



**2015/0211(COD)**

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*

(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

##### *Amendment*

(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 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***

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.

***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

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(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

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.

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 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.

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(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 ***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 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*

(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) 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 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.

##### *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 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 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.

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(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 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 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.

###### *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, 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 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 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 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*

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. 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 Theoharous, Ernest Urtasun, Janusz Zemke
<b>Substitutes under Rule 200(2) present for the final vote</b>	Heidi Hautala, Hans-Olaf Henkel