnaire with Member States (March 2021)

6.3.3 Number of unrepresented EU citizens that were refused assistance

Most Member States did not provide data on the number of EU citizens of another Member States who were refused consular assistance or to whom consular assistance could not be provided as they did not collect such data. However they remarked not being aware of the existence of such cases happening. During the interviews, national

authorities clarified that the data was not available as they do not collect this data and had no knowledge of such cases happening. For an analysis of the information available, see chapter 3.3.

Table 51: Number of Member States who did not provide data on the number of EU citizens of another Member State where consular assistance was refused/unable to be provided (N=27)

	Data not available	Share of total
2018	19	70%
2019	25	92%
2020	24	89%

Source: Study Questionnaire with Member States (March 2021)

6.3.4 Number of non-EU family members of unrepresented citizens assisted

Most Member States (22) did not provide data on the total number of non-EU family members of unrepresented citizens assisted in third countries per year. Only three Member States provided data (HR, LV and SI) for all three years (2018, 2019 and 2020), reporting zero cases across all three years. Two Member States provided data for 2020, Portugal (21 cases) and Romania (8 cases). Feedback received during interviews with the national authorities suggest that the number of non-EU family members of unrepresented citizens assisted in third countries per year is relatively low and therefore not monitored by most Member States.

6.3.5 Estimated number of potential requests for consular protection from unrepresented EU citizens

To caveat the limitation of the data collected, a worst-case scenario was developed to have an idea of the maximum number of requests for consular assistance from unrepresented EU citizens in third countries. In this scenario the highest number reported by Member States, for each type of case of assistance was used for 2018/2019 (representing non-crisis scenario) and 2020 (crisis scenario). For example, FI reported 1,204 cases of queries/ information requests from unrepresented citizens in 2018. This was the highest number reported by any Member States in 2018 and 2019. Thus, this number was used to represent the worst-case scenario for queries and information requests in non crisis situations. The same process was applied for the other type of cases of assistance for both 2018/2019 and 2020.

As can be seen in the table below, the Member States which reported the highest case number by type of assistance are AT, BE, CZ and FI. Although reported data by type of protection was missing or incomplete for a number of the larger EU countries, including FR, ES, DE and IT, using the data provided by these medium sized countries may still provide a good EU-level estimate of a worst case scenario, seeing (as explained above), the case number does not seem to vary much between countries with medium or high levels of representations.

On this basis, we estimate that in an average year, the number of requests for consular protection from unrepresented EU citizens in third countries could amount to 1,488 requests per Member State, and 40, 176⁸⁸ for the EU27. In a year with a large global crisis situations, like during the COVID-19 crisis in 2020, the number of requests for consular protection from unrepresented EU citizens in third countries could reach 6,572 per Member State and 177,444 for the EU 27.

Table 52: Estimated number of requests for consular protection from unrepresented EU citizens in third countries

Type of cases of assistance to unrepresented citizens	Worst case scenario in regular year		Worst case scenario in year with global crisis	
	MS	Reported data for 2018/2019	MS	Reported data for 2020
(a) queries/information requests	FI (2018)	1204	DK	271
(b) arrest or detention	CZ (2018)	21	DE	6

⁸⁸ Multiplying 1,488 by the 27 EU Member States.

(c) being a victim of crime	CZ (2018)	4	PT	3
(d) a serious accident or serious illness	CZ (2018)	25	PT	3
(e) death	CZ (2018)	30	DE	2
(f) relief and repatriation in case of emergency	CZ (2018)	17	DE	6079
(g) need for emergency travel documents	AT (2019)	172	DE	108
other	BE (2019)	15	BG	100
Estimated number of requests for consular protection from unrepresented EU citizens in third countries		1,488		6,572

Study Questionnaire with Member States (March 2021)

It is important to note that for some types of requests (e.g. queries for information and repatriation) the highest number of cases reported by a Member State differed significantly from the second highest number of cases reported. For instance, in 2018, FI reported 1204 cases of queries/information request while the second highest Member State (DK) only reported 117 cases. Similarly, in 2020, DE was the Member State with the highest number of cases of repatriation with 6079 cases while the second highest Member State (FI) reported only 818 cases.

We assume that the data collected from the Member States and presented in **Error! Reference source not found.** 6.3.2 represent the minimum number of unrepresented EU citizens assisted by the Member States, and that the data reported by AT, BE, CZ and FI as presented in the table above represent the maximum number. Thus, the following ranges represent the estimated number of potential requests for consular protection by unrepresented EU citizens in crisis and non-crisis situations. section 6.3.2 represent the minimum number of unrepresented EU citizens assisted by the Member States, and that the data reported by AT, BE, CZ and FI as presented in the table above represent the maximum number. Thus, the following ranges represent the estimated number of potential requests for consular protection by unrepresented EU citizens in crisis and non-crisis situations:

- Average year (based on reported figures in 2018 and 2019): Between 1,500 and 40,176 unrepresented EU citizens are assisted
- Year with large crisis situation (based on reported figures in 2020): Between 6,000 and 177,444 unrepresented EU citizens are assisted

6.ANNEK VII: OVERVIEW OF DOCUMENTS REVIEWED (TASK 6)

Table 53: Overview of documents reviewed by task.

Task & scope	Type of document requested	Documents reviewed
6.1 EU-level documents	EU guidelines/communications/templates related to the application of the Directive, in particular in relation to crisis preparedness and response and lead state concept	<ul style="list-style-type: none"> - Fictitious Joint EU Consular Crisis Preparedness Framework (181119 PACE 18 Joint Fw Ropperta) - Joint Framework review process - Guiding points - Working Party on Consular Affairs: The Joint EU Consular Crisis Preparedness Framework - 'Vademecum – Practical suggestions for cooperation in consular crisis situations' - Joint EU Consular Crisis Preparedness Framework Reference: EEAS Consular Instructions for EU Delegations - Joint EU Consular Crisis Preparedness Framework – Background document - Lead State: EU Guidelines, Lead State Table and PowerPoint
6.1 EU Citizens complaints	<u>EU citizens' complaints</u> received by DG JUST	- Anonymised versions of a small sample (up to 10 complaints) (see Annex VI).
6.1 Mapping of EU consular network and assets, in relation to EU bodies who are institutional actors of consular protection at EU level	Documents or reports explaining: <ul style="list-style-type: none"> ➤ <u>current structure and the institutional actors</u> in consular protection at EU level – up-to-date unit names etc. ➤ <u>description of capabilities/activities</u> of different EU bodies in coordinating/providing assistance in the field of consular protection since 2018 (e.g. activity reports by the Consular Affairs Division of EEAS), in particular in terms of EU crisis preparedness and response 	<ul style="list-style-type: none"> -the COVID-19 lessons learned report from the EEAS - Organisation chart of the Consular Affairs Division - EEAS ISP 4
	Documentation/data on <u>human resources/number of staff</u> available in the different EU bodies who can be deployed in a crisis for providing consular protection to unrepresented EU citizens	<ul style="list-style-type: none"> - Excel with list of EUDEL consular correspondents - Job description Consular Correspondents and back-ups
	Documentation on <u>financial resources</u> for providing consular protection to unrepresented EU citizens at the disposal of the EU: funding which EU bodies can mobilise to support the	<ul style="list-style-type: none"> - Financing decision C(2020) 9064 final and its Annex - Verbatim comments by DG JUST and EEAS on budget implications during call on 13 April 2021.

Task & scope	Type of document requested	Documents reviewed
	provision of consular protection in a crisis Documentation on <u>physical assets</u> if such exist (e.g. evacuation planes) or planned acquisition thereof	- Decision (EU) 2019/420 of the European Parliament and of the Council of 13 March 2019 amending Decision No 1313/2013/EU on a Union Civil Protection Mechanism
6.2 Desk research on a selection of third countries UK	Desk research on loss UK consular network/impact of Brexit: <ul style="list-style-type: none"> ➤ UK consular network: CoOL data from EEAS ➤ Number of unrepresented EU citizens assisted by the UK between 2018-2020. Other relevant documentation (if any) on the loss of the UK's consular network due to Brexit	- the CoOL data from EEAS for 2017-2021, which includes the UK - 2018 UK answers to the DG JUST Survey
6.2 Desk research on a selection of third countries For 3rd countries selected in Task 7.2: <ul style="list-style-type: none"> • Russia • Ethiopia • Montenegro • Costa Rica • Fiji 	<ul style="list-style-type: none"> ➤ <u>Joint contingency plans/JFW</u> ➤ Other documentation related to crisis response and non-crisis procedures related to the selected third countries Costing data covering the provision of consular protection to EU citizens in the selected third countries.	JFW and accompanying documents received and reviewed for all selected third countries except Fiji, as such had not been developed yet.

7. ANNEX VIII: FINDINGS OF THE DOCUMENT REVIEW ON EU CITIZENS FEEDBACK (TASK 6)

This Annex presents the analysis of the available documentation which report feedback collected from EU citizens directly on their right to consular protection, namely (a) the sample of citizen's complaints received by DG JUST, and (b) the Inception Impact Assessment references:

- the responses provided by organisations in response to the Inception Impact Assessment,
- the EU citizenship report, including its Open public consultation survey with consular questions
- the Flash Eurobarometer 485 on EU Citizenship and Democracy.

