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*Plenary sitting*

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**A8-0244/2016**

8.8.2016

**\*\*\*I**  
**REPORT**

on the proposal for a regulation of the European Parliament and of the Council establishing an EU common list of safe countries of origin for the purposes of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection, and amending Directive 2013/32/EU  
(COM(2015)0452 – C8-0270/2015 – 2015/0211(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Sylvie Guillaume

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▬ symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in bold italics and by deleting or striking out the text that has been replaced. By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council establishing an EU common list of safe countries of origin for the purposes of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection, and amending Directive 2013/32/EU (COM(2015)0452 – C8-0270/2015 – 2015/0211(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2015)0452),
  - having regard to Article 294(2) and Article 78(2)(d) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0270/2015),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Foreign Affairs and the Committee on Development (A8-0244/2016),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

#### **Proposal for a regulation**

##### **Recital 2**

*Text proposed by the Commission*

(2) Directive 2013/32/EU sets out common criteria for the designation of safe third countries of origin at national level. However, only certain Member States have designated in their national law safe countries of origin, which means that not all Member States currently can make use

*Amendment*

(2) Directive 2013/32/EU sets out common criteria for the designation of safe third countries of origin at national level. However, only certain Member States have designated in their national law safe countries of origin, which means that not all Member States currently can make use

of the related procedural *facilities* provided for in Directive 2013/32/EU. In addition, due to existing divergences between the national lists of safe countries of origin that have been adopted by the Member States, which could result from differences in the assessment of the safety of certain third countries or from differences in the nature of the flows of third country nationals they are facing, the concept of safe country of origin as defined in Directive 2013/32/EU is currently not always applied by the Member States in respect of the same third countries.

of the related procedural *arrangements* provided for in Directive 2013/32/EU. In addition, due to existing divergences between the national lists of safe countries of origin that have been adopted by the Member States, which could result from differences in the assessment of the safety of certain third countries or from differences in the nature of the flows of third country nationals they are facing, the concept of safe country of origin as defined in Directive 2013/32/EU is currently not always applied by the Member States in respect of the same third countries.

## **Amendment 2**

### **Proposal for a regulation**

#### **Recital 3**

##### *Text proposed by the Commission*

(3) In light of the very sharp increase that has been experienced since 2014 in the number of applications for international protection made in the Union and the resulting unprecedented pressure on Member States' asylum systems the Union acknowledged the need to strengthen the application of the safe country of origin provisions of Directive 2013/32/EU, as an essential tool to support the swift processing of applications that are likely to be unfounded. In particular, in its conclusions of 25 and 26 June 2015, the European Council referred, in relation to the need to accelerate the treatment of asylum applications, to the intention of the Commission as set out in its Communication on a European Agenda on Migration<sup>8</sup> to strengthen these provisions, including the possible establishment of an EU common list of safe countries of origin. ***Moreover, the Justice and Home Affairs Council in its conclusions on safe countries of origin of 20 July 2015 welcomed the intention of the Commission to strengthen the safe***

##### *Amendment*

(3) In light of the very sharp increase that has been experienced since 2014 in the number of applications for international protection made in the Union and the resulting unprecedented pressure on Member States' asylum systems the Union acknowledged the need to strengthen the application of the safe country of origin provisions of Directive 2013/32/EU, as an essential tool to support the swift processing of applications that are likely to be unfounded. In particular, in its conclusions of 25 and 26 June 2015, the European Council referred, in relation to the need to accelerate the treatment of asylum applications, to the intention of the Commission as set out in its Communication ***of 13 May 2015 entitled 'A European Agenda on Migration'*** to strengthen these provisions, including the possible establishment of an EU common list of safe countries of origin.

*countries of origin provisions in Directive 2013/32/EU, including the possible establishment of an EU common list of safe countries of origin.*

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<sup>8</sup> COM (2015) 240 final, 13.5.2015.

### Amendment 3

#### Proposal for a regulation

#### Recital 4

##### *Text proposed by the Commission*

(4) An EU common list of safe countries of origin should be established on the basis of the common criteria set in Directive 2013/32/EU as it **will** facilitate the use by all Member States of the procedures linked to the application of the safe country of origin concept and, thereby, increase the overall efficiency of their asylum systems as concerns applications for international protection which are likely to be unfounded. The establishment of an EU common list **will** also address some of the existing divergences between Member States' national lists of safe countries of origin, whereby applicants for international protection originating from the same third countries are not always subject to the same procedures in the Member States. While Member States should retain the right to apply or introduce legislation that allows for the national designation of third countries other than those appearing on the EU common list as safe countries of origin, the establishment of such a common list **will** ensure that the concept is applied by all Member States in a uniform manner in relation to applicants whose countries of origin are on this list. This **will** accordingly facilitate convergence in the application of procedures and thereby also deter secondary movements of applicants for international protection. In that context, **the possibility to take in the future** further

##### *Amendment*

(4) An EU common list of safe countries of origin should be established on the basis of the common criteria set in Directive 2013/32/EU as it **would** facilitate the use by all Member States of the procedures linked to the application of the safe country of origin concept and, thereby, increase the overall efficiency of their asylum systems as concerns applications for international protection which are likely to be unfounded. ***The accelerated processing of asylum applications from nationals of safe countries of origin would make it faster for Member States to focus on giving international protection to those who need it most.*** The establishment of an EU common list **is** also **intended to** address some of the existing divergences between Member States' national lists of safe countries of origin, whereby applicants for international protection originating from the same third countries are not always subject to the same procedures in the Member States. ***Such divergences run counter to the objective of a common EU asylum system and could cause secondary movements of asylum seekers.*** While Member States should **temporarily** retain the right to apply or introduce legislation that allows for the national designation of third countries other than those appearing on the EU common list as safe countries of origin, the

steps *of* harmonisation *that could lead to the elimination of the need for* national lists of safe countries of origin should *be considered* after a period of three years following the entry into force of this Regulation, on the *basis of a report to be presented by the Commission*.

establishment of such a common list *would* ensure that the concept is applied by all Member States in a uniform manner in relation to applicants whose countries of origin are on this list. This *would* accordingly facilitate convergence in the application of procedures and thereby also deter secondary movements of applicants for international protection. In that context, *as regards* further steps *towards* harmonisation, national lists of safe countries of origin should *cease to exist* after a period of three years following the entry into force of this Regulation. *The Commission should report to the European Parliament and to the Council on the application of this Regulation in the Member States*.

#### Amendment 4

##### Proposal for a regulation Recital 4 a (new)

*Text proposed by the Commission*

*Amendment*

*(4a) The establishment of an EU common list of safe countries of origin and the ultimate elimination of national lists of safe countries of origin can only lead to the full convergence of asylum procedures in the Union if the procedural stages and deadlines are harmonised, in particular in the case of accelerated procedures. The possibility of taking additional harmonisation measures in connection with Directive 2013/32/EU should be considered.*

#### Amendment 5

##### Proposal for a regulation Recital 4 b (new)



*Text proposed by the Commission*

*Amendment*

***(4b) Member States should make sure that the national lists of safe countries of origin and the EU common list are consistent with one another. A country suspended or removed from the EU common list should not be considered a safe country of origin at national level.***

## **Amendment 6**

### **Proposal for a regulation Recital 4 c (new)**

*Text proposed by the Commission*

*Amendment*

***(4c) The Commission should regularly examine the situation in third countries and the possibility of proposing to add them to the EU common list of safe countries of origin, on the basis of a range of information sources at its disposal, in particular EEAS reports and information provided by the Member States, EASO, the UNHCR, the Council of Europe and other relevant international organisations, and national or international non-governmental organisations. If appropriate, the Commission should then draw up a proposal to enlarge the EU common list of safe countries of origin.***

## **Amendment 7**

### **Proposal for a regulation Recital 4 d (new)**

*Text proposed by the Commission*

*Amendment*

***(4d) In view of the harmonisation of national lists of safe countries of origin, during the transitional three-year period from the entry into force of this Regulation, the Member States should be***

*able to send the Commission proposals for countries to be added to the common list of safe countries of origin. The Commission should examine those proposals within six months of their submission, on the basis of a range of information sources at its disposal, in particular EEAS reports and information provided by the Member States, EASO, the UNHCR, the Council of Europe and other relevant international organisations, and national or international non-governmental organisations. If it decides that a third country can be added to the list, the Commission should draw up a proposal to enlarge the EU common list of safe countries of origin.*

## **Amendment 8**

### **Proposal for a regulation Recital 4 e (new)**

*Text proposed by the Commission*

*Amendment*

*(4e) The Commission must ensure that, for every third country on the EU common list of safe countries of origin, there is an efficient EU return policy with readmission agreements that must be complied with fully for EU aid to be sent to those countries.*

## **Amendment 9**

### **Proposal for a regulation Recital 5**

*Text proposed by the Commission*

*Amendment*

(5) The provisions of Directive 2013/32/EU related to the application of the safe country of origin concept should be applicable in relation to third countries that are on the EU common list established by this Regulation. This means, in particular, that the circumstance that a third

(5) The provisions of Directive 2013/32/EU related to the application of the safe country of origin concept should be applicable in relation to third countries that are on the EU common list established by this Regulation. This means, in particular, that the circumstance that a third

country is on the EU common list of safe countries of origin cannot establish an absolute guarantee of safety for nationals of that country and does not dispense therefore with the need to conduct an appropriate individual examination of the application for international protection. In addition, it should be recalled that, where an applicant shows that there are serious reasons to consider the country not to be safe in his or her particular circumstances, the designation of the country as safe can no longer be considered relevant for him or her.

country is on the EU common list of safe countries of origin cannot establish an absolute guarantee of safety for nationals of that country and does not dispense therefore with the need to conduct an appropriate individual examination of the application for international protection *in accordance with the procedural safeguards laid down in Directive 2013/32/EU* This includes the opportunity of a personal interview, receiving legal assistance and representation and access to an effective remedy. In addition, it should be recalled that, where an applicant shows that there are serious reasons to consider the country not to be safe in his or her particular circumstances, the designation of the country as safe can no longer be considered relevant for him or her. *Member States should not apply the safe country of origin concept to applicants belonging to a minority or group of persons that remains at risk in light of the situation in the country of origin concerned, based on the sources of information listed in Article 2(2). In line with Article 46 of Directive 2013/32/EU, Member States must guarantee all applicants the right to an effective remedy before a court or tribunal if their request for international protection is refused. They must also be granted the right to remain in the territory until the time limit for exercising their right to an effective remedy has expired, and, if they have exercised that right within the time limit, pending the outcome of the appeal.*

