



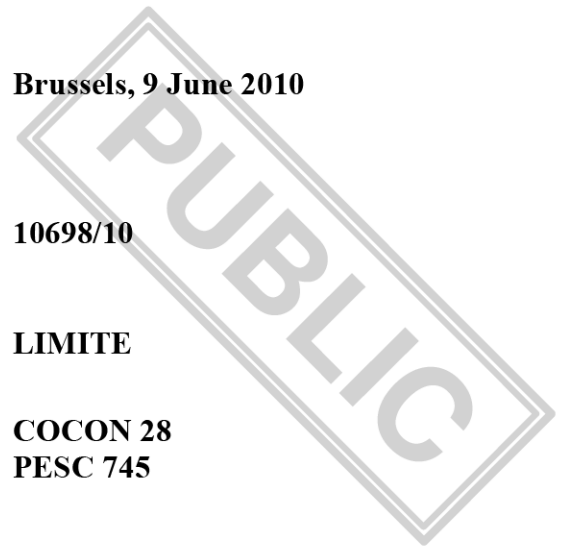
**COUNCIL OF
THE EUROPEAN UNION**

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"I/A" ITEM NOTE

From: Consular Affairs Working Party
To: Permanent Representatives Committee / Council
Subject: COMMON PRACTICES IN CONSULAR ASSISTANCE and
CRISIS COORDINATION

Delegations will find attached hereto the document on "Common Practices in Consular Assistance" and "Crisis Coordination", as agreed by the working party on Consular Affairs. Following a decision by the Presidency, the document is being presented to Coreper without going through the Political and Security Committee.

Following approval by Coreper, the Council is invited to adopt it as an "A" point at its meeting on 14 June 2010.

COMMON PRACTICES IN CONSULAR ASSISTANCE OUTSIDE THE EU
Council Conclusions

PREAMBLE

Article 23 of the Treaty on the Functioning of the European Union (TFEU) builds on previous Treaties and represents a major advance in the area of European citizenship.

In view of refining the implementation of said article, it is useful to identify common practices in consular assistance outside of the E.U.

I. CONSULAR PRACTICES SHARED BY MEMBER STATES

An *Instituto Europeo de Derecho* report, commissioned and financed by the Commission, compared the consular practices of Member States and identified the situations in which all Member States provide consular assistance to those citizens who find themselves in the different circumstances set forth in Article 5 of Decision 95/553/EC.

There are circumstances in which all Member States' Consulates and Missions provide assistance, including:

- Death
- Serious accident or illness
- Arrest or detention
- Assistance to victims of violent crimes
- Assistance with lost travel documents
- Repayable financial assistance in specific cases and under strict conditions

Assistance to distressed citizens in a crisis situation is the subject of a separate Presidency document.

The majority of Member States also inform their nationals of the types of assistance they cannot provide:

- Intervention in legal disputes
- Securing the release of detainees from prison
- Helping a national to enter a country without proper documentation
- Providing direct legal assistance and investigating crimes
- Acting as travel agents
- Obtaining better hospital treatment than that provided to third country nationals
- Paying bills, for example for hospitals, lawyers, or hotels

1. Common minimum consular assistance practices

Among those areas in which all Member States provide assistance, the following may be identified.

(a) Death

All Member States may provide the following forms of assistance:

- Obtaining death certificates and medical certificates when necessary
- Laissez-passer (in cases where incineration is not chosen) for repatriation, at the expense of the deceased's family, of the coffin
- Notifying family members or the Member State of which the deceased was a citizen

(b) Serious accident or illness

All Member States may provide the following forms of assistance:

- Informing the family
- Assistance with medical care, in different forms: directories of physicians, directories of lawyers, etc.
- Non-economic advice and assistance in repatriations
- Repayable economic assistance

(c) *Arrest or detention*

All Member States may provide the following forms of assistance:

- Visits to detainees
- Providing detainees with information on their rights
- Informing detainees' family members or Member States of detention at the detainee's request
- Monitoring minimum standards of treatment in prisons

(d) *Victims of violent crimes*

All Member States may:

- Inform relatives, in cases where the victim has given his or her consent
- Obtain legal information and/or assistance
- Obtain information and/or assistance regarding health care

(e) *Assistance with lost documents*

The issuing of emergency travel documents is of the utmost importance. During the Swedish Presidency, it was agreed that a proposal to create a new ETD may be sent to COREPER.

(f) *Financial assistance*

All Member States' legislations include provisions for financial assistance, although they vary widely. Two common aspects have been found:

- In general, it tends to be repayable
- Financial assistance is only provided in cases of extreme emergency or destitution.