EU Citizens Complaints

EU citizens have the fundamental right to consular protection (as specified in Article 46 ECFR, among others) and are the ultimate beneficiaries of consular protection under the Directive. Therefore, it is important to understand how they have experienced the exercise of their right as unrepresented citizens abroad in need of assistance. We requested from DG JUST access to an anonymised version of EU citizens' complaints. The complaints revolved mostly around two main issues: lack of assistance in repatriation required in relation to the COVID-19 outbreak (4 complaints), and the impossibility to issue or renew a passport (3 complaints). The complaints involved a range of EU Member States and third countries, but none of them was involved more than once. The overview of the complaints is presented in the table below.

Table 54: Overview of sample of EU citizen's complaints reviewed

MS in question	3 rd Country	Representation in 3 rd Country	Complainer's nationality	Matter of the complaint
SE	Malaysia	Present	SE	Impossibility to renew a passport of a Swedish national
ES	Mexico	Present	ES	"Ignorance" of Spanish nationals (exchange students) by the Embassy; presumably in relation to repatriation
RO	UK		RO	Impossibility to renew a passport and/or an ID card of a Romanian national*
FR	Tunisia	Present	FR	Lack of assistance in repatriation of a French national
HR	Egypt	Present	HR	Delayed passport issuance for a Croatian national's new-born child
ES, IT	Equatorial Guinea	a) ES: Present b) IT: No representation	IT	Lack of assistance in consular protection in relation to the violation of the Italian complainer's fundamental rights violation during an imprisonment –

MS in question	3 rd Country	Representation in 3 rd Country	Complainer's nationality	Matter of the complaint
				presumed non-application of the Directive 2011/95
DE	Cambodia	Present	DE	German embassy not willing to assist a German national "whose life was in danger"; presumed violation of Decision 1995/553 by staff
EL	Ecuador	Embassy in Peru accredited	EL	Lack of assistance in repatriation of a Greek national
BE, LU	Mauritius	c) BE: Embassy in Tanzania accredited; d) LU: Honorary Consulate	BE, LU	Lack of assistance in repatriation of a Belgian and Luxembourg national (the complaint does not address any of the respective embassies)

Source: Information provided by DG JUST

* This complaint seems to be obtained twice.

Inception Impact Assessment references

- Feedback received during preparatory stages of the impact assessment

As part of the preparatory work to the impact assessment, the EC sought feedback on the review of EU rules for consular protections as part of its consultation process. The feedback period was 13 January 2021 to 10 February 2021 and the responses were intended to feed into the preparation of the impact assessment analysis. This part of the consultation received five feedback submissions from the following stakeholders, summarised below:

- EU citizens (two);
- Non-governmental organisations (two);
- Business association (one).

Victim Support Europe (VSE) (Belgium) made the following recommendations for the review of Directive 2015/637 and provision of assistance to victims in consular services:

- Strengthening co-ordination by identifying specific co-ordination action to assist victims of crime;
- Equal access to basic standards of victim assistance irrespective of which consulate or embassy assists, by harmonisation of standards across all Member States;
- Specifically recognise planning to assist victims of terrorism, notably in contingency plans for crisis situations;
- Support exchange of best practices between Member States and with third countries and facilitate the review and development of policies and practical measures to support victims of terrorism.

At DG JUST's request, the study team contacted VSE for a follow up interview, which took place on 28 June. Their additional feedback is summarised below.

Victims of crime are vulnerable by definition and the trauma experienced often warrants higher standards of care and specific steps to be taken when providing them with assistance. The VR Directive establishes minimum standards on the rights, support and protection of victims of crime and ensures that persons who have fallen victim to crime are recognised and treated with respect. They must also receive proper protection, support and access to justice.

VSE note that victims of crime abroad have highly variable experiences when seeking support from representations. It appears that their trauma can be compounded when facing the challenge to approach an Embassy or Consulate from a Member States which is not their own.

National representations abroad play an important role in the support that is provided to a victim of crime. The victim of a crime abroad would approach the Embassy / Consulate often in the immediate aftermath of the accident. It is very important that there is staff who knows how to handle people who have been the victims of crime. The Embassy / Consulate should know how:

- to help victim to liaise with police authorities of the third country to report the crime and start proceedings
- to help victim find accommodation, food, flights
- to connect the victim to services in their home country.
- (if an unrepresented citizen) to connect them with their national authorities as efficiently as possible given the situation.

But how well do the staff in national representations of EU Member States across the world deal with supporting victims?

In this view, VSE consider that the Consular Protection Directive should at least make reference to the special standards of care (set in the VR Directive) needed in the treatment of an unrepresented citizen who has been the victim of a crime, as this would be an opportunity to harmonise the legislations of Member States for the very specific cases of victims of crime abroad. VSE consider that enshrining the special standards of care for the treatment of victims of crime in legislation ensures that the regime is applied by all Member States and not only the high-performing ones. The more detailed provisions, the better as it would enable the enforcement of a general regime on victim protection (in the context of consular assistance to unrepresented citizens).

For instance this could be done in the Consular Protection Directive Recital, but better in the Article on the types of assistance offered (currently Art 9). It is arguable whether the Consular Protection Directive is an appropriate vehicle for such regime and whether it should include detailed provisions for such specific instances. However, the basic requirements of the VR Directive for the safeguarding of victims of crime seeking consular assistance advocated by VSE would be helpful. These could include, but would not be limited to, these categories of the VR Directive as can be adapted for the Consular Protection Directive context:

- 1) respectful treatment and recognition as victims;
 - 2) protection from intimidation, retaliation and further harm by the accused or suspected;
 - 3) support, including immediate assistance following a crime, physical and psychological assistance and practical assistance;
 - 4) access to justice to ensure that victims are aware of their rights and understand them, and are able to participate in proceedings;
- AND
- 5) Requirement for JFWs to include processes and procedures which are victim-centric.

The **German Federal Association ANUAS e.V.**, also a victim support organisation, called for access to uncomplicated consular support for relatives of missing or dead persons, as well as advice and help in the respective country which should not be conditional to the involvement of lawyers and victim support organisations. Their contribution was developed in connection with a number of cases of missing or dead persons in Greece. The same issue is relayed in one of the EU citizens' contributions. The other EU citizen welcomes the initiative.

Finally, a business association from Mexico (**JFMO SERVICIOS EN INTERMEDIACIÓN PÚBLICA**) noted that guidance on consular protection should not be limited to legal guidance for criminal acts, but also cover commercial, educational, labour and social aspect, and reminded that few countries and consular services comply with legal guidance and assistance for their citizens abroad.

- **2020 EU Citizenship report**

The public consultation for the 2020 EU Citizenship Report *Empowering citizens and protecting their rights* report took place between 9 July 2020 – 1 October 2020 and contained questions on consular protection. The 2020 EU Citizenship Report recalls that the right to equal access to consular protection is one of the specific rights that the Treaties grant to EU citizens and is a tangible example of European solidarity. The Report references the unprecedented repatriation effort, in which Member States, supported by the EC and the EEAS, managed, between February and May 2020, to

bring home over half a million European citizens affected by COVID-19 travel restrictions across the world. The report highlights that when organising the repatriation of EU citizens stranded abroad due to the COVID-19 outbreak, Member States rightly did not treat unrepresented and represented EU citizens differently. Where repatriation capacities were available, all European citizens were assisted. Finally, the Report notes that the COVID-19 crisis has demonstrated the need to further strengthen EU solidarity to better protect EU citizens abroad, in particular during crises.

The 2020 EU Citizenship Report estimated that, in 2020, 76% of EU citizens are aware of the right to seek assistance from other Member States, in case their own does not have an embassy or consulate in a third country.

- **Flash Eurobarometer 485 on EU Citizenship and Democracy**

The European Commission published a survey on a range of issues associated with EU citizenship and democracy, for which fieldwork was done in 27 EU Member States in February/March 2020. The survey also explored Europeans’ understanding of the rights conferred by EU citizenship, including to consular support while staying in a non-EU country.

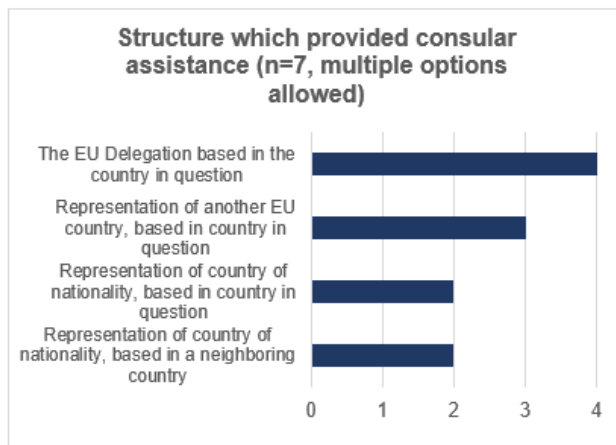
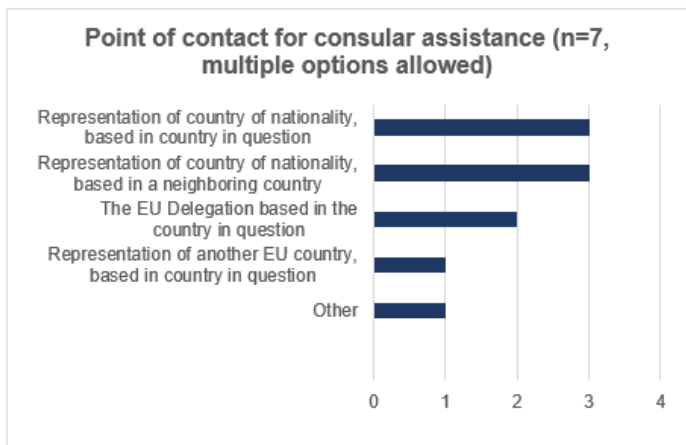
Overall, more than nine in 10 respondents agree that, if they were in a country outside the EU where their Member State of nationality was not represented, they would like to seek support from an EU Delegation instead. On an individual country level, more than eight in 10 respondents in 25 Member States would seek such support if in need. Lower numbers (though still over three quarters of respondents in these countries) would be interested in doing so in Estonia (77%) and Hungary (78%). Most likely to seek such support were respondents from Portugal, Spain and Cyprus (over 96%).

