

Consular Relations Act

Principal Act

Act. No. 1968-27	<i>Commencement</i>	1.2.1971
	<i>Assent</i>	25.10.1968

Amending enactments	Relevant current provisions	Commencement date
Act. 2007-17	s. 9(1)-(2)	14.6.2007
LN. 2018/100	s. 13, Sch. 3	1.5.2018

Transposing-
Directive (EU) 2015/637

English sources-
Consular Relations Act 1968 (1968 c.18).

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SCHEDULE 1.

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THE COUNCIL OF THE EUROPEAN UNION,

AN ACT TO GIVE EFFECT IN GIBRALTAR TO THE VIENNA CONVENTION ON CONSULAR RELATIONS; TO ENABLE EFFECT TO BE GIVEN TO OTHER AGREEMENTS CONCERNING CONSULAR RELATIONS AND TO MAKE FURTHER PROVISION IN GIBRALTAR WITH RESPECT TO CONSULAR RELATIONS BETWEEN THE UNITED KINGDOM AND OTHER COUNTRIES AND MATTERS ARISING IN CONNECTION THEREWITH, TO RESTRICT THE JURISDICTION OF COURTS WITH RESPECT TO CERTAIN MATTERS CONCERNING OR ARISING ON BOARD CERTAIN SHIPS OR AIRCRAFT; TO ENABLE DIPLOMATIC AGENTS AND CONSULAR OFFICERS TO ADMINISTER OATHS AND DO NOTARIAL ACTS IN CERTAIN CASES; AND FOR PURPOSES CONNECTED WITH THOSE MATTERS.

Short title.

1. This Act may be cited as the Consular Relations Act.

Interpretation.

2. For the purposes of section 6, 7 or 8 a ship, and for the purposes of section 6 an aircraft, shall be treated as belonging to a State in such circumstances as may be specified by an order under that section; and different circumstances may be so specified with respect to different States and different classes of ship or aircraft.

Application of Vienna Convention.

3.(1) Subject to section 4 and section 5(2) the provisions set out in Schedule 1 (being Articles or parts of Articles of the Vienna Convention on Consular Relations signed in 1963) shall have the force of law in Gibraltar and shall for that purpose be construed in accordance with subsections (2) to (11) of this section.

(2) In those provisions—

“authorities of the receiving State” shall be construed as including any police officer and any person exercising a power of entry to any premises under any enactment;

“grave crime” shall be construed as meaning any offence punishable (on a first conviction) with imprisonment for a term that may extend to five years or with a more severe sentence;

“Ministry for Foreign Affairs” shall be construed as meaning the Department of the Secretary of State concerned;

“national of the receiving State” shall be construed as meaning a British citizen, a British Overseas Territories citizen, a British Overseas citizen, a British subject or a British protected person within the meaning of the British Nationality Act 1981.

(3) The reference in paragraph 2 of Article 17 of Schedule I to any privileges and immunities accorded by customary international law or by international agreements shall be construed as a reference to any privileges and immunities conferred under the Diplomatic Privileges (International Organizations) Act¹.

(4) The references in Article 44 to matters connected with the exercise of the functions of members of a consular post shall be construed as references to matters connected with the exercise of consular functions by consular officers or consular employees.

(5) For the purposes of Article 45 of Schedule I and that Article as applied by Article 58, a waiver shall be deemed to have been expressed by a State if it has been expressed by the head, or any person for the time being performing the functions of head, of the diplomatic mission of that State or, if there is no such mission, of the consular post concerned.

(6) The exemption granted by Article 48 of Schedule 1 with respect to any services shall be deemed to except those services from any class of employment which is insurable employment, or in respect of which contributions are required to be paid under the Social Security (Employment Injuries Insurance) Act², the Social Security (Insurance) Act³ or any enactment for the time being amending either of those Acts, but not so as to render any person liable to any contribution which he would not be required to pay if those services were not so excepted.

(7) Article 48 of Schedule 1 shall not affect any agreement made between the United Kingdom and any other State before the commencement of this Act and shall not be taken to prevent the making of any such agreement after the commencement of this Act.

(8) Articles 50, 51, 52, 54, 62 and 67 of Schedule 1 shall be construed as granting any privilege or immunity, which they require to be granted.

(9) The reference in Article 57 of Schedule I to the privileges and immunities provided in Chapter II shall be construed as referring to those provided in Section II of that Chapter.

(10) The reference in Article 70 of Schedule 1 to the rules of international law concerning diplomatic relations shall be construed as a reference to the provisions of the Diplomatic Privileges Act⁴.

(11) The references in Article 71 of Schedule 1 to additional privileges and immunities that may be granted by the receiving State or to privileges and immunities so far as these are granted

¹ **1948-28**

² **1952-10**

³ **1955-14**

⁴ **1965-18**

by the receiving State shall be construed as referring to such privileges and immunities as may be specified by the Governor by order.

Restrictions of privileges and immunities.

4. If it appears to the Governor that the privileges and immunities accorded to a consular post of the United Kingdom in a territory of any State, or to persons connected with such a consular post, are less than those conferred by this Act on a consular post of that State or on persons connected with such a consular post, the Governor may, with the prior approval of a Secretary of State, withdraw such privileges and immunities so conferred from all or any of the consular posts of that State or from such persons connected therewith as appears to him to be proper.

Agreements providing for additional or reduced privileges and immunities.

5.(1) Where any agreement made, whether before or after the passing of this Act between the United Kingdom and any other State provides for according to consular posts and persons connected with them privileges and immunities not accorded to them by the other provisions of this Act, the Governor may, with the prior approval of a Secretary of State, by order exercise, with respect to the consular posts of that State and persons connected with them, the powers specified in Schedule 2 so far as may be necessary to give effect to that agreement.

(2) Where any agreement made, whether before or after the passing of this Act, between the United Kingdom and any other State provides for according to consular posts and persons connected with them some but not all of the privileges and immunities accorded to them by the other provisions of this Act, the Governor may, with the prior approval of a Secretary of State, provide for excluding, with respect to consular posts of that State and persons connected with them, any of those privileges and immunities which are not provided for by the agreement.

Civil jurisdiction concerning service on board ship or aircraft.

6. The Governor may by order make provision for excluding or limiting the jurisdiction of any court in Gibraltar to entertain proceedings relating to the remuneration or any contract of service of the master or commander or a member of the crew of any ship or aircraft belonging to a State specified in the order, except where a consular officer of that State has been notified of the intention to invoke the jurisdiction of that court and has not objected within such time as may be specified by or under the order.

Jurisdiction over offences committed on board ship.