## **Amendment 10**

### **Proposal for a regulation Recital 5 a (new)**

*Text proposed by the Commission*

*Amendment*

**(5a) The EU's common list of safe countries of origin should not have the aim of reducing the number of asylum**

*seekers from countries which combine a large number of applications with a low recognition rate. The designation of a third country as a safe country of origin should be based solely on an assessment of whether that country's situation conforms to the common criteria for designating third countries as safe countries of origin that are laid down in Directive 2013/32/EU.*

## **Amendment 11**

### **Proposal for a regulation Recital 5 b (new)**

*Text proposed by the Commission*

*Amendment*

*(5b) In accordance with the 1989 United Nations Convention on the Rights of the Child, the Charter of Fundamental Rights of the European Union, and the European Convention for the Protection of Human Rights and Fundamental Freedoms, the best interest of the child and the respect for family life should be a primary consideration of Member States when applying this Regulation. Furthermore, particular attention should be paid to vulnerable persons in the sense of Article 20.3 of Directive 2011/95/EU, as well as to persons belonging to ethnic minorities and LGBTI people.*

## **Amendment 12**

### **Proposal for a regulation Recital 5 c (new)**

*Text proposed by the Commission*

*Amendment*

*(5c) The provisions of Directive 2013/33/EU laying down standards for the reception of applicants for international protection should be applicable in relation to third country nationals originating from countries included in the EU*

*common list established by this Regulation, while their asylum application is pending.*

## Amendment 13

### Proposal for a regulation

#### Recital 6

##### *Text proposed by the Commission*

(6) The Commission should **regularly** review the situation in third countries that are on the EU common list of safe countries of origin. ***In case of*** sudden change for the worse in the situation of a third country on the EU common list, ***the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of suspending the presence of this third country from the EU common list for a period of one year where it considers, on the basis of a substantiated assessment, that the conditions*** set by Directive 2013/32/EU for regarding a third country as safe country of origin are no longer met. For the purpose of this substantiated assessment, the Commission should take into consideration a range of sources of information at its disposal including in particular, its Annual Progress Reports for third countries designated as candidate countries by the European Council, regular reports from the European External Action Service (EEAS) and the information from Member States, the European Asylum Support Office (EASO), the United Nations High Commissioner for Refugees (UNHCR), the Council of Europe and other relevant international organisations. The Commission should be able to extend the suspension of the presence of a third country from the EU common list for a period of maximum one year, where it has proposed an amendment to this Regulation in order to remove this

##### *Amendment*

(6) The Commission should ***continuously*** review the situation in third countries that are on the EU common list of safe countries of origin. ***If a*** sudden change for the worse in the situation of a third country on the EU common list ***could lead to that country's non-compliance with the conditions for the designation of a country as a safe country of origin*** set by Directive 2013/32/EU, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of suspending the presence of this third country from the EU common list for a period of one year, where it considers, on the basis of a substantiated assessment, that the conditions set by Directive 2013/32/EU for regarding a third country as safe country of origin are no longer met. For the purpose of this substantiated assessment, the Commission should take into consideration a range of sources of information at its disposal including in particular, its Annual Progress Reports for third countries designated as candidate countries by the European Council, regular reports from the European External Action Service (EEAS) and the information from Member States, the European Asylum Support Office (EASO), the United Nations High Commissioner for Refugees (UNHCR), the Council of Europe ***and*** other relevant international organisations, ***and national or international non-governmental organisations. The EU delegations in***

third country from the EU common list of safe countries of origin. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

*these countries should be tasked with monitoring for cases of refoulement and immediately report on any. As soon as possible after it becomes aware of the change in situation and in any event before adopting the decision suspending inclusion of that third country from the EU common list, the Commission should inform the Member States and recommend to them not to apply the safe country of origin concept to that third country at the national level. If, during the suspension period, it becomes clear from the available information that the situation in the third country once again fulfils the conditions set out in Annex I of Directive 2013/32/EU, the Commission shall, no sooner than six months after the adoption of the suspension decision, adopt in accordance with Article 290 TFEU a decision to revoke the suspension of that country from the EU common list of safe countries of origin.* The Commission should be able to extend the suspension of the presence of a third country from the EU common list for a period of maximum one year, where it has proposed an amendment to this Regulation in order to remove this third country from the EU common list of safe countries of origin. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

## **Amendment 14**

### **Proposal for a regulation Recital 6 a (new)**

*Text proposed by the Commission*

*Amendment*

**(6a) *The Commission should be able to consult a wide range of sources of***

*information and to access expert advice. To this end, the Commission should be able to request assistance when reviewing the common EU list of safe countries of origin, in particular, from EASO given its expertise. The Commission should also be able to consult international organisations, in particular the UNHCR, relevant civil society organisations and individuals with proven country-specific and human rights expertise.*

## **Amendment 15**

### **Proposal for a regulation Recital 7**

*Text proposed by the Commission*

*Amendment*

*(7) Following the conclusions on safe countries of origin of the Justice and Home Affairs Council of 20 July 2015, where Member States have agreed that priority should be given to an assessment by all Member States of the safety of the Western Balkans, EASO organised on 2 September 2015 an expert-level meeting with the Member States where a broad consensus was reached that Albania, Bosnia and Herzegovina, Kosovo\*<sup>9</sup>, the former Yugoslav Republic of Macedonia, Montenegro and Serbia should be considered as safe countries of origin within the meaning Directive 2013/32/EU.*

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*<sup>9</sup> \* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.*

## **Amendment 16**

### **Proposal for a regulation Recital 9**

*Text proposed by the Commission*

*Amendment*

(9) Based on a range of sources of information, including in particular reporting from the EEAS and information from Member States, EASO, UNHCR, the Council of Europe and other relevant international organisations, a number of third countries are considered to qualify as safe countries of origin.

(9) Based on a range of sources of information, including in particular reporting from the EEAS and information from Member States, EASO, UNHCR, the Council of Europe *and* other relevant international organisations, *and national or international non-governmental organisations*, a number of third countries are considered to qualify as safe countries of origin.

**Amendment 17**

**Proposal for a regulation**

**Recital 10**

*Text proposed by the Commission*

*Amendment*

***(10) As regards Albania, the legal basis for protection against persecution and mistreatment is adequately provided by substantive and procedural human rights and anti-discrimination legislation, including membership of all major international human rights treaties. In 2014, the European Court of Human Rights found violations in four out of 150 applications. There are no indications of any incidents of refoulement of its own citizens. In 2014, Member States considered that 7,8 % (1,040) of asylum applications of citizens from Albania were well-founded. At least eight Member States have designated Albania as a safe country of origin. Albania has been designated as a candidate country by the European Council. At that time the assessment was that Albania fulfilled the criteria established by the Copenhagen European Council of 21-22 June 1993 relating to stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and Albania will have to continue to fulfil these criteria for***

*deleted*



*becoming a member in line with the recommendations provided in the Annual Progress Report.*

## **Amendment 18**

### **Proposal for a regulation Recital 11**

*Text proposed by the Commission*

*Amendment*

*(11) As regards Bosnia and Herzegovina, its Constitution provides the basis for the sharing of powers between the country's constituent peoples. The legal basis for protection against persecution and mistreatment is adequately provided by substantive and procedural human rights and anti-discrimination legislation, including membership of all major international human rights treaties. In 2014, the European Court of Human Rights found violations in five out of 1,196 applications. There are no indications of any incidents of refoulement of its own citizens. In 2014, Member States considered that 4,6 % (330) of asylum applications of citizens from Bosnia and Herzegovina were well-founded. At least nine Member States have designated Bosnia and Herzegovina as a safe country of origin.*

*deleted*

## **Amendment 19**

### **Proposal for a regulation Recital 12**

*Text proposed by the Commission*

*Amendment*

*(12) As regards the former Yugoslav Republic of Macedonia, the legal basis for protection against persecution and mistreatment is adequately provided by principle substantive and procedural human rights and anti-discrimination*

*deleted*

*legislation, including membership of all major international human rights treaties. In 2014, the European Court of Human Rights found violations in six out of 502 applications. There are no indications of any incidents of refoulement of its own citizens. In 2014, Member States considered that 0.9 % (70) of asylum applications of citizens of the former Yugoslav Republic of Macedonia were well-founded. At least seven Member States have designated the former Yugoslav Republic of Macedonia as a safe country of origin. The former Yugoslav Republic of Macedonia has been designated as a candidate country by the European Council. At that time the assessment was that the former Yugoslav Republic of Macedonia fulfilled the criteria established by the Copenhagen European Council of 21-22 June 1993 relating to stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and the former Yugoslav Republic of Macedonia will have to continue to fulfil these criteria for becoming a member in line with the recommendations provided in the Annual Progress Report.*

## **Amendment 20**

### **Proposal for a regulation**

#### **Recital 13**

*Text proposed by the Commission*

*Amendment*

*(13) As regards Kosovo\*, the legal basis for protection against persecution and mistreatment is adequately provided by substantive and procedural human rights and anti-discrimination legislation. The non-accession of Kosovo\* to relevant international human rights instruments such as the ECHR results from the lack of international consensus regarding its status as a sovereign State. There are no*

*deleted*

*indications of any incidents of refoulement of its own citizens. In 2014, Member States considered that 6,3% (830) of asylum applications of citizens of Kosovo\* were well-founded. At least six Member States have designated Kosovo\* as a safe country of origin.*

## **Amendment 21**

### **Proposal for a regulation Recital 14**

*Text proposed by the Commission*

*Amendment*

*(14) As regards Montenegro, the legal basis for protection against persecution and mistreatment is adequately provided by substantive and procedural human rights and anti-discrimination legislation, including membership of all major international human rights treaties. In 2014, the European Court of Human Rights found violations in 1 out of 447 applications. There are no indications of any incidents of refoulement of its own citizens. In 2014, Member States considered that 3,0 % (40) of asylum applications of citizens of Montenegro were well-founded. At least nine Member States have designated Montenegro as a safe country of origin. Montenegro has been designated as a candidate country by the European Council and negotiations have been opened. At that time the assessment was that Montenegro fulfilled the criteria established by the Copenhagen European Council of 21-22 June 1993 relating to stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and Montenegro will have to continue to fulfil these criteria for becoming a member in line with the recommendations provided in the Annual Progress Report.*

*deleted*

## Amendment 22

### Proposal for a regulation Recital 15

*Text proposed by the Commission*

*Amendment*

***(15) As regards Serbia, the Constitution provides the basis for self-governance of minority groups in the areas of education, use of language, information and culture. The legal basis for protection against persecution and mistreatment is adequately provided by substantive and procedural human rights and anti-discrimination legislation, including membership of all major international human rights treaties. In 2014, the European Court of Human Rights found violations in 16 out of 11 490 applications. There are no indications of any incidents of refoulement of its own citizens. In 2014, Member States considered that 1,8 % (400) of asylum applications of citizens from Serbia were well-founded. At least nine Member States have designated Serbia as a safe country of origin. Serbia has been designated as a candidate country by the European Council and negotiations have been opened. At that time the assessment was that Serbia fulfilled the criteria established by the Copenhagen European Council of 21-22 June 1993 relating to stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and Serbia will have to continue to fulfil these criteria for becoming a member in line with the recommendations provided in the Annual Progress Report.***

*deleted*

## Amendment 23

### Proposal for a regulation Recital 16

**(16) As regards Turkey, the legal basis for protection against persecution and mistreatment is adequately provided by substantive and procedural human rights and anti-discrimination legislation, including membership of all major international human rights treaties. In 2014, the European Court of Human Rights found violations in 94 out of 2899 applications. There are no indications of any incidents of refoulement of its own citizens. In 2014, Member States considered that 23,1 % (310) of asylum applications of citizens of Turkey were well-founded. One Member State has designated Turkey as a safe country of origin. Turkey has been designated as a candidate country by the European Council and negotiations have been opened. At that time the assessment was that Turkey fulfilled the criteria established by the Copenhagen European Council of 21-22 June 1993 relating to stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and Turkey will have to continue to fulfil these criteria for becoming a member in line with the recommendations provided in the Annual Progress Report.**

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#### **Amendment 24**

#### **Proposal for a regulation**

#### **Recital 18**

(18) This Regulation respects the fundamental rights and observes the principles recognized by the Charter.