- **Survey on EU citizens’ experiences on consular protection**

The study team developed a **short survey on EU citizens’ experiences on consular protection abroad**, aiming to generate real life stories which would enrich the reporting process, as well as help identify candidates for follow-up interviews if anything particularly relevant comes up. It was live from 18 May to 2 July 2021 and was disseminated via **DG JUST’s Twitter account and a selection of EU Delegations** (see further explained in section 1.1).

Seven EU citizens replied to the survey and were originating from five EU Member States (Czech Republic, Greece, Hungary and Italy) and one third country (Venezuela) (one participant did not provide their nationality). Five of the respondents sought assistance in Costa Rica and two – in Venezuela. All seven instances concerned assistance for repatriation during the COVID-19 crisis in 2020.

The main point of contact for respondents was the consulate or embassy of their country of nationality, located in the third country where consular assistance was sought (chosen by three survey participants each). The next popular choice was the EU Delegation in the country in question. Only one respondent mentioned the representation of another EU Member State in the country in question. The respondent who selected “Other” initially contacted the government of their European country of official residence, as they were a national of the third country they wanted to leave. In the end, four respondents stated that they received assistance from the EU Delegation in the third country, and three from the representation of another EU Member State in the country where they were.



Most of the respondents (four) received help in a matter of days, one in a few hours and one – a few weeks. The final respondent declined the repatriation flight as they were waiting for a direct flight to Europe which took 1.5 months. All

but one respondent considered this delay as reasonable. This respondent was from Italy and reported a very negative experience with their consulate in Venezuela, tempered by the can-do attitude of the local EU Delegation though the latter did not resolve their situation. Another respondent received a response on their request for consular assistance in a few days, but not solution and ended up waiting four months for a flight to Europe from Costa Rica (Hungarian national who contacted their national representation in a neighbouring country and the local EU Delegation).

Two others responded noted very uplifting experiences with the representation of another EU Member State than their own which provided consular assistance. For one, the contrast with the unhelpful attitude of their own representation in a neighbouring country was striking (Czech citizen stranded in Costa Rica who received assistance from a German representation: *“For Germany, [they were] unexpectedly amazing, I love how they helped because if I would wait for my country I would get home a few months later [not in the matter of days]”*).

8.ANNEX IX: POLICY OPTION 1 – SOFT MEASURES DESCRIPTION

The tables below provide a detailed description of the soft measures proposed under policy option 1, by type of measures (i.e. guidance, sharing of best practises, training and other type of measure) and by objective.

Table 55: Overview of guidance and sharing of best practises proposed under policy option 1, by policy objective

Specific objective addressed	Description of type of guidance/best practise included under policy option 1
Measures addressing SO 1 (Personal scope)	<p>Development of guidance on the definitions and personal scope of the Directive - Guidance would be issued to clarify the Directive’s personal scope and in particular the definition of unrepresented EU citizens of the Directive. The guidance could for example provide criteria that Member State can use to assess in which cases an EU citizen should be considered de facto unrepresented under Article 6 Directive. Moreover, the guidance documents could also outline which Member States include non-EU family members in their definitions and coverage to clarify the situation for all EU citizens. The guidance would provide clarity on the treatment of represented EU citizens in need of consular assistance in extraordinary circumstances (such as crisis or refusal of assistance from own national representation). Finally, the guidance would cover how consular staff needs to deal with victims in line with the Victims’ Rights Strategy.</p> <p>Sharing of best practices on the definitions and personal scope of the Directive - Best practices, in particular with regard to the special needs of vulnerable citizens and victims of crime to be taken into account when providing consular protection to these groups, could be identified and shared amongst the consular staff of all Member States. Best practices covering and clarifying the way Member States interpret when a family member is considered “accompanying”. The Directive does not provide guidance on how this term should be interpreted, hence “accompanying” can be construed as being part of the same household, regularly dependent of the citizen or just being with the EU national at the time of the circumstances leading to the request for consular assistance. Finally, best practices could include elements on unrepresented citizens of a third country not considered as accompanying family members.</p>
Measures addressing SO 2 (Geographical scope)	<i>No measures foreseen under policy option 1</i>
Measures addressing SO 3 (Accessibility)	<p>Guidance document on redirecting The guidance document would clarify the circumstances in which the current Directive allows for redirecting (i.e. under Article 3 and Article 7), and situations where it does not (e.g. “if consular protection would thereby be compromised” as per Article 7(3), “when it is not possible, due to local circumstances or lack of resources, for the citizen safely to reach or be reached” by the representation of its Member State of nationality as per recital 8, or to redirect to an accredited embassy of the Member State of nationality in a neighbouring country). The guidance would also address the misconception among some Member States that bilateral agreements need to be in place before consular assistance can be provided to unrepresented EU citizens.</p> <p>More generally it could include a step-by-step guide for Member States when they receive a request for assistance. Step 1 could be for the Member State to assess its competence, by checking (1) whether the citizen falls within the scope of the Directive and (2) whether the Member State of nationality would like to take over the case (3) whether another EU Member State is competent to provide the assistance on the basis of a bilateral agreement.</p>
Measures addressing SO 4 (Coordination)	<p>The development of guidelines and best practice guides for consular staff on the provision of consular protection to unrepresented EU citizens, which would include:</p> <ul style="list-style-type: none"> (i) Data requirements for Member States on CoOL and where Member States can find such information (e.g. consular network, bilateral agreements etc.) (ii) Interpretative guidance on the role and responsibilities of EEAS and the EU Delegations, to be used both by Member States and the EU Delegations – <i>although such is already provided by Member States and the EEAS to embassies and EU Delegations, this option would formalise the use and provision of this guidance.</i>

Specific objective addressed	Description of type of guidance/best practise included under policy option 1
	<p>(iii) Operational guidance on the development and implementation of the JFW and especially how the provision of consular protection to unrepresented EU citizens would be coordinated, assigning roles and responsibilities among the EU Delegations and the Lead State/coordinating Member States in times of crisis. <i>Although such guidelines already provided; this option would formalise the use and provision of this guidance.</i></p> <p>(iv) Guidance for Member States on the UCPM: on the situations in which the UCPM can be activated and how mechanism can be triggered.</p> <p>(v) Guidance for Member States and EUDELS on how to apply the GDPR and DPREUI data protection rules when sharing information under the Directive.</p> <p>The guidelines, which could be developed as part of an exercise on the lessons learnt from the COVID-19 repatriation exercise, should provide clear instructions on responsibilities under the Directive.</p>
Measures addressing SO 5 (Communication)	<p>Guidance documents- The EEAS, in coordination with Member States, would identify and share best practices and lessons learnt in the form of guidelines for EU delegations and Member State consular staff. The guidelines would:</p> <p>(i) cover different communication channels (i.e. website, applications, online platforms) and provide guidance on how to best communicate information to (unrepresented) EU citizens including what information to communicate and how to communicate to vulnerable groups such as travel advices for LGBTI+</p> <p>(ii) strengthen the provision of information on the international dimension on victims’ rights in line with the priorities of the EU Victims’ Rights Strategy adopted in June 2021. Reinforcing such support and protection is particularly valid for unrepresented EU citizens who were victimised in the territory of a third country, as well as in times of crisis.</p> <p>(iii) provide guidance on how to best update and strengthen Member States communication channels to better inform EU citizens about their rights to consular protection. It would provide guidance such as on providing information on permanent and/or local arrangements in place; on the limitation of honorary consuls and accredited embassies/consulates; on the availability and importance of registration tools for citizens living and/or traveling abroad; and on the mechanisms for redress available at the national level (national courts) and at the EU level (European Court of Justice), Guidance on redress mechanisms would also be provided directly to the EU citizens.</p> <p>(iv) would include a recommendation for Member States to reproduce Article 20 of the EC Treaty in the passports issued to their nationals in one with the recommendation already included in the Commission Green Paper (COM 2007/2196(INI))</p>
Measures addressing SO 6 (Financial reimbursement)	<p>Guidance documents would be issued to clarify the way in which Member States can seek reimbursement from each other including issues such as the timeliness of the facilitated procedures under Article 15, the type of costs that can be reimbursed and when and how to use the standard forms. These guidelines would be developed taking into consideration feedback and best practices from Member States.</p>

Table 56: Overview of training proposed under policy option 1, by policy objective

Specific objective addressed	Description of type of training included under policy option 1
Measures addressing SO 1 (Personal scope)	<p>Provision of training on the definitions and personal scope of the Directive: Provision of training to national consular staff and EU Delegations on how Member States should interpret the current definition of “unrepresented” and what practical steps should be taken in cases where the status of a citizen is less clear (i.e. <i>de facto</i> unrepresented EU citizens). The training could also provide practical support on how to provide consular protection to vulnerable groups and victims of crime.</p> <p>The training to consular staff would be provided by the national authorities as part of existing training to consular staff. The training to EU Delegations would be organised by the EEAS and training modules would be developed for that purpose.</p>