7.(1) The Governor may by order make provision for securing that, where an offence is alleged to have been committed on board any ship by the master or a member of the crew and the ship belongs to a State specified in the order, proceedings for the offence instituted otherwise than at the request or with the consent of a consular officer of that State are not entertained by any court in Gibraltar, unless—

- (a) the offence is alleged to have been committed by or against a person who is a national of the receiving State, as defined in section 3(2), or against a person other than the master or a member of the crew; or
 - (b) the offence is one involving the tranquility or safety of a port, or the law relating to safety of life at sea, public health, oil pollution, wireless telegraphy, immigration or customs or is of any other description specified in the order; or
 - (c) the offence is one comprised in the definition of “grave crime” in section 3(2).
- (2) For the purposes of this section, an offence, which affects the property of any person, shall be deemed to have been committed against him.
- (3) For the purposes of this section, any document purporting to be signed by or on behalf of a consular officer and stating that he has requested or consented to the institution of any proceedings shall be sufficient proof of that fact unless the contrary is shown.

Detention on board ship for disciplinary offences.

8. The Governor may by order designate any State for the purposes of this section; and where a State is so designated, a member of the crew of a ship belonging to that State who is detained in custody on board for a disciplinary offence shall not be deemed to be unlawfully detained unless—

- (a) his detention is unlawful under the laws of that State or the conditions of detention are inhumane or unjustifiably severe; or
- (b) there is reasonable cause for believing that his life or liberty will be endangered for reasons of race, nationality, political opinion or religion, in any country to which the ship is likely to go.

Refund of customs duty on motor spirit.

9.(1) The Minister responsible for finance may, in his discretion, authorize a refund of duty paid on motor spirit which is—

- (a) bought in Gibraltar; and
- (b) used for such purpose that exemption from duty would have been required to be granted by virtue of Article 50 of Schedule 1 or by section 5(1).

(2) The Minister responsible for finance may impose conditions subject to which any refund is to be made.

(3) Any refund made under this section shall be made from the Consolidated Fund.

Right of diplomatic agents and consular officers to administer oaths and do notarial acts in certain cases.

10.(1) A diplomatic agent or consular officer of any State may, if authorized to do so under the laws of that State, administer oaths, take affidavits and do notarial act—

- (a) required by a person for use in that State or under the laws thereof; or
- (b) otherwise required by a national of that State but not for use in Gibraltar except under the laws of some other country.

(2) The Governor may, by order, exclude or restrict the provisions of subsection (1) in relation to diplomatic agents or consular officers of any State if it appears to him that in any territory of that State diplomatic agents or consular officers of the United Kingdom are not permitted to perform functions corresponding in nature and extent to those authorized by that subsection.

(3) In this section “diplomatic agent” has the same meaning as in the Diplomatic Privileges Act.

Evidence.

11. If in any proceedings any question arises whether or not any person is entitled to any privilege or immunity under this Act, a certificate issued by or under the authority of the Governor stating any fact relating to that question shall be conclusive evidence of that fact.

Commonwealth and Irish consular officers.

12.(1) If consular officers are appointed by the Government of any country within the Commonwealth or of the Republic of Ireland to serve in Gibraltar, any enactment which confers any function on consular officers shall be construed in accordance with the following provisions of this section.

(2) The Governor may, by order, make provision for making in the Merchant Shipping Act⁵ or the Consular Conventions Act⁶ such adaptations of any provision referring to a consular officer of a foreign State as appear to him to be necessary or expedient to make the provision applicable to consular officers appointed as mentioned in subsection (1) and to dispense with any requirement as to the conclusion of a consular convention.

Directive to have effect.

13.(1) The Directive, as set out in Schedule 3, has effect in Gibraltar.

⁵ 1935-09

⁶ 1950-11

(2) In this Act Directive means Council Directive 2015/637 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.

(3) In accordance with Article 2(2) of the Directive, the Directive shall not apply to the consular protection provided by Gibraltar's honorary consuls.

SCHEDULE 1.PROVISIONS OF VIENNA CONVENTION HAVING THE
FORCE OF LAW IN GIBRALTAR.

ARTICLE 1

Definitions

1. For the purposes of the present Convention, the following expressions shall have the meanings hereunder assigned to them—

- (a) “consular post” means tiny consulate-general, vice-consulate or consular agency;
- (b) “consular district” means the area assigned to a consular post for the exercise of consular functions;
- (c) “head of consular post” means the person charged with the duty of acting in that capacity;
- (d) “consular officer” means any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions;
- (e) “consular employee” means any person employed in the administrative or technical service of a consular post;
- (f) “member of the service staff” means any person employed in the domestic service of a consular post;
- (g) “members of the consular post” means consular officers, consular employees and members of the service staff;
- (h) “members of the consular staff” means consular officers, other than the head of a consular post, consular employees and members of the service staff;
- (i) “member of the private staff” means a person who is employed exclusively in the private service of a member of the consular post;
- (j) “consular premises” means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used exclusively for the purposes of the consular post;
- (k) “consular archives” includes all the papers, documents, correspondence, books, films, tapes and registers of the consular post, together with the ciphers and codes,

the card-indexes and any article of furniture intended for their protection or safekeeping.

2. Consular officers are of two categories, namely career consular officers and honorary consular officers. The provisions of Chapter II of the present Convention apply to consular posts headed by career consular officers; the provisions of Chapter III govern consular posts headed by honorary consular officers.

3. The particular status of members of the consular posts who are nationals or permanent residents of the receiving State is governed by Article 71 of the present Convention.

CHAPTER I.—CONSULAR RELATIONS IN GENERAL.

ARTICLE 5

Consular functions

Consular functions consist in—

- (a) protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law;
- (b) furthering the development of commercial, economic, cultural and scientific relations between the sending State and the receiving State and otherwise promoting friendly relations between them in accordance with the provisions of the present Convention;
- (c) ascertaining by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested;
- (d) issuing passports and travel documents to nationals of the sending State, and visas or appropriate documents to persons wishing to travel to the sending State;
- (e) helping and assisting nationals, both individuals and bodies corporate, of the sending State;
- (f) acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving State;
- (g) safeguarding the interests of nationals, both individuals and bodies corporate, of the sending State in cases of succession mortis causa in the territory of the receiving State, in accordance with the laws and regulations of the receiving State;

- (h) safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interests of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons;
- (i) subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for the preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defence of their rights and interests;
- (j) transmitting judicial and extra-judicial documents or executing letters rogatory or commissions to take evidence for the courts of the sending State in accordance with international agreements in force or, in the absence of such international agreements, in any other manner compatible with the laws and regulations of the receiving State;
- (k) exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews;
- (l) extending assistance to vessels and aircraft mentioned in sub-paragraph (k) of this Article and to their crews, taking statements regarding the voyage of a vessel, examining and stamping the ship's papers, and, without prejudice to the powers of the authorities of the receiving State, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen in so far as this may be authorized by the laws and regulations of the sending State;
- (m) performing any other functions entrusted to a consular post by the sending State which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State or which are referred to in the international agreements in force between the sending State and the receiving State.