(18) This Regulation respects fundamental rights and observes the principles recognized by the Charter, **including the right to asylum and protection against refoulement as provided for in Articles 18 and 19 of the**

## Amendment 25

### Proposal for a regulation Article 1 – paragraph 1

*Text proposed by the Commission*

1. This Regulation establishes an EU common list of third countries which shall be regarded as safe countries of origin within the meaning of Directive 2013/32/EU.

*Amendment*

1. This Regulation establishes an EU common list of third countries which shall be regarded as safe countries of origin within the meaning of Directive 2013/32/EU. ***Nationals of third countries that are on the EU common list of safe countries of origin established by this Regulation shall be guaranteed access to international protection procedures and benefit from all relevant procedural guarantees and safeguards provided for in Directive 2013/32/EU.***

## Amendment 26

### Proposal for a regulation Article 2 – paragraph 1

*Text proposed by the Commission*

1. Third countries listed in Annex I to this Regulation are safe countries of origin.

*Amendment*

1. Third countries listed in Annex I to this Regulation are ***designated as*** safe countries of origin.

## Amendment 27

### Proposal for a regulation Article 2 – paragraph 2

*Text proposed by the Commission*

2. The Commission shall ***regularly*** review the situation in third countries that are on the EU common list of safe countries of origin, based on a range of sources of information, including in

*Amendment*

2. The Commission shall ***continuously*** review the situation in third countries that are on the EU common list of safe countries of origin ***or suspended from that list in accordance with Article 3.***

particular regular reporting from the EEAS **and** information from Member States, EASO, UNHCR, the Council of Europe and other relevant international organisations.

***It shall also continuously review those countries' compliance with the conditions for the designation of a country as a safe country of origin set out in Annex I to Directive 2013/32/EU, based on a range of sources of information, including in particular regular reporting from the EEAS, the Union delegations in these countries, as well as information from Member States, EASO, UNHCR, FRA, the Council of Europe and other relevant international organisations, and national or international non-governmental organisations. It shall keep the European Parliament properly informed, in a timely manner.***

## Amendment 28

### Proposal for a regulation Article 2 – paragraph 3

#### *Text proposed by the Commission*

3. Any amendment of the EU common list of safe countries of origin shall be adopted in accordance with the ordinary legislative procedure.

#### *Amendment*

3. Any amendment of the EU common list of safe countries of origin shall be adopted in accordance with the ordinary legislative procedure. ***For that purpose:***

***(a) The Commission shall regularly examine the situation in third countries and the possibility of proposing to add them to the EU common list of safe countries of origin.***

***If appropriate, the Commission shall draw up a proposal to enlarge the common list of safe countries of origin after a substantiated assessment of whether countries to be added to the list fulfil the criteria set in Annex I to Directive 2013/32/EU.***

***Assessments of whether a country is a safe country of origin conducted in accordance with this Article shall be based on a range of sources of information, including in particular***

*regular reporting from the EEAS and information from Member States, EASO, the UNHCR, the Council of Europe, and other relevant international organisations, and national or international non-governmental organisations.*

*(b) In view of the harmonisation of national lists of safe countries of origin, during the transitional three-year period from the entry into force of this Regulation, Member States can propose to add third countries to the EU common list of safe countries of origin. The Commission shall then examine those proposals within six months of their submission, on the basis of the range of information sources at its disposal, in particular EEAS reports and information provided by Member States, EASO, the UNHCR, the Council of Europe and other relevant international organisations, and national or international non-governmental organisations. If it decides that a third country can be added to the list, the Commission shall draw up a proposal to enlarge the EU common list of safe countries of origin.*

## **Amendment 29**

### **Proposal for a regulation Article 2 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

*4a. Where sudden changes in the situation of a third country on the EU common list of safe countries of origin arise and imperative grounds of urgency so require, the procedure provided for in Article 3a shall apply to delegated acts adopted pursuant to this Article.*



## Amendment 30

### Proposal for a regulation

#### Article 3 – title

*Text proposed by the Commission*

**Removal** of a third country from the EU common list of safe countries of origin in case of sudden change of situation

*Amendment*

**Suspension and removal** of a third country from the EU common list of safe countries of origin in case of sudden change of situation

## Amendment 31

### Proposal for a regulation

#### Article 3 – paragraph 2

*Text proposed by the Commission*

2. ***In case of*** sudden changes in the situation of a third country ***that is*** on the EU common list of safe countries of origin, ***the Commission shall conduct a substantiated assessment of the fulfilment by that country of the conditions*** set in Annex I of Directive 2013/32/EU and, if ***those conditions*** are no longer met, shall adopt, in accordance with Article 290 ***TFUE***, a Decision suspending the presence of that third country from the EU common list for a period of one year.

*Amendment*

2. ***If*** sudden changes in the situation of a third country on the EU common list of safe countries of origin ***could lead to that country's non-compliance with the conditions for the designation of a country as a safe country of origin*** set in Annex I to Directive 2013/32/EU, ***the Commission shall immediately and rapidly conduct a substantiated assessment of that country's compliance with those conditions*** and, if ***they*** are no longer met, shall ***as soon as possible*** adopt, in accordance with Article 290 ***TFEU***, a decision suspending the presence of that third country from the EU common list for a period of one year.

***As soon as possible after it becomes aware of the change in situation and in any event before adopting the decision suspending inclusion of that third country from the EU common list, the Commission shall inform the Member States and recommend to them not to apply the safe country of origin concept to that third country at the national level.***

## **Amendment 32**

### **Proposal for a regulation Article 3 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. If, during the suspension period, it becomes clear from the available information that the third country once again fulfils the conditions set out in Annex I to Directive 2013/32/EU, the Commission shall, no sooner than six months after the adoption of the decision in paragraph 2 of this Article, adopt a decision to revoke the suspension of that country from the EU common list of safe countries of origin in accordance with Article 290 TFEU.**

## **Amendment 33**

### **Proposal for a regulation Article 3 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 3a**

##### **Urgency procedure**

**1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2.**

**2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.**

**2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 3(5). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or by the Council.**

## Amendment 34

### Proposal for a regulation Article 3 b (new)

*Text proposed by the Commission*

*Amendment*

#### **Article 3b**

##### **Consultation of third parties**

**1. The Commission shall consult the European Asylum Support Office ("The Agency") when conducting its regular reviews of the situation in third countries which are included in the common EU list of safe countries of origin, including those that have been suspended. The Commission may request that the Agency carry out a review of the situation in any such third country with a view to assessing whether the criteria set out in Annex I to Directive 2013/32/EU are satisfied.**

**2. When reviewing the EU common list of safe countries of origin, the Commission shall consult international organisations, in particular the UNHCR, and relevant civil society organisations or individuals with proven country-specific and human rights expertise.**

**3. UNHCR, non-governmental organisations and individual experts with proven and relevant country-specific and human rights expertise may request that the Commission suspend or remove a country from the common EU list of safe countries of origin. Such a request shall contain a detailed and up-to-date description of the human rights situation and the persistent serious human rights violations occurring in the country concerned. It shall also specify the non-compliance of the criteria laid down in Annex I to Directive 2013/32/EU justifying the suspension or withdrawal of that country from the EU common list of countries of origin. Except where it considers the requests to be inadmissible,**

*unsubstantiated or repetitive, the Commission assesses the information submitted in such requests.*

## **Amendment 35**

### **Proposal for a regulation**

#### **Article 4 – paragraph 1 – point -1 (new)**

Directive 2013/32/EU

Article 25 – subparagraph 2 – paragraph 6 – point a – point i

#### *Present text*

(i) the applicant comes from a country which satisfies the criteria to be considered a safe country of origin within the meaning of this Directive; or

#### *Amendment*

***(-1) In Article 25 paragraph 6 point a point i is amended as follows:***

“(i) the applicant comes from a country which satisfies the criteria to be considered a safe country of origin within the meaning of this Directive, ***and adequate support in accordance with Article 24(3) can be provided within the framework of such procedure; or***”

## **Amendment 36**

### **Proposal for a regulation**

#### **Article 4 – paragraph 1 – point -1 a (new)**

Directive 2013/32/EU

Article 25 – subparagraph 2 – paragraph 6 – point b – point i

#### *Present text*

(i) the applicant comes from a country which satisfies the criteria to be considered a safe country of origin within the meaning of this Directive; or

#### *Amendment*

***(-1a) In Article 25(6)(b) point (i) is amended as follows:***

“(i) the applicant comes from a country which satisfies the criteria to be considered a safe country of origin within the meaning of this Directive, ***and adequate support in accordance with Article 24(3) can be provided within the framework of such procedure; or***”

## **Amendment 37**

### **Proposal for a regulation**

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**Article 4 – paragraph 1 – point 1**  
Directive 2013/32/EU  
Article 36 – paragraph 1 – introductory wording

*Text proposed by the Commission*

1. A third country designated as a safe country of origin in accordance with this Directive by national law or that is on the EU common list of safe countries of origin established by Regulation (EU) No XXXX/2015 of the European Parliament and of the Council\* [this Regulation] may, after an individual examination of the application, be considered as a safe country of origin for a particular applicant only if:

*Amendment*

1. A third country designated as a safe country of origin in accordance with this Directive by national law or that is on the EU common list of safe countries of origin established by Regulation (EU) No XXXX/2015 of the European Parliament and of the Council\* [this Regulation] may, after an individual examination of the application, ***including a personal interview and legal assistant in accordance with Articles 14 and 22***, be considered as a safe country of origin for a particular applicant only if:

#### **Amendment 38**

**Proposal for a regulation**  
**Article 4 – paragraph 1 – point 1**  
Directive 2013/32/EU  
Article 36 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. Member States shall not apply the safe country of origin concept in case of applicants belonging to a minority or group of persons that remains at risk in light of the situation in the country of origin concerned, based on the sources of information listed in Article 2(2) of Regulation (EU) No XXXX/2015.***

#### **Amendment 39**

**Proposal for a regulation**  
**Article 4 – paragraph 1 – point 1**

Directive 2013/32/ EU  
Article 36 – paragraph 1 – subparagraph 1 b (new)

*Text proposed by the Commission*

*Amendment*

***1b. From ... [three years from the entry into force of this Regulation] only a country that is on the EU common list of safe countries of origin established by Regulation (EU) No XXXX/2015 of the European Parliament and of the Council\* shall be considered to be a safe country of origin within the meaning of this Directive.***

#### **Amendment 40**

**Proposal for a regulation**  
**Article 4 – paragraph 1 – point 1 a (new)**  
Directive 2013/32/EU  
Article 36 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. The following article is inserted:***

***“Article 36a***

***Designation of safe countries of origin for the purposes of Article 36 and Article 37(1)***

***A country is considered to be a safe country of origin where, on the basis of the legal situation, the application of the law within a democratic system and the general political situation, it can be shown that there is no general or consistent persecution within the meaning of Article 9 of Directive 2011/95/EU, no torture or inhuman or degrading treatment or punishment and no threat posed by indiscriminate violence in situations of international or internal armed conflict.***

***In making this assessment, account shall be taken, inter alia, of the extent to which protection is provided against persecution or mistreatment by:***

- (a) *the relevant laws and regulations of the country and the manner in which they are applied;*
- (b) *observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Covenant for Civil and Political Rights and/or the United Nations Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention;*
- (c) *respect for the non-refoulement principle in accordance with the Geneva Convention;*
- (d) *provision for a system of effective remedies against violations of those rights and freedoms.”*

## **Amendment 41**

### **Proposal for a regulation**

#### **Article 4 – paragraph 1 – point 2**

Directive 2013/32/ EU

Article 37 – paragraph 1

*Text proposed by the Commission*

1. Member States may retain or introduce legislation that allows, in accordance with Annex I, for the national designation of safe countries of origin other than those on the EU common list of safe countries of origin established by Regulation (EU) No XXXX/2015 [this Regulation] for the purposes of examining applications for international protection.

*Amendment*

1. ***By ... [three years after the date of entry into force of Regulation (EU) No xxx/2015],*** Member States may retain or introduce legislation that allows, in accordance with Annex I, for the national designation of safe countries of origin other than those on the EU common list of safe countries of origin established by Regulation (EU) No XXXX/2015 [this Regulation] for the purposes of examining applications for international protection.

***During that period, they shall be responsible for making sure that the national lists of safe countries of origin and the EU common list of safe countries of origin are consistent with one another.***

*This implies the following:*

*(a) Member States shall notify the Commission of any changes made to their national list.*

*(b) Member States can propose to add third countries to the EU common list of safe countries of origin. The Commission shall then examine those proposals within six months of their submission, on the basis of the range of information sources at its disposal, in particular EEAS reports and information provided by Member States, EASO, the UNHCR, the Council of Europe and other relevant international organisations and national or international non-governmental organisations. If it decides that a third country can be added to the list, the Commission shall draw up a proposal to enlarge the EU common list of safe countries of origin.*

*(c) Where a third country has been suspended from the EU common list of safe countries of origin pursuant to Article 3(2) of that Regulation, Member States shall not designate that country as a safe country of origin at the national level.*

*(d) Where a third country has been removed from the EU common list of safe countries of origin pursuant to Article 2(3), a Member State may notify the Commission where it considers that, following changes in the situation of that third country, it once again fulfils the criteria set out in Annex I to this Directive for being included in the EU common list of safe countries of origin.*

*The Commission shall examine any such notification by a Member State and if appropriate, submit a proposal to the European Parliament and to the Council to amend the EU common list of safe countries of origin accordingly.*

*If the Commission decides not to submit such a proposal, Member States shall not*



*designate that country as a safe country of origin at national level.*

## **Amendment 42**

### **Proposal for a regulation**

#### **Article 4 – paragraph 1 – point 2 a (new)**

Directive 2013/32/EU

Article 46 – paragraph 6 – point a

#### *Present text*

(a) considering an application to be manifestly unfounded in accordance with Article 32(2) or unfounded after examination in accordance with Article 31(8), except for cases where these decisions are based on the circumstances referred to in Article 31(8)(h);

#### *Amendment*

**2a. Article 46(6)(a) is replaced by the following:**

“(a) considering an application to be manifestly unfounded in accordance with Article 32(2) or unfounded after examination in accordance with Article 31(8), except for cases where these decisions are based on the circumstances referred to in Article 31(8)(b) **and** (h);”

## **Amendment 43**

### **Proposal for a regulation**

#### **Article 4 a (new)**

#### *Text proposed by the Commission*

#### *Amendment*

#### **Article 4a**

##### **Monitoring and evaluation**

**By ... [two years after the date of entry into force of this Regulation], the Commission shall submit a report to the European Parliament and to the Council on the implementation of this Regulation and, where appropriate, shall propose the necessary amendments. By ... [18 months after the date of entry into force of this Regulation], Member States shall forward to the Commission all information appropriate for the preparation of that report. After it has submitted the report, the Commission shall report to the European Parliament and to the Council**

*on the application of this Regulation.*

*As part of the report, the Commission shall report on the methodology it has used to assess the situation in third countries included in the EU common list or the potential inclusion or suspension of such countries from the list. It shall also report on the implementation of procedural safeguards for asylum seekers originating from a country on the EU common list of safe countries of origin.*

## **Amendment 44**

### **Proposal for a regulation Annex I**

*Text proposed by the Commission*

*EU common list of safe countries of origin referred to in Article 2*

*Albania,*

*Bosnia and Herzegovina,*

*the former Yugoslav Republic of Macedonia,*

*Kosovo\*<sup>11</sup>,*

*Montenegro,*

*Serbia,*

*Turkey.*

*Amendment*

*EU common list of safe countries of origin referred to in Article 2.*

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*<sup>11</sup> \* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.*

## EXPLANATORY STATEMENT

### **The Commission proposal: principles and objectives**

On 13 May 2015 the Commission presented a comprehensive European Agenda on Migration, outlining, in addition to immediate measures, further initiatives that need to be taken to provide structural solutions for better managing migration in all its aspects. As part of the structural initiatives considered, the Commission stressed the need to strengthen the common European asylum system and adopt a more effective approach to abuses. In this context it proposed on 9 September 2015 to strengthen the ‘safe countries of origin’ provisions of Directive 2013/32/EU on common procedures for granting and withdrawing international protection (hereinafter ‘the Asylum Procedures Directive’).

As well as endorsing the principle of a common list of safe countries of origin, the proposal places a number of countries on this list straight away (Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Kosovo, Montenegro, Serbia and Turkey). The Commission states that its proposal has three objectives: 1) to increase the overall efficiency of asylum systems; 2) to discourage attempts to abuse the common European asylum system and seek to ensure, on the other hand, that the Member States devote more resources to persons in need of protection; 3) to reduce the existing divergences between Member States’ national lists of safe countries of origin, thereby facilitating convergence in the application of procedures.

### **General remarks on the concept of safe countries of origin and its application**

To begin with, the rapporteur wishes to dissipate some of the confusion and correct misconceptions surrounding the concept of safe countries of origin itself.

First of all, if an asylum seeker’s country of origin is considered to be a safe country of origin, this does not mean that his application will not be considered or that he will be immediately deported. This in no way establishes an absolute guarantee of safety for the applicant and does not dispense therefore with the need to conduct an appropriate individual examination of his application, in accordance with the Asylum Procedures Directive and the relevant procedural safeguards.

Furthermore, the term ‘safe country of origin’ should not be confused with the term ‘safe third country’. The two concepts apply to two distinct groups (the former to nationals of a country designated as a safe country of origin, the latter to nationals of countries other than those designated as safe third countries in accordance with the conditions laid down in Article 38 of the Procedures Directive), they follow different rules and have different procedural safeguards.

Finally, while a European list may make it easier for all Member States to make use of the concept of safe countries of origin, the Asylum Procedures Directive already enables them to adopt this procedural tool. Thus they can already fast-track applications from the nationals of safe countries of origin or consider substantive applications at the border. That being so, while acknowledging the importance of this tool in the search for common solutions, we should not overstate this proposal’s potential in the context of the current migratory crisis. The added

value of a European list of safe countries of origin should be assessed in the light of the overall effective management of EU asylum systems and the full implementation of the provisions of the common European asylum system.

### **Questions and reservations concerning the Commission proposal**

As a step on the way towards a common European asylum system, the Commission's harmonising approach should be welcomed. However, the rapporteur would like to ask some questions and express some reservations:

#### 1) on the harmonising impact of this proposal

The adoption of a common list of safe countries of origin will not necessarily lead to greater harmonisation, as it allows this European list to coexist with Member States' national lists. However, if the Commission is considering the possibility, in the future, of taking further harmonising measures that could result in dispensing with the need for national lists, its proposal does not specifically say so. Neither does it define clearly how the national lists would interact with the common list. Finally, it does not propose any adjustments to remedy the existing divergences between national lists.

#### 2) on the methodology for designating a country as a safe country of origin

The question of methodology is crucial. First of all, as the European Court of Justice requires, it is up to the European co-legislators to show that they have carefully balanced the objectives of the regulation in question, on the one hand, against the fundamental rights enshrined in the Charter of Fundamental Rights of the EU, on the other. Furthermore, as the proposal states, this list of seven countries would only be a preliminary stage, as the Commission proposes to include other third countries later. However, the proposal does not seem to put forward a clear and rigorous methodology for evaluating the situation in third countries, either for the adoption of the list or for its revision. Nor does it provide a reasoned assessment of the situation in the seven countries in question to justify their inclusion on the common list.

#### 3) on the adoption and review process

The proposal does not formally specify how changes to the European list could influence national procedures regarding either the process of suspension or of withdrawal from the list. This lack of legal certainty is compounded by a lack of flexibility in the suspension procedure set out in Article 3.