2. Possible new areas for sharing best practices

In addition to the cases in which a series of common practices has been identified, it would be useful to share best practice in areas where common standards have not been identified, including:

- Delivery of deceased citizens' personal belongings
- Assistance to be provided in cases involving mental illness

- Assistance to minors, especially those travelling unaccompanied or travelling or living with someone detained in a third country, and in cases of international child abduction
- Forced marriages
- Assistance and visits during periods of quarantine
- Legalization of documents

II. VIRTUAL WORKING GROUPS AND OTHER PROCEDURES

The Council is interested in including some of these issues in virtual working groups – be they pre-existing virtual working groups or not – or in enhanced CoOL links, so that they can present conclusions to COCON. These issues can also be discussed in specific workshops in future seminars.

CRISIS COORDINATION
Council Conclusions

PREAMBLE

Reflection on the available instruments and procedures for coordinating crisis situations remains necessary. Therefore, the Council wishes to advance along the lines laid down in the document drawn up by the Swedish Presidency and annexed to the Consular Guidelines, and to propose an extended list of practices and tools enabling more effective coordination in such crisis situations as may arise in the future.

We must make the most of the lessons learned from past crises, and these lessons teach us that Member States must act together in order to help their citizens. Joint action is advantageous for crisis management and horizon scanning.

The aim of the present conclusions, therefore, is to set forth this extended list, which includes new practices and instruments that complement those proposed in the document approved during the Swedish presidency, in order to move forward on collecting and sharing crisis information, and on intensifying crisis management cooperation.

III. PRE-CRISIS SITUATIONS: TRAVEL RECOMMENDATIONS, WARNINGS AND COORDINATION

- A. Effective crisis management depends, to a great extent, on preparations carried out during the preliminary stage. To this end, it is necessary for States to have precise information on situations that could result in a risk scenario for their nationals. It is advisable to move forward on the following issues:

- Monitoring Member States' recommendations for travel to hot spots.
- Monitoring the EU. and SITCEN's early warning lists.

B. In addition to the above, it is important that Member States continue to cooperate both locally and in the capitals and exchange crisis good-practice during non-crises periods. This exchange of information shall be in compliance with national and EU. legislation on data protection and will exclude restricted and classified matters:

- Exchange of information on size and type of populations (children, those requiring medical attention, senior citizens, aid and NGO workers, territorial distribution of E.U. citizens by appropriate administrative divisions (for example, provinces and capitals). Coordination of concentration and evacuation points, in order to prevent States from unwittingly designating the same places, with the ensuing risk to the security of their nationals. The exchange of information in this area will be informal and on a case by case basis.
- Coordination with national units for emergency and humanitarian aid, in order to prevent the multiplication of efforts, especially in cases of natural disasters, pandemics and serious armed conflicts.

All of this is in addition to the aspects approved under the Swedish presidency (representation in third States and regular discussions on hot spots).

IV. COORDINATION AND MANAGEMENT OF CRISIS SITUATIONS: COLLECTING AND SHARING INFORMATION, COORDINATION AND DIVISION OF LABOUR

A. In crisis situations, it is essential that information be complete and shared effectively among all stakeholders. Therefore, it is advisable to move forward on the following, inter alia:

- Teleconferences
- CoOL: Lessons learned from the recent crisis situations have confirmed the invaluable role of the CoOL website for consular coordination among Member States during a crisis situation.
- CoOL restricted area as a primary option for the exchange of restricted information.
- Crisis Coordination Arrangements (CCA): Whenever access to open source intelligence is necessary – as was the case during the Mumbai attacks – the CCA website is also an essential tool.
- Therefore, it is proposed that any Member State or SITCEN may trigger the initial steps of CCA. Mutatis mutandis, this is also applicable to teleconferences.
- MIC: for support of consular assistance to EU citizens in major emergencies in third countries only if requested by the consular authorities of the Member States.

B. Furthermore, it must be taken into account that coordination in crisis situations may require actions affecting third States. It is therefore proposed that the following areas be examined in depth:

- Unclassified information on consular assistance arrangements that member states may have with third countries.
- Coordination with the sheltering or destination country following evacuation, or with others countries when necessary.

- C. Finally, thought must be given to the contextual conflict in the regulation of crisis management, by considering a possible division of labour, and sharing of resources, in countries where there is no lead state, while the concept is evaluated and, when appropriate, enhanced.

The Commission just launched a study on a financial compensation mechanism in times of crisis in the area of consular protection. The Commission will regularly update and consult COCON on any relevant commission or tendering – such as this study.

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