ARTICLE 15

Temporary exercise of the functions of the head of a consular post

1. If the head of a consular post is unable to carry out his functions or the position of head of consular post is vacant, an acting head of post may act provisionally as head of the consular post.

2. The full name of the acting head of post shall be notified either by the diplomatic mission of the sending State or, if that State has no such mission in the receiving State, by the head of the consular post, or, if he is unable to do so, by any competent authority of the sending State, to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry. As a general rule, this notification shall be given in advance. The receiving State may make the admission as acting head of post of a person who is neither a diplomatic agent nor a consular officer of the sending State in the receiving State conditional on its consent.

3. The competent authorities of the receiving State shall afford assistance and protection to the acting head of post. While he is in charge of the post, the provisions of the present Convention shall apply to him on the same basis as to the head of the consular post concerned. The receiving State shall not, however, be obliged to grant to an acting head of post any facility, privilege or immunity which the head of the consular post enjoys only subject to conditions not fulfilled by the acting head of post.

4. When, in the circumstances referred to in paragraph 1 of this Article, a member of the diplomatic staff of the diplomatic mission of the sending State in the receiving State is designated by the sending State as an acting head of post, he shall, if the receiving State does not object thereto, continue to enjoy diplomatic privileges and immunities.

ARTICLE 17

Performance of diplomatic acts by consular officers

1. In a State where the sending State has no diplomatic mission and is not represented by a diplomatic mission of a third State, a consular officer may, with the consent of the receiving State, and without affecting his consular status, be authorized to perform diplomatic acts. The performance of such acts by a consular officer shall not confer upon him any right to claim diplomatic privileges and immunities.

2. A consular officer may, after notification addressed to the receiving State, act as representative of the sending State to any inter-governmental organization. When so acting, he shall be entitled to enjoy any privileges and immunities accorded to such a representative by customary international law or by international agreements; however, in respect of the performance by him of any consular function, he shall not be entitled to any greater immunity from jurisdiction than that to which a consular officer is entitled under the present Convention.

CHAPTER II.—FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CONSULAR POSTS, CAREER CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST.

SECTION I.—FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO A CONSULAR POST.

ARTICLE 31

Inviolability of the consular premises

1. Consular premises shall be inviolable to the extent provided in this Article.
2. The authorities of the receiving State shall not enter that part of the consular premises which is used exclusively for the purpose of the work of the consular post except with the consent of the head of the consular post or of his designee or of the head of the diplomatic mission of the sending State. The consent of the head of the consular post may, however, be assumed in case of fire or other disaster requiring prompt protective action.
4. The consular premises, their furnishings, the property of the consular post and its means of transport shall be immune from any form of requisition for purposes of national defence or public utility. If expropriation is necessary for such purposes, all possible steps shall be taken to avoid impeding the performance of consular functions, and prompt, adequate and effective compensation shall be paid to the sending State.

ARTICLE 32

Exemption from taxation of consular premises

1. Consular premises and the residence of the career head of consular post of which the sending State or any person acting on its behalf is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.
2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the sending State or with the person acting on its behalf.

ARTICLE 33

Inviolability of the consular archives and documents

The consular archives and documents shall be inviolable at all times and wherever they may be.

ARTICLE 35

Freedom of communication

1. The receiving State shall permit and protect freedom of communication on the part of the consular post for all official purposes. In communicating with the Government, the diplomatic missions and other consular posts, wherever situated, of the sending State, the consular post may employ all appropriate means, including diplomatic or consular couriers, diplomatic or consular bags and messages in code or cipher. However, the consular post may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the consular post shall be inviolable. Official correspondence means all correspondence relating to the consular post and its functions.
3. The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reason to believe that the bag contains something other than the correspondence, documents or articles referred to in paragraph 4 of this Article, they may request that the bag be opened in their presence by an authorized representative of the sending State. If this request is refused by the authorities of the sending State, the bag shall be returned to its place of origin.
4. The packages constituting the consular bag shall bear visible external marks of their character and may contain only official correspondence and documents or articles intended exclusively for official use.
5. The consular courier shall be provided with an official document indicating his status and the number of packages constituting the consular bag. Except with the consent of the receiving State he shall be neither a national of the receiving State, nor unless he is a national of the sending State, a permanent resident of the receiving State. In the performance of his functions he shall be protected by the receiving State. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.
6. The sending State, its diplomatic missions and its consular posts may designate consular couriers ad hoc. In such cases the provisions of paragraph 5 of this Article shall also apply except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the consular bag in his charge.
7. A consular bag may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a consular courier. By arrangement with the appropriate local authorities, the consular post may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft.

ARTICLE 39

Consular fees and charges

1. The consular post may levy in the territory of the receiving State the fees and charges provided by the laws and regulations of the sending State for consular acts.
2. The sums collected in the form of the fees and charges referred to in paragraph 1 of this Article, and the receipts for such fees and charges, shall be exempt from all dues and taxes in the receiving State.

SECTION II.—FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CAREER CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST.

ARTICLE 41

Personal inviolability of consular officers

1. Consular officers shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authority.
2. Except in the case specified in paragraph 1 of this Article, consular officers shall not be committed to prison or liable to any other form of restriction on their personal freedom save in execution of a judicial decision of final effect.

ARTICLE 43

Immunity from jurisdiction

1. Consular officers and consular employees shall not be amenable to the jurisdiction of the judicial or administrative authorities of the receiving State in respect of acts performed in the exercise of consular functions.
2. The provisions of paragraph 1 of this Article shall not, however, apply in respect of a civil action either—
 - (a) arising out of a contract concluded by a consular officer or a consular employee in which he did not contract expressly or impliedly as an agent of the sending State; or
 - (b) by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

ARTICLE 44

Liability to give evidence

1. Members of a consular post may be called upon to attend as witnesses in the course of judicial or administrative proceedings. A consular employee or a member of the service staff shall not, except in the cases mentioned in paragraph 3 of this Article, decline to give evidence. If a consular officer should decline to do so, no coercive measure or penalty may be applied to him.
2. The authority requiring the evidence of a consular officer shall avoid interference with the performance of his functions. It may, when possible, take such evidence at his residence or at the consular post or accept a statement from him in writing.
3. Members of a consular post are under no obligation to give evidence concerning matters connected with the exercise of their functions or to produce official correspondence and

documents relating thereto. They are also entitled to decline to give evidence as expert witnesses with regard to the law of the sending State.