Specific objective addressed	Description of type of training included under policy option 1
Measures addressing SO 2 (Geographical scope)	<i>No measures foreseen under policy option 1</i>
Measures addressing SO 3 (Accessibility)	<p>Organisation of training for consular staff on redirecting - Training for Member States' consular staff could be organised to develop a common understanding of the practical application of Article 3 and Article 7 of the Directive among Member States, and to raise awareness of the guidance document on redirecting (see above).</p> <p>EUDELs could provide information sessions on the basis of common material prepared by EEAS and JUST, while the training itself would be provided by Member States, integrating it into existing trainings for custom officials already provided by Member States.</p>
Measures addressing SO 4 (Coordination)	<p>Global Joint coordination exercises could be organised every other year to provide EU Delegations, Member States' consular authorities and the relevant contact points for unrepresented EU citizens within Member State's MFA within the EU (to cover the unrepresented Member States) with experience and tools for reacting and coordinating effectively and efficiently in the provision of providing consular protection to unrepresented EU citizens in crisis situations. These would have the advantage of identifying gaps and shortcomings in the JFW as well as developing common working and communication methods among relevant organisations. These exercises used to exist before the COVID crisis, and are currently only organised at the local level. This option would formalise them and introduce a global exercise coordinated centrally to test global crisis preparedness.</p>
Measures addressing SO 5 (Communication)	<i>No training foreseen under policy option 1 to address SO5</i>
Measures addressing SO 6 (Financial reimbursement)	<p>Training materials could be developed to provide greater clarity and awareness of the Directive's financial reimbursement procedures. These training materials could then be integrated directly into the Member States national training activities.</p>

Table 57 Overview of other types of measures proposed under policy option 1, by policy objective

Specific objective addressed	Description of other types of measures included under policy option 1
Measures addressing SO 1 (Personal scope)	<p>Adding discussion on unrepresented citizens at LCC meetings: This option would include having EU Delegations and Member States discuss how the relevant parts of the Directive are interpreted in the local context during LCC meetings. This should help identify whether some EU citizen are at risk of not being provided consular protection when in the country. These discussion could take place at the LCC meetings.</p>
Measures addressing SO 2 (Geographical scope)	<i>No measures foreseen under policy option 1</i>
Measures addressing SO 3 (Accessibility)	<p>development of a user friendly and up to date list of bilateral agreements and other practical arrangements - In order for Member States to know when they are responsible for unrepresented citizens, they need access to up-to-date information on the arrangements in place. DG JUST and/or EEAS should already receive notifications from Member States as and when such arrangements are agreed upon. On the basis of these notifications a user-friendly list could be developed, for example in a format where one can filter the relevant third country and country of nationality of the citizen. This information could be publicised for example through COOL for the Member States as well as on an online platform or website available to EU citizens.</p>

Specific objective addressed	Description of other types of measures included under policy option 1
Measures addressing SO 4 (Coordination)	
Measures addressing SO 5 (Communication)	<p>Updating of existing EU information and communication channels: The Europa and the EU Delegations' websites would be updated and strengthened to ensure that information is provided in a clear transparent manner to EU citizens on:</p> <p>(i) the distinction between the Member States' honorary consuls and accredited embassies/consulates in terms of their competence to provide consular protection to unrepresented EU citizens (in line with Article 2(2) Directive)</p> <p>(ii) permanent and local arrangements in place in each third country (as per Article 7(2) Directive)</p> <p>Moreover, the EEAS, the Commission and EU Delegations would also be responsible for the update and strengthening of their communication channels:</p> <p>(i) currently, Europa's travel advice page only provides links to Member States Ministries of Foreign Affairs' websites. Under this option, the Europa website would provide the possibility to search for travel advice per third country for all Member States. This would require, a web scraping tool to automatically collect and update the relevant information to present an aggregated travel advice page with information from all Member States.</p> <p>Awareness raising campaign on the right to consular protection for (unrepresented) EU citizens: An awareness-raising campaign would be organised by DG JUST and the EEAS in coordination with Member States to inform (unrepresented) EU citizens about their rights to consular protection, the different factors to consider (i.e. existing arrangements, honorary consuls, etc.), the importance of registering prior to travelling abroad as well as their rights to complain about potential breaches and the mechanisms/procedures to do so.</p>
Measures addressing SO 6 (Financial reimbursement)	<i>No other types of measures foreseen under policy option 1 to address SO6</i>

8.ANNEX X: COST ASSESSMENT OF THE POLICY OPTIONS

For each of the specific objectives, an assessment of the cost is provided per policy option in the tables below.

9.2.1 Cost Assessment for specific objective 1 - Personal scope

Cost of Policy Option 1 – Objective 1

Policy option	Costs
Development of guidance on the definitions and personal scope of the Directive	<p>Limited costs (-) - The costs are calculated on the basis of the EEAS developing guidance at the outset of the introduction of the policy option and updating it annually.</p> <p>The estimated resource needed from the EEAS would be a maximum of 1 FTE for one month at the outset, the ongoing costs would then be absorbed as part of the normal role of the EEAS in its support role to the work of the COCON.</p>
Sharing of best practices on the definitions and	<p>Limited costs (-) - The costs are calculated on the basis of the EEAS collecting best practices at the outset of the introduction of the policy option and updating them annually.</p> <p>It would require a small amount of input from national authorities in sharing best practices with the EEAS.</p>

Policy option	Costs
personal scope of the Directive	The estimated resources needed from the EEAS would be 1 FTE for one month at the outset, the ongoing costs would then be absorbed as part of the normal role of the EEAS in its support role to the work of the COCON. In addition, EU Delegations' staff and national authorities would play a role in identifying and sharing these best practices, and as such would also be expected to provide some resources although they would be marginal and expect to be more than a couple of days FTE per country per year.
Provision of training on the definitions and personal scope of the Directive	<p>No additional costs (0) – The training modules for EU Delegations are to be developed by the EEAS internally, by existing staff involved in the current training programme in which no external trainers are involved.</p> <p>The training to national consular staff is expected to be provided by the Member States directly as part of existing training.</p> <p>The training of the consular correspondents of the EU Delegations would be provided by the EEAS. The EEAS currently has a fully developed training schedule and programme. As such, we estimate that the costs of the development and provision of the training would be absorbed in the existing costs of training.</p>
Adding discussion on unrepresented citizens at LCC meetings	No additional costs (0) -The addition of an agenda point at local LLC meetings would not incur any additional costs.

Cost of Policy Option 2A and 2B – Objective 1

The costs applicable to the legislative elements of policy option 2A are negligible. While Member States perceived to provide a better level of service could run the risk of having to deal with a much larger number of requests from EU citizens, this is already the case in the current situation and as part of the baseline scenario. The research undertaken as part of this study has highlighted how in crisis situations, the distinction between represented and unrepresented citizens does not appear to make a difference. Member States did not provide specific data on the number of represented citizens provided with consular protection in crisis situations, however the frequency generally appears to be low. The cost related to the potential additional number of *de facto* unrepresented citizens to be assisted due to the clarified definition and presumption of unrepresentedness is also expected to be low. As such, we expect the extension of the scope of the Directive to all EU citizens not to have a significant cost, even when considering the cost of the soft measures which will be similar to those of Option 1(-).

Cost of Policy Option 3 – Objective 1

The costs applicable to policy option 3 are negligible. For the same reasons as for policy option 2A the extension of the scope of the Directive to all EU citizens would not have a significant cost for Member States, even though it is difficult to quantify it (-). This would only change marginally given the mandatory nature of this option.

9.2.2 Cost Assessment for specific objective 2 - Geographical scope

Cost of Policy Option 1 – Objective 2

No soft measures foreseen under policy option 1 therefore no cost foreseen (0)

Cost of Policy Option 2 – Objective 2A and 2B

The cost for the Member States to take on the additional cases of unrepresented citizens within the EU territory: Of the 18 Member States that did state they provided consular protection to unrepresented citizens within the EU territory, none provided information on the number of requests received per year, as this information was not collected. The study estimates that the total cost to the EU27 Member States of providing consular protection (relief and repatriation only) to unrepresented citizens within the EU in crisis situations would range between EUR 12,000 - EUR 29,000 in a regular year (based on the figures for 2018 and 2019), and up to EUR 6.9 million in times of global crisis, such as the COVID-19 crisis (based on the figures for 2020)⁸⁹ However, at the same time, 18 Member States are already providing this type of protection to unrepresented EU citizens within the EU and therefore this cost would only be a “new cost” for the remaining 9 Member States.

Cost of Policy Option 3 – Objective 2

Similar costs as under Option 2A & 2B (-).

9.2.3 Cost Assessment for specific objective 3 - Accessibility

Cost of Policy Option 1 – Objective 3

Policy option	Costs
Development of a user friendly and up to date list of bilateral agreements and other practical arrangements	Cost neutral (0) -The cost is considered to be negligible, as DG JUST/EEAS already have most of the information required (i.e. the lists of Member States’ notifications received by the Commission compiled into two Excel sheets). The key change would be to (1) ensure all types of arrangements are reported in a uniform format to the Commission (for e.g. by the LCC), (2) to ensure that the information included in this list is accurate and up to date, (3) is reformatted to be more user friendly, and (4) to ensure that updates are shared with Member States through an easily accessible platform (COOL or other tool).
Development of a guidance document on redirecting	Cost neutral (0) - This option can be implemented on a resource-neutral basis: as the EEAS could develop the guidance document using its existing resources.
Organisation of training for consular staff on redirecting	Cost neutral (0) - This option can be implemented on a resource-neutral basis: The training (information sessions) could be developed by the EEAS staff and delivered to the national consular staff by Member States, by integrating the training into their existing national training schemes.

Cost of Policy Option 2A and 2B– Objective 3

No significant costs are made in implementing this option (0).