### **Gathering information on the countries on the list and improving its structure**

In the light of these various observations, the rapporteur proposes an approach which will make it possible both to carry out the essential work of gathering information on the countries on the list, and to improve the structure of the list itself.

#### 1) Vital need for information-gathering and investigation work

In order to carry out an appropriate assessment of the countries listed in the Annex, the European Parliament and the Council have formally asked the European Asylum Support Office (EASO) for additional, updated information on the situation in the countries of the Western Balkans and Turkey. Parliament has sought to complement this information-gathering work by also asking the European Union Agency for Fundamental Rights (FRA) to highlight any implications the proposal has for fundamental rights.

## 2) A partial position, temporarily disregarding the countries on the list

While awaiting the contributions from EASO, the co-legislators are not in a position to express a view on the parts specifically linked to the seven non-EU countries listed in the Commission proposal as safe countries of origin. This is why the rapporteur has not yet made any comments on the Annex or the recitals relating to it. The Council is taking the same approach. This two-stage approach will enable the co-legislators to begin interinstitutional negotiations on the other parts of the text, and, once the contributions from EASO have been received, to convert their partial position into a complete one.

## 3) Improving the structure of the list

The rapporteur's amendments seek, logically enough, to reflect the above comments, primarily with a view to:

### a) *clarifying the relationship between the European list and the national lists*

To optimise the harmonising effect of the proposal, the rapporteur suggests abolishing the national lists within three years, and, during that period, establishing clearly defined procedures in the event that a country is suspended or withdrawn from the common list.

### b) *improving the methodology for the assessment of third countries in the context of the adoption and review process*

As the case law requires, the sources of information referred to in the draft regulation must be supplemented by on-the-ground reports and information supplied by NGOs. Furthermore, the methodology must be improved in order to establish a clear procedure in the event of the list being amended: reasons and justifications should be given for any change to the list, taking account of information supplied by the various relevant actors. To that end the rapporteur proposes the creation of an Advisory Body on Safe Country of Origin Information. This body will comprise both permanent members, including EASO and the UN Refugee Agency, and non-permanent members selected on the basis of their proven country-specific and/or human rights expertise. The body's tasks will be defined at each stage of the designation and list review process. This body will thus make it possible to assess more effectively whether the concept of 'safe country of origin' is applicable to a given third country.

### c) *guaranteeing a faster and more flexible mechanism for reviewing the list*

The rapporteur seeks in particular to enhance the flexibility of the procedure for reviewing the list in the event of 'sudden changes in the situation' and thus to avoid overlong response times and prevent a country being inappropriately placed on the list of safe countries of origin.

### d) *reaffirming the procedural framework of Directive 2013/32/EU*

The creation of a common list requires not only a reasoned and properly informed evaluation of the situation in the third countries in question but also the full application of the rules laid down in the Asylum Procedures Directive, and in particular of the relevant procedural safeguards. The rapporteur therefore suggests reaffirming the applicable procedural framework and takes the view that it must be implemented by all Member States. Accordingly, within two years from the entry into force of the regulation, the Commission is to draw up a follow-up and assessment report on the implementation of the procedural safeguards under the Asylum Procedures Directive for asylum seekers originating from a country on the common list of safe countries of origin. On the concept of 'safe country of origin' itself, it is useful to note that the inclusion of a country on the common list should be based solely on an assessment of whether the situation in the country meets the criteria set out in the Asylum Procedures Directive.

15.6.2016

## **OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS**

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a regulation of the European Parliament and of the Council establishing an EU common list of safe countries of origin for the purposes of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection, and amending Directive 2013/32/EU (COM(2015)0452 – C8-0270/2015 – 2015/0211(COD))

Rapporteur: Jozo Radoš

### **SHORT JUSTIFICATION**

The Commission has presented to the European Parliament and the Council a proposal aimed at establishing an EU common list of safe countries of origin, on the basis of the common criteria set in Directive 2013/32/EU. Based on information from the European External Action Service, the Member States, the European Asylum Support Office, the Council of Europe, the United Nations High Commissioner for Refugees and other relevant international organisations, it is proposed at this stage that the list includes 6 Western Balkans countries and Turkey.

The Rapporteur welcomes this proposal which should help the swift processing of asylum applications from persons originating from these countries and reduce divergences between existing national lists. The proposal includes provisions on the regular review of the situation in the countries on the common list and on the removal of a country from the list in case of sudden change of situation.

It is important to stress that the inclusion of a country on the list cannot establish an absolute guarantee of safety for nationals of that country and therefore will not dispense with the need to conduct an appropriate individual examination of their applications for international protection.

The Rapporteur notes that in the case of Turkey, the rate of asylum applications considered by EU Member States as well-founded is relatively high, testifying to the fact that discrimination and human rights violations of persons belonging to vulnerable groups still occur there. While the Rapporteur agrees with the Commission's conclusion that Turkey is a safe country of origin within the meaning of Directive 2013/32/EU, he considers it of particular importance to

make sure that the duty of individual examination of asylum applications is fully respected.

## AMENDMENTS

The Committee on Foreign Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a regulation

#### Recital 5 a (new)

*Text proposed by the Commission*

*Amendment*

***(5a) In accordance with the 1989 United Nations Convention on the Rights of the Child, the Charter of Fundamental Rights of the European Union, and the European Convention for the Protection of Human Rights and Fundamental Freedoms, the best interest of the child and the respect for family life should be a primary consideration of Member States when applying this Regulation. Furthermore, particular attention should be paid to vulnerable persons in the sense of Article 20.3 of Directive 2011/95/EU, as well as to persons belonging to ethnic minorities and LGBTI people.***

### Amendment 2

#### Proposal for a regulation

#### Recital 6

*Text proposed by the Commission*

*Amendment*

(6) The Commission should ***regularly review*** the situation in third countries that are on the EU common list of safe countries of origin. In case of sudden change for the worse in the situation of a third country on the EU common list, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should

(6) The Commission should ***continuously monitor*** the situation in third countries that are on the EU common list of safe countries of origin ***and conduct reviews in this regard at least every six months***. In case of sudden change for the worse in the situation of a third country on the EU common list, the power to adopt acts in accordance with Article 290 of the

be delegated to the Commission in respect of suspending the presence of this third country from the EU common list for a period of one year where it considers, on the basis of a substantiated assessment, that the conditions set by Directive 2013/32/EU for regarding a third country as safe country of origin are no longer met. For the purpose of this substantiated assessment, the Commission should take into consideration a range of sources of information at its disposal including in particular, its Annual Progress Reports for third countries designated as candidate countries by the European Council, regular reports from the European External Action Service (EEAS) and the information from Member States, the European Asylum Support Office (EASO), the United Nations High Commissioner for Refugees (UNHCR), the Council of Europe and other relevant international organisations. The Commission should be able to extend the suspension of the presence of a third country from the EU common list for a period of maximum one year, where it has proposed an amendment to this Regulation in order to remove this third country from the EU common list of safe countries of origin. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

Treaty on the Functioning of the European Union should be delegated to the Commission in respect of suspending the presence of this third country from the EU common list for a period of one year where it considers, on the basis of a substantiated assessment, that the conditions set by Directive 2013/32/EU for regarding a third country as safe country of origin are no longer met. For the purpose of this substantiated assessment, the Commission should take into consideration a range of sources of information at its disposal including in particular, its Annual Progress Reports for third countries designated as candidate countries by the European Council, regular reports from the European External Action Service (EEAS) and the information from Member States, the European Asylum Support Office (EASO), the United Nations High Commissioner for Refugees (UNHCR), the Council of Europe and other relevant international organisations. ***The EU delegations in these countries should be tasked with monitoring for cases of refoulement and immediately report on any.*** The Commission should be able to extend the suspension of the presence of a third country from the EU common list for a period of maximum one year, where it has proposed an amendment to this Regulation in order to remove this third country from the EU common list of safe countries of origin. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

### **Amendment 3**

#### **Proposal for a regulation Recital 10**



*Text proposed by the Commission*

(10) As regards Albania, the legal basis for protection against persecution and mistreatment is adequately provided by substantive and procedural human rights and anti-discrimination legislation, including membership of all major international human rights treaties. In 2014, the European Court of Human Rights found violations in four ***out of 150 applications***. There are no indications of any incidents of refoulement of its own citizens. In 2014, Member States considered that 7,8% (1040) of asylum applications of citizens from Albania were well-founded. At least eight Member States have designated Albania as a safe country of origin. Albania has been designated as a candidate country by the European Council. At that time the assessment was that Albania fulfilled the criteria established by the Copenhagen European Council of 21-22 June 1993 relating to stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and Albania will have to continue to fulfil these criteria for becoming a member in line with the recommendations provided in the Annual Progress Report.

*Amendment*

(10) As regards Albania, the legal basis for protection against persecution and mistreatment is adequately provided by substantive and procedural human rights and anti-discrimination legislation, including membership of all major international human rights treaties. In 2014, the European Court of Human Rights found violations in four ***cases***. There are no indications of any incidents of refoulement of its own citizens. In 2014, Member States considered that 7,8% (1040) of asylum applications of citizens from Albania were well-founded. At least eight Member States have designated Albania as a safe country of origin. Albania has been designated as a candidate country by the European Council. At that time the assessment was that Albania fulfilled the criteria established by the Copenhagen European Council of 21-22 June 1993 relating to stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and Albania will have to continue to fulfil these criteria for becoming a member in line with the recommendations provided in the Annual Progress Report.

*Justification*

*The fact that the ratio of judgements proving violations on the total number of application in a given year is relatively low is not a relevant indicator and it can be misleading, as most applications will not be considered in their merits, part of them result in a friendly settlement and part of them will remain pending.*

**Amendment 4**

**Proposal for a regulation**

**Recital 11**

*Text proposed by the Commission*

(11) As regards Bosnia and

*Amendment*

(11) As regards Bosnia and

Herzegovina, its Constitution provides the basis for the sharing of powers between the country's constituent peoples. The legal basis for protection against persecution and mistreatment is adequately provided by substantive and procedural human rights and anti-discrimination legislation, including membership of all major international human rights treaties. In 2014, the European Court of Human Rights found violations in five ***out of 1196 applications***. There are no indications of any incidents of refoulement of its own citizens. In 2014, Member States considered that 4,6% (330) of asylum applications of citizens from Bosnia and Herzegovina were well-founded. At least nine Member States have designated Bosnia and Herzegovina as a safe country of origin.

Herzegovina, its Constitution provides the basis for the sharing of powers between the country's constituent peoples. The legal basis for protection against persecution and mistreatment is adequately provided by substantive and procedural human rights and anti-discrimination legislation, including membership of all major international human rights treaties. In 2014, the European Court of Human Rights found violations in five ***cases***. There are no indications of any incidents of refoulement of its own citizens. In 2014, Member States considered that 4,6% (330) of asylum applications of citizens from Bosnia and Herzegovina were well-founded. At least nine Member States have designated Bosnia and Herzegovina as a safe country of origin.