ARTICLE 45

Waiver of privileges and immunities

1. The sending State may waive, with regard to a member of the consular post, any of the privileges and immunities provided for in Articles 41, 43 and 44.
2. The waiver shall in all cases be express, except as provided in paragraph 3 of this Article, and shall be communicated to the receiving State in writing.
3. The initiation of proceedings by a consular officer or a consular employee in a matter where he might enjoy immunity from jurisdiction under Article 43 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.
4. The waiver of immunity from jurisdiction for the purposes of civil or administrative proceedings shall not be deemed to imply the waiver of immunity from the measures of execution resulting from the judicial decision; in respect of such measures, a separate waiver shall be necessary.

ARTICLE 48

Social Security exemption

1. Subject to the provisions of paragraph 3 of this Article, members of the consular post with respect to services rendered by them for the sending State, and members of their families forming part of their households, shall be exempt from social security provisions, which may be in force in the receiving State.
2. The exemption provided for in paragraph 1 of this Article shall apply also to members of the private staff who are in the sole employ of members of the consular post, on condition—
 - (a) that they are not nationals of or permanently resident in the receiving State; and
 - (b) that they are covered by the social security provisions which are in force in the sending State or a third State.
3. Members of the consular post who employ persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations, which the social security provisions of the receiving State impose upon employers.
4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State, provided that such participation is permitted by that State.

ARTICLE 49

Exemption from taxation

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except—

- (a) indirect taxes of a kind, which are normally incorporated in the price of goods or services;
- (b) dues or taxes on private immovable property situated in the territory of the receiving State, subject to the provisions of Article 32;
- (c) estate, succession or inheritance duties, and duties on transfers, levied by the receiving State, subject to the provisions of paragraph (b) of Article 51;
- (d) dues and taxes on private income, including capital gains, having its source in the receiving State and capital taxes relating to investments made in commercial or financial undertakings in the receiving State;
- (e) charges levied for specific services rendered;
- (f) registration, court or record fees, mortgage dues and stamp duties, subject to the provisions of Article 32.

2. Members of the service staff shall be exempt from dues and taxes on the wages, which they receive for their services.

3. Members of the consular post who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall observe the obligations, which the laws and regulations of that State impose upon employers concerning the levying of income tax.

ARTICLE 50

Exemption from customs duties and inspection

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on—

- (a) articles for the official use of the consular post;
- (b) articles for the personal use of a consular officer or members of his family forming part of his household, including articles intended for his establishment. The articles

intended for consumption shall not exceed the quantities necessary for direct utilization by the persons concerned.

2. Consular employees shall enjoy the privileges and exemptions specified in paragraph 1 of this Article in respect of articles imported at the time of first installation.

3. Personal baggage accompanying consular officers and members of their families forming part of their households shall be exempt from inspection. It may be inspected only if there is serious reason to believe that it contains articles other than those referred to in subparagraph (b) of paragraph 1 of this Article, or articles the import or export of which is prohibited by the laws and regulations of the receiving State or which are subject to its quarantine laws and regulations. Such inspection shall be carried out in the presence of the consular officer or member of his family concerned.

ARTICLE 51

Estate of a member of the consular post or of a member of his family

In the event of the death of a member of the consular post or of a member of his family forming part of his household, the receiving State—

- (a) shall permit the export of the movable property of the deceased, with the exception of any such property acquired in the receiving State the export of which was prohibited at the time of his death;
- (b) shall not levy national, regional or municipal estate, succession or inheritance duties, and duties on transfers, on movable property the presence of which in the receiving State was due solely to the presence in that State of the deceased as a member of the consular post or as a member of the family of a member of the consular post.

ARTICLE 52

Exemption from personal services and contributions

The receiving State shall exempt members of the consular post and members of their families forming part of their households from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

ARTICLE 53

Beginning and end of consular privilege and immunities

1. Every member of the consular post shall enjoy the privileges and immunities provided in the present Convention from the moment he enters the territory of the receiving State on

proceeding to take up his post or, if already in its territory, from the moment when he enters on his duties with the consular post.

2. Members of the family of a member of the consular post forming part of his household and members of his private staff shall receive the privileges and immunities provided in the present Convention from the date from which he enjoys privileges and immunities in accordance with paragraph 1 of this Article or from the date of their entry into the territory of the receiving State or from the date of their becoming a member of such family or private staff, whichever is the latest.

3. When the functions of a member of the consular post have come to an end, his privileges and immunities and those of a member of his family forming part of his household or a member of his private staff shall normally cease at the moment when the person concerned leaves the receiving State or on the expiry of a reasonable period in which to do so, whichever is the sooner, but shall subsist until that time, even in case of armed conflict. In the case of the persons referred to in paragraph 2 of this Article, their privileges and immunities shall come to an end when they cease to belong to the household or to be in the service of a member of the consular post provided, however, that if such persons intend leaving the receiving State within a reasonable period thereafter, their privileges and immunities shall subsist until the time of their departure.

4. However, with respect to acts performed by a consular officer or a consular employee in the exercise of his functions, immunity from jurisdiction shall continue to subsist without limitation of time.

5. In the event of the death of a member of the consular post, the members of his family forming part of his household shall continue to enjoy the privileges and immunities accorded to them until they leave the receiving State or until the expiry of a reasonable period enabling them to do so, whichever is the sooner.

ARTICLE 54

Obligations of third States

1. If a consular officer passes through or is in the territory of a third State, which has granted him a visa if a visa was necessary while proceeding to take up or return to his post or when returning to the sending State, the third State shall accord to him all immunities provided for by the other Articles of the present convention as may be required to ensure his transit or return. The same shall apply in the case of any member of his family forming part of his household enjoying such privileges and immunities who is accompanying the consular officer or traveling separately to join him or return to the sending State.

2. In circumstances similar to those specified in paragraph 1 of this Article, third States shall not hinder the transit through their territory of other members of the consular post or of members of their families forming part of their households.

3. Third States shall accord to official correspondence and to other official communications in transit, including messages in code or cipher, the same freedom and protection as the receiving State is bound to accord under the present Convention. They shall accord to consular couriers who have been granted a visa, if a visa was necessary, and to consular bags in transit, the same inviolability and protection as the receiving State is bound to accord under the present Convention.

4. The obligations of third States under paragraphs 1, 2 and 3 of this Article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and to consular bags, whose presence in the territory of the third State is due to force majeure.

ARTICLE 55

Respect for the laws and regulations of the receiving State

2. The consular premises shall not be used in any manner incompatible with the exercise of consular functions.

3. The provisions of paragraph 2 of this Article shall not exclude the possibility of offices of other institutions or agencies being installed in part of the building in which the consular premises are situated, provided that the premises assigned to them are separate from those used by the consular post. In that event, the said offices shall not, for the purposes of the present convention, be considered to form part of the consular premises.