Cost of Policy Option 3 – Objective 3

No measures foreseen.

⁸⁹ Further details on how we derive to these cost estimates for 2018-2020 is presented in section 2.8 of Annex II.

9.2.4 Cost Assessment for specific objective 4 - Cooperation and coordination

Cost of Policy Option 1 – Objective 4

Soft law measure	Costs
Information sharing (incl. development of digital tools or enhancing functionalities of CoOL)	Limited costs (-) The main costs under this option would be the development of a new information exchange tool or enhancing the functionalities of CoOL. Given no data is available for the running of CoOL, we estimate the development and running of the additional functionality to be approximately equivalent to the cost of DG JUST running the consular protection website (EUR 78,000).
Prioritisation of resources for EU Delegations	Limited costs (-) - The reprioritisation of resources for EU Delegations would mean that the time allocated to consular activities would increase in a cost neutral way. Any increase in the time spent on consular affairs would be offset by a reduction in other activities (to be determined). As such the resources needed to reprioritise the activities of EU Delegation would be limited (e.g. additional training and the development of new job descriptions).As such, the costs of the option is considered to be limited
Development of guidelines and best practice guides for consular staff	Limited costs (-) - The costs are calculated on the basis of the EEAS collecting best practices at the outset of the introduction of the policy option and updating them annually. It would require a small amount of input from national authorities in sharing best practices with the EEAS. The estimated resources needed from the EEAS would be 1 FTE for one month at the outset, the ongoing costs would then be absorbed as part of the normal role of the EEAS in its support role to the work of the COCON. In addition, EU Delegations' staff and national authorities would also be expected to provide some resources although they would be marginal and expect to be more than a couple of days FTE per country per year.
Global joint coordination exercises	No costs (0) Given Joint Coordination Exercises are already organised (albeit at local level), there would be no significant costs associated with the option, as the global exercise would be included in the EEAS' existing activities.

Cost of Policy Option 2 A – Objective 4

Policy options	Costs
Legal amendment aligning supporting role of EU Delegations with wording of EEAS decision (art 11)	Limited costs (-) The extension of the role of EU Delegations to have the capacity to support Member States in providing consular protection will entail a reprioritisation of the staff and the training of existing staff to ensure they are able to provide consular services. The cost is thus similar to the reprioritisation of resources foreseen under option 1.

Policy options	Costs
Legal amendment allowing the chairing or co-chairing of LCC meeting by EU Delegation with participation of unrepresented Member States (art. 12)	Neutral (0) Under this option, the costs to EU Delegations would be marginal as they often already chair LCC meetings. On the other hand, Member States are expected to make a small saving in administrative burden by not having to chair these meetings.
Legal amendment enhancing the JFW, incl. integrating lead state concept (art. 13)	Neutral (0) There are currently approximately 90 developed JFWs, with more in the process of being developed. Given this option codifies what is already happening to a large extent, the costs compared to the baseline would be marginal. The only additional costs incurred would be the annual update of the JFWs although this could be done directly with existing resources and only require limited additional resources. The EEAS Consular Affairs Division would be responsible for the activity.
Legal amendment to include an explicit reference to Joint Consular Teams (art. 13)	Neutral (0) The use of Joint Consular Teams (JCT) would be cost neutral for the EEAS. The EEAS Consular Affairs Division (ISP.4) has been reinforced with the creation of a consular task force. Participating in JCT is part of their duties, making this option cost neutral
Legal amendment to include explicit reference to the data sharing in line with GDPR and DPREUI	Neutral (0) EU Delegations, embassies consulates and other relevant administrations already deal with personal data on a regular basis and are thus already compliant with data processing requirements. As such, this option would not incur any additional costs.

Cost of Policy Option 2B – Objective 4

The cost of option 2B is similar to the cost of option 2A, with the exception of the higher cost relating to the additional element of option 2 A, namely the legal amendment allowing EUDEL to provide direct consular protection upon request by Member States.

Policy options	Costs
Legal amendment allowing EU Delegations to provide direct consular protection upon request by Member States	<p>High costs (--) The extension of the role of EU Delegations to have the capacity to provide consular protection directly upon request by Member States, will entail a (albeit limited) increase in staff and the training of existing staff to ensure they are able to provide these services.</p> <p>Assuming EU Delegations would mostly receive requests from Member States in countries with no or low levels of representation (namely the 4 uncovered countries where EU Delegations are present and the 72 countries with low Member State representation), this option would require at least 76 consular correspondents having to dedicate more time on</p>

Policy options	Costs
	<p>consular affairs (twice of three times to time they currently dedicate). Currently, consular correspondents dedicate 20% of their time to consular matters.</p> <p>Under this option, the time allocated to consular correspondent activities would double or triple depending on the size of the country. As such the resources used for consular correspondents would increase by between 0.2 FTE and 0.4 FTE. Here we assume that a consular correspondent would be of grade AD7 (EUR 78,712.31 basic salary^[1] + 50% of office space, equipment and overheads = EUR 118,068.46). Given there are currently 135 EU Delegations (and consular correspondents), the cost of this increase in personnel would range between</p> <p>EUR 118,068.46 x 0.2 x 76 = EUR 1,794,641 and</p> <p>EUR 118,068.46 x 0.4 x 76 = EUR 3,589,281</p>

Cost of Policy Option 3 – Objective 4

Policy options	Costs
Legal amendment empowering EU Delegations to provide direct consular protection to unrepresented EU citizens without prior Member State request	<p>High costs (--) The extension of the role of EU Delegations to have the capacity to provide consular protection will entail an increase in staff and the training of existing staff to ensure they are able to provide these services.</p> <p>According to CoOL data, there are 26 countries with no EU Member State representation (including 4 where an EU delegation is present) and 72 countries with low Member State representation. As such, this option would require at least 72+4=76 consular correspondents having to dedicate more time on consular affairs (twice of three times to time they currently dedicate). Currently, consular correspondents dedicate 20% of their time to consular matters.,</p> <p>Under this option, the time allocated to consular correspondent activities would double or triple depending on the size of the country. As such the resources used for consular correspondents would increase by between 0.2 FTE and 0.4 FTE. Here we assume that a consular correspondent would be of grade AD7 (EUR 78,712.31 basic salary⁹⁰ + 50% of office space, equipment and overheads = EUR 118,068.46). The cost of this increase in personnel would range between</p> <p>EUR 118,068.46 x 0.2 x 76 = EUR 1,794,640.5and</p> <p>EUR 118,068.46 x 0.4 x 76 = EUR 3,589,281.</p>
Legal amendment appointing EU Delegations as chair of LCC meeting in crisis, as well as in	<p>Neutral (0) Under this option, the costs to EU Delegations would be marginal as they often already chair LCC meetings. On the other hand, Member States are expected to make a small saving in administrative burden by not having to chair these meetings.</p>

⁹⁰ OJEU, 11 December 2020, 2020 Annual update of the remuneration and pensions of the officials and other servants of the European Union and the correction coefficients applied thereto, based on a grade AD7, step 2.

Policy options	Costs
non crisis situations in countries with low levels of Member State representation (art. 12 Directive)	
Legal amendment extending the role and responsibilities of EU delegations, incl. leading on JFW (art. 13 Directive)	Neutral (0) There are currently approximately 90 developed JFWs, with more in the process of being developed. Given this option codifies what is already happening to a large extent, the costs compared to the baseline would be marginal. The only additional costs incurred would be the annual update of the JFWs although this could be done directly with existing resources and only require limited additional resources.
Legal amendment adding an explicit reference to Joint consular teams, - JCT systematically considered in crisis (art. 13(3) Directive)	Limited costs (-) While the use of Joint Consular Teams (JCT) would be cost neutral for the EEAS, making them mandatory, and asking Member states to provide staff will have a small cost impact on Member States
Legal amendment) allowing the UCPM to be activated directly by the EU for crisis situations (art 13(4) Directive)	No cost (0) The EU being able to activate the UCPM would not have additional costs

9.2.5 Cost Assessment for specific objective 5 - Communication

Cost of Policy Option 1 – Objective 5

Soft law measure	Costs
Guidance documents	<p>Limited costs (-) The costs are calculated on the basis of the EEAS collecting best practices at the outset of the introduction of the policy option and updating them annually. It would require a small amount of input from national authorities in sharing best practices with the EEAS.</p> <p>The estimated resources needed from the EEAS would be marginal as the EEAS Consular Affairs Division (ISP4) could cover this measure under its existing resources. In addition, EU Delegation staff and national authorities would also be expected to provide some resources although they would also be marginal, estimated at a couple of days FTE per country per year.</p> <p>We estimate that the cost of updating Member States' website be marginal as these could be carried out through existing resources that are responsible for these channels and tools.</p>

Soft law measure	Costs
	However the level of effort and resource needed will also depend on the level of development of the existing tools in place.
Updating of existing EU information and communication channels	Limited costs (-) We estimate that updating the Europa website would require one FTE person for three months at the beginning and one month per year thereafter. Assuming a grade AD7 Commission official would carry out the updates (EUR 78,712.31 basic salary ⁹¹), the cost for the first year would be EUR 19,678 and then EUR6,559 per year thereafter.
EU to organise an awareness raising campaign for EU citizens on their right to consular protection	Limited costs (-) According to DG JUST reported budget, an awareness campaign would cost an estimated EUR 50,000 to EUR 100,000. To increase its effectiveness and outreach, the campaign would have to be supplemented at the national level by each Member State. This would increase the scale of the campaign and require additional funds. In total, the cost of such a campaign is estimated to range between EUR 500,000 and EUR 1 million.