#### *Justification*

*The fact that the ratio of judgements proving violations on the total number of application in a given year is relatively low is not a relevant indicator and it can be misleading, as most applications will not be considered in their merits, part of them result in a friendly settlement and part of them will remain pending.*

### **Amendment 5**

#### **Proposal for a regulation**

##### **Recital 12**

###### *Text proposed by the Commission*

(12) As regards the former Yugoslav Republic of Macedonia, the legal basis for protection against persecution and mistreatment is adequately provided by principle substantive and procedural human rights and anti-discrimination legislation, including membership of all major international human rights treaties. In 2014, the European Court of Human Rights found violations in six ***out of 502 applications***. There are no indications of any incidents of refoulement of its own citizens. In 2014, Member States

###### *Amendment*

(12) As regards the former Yugoslav Republic of Macedonia, the legal basis for protection against persecution and mistreatment is adequately provided by principle substantive and procedural human rights and anti-discrimination legislation, including membership of all major international human rights treaties. In 2014, the European Court of Human Rights found violations in six ***cases***. There are no indications of any incidents of refoulement of its own citizens. In 2014, Member States considered that 0,9% (70)

considered that 0,9% (70) of asylum applications of citizens of the former Yugoslav Republic of Macedonia were well-founded. At least seven Member States have designated the former Yugoslav Republic of Macedonia as a safe country of origin. The former Yugoslav Republic of Macedonia has been designated as a candidate country by the European Council. At that time the assessment was that the former Yugoslav Republic of Macedonia fulfilled the criteria established by the Copenhagen European Council of 21-22 June 1993 relating to stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and the former Yugoslav Republic of Macedonia will have to continue to fulfil these criteria for becoming a member in line with the recommendations provided in the Annual Progress Report.

of asylum applications of citizens of the former Yugoslav Republic of Macedonia were well-founded. At least seven Member States have designated the former Yugoslav Republic of Macedonia as a safe country of origin. The former Yugoslav Republic of Macedonia has been designated as a candidate country by the European Council. At that time the assessment was that the former Yugoslav Republic of Macedonia fulfilled the criteria established by the Copenhagen European Council of 21-22 June 1993 relating to stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and the former Yugoslav Republic of Macedonia will have to continue to fulfil these criteria for becoming a member in line with the recommendations provided in the Annual Progress Report.

#### *Justification*

*The fact that the ratio of judgements proving violations on the total number of application in a given year is relatively low is not a relevant indicator and it can be misleading, as most applications will not be considered in their merits, part of them result in a friendly settlement and part of them will remain pending.*

### **Amendment 6**

#### **Proposal for a regulation**

##### **Recital 14**

###### *Text proposed by the Commission*

(14) As regards Montenegro, the legal basis for protection against persecution and mistreatment is adequately provided by substantive and procedural human rights and anti-discrimination legislation, including membership of all major international human rights treaties. In 2014, the European Court of Human Rights found violations in 1 ***out of 447 applications***. There are no indications of any incidents of refoulement of its own

###### *Amendment*

(14) As regards Montenegro, the legal basis for protection against persecution and mistreatment is adequately provided by substantive and procedural human rights and anti-discrimination legislation, including membership of all major international human rights treaties. In 2014, the European Court of Human Rights found violations in 1 ***case***. There are no indications of any incidents of refoulement of its own citizens. In 2014, Member States

citizens. In 2014, Member States considered that 3,0 % (40) of asylum applications of citizens of Montenegro were well-founded. At least nine Member States have designated Montenegro as a safe country of origin. Montenegro has been designated as a candidate country by the European Council and negotiations have been opened. At that time the assessment was that Montenegro fulfilled the criteria established by the Copenhagen European Council of 21-22 June 1993 relating to stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and Montenegro will have to continue to fulfil these criteria for becoming a member in line with the recommendations provided in the Annual Progress Report.

considered that 3,0 % (40) of asylum applications of citizens of Montenegro were well-founded. At least nine Member States have designated Montenegro as a safe country of origin. Montenegro has been designated as a candidate country by the European Council and negotiations have been opened. At that time the assessment was that Montenegro fulfilled the criteria established by the Copenhagen European Council of 21-22 June 1993 relating to stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and Montenegro will have to continue to fulfil these criteria for becoming a member in line with the recommendations provided in the Annual Progress Report.

#### *Justification*

*The fact that the ratio of judgements proving violations on the total number of application in a given year is relatively low is not a relevant indicator and it can be misleading, as most applications will not be considered in their merits, part of them result in a friendly settlement and part of them will remain pending.*

### **Amendment 7**

#### **Proposal for a regulation**

##### **Recital 15**

###### *Text proposed by the Commission*

(15) As regards Serbia, the Constitution provides the basis for self-governance of minority groups in the areas of education, use of language, information and culture. The legal basis for protection against persecution and mistreatment is adequately provided by substantive and procedural human rights and anti-discrimination legislation, including membership of all major international human rights treaties. In 2014, the European Court of Human Rights found violations in **16 out of 11 490 applications**. There are no indications of

###### *Amendment*

(15) As regards Serbia, the Constitution provides the basis for self-governance of minority groups in the areas of education, use of language, information and culture. The legal basis for protection against persecution and mistreatment is adequately provided by substantive and procedural human rights and anti-discrimination legislation, including membership of all major international human rights treaties. In 2014, the European Court of Human Rights found violations in **16 cases**. There are no indications of any incidents of

any incidents of refoulement of its own citizens. In 2014, Member States considered that 1,8% (400) of asylum applications of citizens from Serbia were well-founded. At least nine Member States have designated Serbia as a safe country of origin. Serbia has been designated as a candidate country by the European Council and negotiations have been opened. At that time the assessment was that Serbia fulfilled the criteria established by the Copenhagen European Council of 21-22 June 1993 relating to stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and Serbia will have to continue to fulfil these criteria for becoming a member in line with the recommendations provided in the Annual Progress Report.

refoulement of its own citizens. In 2014, Member States considered that 1,8% (400) of asylum applications of citizens from Serbia were well-founded. At least nine Member States have designated Serbia as a safe country of origin. Serbia has been designated as a candidate country by the European Council and negotiations have been opened. At that time the assessment was that Serbia fulfilled the criteria established by the Copenhagen European Council of 21-22 June 1993 relating to stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and Serbia will have to continue to fulfil these criteria for becoming a member in line with the recommendations provided in the Annual Progress Report.

#### *Justification*

*The fact that the ratio of judgements proving violations on the total number of application in a given year is relatively low is not a relevant indicator and it can be misleading, as most applications will not be considered in their merits, part of them result in a friendly settlement and part of them will remain pending.*

## **Amendment 8**

### **Proposal for a regulation**

#### **Recital 16**

##### *Text proposed by the Commission*

(16) As regards Turkey, the legal basis for protection against persecution and mistreatment is adequately provided by substantive and procedural human rights and anti-discrimination legislation, including membership of all major international human rights treaties. In 2014, the European Court of Human Rights found violations in 94 ***out of 2899 applications***. There are no indications of any incidents of refoulement of its own

##### *Amendment*

(16) As regards Turkey, the legal basis for protection against persecution and mistreatment is adequately provided by substantive and procedural human rights and anti-discrimination legislation, including membership of all major international human rights treaties. In 2014, the European Court of Human Rights found violations in 94 ***cases***. There are no indications of any incidents of refoulement of its own citizens. ***However***, in 2014,

citizens. In 2014, Member States considered that 23,1 % (310) of asylum applications of citizens of Turkey were well-founded. One Member State has designated Turkey as a safe country of origin. Turkey has been designated as a candidate country by the European Council and negotiations have been opened. At that time the assessment was that Turkey fulfilled the criteria established by the Copenhagen European Council of 21-22 June 1993 relating to stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and Turkey will have to continue to fulfil these criteria for becoming a member in line with the recommendations provided in the Annual Progress Report.

Member States considered that 23,1 % (310) of asylum applications of citizens of Turkey were well-founded. **Only** one Member State has designated Turkey as a safe country of origin. Turkey has been designated as a candidate country by the European Council and negotiations have been opened. At that time the assessment was that Turkey fulfilled the criteria established by the Copenhagen European Council of 21-22 June 1993 relating to stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and Turkey will have to continue to fulfil these criteria for becoming a member in line with the recommendations provided in the Annual Progress Report. ***In view of several reported violations of freedom of expression and the ongoing armed conflict in the eastern and south-eastern regions of Turkey involving the Kurdish minority, the assessment of Turkey's current compliance with the criteria set out in Directive 2013/32/EU should be carried out with caution. The decision to designate Turkey as a safe country of origin should be implemented paying due attention to the provisions of that Directive regarding the need to conduct an appropriate individual examination of each application for international protection, and respecting fully the obligations set out in that Directive concerning the conduct of personal interviews.***

## Amendment 9

### Proposal for a regulation Article 2 – paragraph 2

*Text proposed by the Commission*

2. The Commission shall **regularly** review the situation in third countries that are on the EU common list of safe countries of origin, based on a range of

*Amendment*

2. The Commission shall review the situation in third countries that are on the EU common list of safe countries of origin **twice a year**, based on a range of sources

sources of information, including in particular regular reporting from the EEAS and information from Member States, EASO, UNHCR, the Council of Europe and other relevant international organisations.

of information, including in particular regular reporting from the EEAS and ***the Union delegations in these countries, as well as*** information from Member States, EASO, UNHCR, ***FRA***, the Council of Europe and other relevant international organisations. ***It shall keep the European Parliament properly informed, in a timely manner.***

#### *Justification*

*All relevant sources of information need to be considered and the European Parliament, as co-legislator, must be kept in the loop, properly and timely.*

### **Amendment 10**

#### **Proposal for a regulation Article 2 – paragraph 4**

##### *Text proposed by the Commission*

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 3 to suspend the presence of a third country from the EU common list of safe countries of origin.