ARTICLE 57

Special provisions concerning private gainful occupation

2. Privileges and immunities provided in this Chapter shall not be accorded—

- (a) to consular employees or to members of the service staff who carry on any private gainful occupation in the receiving State;
- (b) to members of the family of a person referred to in sub-paragraph (a) of this paragraph or to members of his private staff;
- (c) to members of the family of a member of a consular post who themselves carry on any private gainful occupation in the receiving State.

CHAPTER III.—REGIME RELATING TO HONORARY CONSULAR OFFICERS AND CONSULAR POSTS HEADED BY SUCH OFFICERS.

ARTICLE 58

General provisions relating to facilities, privileges and immunities

1. Articles 35 and 39, paragraph 3 of Article 54 and paragraphs 2 and 3 of Article 55 shall apply to consular posts headed by an honorary consular officer. In addition, the facilities, privileges and immunities of such consular posts shall be governed by Articles 60, 61 and 62.
2. Articles 43, paragraph 3 of Article 44, Articles 45 and 53 shall apply to honorary consular officers. In addition, the facilities, privileges and immunities of such consular officers shall be governed by Articles 66 and 67.
3. Privileges and immunities provided in the present Convention shall not be accorded to members of the family of an honorary consular officer or of a consular employee employed at a consular post headed by an honorary consular officer.

ARTICLE 60

Exemption from taxation of consular premises

1. Consular premises of a consular post headed by an honorary consular officer of which the sending State is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.
2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the laws and regulations of the receiving State, they are payable by the person who contracted with the sending State.

ARTICLE 61

Inviolability of consular archives and documents

The consular archives and documents of a consular post headed by an honorary consular officer shall be inviolable at all times and wherever they may be, provided that they are kept separate from other papers and documents and, in particular, from the private correspondence of the head of a consular post and of any person working with him, and from the materials, books or documents relating to their profession or trade.

ARTICLE 62

Exemption from customs duties

The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of, and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services on the following articles, provided that they are for the official use of a consular post headed by an honorary consular officer: coats-of-arms, flags, sign-boards, seals and stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by or at the instance of the sending State to the consular post

ARTICLE 66

Exemption from taxation

An honorary consular officer shall be exempt from all dues and taxes on the remuneration and emoluments, which he receives from the sending State in respect of the exercise of consular functions.

ARTICLE 67

Exemption from personal services and contributions

The receiving State shall exempt honorary consular officers from all personal services and from all public services of any kind whatsoever and from military obligations such as those connected with requisitioning, military contributions and billeting.

CHAPTER IV.—GENERAL PROVISIONS

ARTICLE 70

Exercise of consular functions by diplomatic missions

1. The provisions of the present Convention apply also, so far as the context permits, to the exercise of consular functions by a diplomatic mission.

2. The names of members of a diplomatic mission assigned to the consular section or otherwise charged with the exercise of the consular functions of the mission shall be notified to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry.

.....

4. The privileges and immunities of the members of a diplomatic mission referred to in paragraph 2 of this Article shall continue to be governed by the rules of international law concerning diplomatic relations.

ARTICLE 71

Nationals or permanent residents of the receiving State

1. Except in so far as additional facilities, privileges and immunities may be granted by the receiving State, consular officers who are nationals of or permanently resident in the receiving State shall enjoy only immunity from jurisdiction and personal inviolability in respect of official acts performed in the exercise of their functions, and the privilege provided in paragraph 3 of Article 44.

2. Other members of the consular post who are nationals of or permanently resident in the receiving State and members of their families, as well as members of the families of consular

officers referred to in paragraph 1 of this Article, shall enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. Those members of the families of members of the consular post and those members of the private staff who are themselves nationals of or permanently resident in the receiving State shall likewise enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State.

SCHEDULE 2.

Section 5(1)

PROVISIONS FOR GIVING EFFECT TO OTHER AGREEMENTS.

1. The like exemption from dues and taxes may be extended to the residence of any member of a consular post as is accorded under Article 32 of Schedule I to the residence of the career head of a consular post.
2. Paragraph 1 of Article 49 in that Schedule may be extended to members of the service staff.
3. Paragraph 2 of Article 50 in that Schedule may be applied as if it were among the Articles mentioned in paragraph 2 of Article 58 in that Schedule, as if the reference to consular employees included members of the service staff and also such members of the families of consular employees or of members of the service staff as form part of their households, and as if the words “in respect of articles imported at the time of first installation” were omitted.
4. Articles 29 and 31 in the Schedule to the Diplomatic Privileges Act, (inviolability and immunity from jurisdiction and arrest of diplomatic agents and exemption from duty to give evidence) may be extended to members of a consular post and members of their families forming part of their households.
5. Article 22 in the Schedule to the Diplomatic Privileges Act, (inviolability and protection of mission) may be extended to consular premises and paragraph 1 of Article 30 in that Schedule (inviolability of private residence) may be extended to the residence of consular officers.
6. Article 27 in the Schedule to the Diplomatic Privileges Act, (freedom of communications) may be extended to the communications of a consular post.

SCHEDULE 3

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament,

Acting in accordance with a special legislative procedure,

Whereas:

(1) Citizenship of the Union is the fundamental status of nationals of the Member States. The right to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of another Member State on the same conditions as the nationals of that State is one of the specific rights that point (c) of Article 20(2) of the Treaty on the Functioning of the European Union (TFEU) grants to citizens of the Union.

(2) The Treaty of Lisbon reinforced the status of citizenship of the Union and strengthened the rights attached to it. Article 23 TFEU thus provides for the adoption of directives establishing the cooperation and coordination measures necessary to facilitate consular protection for unrepresented citizens of the Union.

(3) The values on which the Union is founded include solidarity, non-discrimination and respect for human rights; in its relations with the wider world the Union should uphold its values and contribute to the protection of its citizens. The fundamental right to consular protection of unrepresented citizens of the Union under the same conditions as nationals, enshrined in Article 46 of the Charter of Fundamental Rights of the European Union (the Charter), is an expression of European solidarity. It provides an external dimension to the concept of citizenship of the Union and strengthens the identity of the Union in third countries.

(4) The aim of this Directive is to lay down the cooperation and coordination measures necessary to further facilitate consular protection for unrepresented citizens of the Union. Those measures should enhance legal certainty as well as efficient cooperation and solidarity among consular authorities.

(5) In accordance with point (c) of Article 20(2) TFEU and Article 23 TFEU, Member States should provide consular protection to unrepresented citizens on the same conditions as to their own nationals. This Directive does not affect Member States' competence to determine the scope of the protection to be provided to their own nationals.