Cost of Policy Option 2 – Objective 5

Policies	Costs
Requirement for Member States to provide the EC with up to date information on consular contact points, honorary consuls, bilateral agreements and travel advice + requirement for EU to publicise information	<p>Limited costs for the EU (-) We estimate that updating the Commission, the EEAS and EU Delegation' information and communication channels in line with the information provided by the Member States in a machine-readable format would require one FTE person for three months at the beginning and one month per year thereafter. Assuming a grade AD7 Commission official (EUR 78,712.31 basic salary), the cost for the first year would be EUR 19,678 and then EUR 6,559 per year thereafter.</p> <p>Limited cost for the Member States (-) Member States would have to share additional information with the Commission (i.e., contact points and travel advices). However, this information is already collected by the Member States and would thus not add an additional burden beyond adjusting the information into the machine-readable format required by the Commission.</p>
Central communication with unrepresented EU	Limited cost for the EU (-) This policy option would require the development, maintenance and operationalisation of additional communication channels such as SMS alert systems and mobile applications. These channels would not need to be complex and could be limited for instance, to WhatsApp, Facebook or SMS. Based on the yearly budget of DG JUST's consular protection website, we estimate that the operation, maintenance,

Policies	Costs
citizens in crisis agreed at local level	and development of communication channels would amount to around EUR 80,000 per year. This cost could be lowered if instead of an additional channel(s), new features were deployed in CoOL. Additionally we estimate that the current CoOL administrator would be able to take on the administrator role for these additional channels within its current role. However, it should be noted that in the event of a large-scale global crisis such as the COVID-19 pandemic more staff would be needed on an ad-doc basis to provide additional support.
Option for prior travel registration and sharing of information	Limited cost for the Member States (-) All Member States already offer the possibility for citizens to register when traveling or living abroad. Therefore no new registration tools would need to be set up. However, ensuring that the data can be easily shared with other Member States, EU Delegations and potentially other actors would require the streamlining of the information collected by Member States. Depending on the national systems being used by the Member States, it may require amending these systems to enable the exchange of information. However we do not foresee these changes to be significant enough to warrant a costly change in the infrastructure of the Member States registration systems. In addition, this policy option would have to be in line with GDPR requirements and would need to set out the purposes of the processing of personal data, the data concerned, data retention period, safeguards, etc. in line with the GDPR. However it is assumed that this is already the case for the data collected by the Member States and would therefore not require any additional cost.
Soft measures as under policy option 1	Limited cost (-)

Cost of Policy Option 3 – Objective 5

Policies	Costs
<ul style="list-style-type: none"> - A common European travel advice provided by EU Delegations - A common EU channel for crisis communication - Voluntary prior registration of travellers and expatriates 	<p>High costs (--) We assume that the travel advice would still be collected by the EU Member States consulates and embassies but sent directly to the Commission and/or EEAS. We estimate that one A7 FTE person at EEAS would be needed to collect and aggregate the information received from the Member States and to prepare communication in times of crisis. This corresponds to EUR 78,712.31 per year (cost of a grade 7 Commission official). . In addition, based on the yearly budget of DG JUST’s consular protection website, we estimate that the operation, maintenance, and development of a website would amount to around EUR 80,000 per year. Therefore, assuming a new dedicated website for both the European travel advice and the crisis communication (including the possibility for prior registration of travellers and expatriates), the cost of this website would be EUR 80,000 and potentially more if separate websites or additional tools were required such as a dedicated application for registration. While the existing Europa website could be used as an alternative, the development of a tailored independent website is recommended to account for the added foot traffic of EU citizens looking for information on consular protection, travel advices, registrations, etc.,</p>

9.2.6 Cost Assessment for specific objective 6 – Financial Reimbursement

Cost of Policy Option 1 – Objective 6

Soft measures	Costs
Guidance documents to clarify the way in which Member States can seek reimbursement from each other	<p>Limited costs (-) - The costs are calculated on the basis of the EEAS collecting best practices at the outset of the introduction of the policy option and updating them annually. It would require a small amount of input from national authorities in sharing best practices with the EEAS.</p> <p>The estimated resources needed from the EEAS would be 2 FTE for one month at the outset, followed by one FTE for one month annually. In addition, EU delegation staff and national authorities would also be expected to provide some resources although they would be marginal and expect to be more than a couple of days FTE per country per year.</p>
Training to provide greater clarity and awareness of the Directive's financial reimbursement procedures	<p>No costs (0) - Training for Member States' consular staff would be provided online, in the form of eLearning modules, or locally and face to face. However, the training would not require any additional cost as it would be integrated into the already established EU Learn modules, the monthly seminars with EU Delegations, and the various in-depth training sessions organised by EEAS each year.</p>

Cost of Policy Option 2 – Objective 6

Soft measures	Costs
Legal amendments to Article 14/15 Directive: Introduce possibility of direct reimbursement by EU citizens	<p>No costs (0) - The option to allow citizens to pay for the assistance provided directly would result in a reduction of administrative costs for the Member States and increase the likelihood of Member States having the costs of providing consular assistance to unrepresented citizens be reimbursed (currently, only four Member States apply the rules in practice and seek reimbursement from another Member State or reimburse another Member State).⁹² This would result in savings for the Member States (+).</p>
Legal amendments to Article 14/15 Directive: Development of a standard form for reimbursement of assistance to represented citizens	<p>No costs (0) - The costs of the development of a new revised Standard form to cover reimbursement both for unrepresented and represented EU citizens would be limited for the EU (-) and Member States would not bear any costs (0).</p>
Soft measures as under policy option 1	See under policy option 1

Cost of Policy Option 3 – Objective 6

Soft measures	Costs
An “EU Consular Protection Fund” to pay for the costs incurred to provide consular protection to (un)represented EU citizens and an IT system to digitalise the reimbursement procedures..	Very high costs (---) The costs of this policy option would be very high as they require a complete change of the current infrastructure both at the EU level and at the Member State level and the development of an IT system to digitalise the reimbursement procedures.

8.ANNEK XI: PROBLEM TREE OF PREFERRED POLICY PACKAGE

This Annex presents the problem tree for the preferred policy package by specific objective.