##### *Amendment*

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 3 to suspend the presence of a third country from the EU common list of safe countries of origin ***without delay. Within three months after the suspension, the Commission shall submit a legislative proposal to amend the Regulation in order to remove the third country from the EU common list. The redesignation of the country in question shall require the adoption of an amendment, in line with the ordinary legislative procedure.***

#### *Justification*

*The procedure for the suspension and reintroduction of a country in the EU common list needs to be further detailed. The delegated act serves the purpose of acting without delays on the suspension, but it should not compromise the rights of the Parliament as co-legislator and its ability to determine/influence the final decision.*

### **Amendment 11**

#### **Proposal for a regulation**

## Article 2 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

**4a. The European Parliament and/or the Council may invite the Commission to present a proposal for the inclusion in or the exclusion of a country from the EU common list of safe countries of origin.**

*Justification*

*Without prejudice for the primary role of the European Commission in initiating legislation, the European Parliament should be able to propose to the Commission to exercise this role, in line with article 225 TFEU.*

## Amendment 12

### Proposal for a regulation Article 3 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. In case of sudden changes in the situation of a third country that is on the EU common list of safe countries of origin, the Commission shall conduct a substantiated assessment of the fulfilment by that country of the conditions set in Annex I of Directive 2013/32/EU **and**, if those conditions are no longer met, shall adopt, in accordance with Article 290 **TFUE**, a Decision suspending the presence of that third country from the EU common list for a period of one year.

2. In case of sudden changes in the situation of a third country that is on the EU common list of safe countries of origin, the Commission shall conduct a substantiated assessment of the fulfilment by that country of the conditions set in Annex I of Directive 2013/32/EU. If those conditions are no longer met, **it shall adopt within a reasonable period of time consistent with the urgency of the situation on the ground**, in accordance with Article 290 **TFEU**, a Decision suspending the presence of that third country from the EU common list for a period of one year.

*Justification*

*The time frame for the Commission to conduct such substantiated assessment should be consistent with the urgency of the situation.*



## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Establishing an EU common list of safe countries of origin for the purposes of common procedures for granting and withdrawing international protection
<b>References</b>	COM(2015)0452 – C8-0270/2015 – 2015/0211(COD)
<b>Committee responsible</b> Date announced in plenary	LIBE 16.9.2015
<b>Opinion by</b> Date announced in plenary	AFET 16.9.2015
<b>Rapporteur</b> Date appointed	Jozo Radoš 19.11.2015
<b>Discussed in committee</b>	18.4.2016
<b>Date adopted</b>	14.6.2016
<b>Result of final vote</b>	+: 30 –: 11 0: 18
<b>Members present for the final vote</b>	Lars Adaktusson, Nikos Androulakis, Francisco Assis, Petras Auštrevičius, Goffredo Maria Bettini, Elmar Brok, Lorenzo Cesa, Arnaud Danjean, Mark Demesmaeker, Georgios Epitideios, Anna Elzbieta Fotyga, Eugen Freund, Sandra Kalniete, Manolis Kefalogiannis, Tunne Kelam, Janusz Korwin-Mikke, Andrey Kovatchev, Eduard Kukan, Ilhan Kyuchyuk, Arne Lietz, Barbara Lochbihler, Sabine Lösing, Andrejs Mamikins, Ramona Nicole Mănescu, David McAllister, Francisco José Millán Mon, Pier Antonio Panzeri, Demetris Papadakis, Ioan Mircea Pașcu, Tonino Picula, Andrej Plenković, Cristian Dan Preda, Jozo Radoš, Sofia Sakorafa, Jacek Saryusz-Wolski, Jaromír Štětina, Charles Tannock, László Tőkés, Ivo Vajgl, Johannes Cornelis van Baalen, Geoffrey Van Orden, Hilde Vautmans, Boris Zala
<b>Substitutes present for the final vote</b>	Brando Benifei, Ana Gomes, Takis Hadjigeorgiou, Liisa Jaakonsaari, Javi López, Antonio López-Istúriz White, Norica Nicolai, Urmas Paet, Igor Šoltes, Renate Sommer, Dubravka Šuica, Eleni Theocharous, Ernest Urtasun, Janusz Zemke
<b>Substitutes under Rule 200(2) present for the final vote</b>	Heidi Hautala, Hans-Olaf Henkel

22.4.2016

## **OPINION OF THE COMMITTEE ON DEVELOPMENT**

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a regulation of the European Parliament and of the Council establishing an EU common list of safe countries of origin for the purposes of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection, and amending Directive 2013/32/EU (COM(2015)0452 – C8-0270/2015 – 2015/0211(COD))

Rapporteur: Seb Dance

### **SHORT JUSTIFICATION**

The Commission has presented to the European Parliament and the Council a proposal aimed at establishing an EU common list of safe countries of origin or 'SCO's', on the basis of the common criteria set in Directive 2013/32/EU. Based on information from the European External Action Service, the Member States, the European Asylum Support Office (EASO), the Council of Europe, the United Nations High Commissioner for Refugees and other relevant international organisations, it is proposed at this stage that the list includes six Western Balkans countries (four candidate countries: Albania, the former Yugoslav Republic of Macedonia, Montenegro and Serbia, plus two potential candidate countries: Bosnia and Herzegovina, and Kosovo) and Turkey (candidate country).

The Rapporteur expresses concern over the proposal, including the assessment used by the Commission to include the named countries, and the methodology used. The proposal also elicits concerns over the possible harmonising impact of the proposal, and the manner in which the list is to be adopted and revised.

The Rapporteur considers that at this moment in time, a partial mandate from the Parliament excluding a position on the proposed SCO's would be preferable. The committee responsible, LIBE, has formally requested an expert opinion respectively from European Union Agency for Fundamental Rights and EASO, and the Parliament would do well to await the outcome of these opinions.

The rapporteur observes that this proposal leaves room open for the inclusion of further third countries on the EU common list of safe countries of origin it seeks to establish; he notes with concern in this regard, that the proposal already targets some development countries as countries which could be included on any renewed EU common list of safe countries. The rapporteur expresses deep concerns about the sentence from the Commission's Explanatory

memorandum saying that: 'Priority will be given to third countries from which originate a significant number of applicants for international protection in the EU such as Bangladesh, Pakistan and Senegal'; he regrets that such a possible inclusion might serve only internal EU migration purposes, and might be detrimental to the EU development policy with the concerned countries, as well as to the principle of ensuring policy coherence for development across the EU's work.

While the Rapporteur supports efficient processing of asylum applications, the Commission must be aware of the possibility that the designation of a SCO may impact the most vulnerable groups disproportionately. There may be reason to be concerned that the principle of non-refoulement may not be upheld for minorities, as the Regulation may create a burden on individuals to prove their minority status, in order to access fuller examination of individual asylum applications. The Rapporteur recalls that collective expulsions are banned. He underlines that this couple of absolute rights of the person, allowing no limitations - non-refoulement and prohibition of collective expulsions - could turn out particularly appropriate as regards the situation of children in need of international protection and having fled from conflict-affected developing countries, and the situation of lesbian, gay, bisexual, transgender and intersex persons claiming they flee from persecution in some developing countries.

The Commission must submit to be in regular contact with civil society groups as part of its assessment procedure, to assess the real life implementation and actual access to remedies against abuses of rights and freedoms as defined under the European Convention for the protection of Human Rights and Fundamental Freedoms and the International Covenant on Civil and Political Rights.

## AMENDMENTS

The Committee on Development calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a regulation

##### Recital 3

###### *Text proposed by the Commission*

(3) In light of the very sharp increase that has been experienced since 2014 in the number of applications for international protection made in the Union and the resulting unprecedented pressure on Member States' asylum systems the Union acknowledged the need to strengthen the

###### *Amendment*

(3) In light of the very sharp increase that has been experienced since 2014 in the number of applications for international protection made in the Union and the resulting unprecedented pressure on Member States' asylum systems the Union acknowledged the need to strengthen the

application of the safe country of origin provisions of Directive 2013/32/EU, as an essential tool to support the swift processing of applications that are likely to be unfounded. In particular, in its conclusions of 25 and 26 June 2015, the European Council referred, in relation to the need to accelerate the treatment of asylum applications, to the intention of the Commission as set out in its Communication on a European Agenda on Migration<sup>8</sup> to strengthen these provisions, including the possible establishment of an EU common list of safe countries of origin. Moreover, the Justice and Home Affairs Council in its conclusions on safe countries of origin of 20 July 2015 welcomed the intention of the Commission to strengthen the safe countries of origin provisions in Directive 2013/32/EU, including the possible establishment of an EU common list of safe countries of origin.

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<sup>8</sup> COM (2015) 240 final, 13.5.2015.

application of the safe country of origin provisions of Directive 2013/32/EU, as an essential tool to support the swift processing of applications that *may* be unfounded. In particular, in its conclusions of 25 and 26 June 2015, the European Council referred, in relation to the need to accelerate the treatment of *some* asylum applications, to the intention of the Commission as set out in its Communication on a European Agenda on Migration<sup>8</sup> to strengthen these provisions, including the possible establishment of an EU common list of safe countries of origin. Moreover, the Justice and Home Affairs Council in its conclusions on safe countries of origin of 20 July 2015 welcomed the intention of the Commission to strengthen the safe countries of origin provisions in Directive 2013/32/EU, including the possible establishment of an EU common list of safe countries of origin.

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<sup>8</sup> COM (2015) 240 final, 13.5.2015.

### *Justification*

*It is important to recognise that the countries featured on the potential list may still have outstanding issues with regards the human right's situation for minorities. A common reason for application for asylum is to escape persecution, therefore asylum applications are not all 'likely' to be unfounded, and this phrase implies a certain level of pre-judgement on the outcome of applications.*

## **Amendment 2**

### **Proposal for a regulation**

#### **Recital 5**

##### *Text proposed by the Commission*

(5) The provisions of Directive 2013/32/EU related to the application of the safe country of origin concept should be applicable in relation to third countries that are on the EU common list established by this Regulation. This means, in particular, that the circumstance that a third

##### *Amendment*

(5) The provisions of Directive 2013/32/EU related to the application of the safe country of origin concept should be applicable in relation to third countries that are on the EU common list established by this Regulation. This means, in particular, that the circumstance that a third

country is on the EU common list of safe countries of origin cannot *establish an* absolute guarantee of safety for nationals of that country *and does not dispense* therefore *with the need* to conduct an appropriate individual examination of the application for international protection. In addition, it should be recalled that, where *an applicant shows that* there are serious reasons to consider the country not to be safe in his or her particular circumstances, the designation of the country as safe can no longer be considered relevant for him or her.

country is on the EU common list of safe countries of origin cannot *constitute an exclusive criterion nor establish a systematic and* absolute guarantee of safety for nationals of that country, *and should not mean* therefore *that* the *national authorities may dispense with their obligation* to conduct an appropriate *and thorough* individual examination of the application for international protection. In addition, it should be recalled that, where, *in the light of the applicant's individual situation*, there are serious reasons to consider the country not to be safe in his or her particular circumstances, the designation of the country as safe can no longer be considered relevant for him or her. *Member States should be aware that for some minority groups such as lesbian, gay, bisexual, transgender and intersex persons (LGBTI), claiming to belong to this minority as part of the asylum process can in itself be enough to put these individuals at risk in their country of origin. Therefore, there should be no burden of proof on applicants to demonstrate or give evidence that they belong to a vulnerable or minority group, especially where such burden of proof violates a person's dignity. The right of applicants to an effective remedy in the case of a negative decision should be guaranteed.*