(6) This Directive does not affect consular relations between Member States and third countries, in particular their rights and obligations arising from international customs and agreements, in particular from the Convention of 24 April 1963 on Consular Relations (the Vienna Convention), that Member States apply in compliance with Union law. Under Article 8 of the Vienna Convention, Member States may provide consular protection on behalf of another Member State upon appropriate notification and unless the third country concerned objects. Difficulties may occur, in particular, in relation to situations involving citizens who are also nationals of the host country. Member States, supported by local consular cooperation, should undertake the necessary measures in relation to third countries to ensure that consular protection can be provided on behalf of other Member States in any given case.

(7) Where unrepresented citizens need protection in third countries, efficient cooperation and coordination is required. The assisting Member State present in a third country and the Member State of nationality of the citizen should cooperate closely. Local consular cooperation in respect of unrepresented citizens can be particularly complex, as it requires coordination with authorities not represented locally, including where relevant with the competent embassies or consulates. To fill the gap caused by the absence of an embassy or consulate of the citizen's own Member State, a clear and stable set of rules should be laid down. Existing measures also need to be clarified to ensure effective protection.

(8) Citizens of the Union should be considered to be unrepresented in a third country if their Member State of nationality has no embassy, consulate or honorary consul established there. Citizens should also be considered to be unrepresented if the embassy, consulate or honorary consul established locally is unable for any reason to provide, in a given case, the protection the person concerned would otherwise be entitled to receive according to national law or practice. Embassies and consulates should inform each other about any exceptional circumstances that may temporarily affect their capacity to provide consular protection. Accessibility and proximity should also be taken into consideration. For example, a citizen who seeks consular protection or assistance from the embassy or consulate of another Member State should not be redirected to the embassy, consulate or honorary consul of his or her own Member State of nationality when it is not possible, due to local circumstances or lack of resources, for the citizen safely to reach or be reached by those latter instances in a way allowing him or her to receive consular protection. The notion of absence of representation should be interpreted with a view to ensuring the effectiveness of the right of unrepresented citizens to be protected by another Member State's embassy or consulate in a non-discriminatory way, taking into account the circumstances of each particular case. Citizens holding the nationality of more than one Member State should be considered unrepresented if none of the Member States of their nationality is represented in the third country concerned.

(9) With a view to ensuring the effectiveness of the right enshrined in point (c) of Article 20(2) TFEU and of the right to respect for private and family life as recognised in Article 7 of the Charter, and taking into account national law and practice, an assisting Member State might have to provide protection to third-country family members of citizens of the Union, depending on the individual circumstances of each case. This Directive does not preclude that during the consultations which should take place before assistance is provided, the assisting Member

State and the unrepresented citizen's Member State of nationality, whenever appropriate, agree on the possibility to extend assistance to third-country family members of the unrepresented Union citizen beyond what is required by the law of the assisting Member State or what is dictated by its practice, taking into account as much as possible requests from the unrepresented citizen's Member State of nationality, and in so far as what is agreed does not fall short of what is required by Union law. However, Member States might not be in a position to deliver certain types of consular protection, such as emergency travel documents, to third-country family members. Where assistance for minors is concerned, the best interests of the child should be a primary consideration, in accordance with Article 24 of the Charter, and as provided for in the United Nations Convention on the Rights of the Child of 20 November 1989.

(10) Unrepresented citizens should be able to seek consular protection from the embassy or consulate of any Member State. However, that should not prevent Member States from entering into practical arrangements for the purpose of sharing responsibilities for providing consular protection to unrepresented citizens in accordance with this Directive. Such arrangements are beneficial to citizens, since they allow for better preparedness to ensure effective protection. Member States that receive requests for protection should assess whether, in a specific case, it is necessary to provide consular protection or whether the case can be transferred to the embassy or consulate which is designated as competent according to any arrangement already in place. Member States should notify the Commission and the European External Action Service (EEAS) of any such arrangement, which should be publicised by the Union and Member States to ensure transparency for unrepresented citizens.

(11) This Directive should not prevent the Member State which is not represented in a third country from delivering consular protection to one of its nationals, for example by providing online consular services, where appropriate. The Member State of nationality of an unrepresented citizen should be allowed to request the Member State from which that citizen seeks or receives consular protection to transfer the application or case in order itself to deliver consular protection. Such a transfer should not result in the unrepresented citizen being deprived of consular protection.

(12) Notwithstanding the varying traditions of Member States regarding the competences of honorary consuls, they usually do not offer the same range of services as embassies or consulates. Considering that honorary consuls often fulfil their mission on a voluntary basis, it should be left to each Member State to decide whether this Directive should apply to its honorary consuls. Honorary consuls could be required to provide consular protection to unrepresented citizens, depending on the circumstances of each case.

(13) Requests for protection should be processed if applicants present a valid Union citizen's passport or identity card. However, unrepresented citizens in need of consular protection might no longer be in possession of their identity documents. The fundamental status of citizenship of the Union is conferred directly by Union law and identity documents are of merely declaratory value. If applicants are unable to provide valid identity documents, they should therefore be able to prove their identity by any other means. If necessary, the identity of the

person concerned could be verified when consulting the authorities of the Member State of which the applicant claims to be a national. With regard to third-country family members accompanying the applicant, the authorities of the Member State of nationality of the applicant should also be able to help the assisting Member State in verifying the identity and existence of a family relationship with the applicant.

(14) In order to establish which coordination and cooperation measures are necessary, the scope of consular protection under this Directive should be specified. Consular protection for unrepresented citizens should include assistance in a number of typical situations in which Member States provide consular protection to their own nationals depending on the individual circumstances of each case, such as in cases of arrest or detention, serious accident or serious illness and death, as well as with regard to providing relief and repatriation in cases of distress, or the issuance of emergency documents. Since the protection needed always depends on the factual situation, consular protection should not be limited to the situations specifically mentioned in this Directive.

(15) Where applicable, the citizen's wishes, including as to whether family members or other related persons should be informed and if so whom, should be duly respected. Similarly, in the event of death, due account should be taken of the wishes of the next of kin concerning the arrangements to be made with regard to the remains of the deceased citizen. The Member State of nationality of the unrepresented citizen should be responsible for these contacts.

(16) Member States' authorities should closely cooperate and coordinate with one another and with the Union, in particular the Commission and the EEAS, in a spirit of mutual respect and solidarity. To ensure swift and efficient cooperation, Member States should provide and continuously update information on relevant contact points in the Member States through the secure website of the EEAS (Consular OnLine).