Figure 24: Problem tree for Specific objective 1 - Personal scope

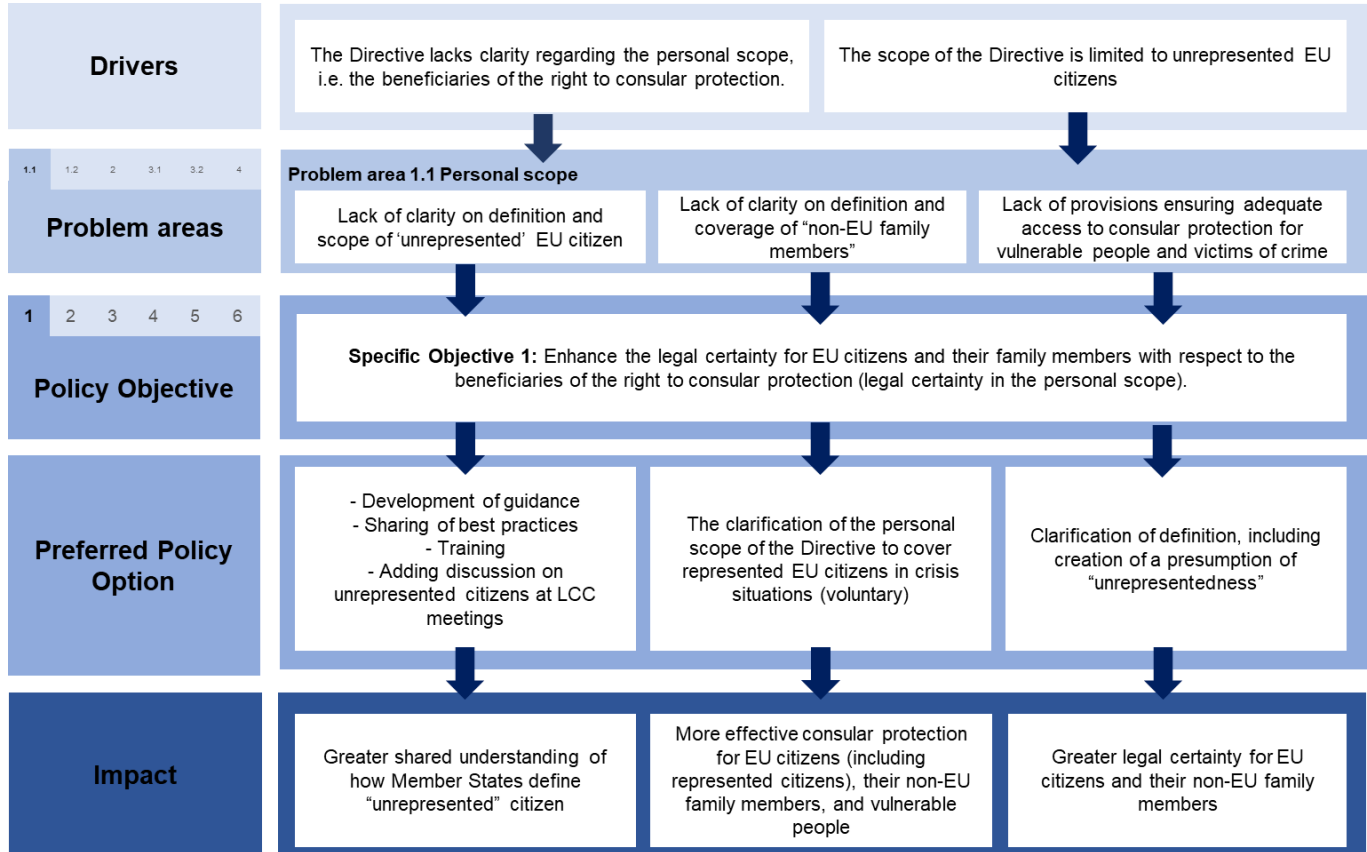


Figure 25: Problem tree for Specific objective 2 - Geographical scope

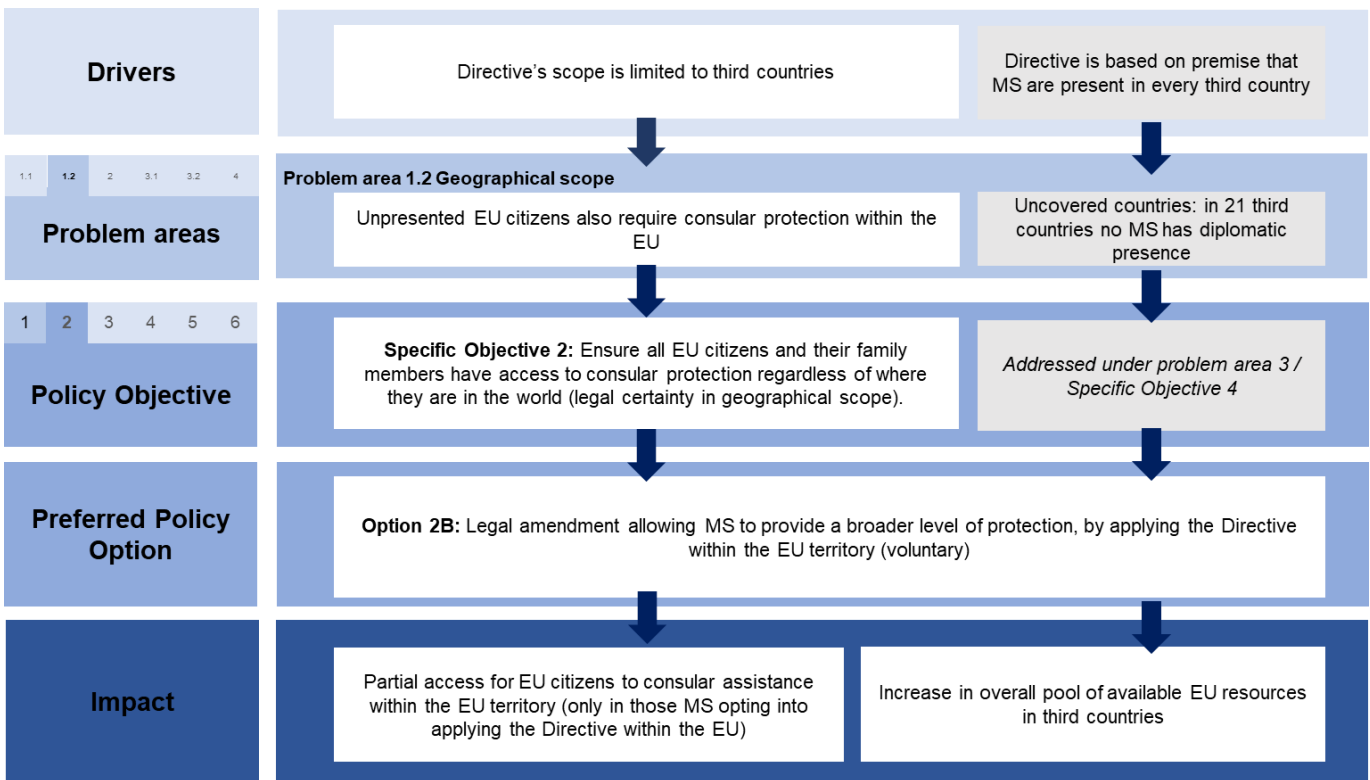


Figure 26: Problem tree for Specific objective 3 - Accessibility

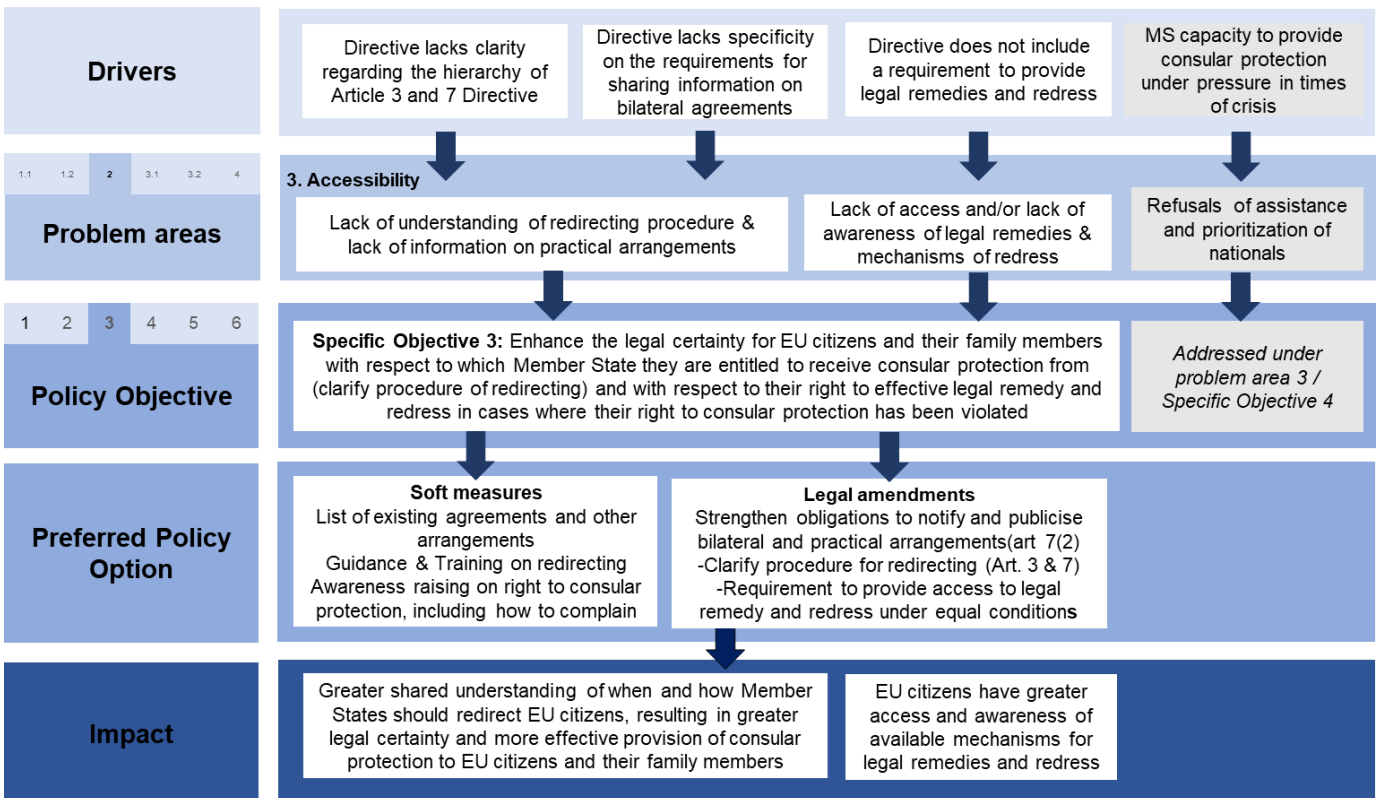