### Amendment 3

#### Proposal for a regulation

#### Recital 6

##### *Text proposed by the Commission*

(6) The Commission should regularly review the situation in third countries that are on the EU common list of safe countries of origin. In case of sudden change for the worse in the situation of a third country on the EU common list, the

##### *Amendment*

(6) The Commission should regularly review the situation in third countries that are on the EU common list of safe countries of origin. In case of sudden change for the worse in the situation of a third country on the EU common list, the

power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of suspending the presence of this third country from the EU common list for a period of one year where it considers, on the basis of a substantiated assessment, that the conditions set by Directive 2013/32/EU for regarding a third country as safe country of origin are no longer met. For the purpose of this substantiated assessment, the Commission should take into consideration a range of sources of information at its disposal including in particular, its Annual Progress Reports for third countries designated as candidate countries by the European Council, regular reports from the European External Action Service (EEAS) and the information from Member States, the European Asylum Support Office (EASO), the United Nations High Commissioner for Refugees (UNHCR), the Council of Europe and other relevant international organisations. The Commission should be able to extend the suspension of the presence of a third country from the EU common list for a period of maximum one year, where it has proposed an amendment to this Regulation in order to remove this third country from the EU common list of safe countries of origin. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of suspending the presence of this third country from the EU common list for a period of one year where it considers, on the basis of a substantiated assessment, that the conditions set by Directive 2013/32/EU for regarding a third country as safe country of origin are no longer met. For the purpose of this substantiated assessment, the Commission should take into consideration a range of sources of information at its disposal including in particular, its Annual Progress Reports for third countries designated as candidate countries by the European Council, regular reports from the European External Action Service (EEAS) and the information from Member States, the European Asylum Support Office (EASO), the United Nations High Commissioner for Refugees (UNHCR), the Council of Europe, *civil society groups* and other relevant international organisations. The Commission should be able to extend the suspension of the presence of a third country from the EU common list for a period of maximum one year, where it has proposed an amendment to this Regulation in order to remove this third country from the EU common list of safe countries of origin. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council. ***The Commission must be able to respond swiftly and effectively to humanitarian crises, in keeping with the Union's commitments to third countries and refugees.***

## *Justification*

*There must be no discrepancy between the period of a large scale humanitarian crisis occurring in a third country, and the offer of a full asylum application process to the peoples concerned in keeping with 1951 Geneva Refugee Convention.*

### **Amendment 4**

#### **Proposal for a regulation**

#### **Recital 8**

##### *Text proposed by the Commission*

(8) In accordance with Directive 2013/32/EU a country is considered as a safe country of origin where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution as defined in Article 9 of Directive 2011/95/EU of the European Parliament and of the Council<sup>10</sup>, no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situations of international or internal armed conflict.

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<sup>10</sup> Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L 337, 20.12.2011, p. 9).

##### *Amendment*

(8) In accordance with Directive 2013/32/EU a country is considered as a safe country of origin where, on the basis of the legal situation, the ***actual*** application of the law ***and ease of access to justice*** within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution, as defined in Article 9 of Directive 2011/95/EU of the European Parliament and of the Council<sup>10</sup>, ***of the general population, vulnerable people, ethnic minorities, people identifying as LGBTI, or of persons belonging to any minority group***, no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situations of international or internal armed conflict.

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<sup>10</sup> Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L 337, 20.12.2011, p. 9).

## *Justification*

*When assessing the safety of a third country, it should be considered not only what the laws and customs are, but also how they are applied. The Commission has itself acknowledged for each of the named countries there to be outstanding issues with regards certain minorities. The proposal should consider the existence of systematic persecution of some minorities in custom, and interact with civil society to assess the actual access to legal remedy available for citizens in these countries. Civil society groups located in or working closely with these third countries are often best placed to give feedback on the custom experience of minorities on the ground - so called 'soft data' that might be missed in other empirical assessments.*

### **Amendment 5**

#### **Proposal for a regulation Article 2 – paragraph 1**

##### *Text proposed by the Commission*

1. Third countries listed in Annex I to this Regulation are safe countries of origin.

##### *Amendment*

1. Third countries listed in Annex I to this Regulation are safe countries of origin ***depending on the applicant's individual circumstances.***

## *Justification*

*The regulation should adhere to the principles of policy coherence for development, and ensure that the potential impact has been properly assessed particularly as regards the addition of countries to the list.*

### **Amendment 6**

#### **Proposal for a regulation Article 2 – paragraph 2**

##### *Text proposed by the Commission*

2. The Commission shall regularly review the situation in third countries that are on the EU common list of safe countries of origin, based on a range of sources of information, including in particular regular reporting from the EEAS and information from Member States, EASO, UNHCR, the Council of Europe and other relevant international organisations.

##### *Amendment*

2. The Commission shall ***systematically review the impact of the regulation on EU development policy, taking into account the principle of policy coherence for development. The Commission shall, furthermore,*** regularly review the situation in third countries that are on the EU common list of safe countries of origin, based on a range of sources of information, including in particular regular reporting



from the EEAS and information from Member States, EASO, UNHCR, the Council of Europe, *civil society groups* and other relevant international organisations.

*Justification*

*The regulation should adhere to the principles of policy coherence for development, and ensure that the potential impact has been properly assessed particularly as regards the addition of countries to the list.*

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Establishing an EU common list of safe countries of origin for the purposes of common procedures for granting and withdrawing international protection
<b>References</b>	COM(2015)0452 – C8-0270/2015 – 2015/0211(COD)
<b>Committee responsible</b> Date announced in plenary	LIBE 16.9.2015
<b>Opinion by</b> Date announced in plenary	DEVE 10.3.2016
<b>Rapporteur</b> Date appointed	Seb Dance 4.3.2016
<b>Previous rapporteur</b>	Seb Dance
<b>Discussed in committee</b>	15.3.2016
<b>Date adopted</b>	20.4.2016
<b>Result of final vote</b>	+: 14 –: 2 0: 9
<b>Members present for the final vote</b>	Beatriz Becerra Basterrechea, Ignazio Corrao, Nirj Deva, Doru-Claudian Frunzuliță, Charles Goerens, Heidi Hautala, Maria Heubuch, Teresa Jiménez-Becerril Barrio, Linda McAvan, Maurice Ponga, Cristian Dan Preda, Lola Sánchez Caldentey, Elly Schlein, Pedro Silva Pereira, Davor Ivo Stier, Paavo Väyrynen, Bogdan Brunon Wenta, Anna Záborská
<b>Substitutes present for the final vote</b>	Marina Albiol Guzmán, Brian Hayes, Paul Rübig, Patrizia Toia
<b>Substitutes under Rule 200(2) present for the final vote</b>	Amjad Bashir, Tiziana Beghin, Miroslav Poche

## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	Establishing an EU common list of safe countries of origin for the purposes of common procedures for granting and withdrawing international protection			
<b>References</b>	COM(2015)0452 – C8-0270/2015 – 2015/0211(COD)			
<b>Date submitted to Parliament</b>	8.9.2015			
<b>Committee responsible</b> Date announced in plenary	LIBE 16.9.2015			
<b>Committees asked for opinions</b> Date announced in plenary	AFET 16.9.2015	DEVE 10.3.2016		
<b>Rapporteurs</b> Date appointed	Sylvie Guillaume 1.10.2015			
<b>Discussed in committee</b>	22.9.2015	14.1.2016	28.4.2016	30.5.2016
	27.6.2016			
<b>Date adopted</b>	27.6.2016			
<b>Result of final vote</b>	+: –: 0:	36 10 3		
<b>Members present for the final vote</b>	Jan Philipp Albrecht, Heinz K. Becker, Michał Boni, Caterina Chinnici, Rachida Dati, Agustín Díaz de Mera García Consuegra, Frank Engel, Cornelia Ernst, Tanja Fajon, Laura Ferrara, Monika Flašíková Beňová, Lorenzo Fontana, Mariya Gabriel, Ana Gomes, Nathalie Griesbeck, Sylvie Guillaume, Jussi Halla-aho, Monika Hohlmeier, Brice Hortefeux, Filiz Hyusmenova, Iliana Iotova, Eva Joly, Sylvia-Yvonne Kaufmann, Barbara Kudrycka, Marju Lauristin, Monica Macovei, Barbara Matera, Roberta Metsola, Louis Michel, Claude Moraes, József Nagy, Judith Sargentini, Birgit Sippel, Csaba Sógor, Traian Ungureanu, Kristina Winberg			
<b>Substitutes present for the final vote</b>	Anna Maria Corazza Bildt, Dennis de Jong, Gérard Deprez, Anna Hedh, Petr Ježek, Petra Kammerevert, Jean Lambert, Gilles Lebreton, Andrejs Mamikins, Salvatore Domenico Pogliese, Christine Revault D'Allonnes Bonnefoy, Barbara Spinelli			
<b>Substitutes under Rule 200(2) present for the final vote</b>	Georg Mayer			

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

36	+
ALDE	Gérard Deprez, Nathalie Griesbeck, Filiz Hyusmenova, Petr Ježek, Louis Michel
ECR	Monica Macovei,
PPE	Heinz K. Becker, Michał Boni, Anna Maria Corazza Bildt, Rachida Dati, Agustín Díaz de Mera García Consuegra, Frank Engel, Mariya Gabriel, Monika Hohlmeier, Brice Hortefeux, Barbara Kudrycka, Barbara Matera, Roberta Metsola, József Nagy, Salvatore Domenico Pogliese, Csaba Sógor, Traian Ungureanu
S&D	Caterina Chinnici, Tanja Fajon, Monika Flašíková Beňová, Ana Gomes, Sylvie Guillaume, Anna Hedh, Iliana Iotova, Petra Kammerevert, Sylvia-Yvonne Kaufmann, Marju Lauristin, Andrejs Mamikins, Claude Moraes, Christine Revault D'Allonnes Bonnefoy, Birgit Sippel

10	-
EFDD	Kristina Winberg
ENF	Lorenzo Fontana, Gilles Lebreton
GUE/NGL	Cornelia Ernst, Barbara Spinelli, Dennis de Jong
VERTS/ALE	Jan Philipp Albrecht, Eva Joly, Jean Lambert, Judith Sargentini

3	0
ECR	Jussi Halla-aho
EFDD	Laura Ferrara
ENF	Georg Mayer

**Key to symbols:**

+ : in favour

- : against

0 : abstention