(17) In third countries the Union is represented by the Union delegations, which, in close cooperation with the diplomatic and consular missions of the Member States, contribute to the implementation of the right of Union citizens to consular protection, as specified further in Article 35 of the Treaty on European Union. This Directive fully recognises, and further enhances, the contribution already provided by the EEAS and by Union delegations, in particular during crisis situations, in accordance with Council Decision 2010/427/EU, in particular Article 5(10) thereof.

(18) Regarding local cooperation, competences and respective roles of all relevant actors should be clarified in order to ensure that unrepresented citizens receive the assistance to which they are entitled in accordance with the principle of non-discrimination. Local consular cooperation should pay due attention to unrepresented citizens, for example by collecting and regularly updating information on relevant contact points and sharing it with the local embassies and consulates of Member States and with the Union delegation.

(19) Local consular cooperation meetings, organised in close cooperation with the Union delegation, should include a regular exchange of information on matters relevant to

unrepresented citizens, such as safety of citizens, prison conditions, consular notification and access and crisis cooperation. In those meetings, represented Member States should, wherever necessary, agree on practical arrangements to ensure that unrepresented citizens are effectively protected. Such agreements might not be necessary if, for example, the number of unrepresented citizens is small.

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

(21) Interoperability between consular staff and other crisis-management experts should be enhanced, in particular through their participation in multi-disciplinary crisis teams, such as those under the EEAS crisis response and operational coordination and crisis management structures and under the Union Civil Protection Mechanism.

(22) It should be possible to request the support of the Union Civil Protection Mechanism if it is needed for the consular protection of unrepresented citizens. That support could be requested, for instance, by the Lead State or the Member State(s) coordinating the assistance.

(23) The term 'Lead State' used in this Directive refers to one or more Member State(s) represented in a given third country, and in charge of coordinating and leading the assistance of unrepresented citizens during crises. The concept of Lead State, as established in the relevant Union guidelines, could be further developed in compliance with Union law and, in particular, with this Directive.

(24) When a Member State is informed of, or receives a request for, consular protection from a person who claims to be an unrepresented citizen, it should, except in cases of extreme urgency, always contact the citizen's Member State of nationality without delay and provide it with all the relevant information before providing any assistance. The Member State of nationality should, in turn, without delay provide any information relevant to the case. That consultation should allow the Member State of nationality to request the transfer of the application or case in order itself to deliver consular protection. That consultation should also allow the Member States concerned to exchange relevant information for the purpose, for example, of ensuring that an unrepresented citizen does not abusively take advantage of his or

her right to consular protection under point (c) of Article 20(2) TFEU. This Directive cannot be relied on by Union citizens in the event of abuse.

(25) Mutual solidarity and cooperation also concern financial matters. Those Member States which provide consular protection in the form of financial assistance to their own citizens do so as a last resort and only in exceptional cases where citizens cannot obtain financial means in other ways, such as through transfers from family, friends or employers. Unrepresented citizens should be granted financial assistance under the same conditions as the nationals of the assisting Member State. The unrepresented citizen should be required to sign an undertaking to repay to his or her Member State of nationality the costs incurred, provided that nationals of the assisting Member State in the same situation would have been required to repay those costs to their own Member State. The unrepresented citizen may then be required by his or her Member State of nationality to repay those costs, including any applicable consular fee.

(26) This Directive should ensure financial burden sharing and reimbursements. Where consular protection granted to an unrepresented citizen involves the signature of an undertaking to repay, the unrepresented citizen's Member State of nationality should reimburse the assisting Member State for the costs incurred. It should be for the assisting Member State to decide whether to seek reimbursement of the costs incurred. The assisting Member State and the unrepresented citizen's Member State of nationality should be able to agree detailed arrangements for reimbursement within certain deadlines.

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

(28) Financial procedures should be simplified for crisis situations. Given the particularities of such situations, such as the need for a quick response regarding a considerable number of citizens, no undertaking to repay should be necessary in order for the assisting Member State to seek and receive reimbursement from the unrepresented citizen's Member State(s) of nationality. Member States of nationality of unrepresented citizens should reimburse the assisting Member State(s) for the costs incurred. It should be for the assisting Member State(s) to decide whether to seek reimbursement of the costs incurred and in what form. The assisting Member State and the unrepresented citizen's Member State of nationality should be able to

agree on detailed arrangements for reimbursement within certain deadlines. In the event of a crisis which has or may have had an adverse impact on a significant number of citizens of the Union, and if requested by the assisting Member State, unrepresented citizens' Member States of nationality should reimburse costs on a pro-rata basis, by dividing the costs incurred by the number of citizens assisted.

(29) This Directive should be reviewed three years after its transposition deadline. In particular, the possible need to review the financial procedures to ensure adequate burden sharing should be assessed in the light of information to be provided by the Member States on the implementation and practical application of the Directive, including any relevant statistics and cases. The Commission should prepare a report and consider the need for any additional measures including, where appropriate, by proposing amendment of this Directive with a view to facilitating the exercise of the right to consular protection of Union citizens.

(30) Directive 95/46/EC of the European Parliament and of the Council governs the processing of personal data carried out by Member States in the context of this Directive.

(31) This Directive should not affect more favourable national provisions in so far as they are compatible herewith.

(32) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

(33) This Directive aims to promote consular protection as recognised in the Charter. It respects the fundamental rights and observes the principles recognised in particular by the Charter, in particular the principle of non-discrimination, the right to life and integrity of the person, the right to respect for private and family life, the rights of the child, the right of defence and the right to a fair trial. This Directive should be implemented in accordance with those rights and principles.

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

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

HAS ADOPTED THIS DIRECTIVE:

CHAPTER 1**GENERAL PROVISIONS AND SCOPE***Article 1***Subject matter**

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

*Article 2***General principle**

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

*Article 3***Consular protection by the Member State of nationality**

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

*Article 4***Unrepresented citizens in third countries**

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

Article 5

Family members of unrepresented citizens in third countries

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

Article 6

Absence of representation

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

Article 7

Access to consular protection and other arrangements

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

Article 8

Identification

1. Applicants seeking consular protection shall establish that they are citizens of the Union by producing their passports or identity cards.
2. If the citizen of the Union is unable to produce a valid passport or identity card, nationality may be proven by any other means, if necessary including verification with the diplomatic or consular authorities of the Member State of which the applicant claims to be a national.
3. With respect to the family members referred to in Article 5, the identity and existence of the family relationship may be proven by any means, including verification by the assisting Member State with the diplomatic or consular authorities of the Member State of nationality of the citizens referred to in paragraph 1.

*Article 9***Types of assistance**

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

- (a) arrest or detention;
- (b) being a victim of crime;
- (c) a serious accident or serious illness;
- (d) death;
- (e) relief and repatriation in case of an emergency;
- (f) a need for emergency travel documents as provided for in Decision 96/409/CFSP.