Figure 27: Specific objective 4 - Cooperation and coordination

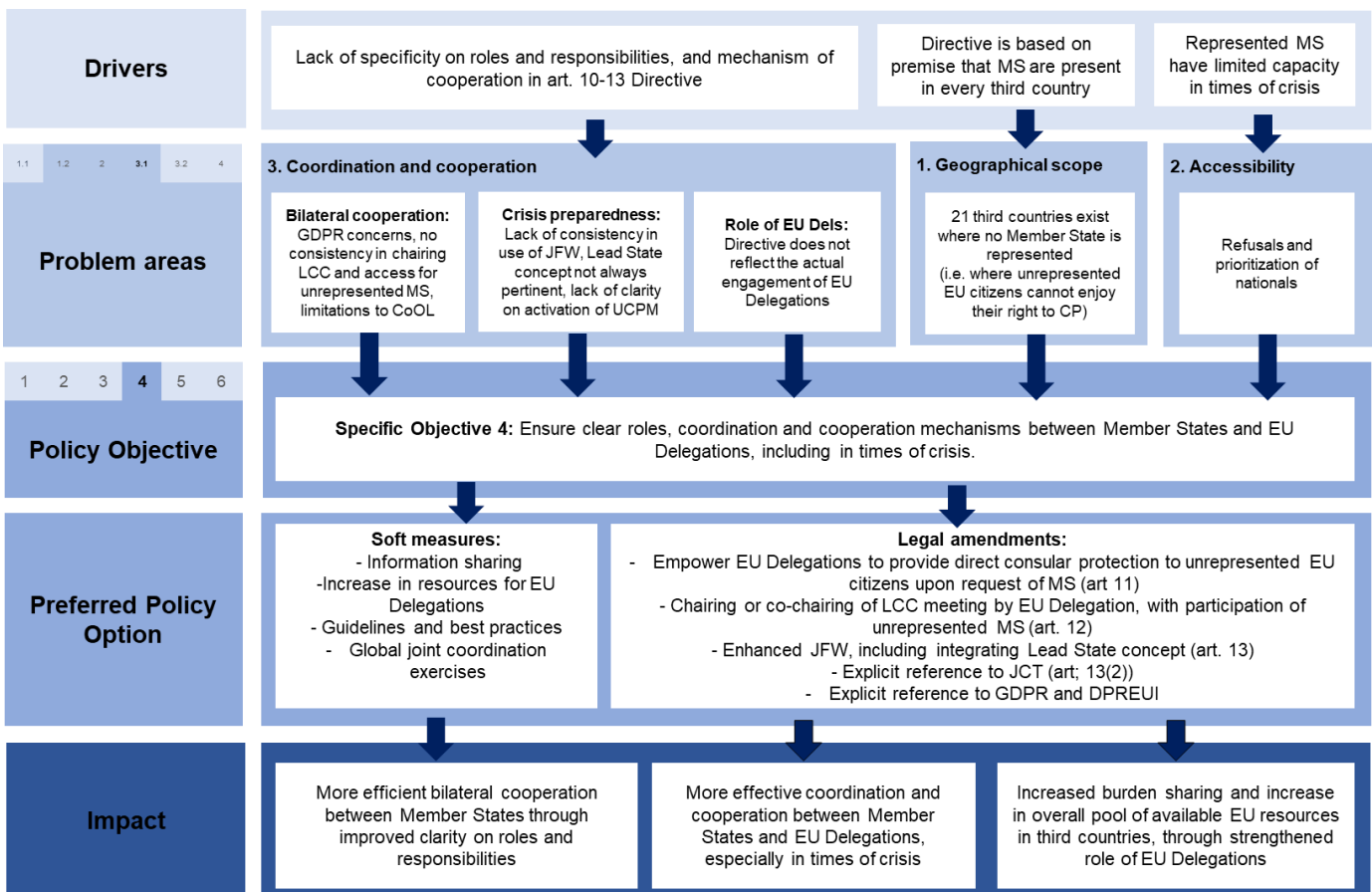


Figure 28: Specific objective 5 – Communication

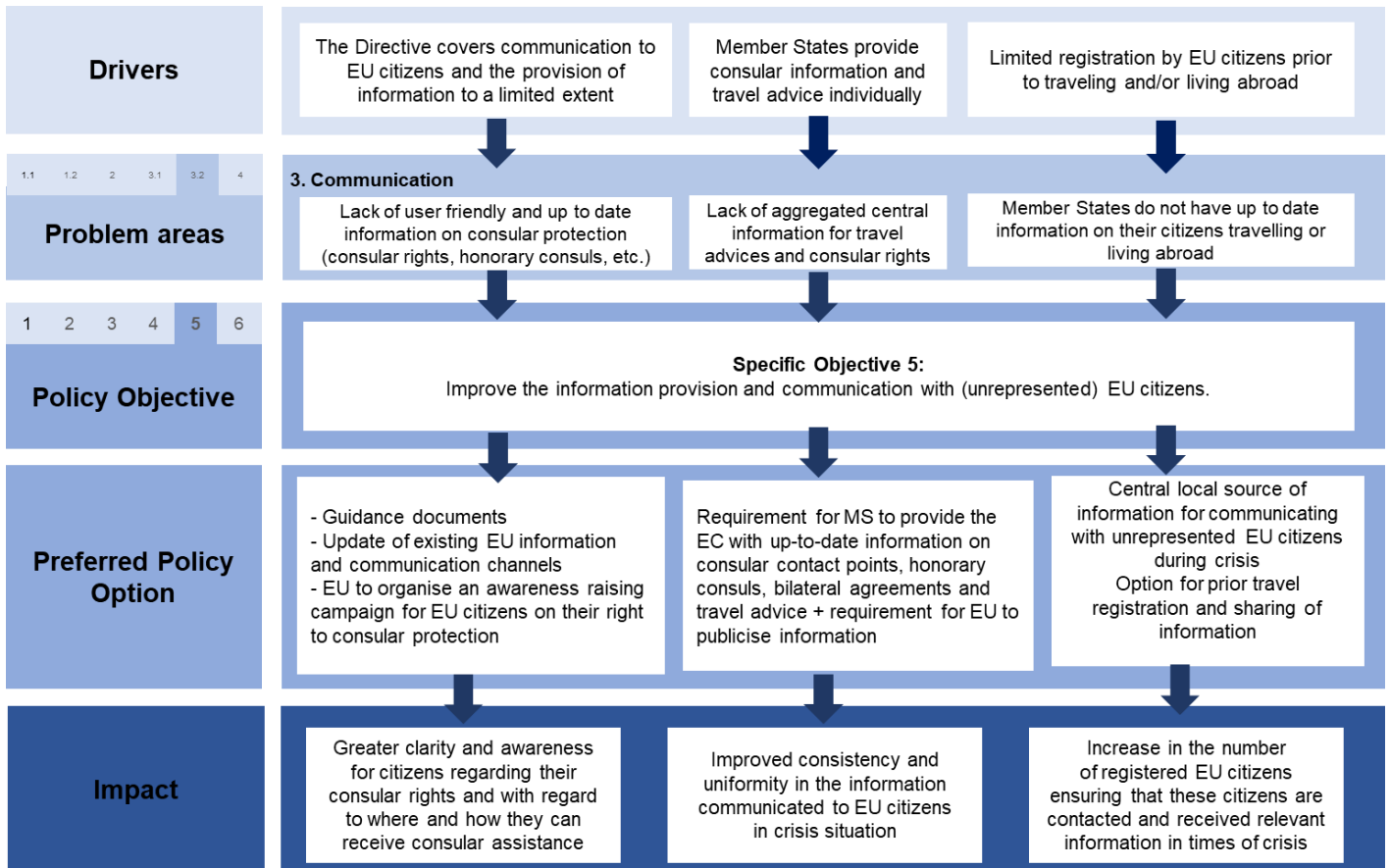
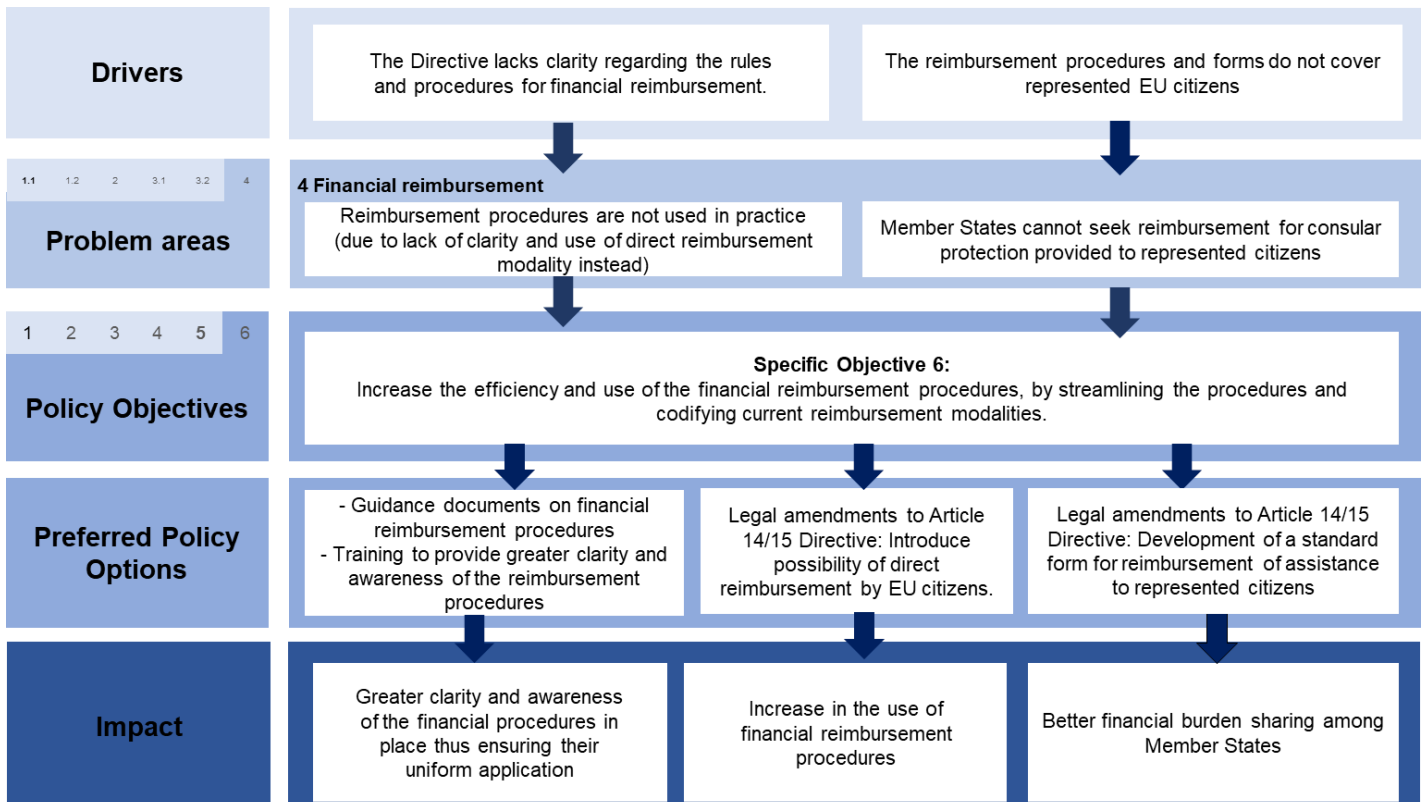


Figure 29: Specific objective 6 - Financial reimbursement





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