**CHAPTER 2
COORDINATION AND COOPERATION MEASURES***Article 10***General rules**

1. Member States' diplomatic and consular authorities shall closely cooperate and coordinate with one another and with the Union to ensure protection of unrepresented citizens in accordance with Article 2.

2. When a Member State receives a request for consular protection from a person who claims to be an unrepresented citizen, or is informed of an individual emergency situation of an unrepresented citizen, such as listed in Article 9, it shall consult without delay the Ministry of Foreign Affairs of the Member State of which the person claims to be a national or, where appropriate, the competent embassy or consulate of that Member State, and provide it with all the relevant information at its disposal, including regarding the identity of the person concerned, possible costs of consular protection, and regarding any family members to whom consular protection may also need to be provided. Except in cases of extreme urgency, this consultation shall take place before assistance is provided. The assisting Member State shall also facilitate the exchange of information between the citizen concerned and the authorities of the citizen's Member State of nationality.
3. If requested, the citizen's Member State of nationality shall provide the assisting Member State's Ministry of Foreign Affairs or competent embassy or consulate with all the relevant information in the case concerned. It shall also be responsible for any necessary contact with family members or other relevant persons or authorities.
4. Member States shall notify the EEAS through its secure internet site of the relevant contact point(s) in the Ministries of Foreign Affairs.

Article 11

The role of Union delegations

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

Article 12

Local cooperation

Local cooperation meetings shall include a regular exchange of information on matters relevant to unrepresented citizens. In those meetings, Member States shall agree, wherever necessary, on practical arrangements as referred to in Article 7 to ensure that unrepresented citizens are effectively protected in the third country concerned. Unless otherwise agreed by Member States, the Chair shall be a representative of a Member State, in close cooperation with the Union delegation.

*Article 13***Crisis preparedness and cooperation**

1. Local contingency planning shall take unrepresented citizens into account. Member States represented in a third country shall coordinate contingency plans among themselves and with the Union delegation to ensure that unrepresented citizens are fully assisted in the event of a crisis. The competent embassies or consulates shall be adequately informed of crisis preparedness arrangements and, where appropriate, involved therein.
2. In the event of a crisis, the Union and Member States shall closely cooperate to ensure efficient assistance for unrepresented citizens. They shall, where possible, inform each other of available evacuation capacities in a timely manner. Upon their request, Member States may be supported by existing intervention teams at Union level, including consular experts, in particular from unrepresented Member States.
3. The Lead State or the Member State(s) coordinating the assistance shall be in charge of coordinating any support provided for unrepresented citizens, with the support of the other Member States concerned, the Union delegation and the EEAS headquarters. Member States shall provide the Lead State or the Member State(s) coordinating assistance with all relevant information regarding their unrepresented citizens present in a crisis situation.
4. The Lead State or the Member State(s) coordinating assistance for unrepresented citizens may seek, if appropriate, support from instruments such as the crisis management structures of the EEAS and the Union Civil Protection Mechanism.

**CHAPTER 3
FINANCIAL PROCEDURES***Article 14***General rules**

1. Unrepresented citizens shall undertake to repay to their Member State of nationality the cost of consular protection, on the same conditions as the nationals of the assisting Member State, using the standard form set out in Annex I. Unrepresented citizens shall be required to undertake to repay only those costs that would have to be borne by nationals of the assisting Member State under the same conditions.
2. The assisting Member State may ask for the reimbursement of costs referred to in paragraph 1 from the unrepresented citizen's Member State of nationality, using the standard form set out in Annex II. The unrepresented citizen's Member State of nationality shall reimburse those costs within a reasonable period of time, not exceeding 12 months. The unrepresented citizen's Member State of nationality may ask the unrepresented citizen concerned to reimburse such costs.

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

Article 15

Facilitated procedure in crisis situations

1. In crisis situations, the assisting Member State shall submit any requests for reimbursement of the costs of any support provided to an unrepresented citizen to the Ministry of Foreign Affairs of the unrepresented citizen's Member State of nationality. The assisting Member State may seek such reimbursement even if the unrepresented citizen has not signed an undertaking to repay pursuant to Article 14(1). This shall not prevent the unrepresented citizen's Member State of nationality from pursuing repayment from the unrepresented citizen concerned on the basis of national rules.

2. The assisting Member State may ask the unrepresented citizen's Member State of nationality to reimburse such costs on a pro-rata basis, by dividing the full value of the actual costs incurred by the number of citizens assisted.

3. Where the assisting Member State was financially supported by way of assistance from the Union Civil Protection Mechanism, any contribution from the unrepresented citizen's Member State of nationality shall be determined after deduction of the Union's contribution.

**CHAPTER 4
FINAL PROVISIONS**

Article 16

More favourable treatment

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

Article 17

Transposition

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

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

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

Article 18

Repeal

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

Article 19

Reporting, evaluation and review

1. Member States shall provide the Commission with all relevant information regarding the implementation and application of this Directive. On the basis of the information provided, the Commission shall submit a report to the European Parliament and the Council on the implementation and application of this Directive by 1 May 2021.

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

Article 20

Entry into force

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

Article 21

Addressees

This Directive is addressed to the Member States.

Done at Luxembourg, 20 April 2015.

For the Council,
The President,
F. MOGHERINI.

ANNEX I

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

UNDERTAKING TO REPAY COSTS OF CONSULAR PROTECTION

(FINANCIAL ASSISTANCE) — (Article 14(1) of Directive (EU) 2015/637)

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

...

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

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

... at ...

of the sum of ...

as an advance for the purpose of ...

... (including any applicable fee)

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

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

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

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

is: ...

...

...

DATE ... SIGNATURE ...

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

UNDERTAKING TO REPAY COSTS OF CONSULAR PROTECTION

(REPATRIATION) — (Article 14(1) of Directive (EU) 2015/637)

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

...

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

on (date) ...

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

on ... and ID No ...

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

...

hereby undertake to repay on demand to the Government of

...

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

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

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

These are:

(i) (**)

Fares

Subsistence

Miscellaneous costs

LESS the contribution made by me

CONSULAR FEES:

Repatriation fee

Attendance fee

Passport/emergency fees

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

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

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

is: ...

...

...

DATE ... SIGNATURE ...

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

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

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

ANNEX II

Form of the request for reimbursement**REQUEST FOR REIMBURSEMENT (Article 14(2) and (3) of Directive (EU) 2015/637)**

1. Requesting Member State's embassy or consulate
2. Competent embassy or consulate or Ministry of Foreign Affairs of assisted citizen's Member State of nationality
3. Identification of the event

(date, place)

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

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

5. Total costs
6. Bank account for the reimbursement
7. Attachment: undertaking to repay (if applicable)