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From:	Presidency
To:	Delegations
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Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (First reading)

The third examination of the proposal was finalised during three meetings of the Asylum Working Party (29-30 January, 13-14 February and 5-6 March 2018). The fourth examination of the proposal at JHA Counsellors level was finalised during five meetings (11 April, 17 April, 23 April, 3 May and 23 May).

This document contains compromise proposals suggested by the Presidency in relation to Articles 43a-50.

Taking into account the ongoing examination of the Dublin Regulation, the compromise proposals should be read in conjunction with the compromise proposals made in relation to the Dublin Regulation.

Suggested modifications are indicated as follows:

- new text compared to the Commission proposal is in **bold**;
- new text compared to the previous version is in **bold underline**;
- deleted text is in ~~striketrough~~.

Comments made by delegations orally and in writing, as well as explanations given by the Commission and the Presidency appear in the footnotes of the Annex.

2016/0224 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU¹

[...]

SECTION V

SAFE COUNTRY CONCEPTS²

Article 43a

The notion of effective protection³

- 1. A third country that has ratified and respects the Geneva Convention within the limits of the derogations or limitations made by that third country, as permitted under the Convention, shall be considered as ensuring effective protection. In case of geographical limitations made by the third country, the existence of protection for persons who fall outside of the scope of the Convention shall be assessed in accordance with the criteria set out in paragraph 2.**

¹ **HU, NL, PL, SI:** parliamentary reservation. **BE, CZ, EE, EL, ES, FI, FR, HU, IE, IT, LT, NL, PL, PT, SE, SI:** scrutiny reservation.

² **DE, SI, SK:** scrutiny reservation. **HU:** substantive reservation.

³ **SE:** scrutiny reservation. **NL:** suggestion for recital to Art 43a: "In addition to the requirement of sufficient protection and with a view to effective return and sustainable reception, where the European Union and a third country jointly come to a statement, arrangement or agreement to protect migrants in the third country, the objective should be to offer a higher level of protection in accordance with relevant substantive standards of the Geneva Convention."

2. **Where a third country has not ratified the Geneva Convention, that third country shall be considered as ensuring effective protection where the following criteria are met as a minimum:⁴**

- (a) **being allowed to remain on the territory of the third country;**
- (b) **access to means of subsistence sufficient to maintain an adequate standard of living;⁵**
- (c) **access to emergency healthcare and essential treatment of illnesses; and**
- (d) **access at least to elementary education.**

[Proposal for a recital to accompany Article 43a (1):

For the application of the concepts of first country of asylum and safe third country, it is essential that the third country in relation to which the concepts are applied is a party to and complies with the 1951 Convention or the New York Protocol, unless that third country otherwise provides for effective protection in law and in practice in accordance with basic human standards such as access to means of subsistence sufficient to maintain an adequate standard of living, to emergency healthcare and essential treatment of illnesses and access to elementary education.⁶

Proposal for a recital to accompany Article 43a(2)(b):

When assessing whether the criteria for effective protection as set out in this Regulation are met by a third country, access to means of subsistence sufficient to maintain an adequate standard of living should be understood as including access to food, clothing, housing or shelter and the right to engage in gainful employment under conditions not less favourable than those for non-nationals of the third country generally in the same circumstances.]

⁴ **SK:** scrutiny reservation.

⁵ **HU, FI:** scrutiny reservation. **HR, NL:** needs to fit it with the EU TK statement.

⁶ **EL:** scrutiny reservation.

The concept of first country of asylum⁷

1. A third country **may only** ~~shall~~ be considered to be a first country of asylum for an particular applicant **where in that country** ~~provided that~~.⁸
 - (a) ~~the applicant enjoyed protection Geneva Convention in that country before travelling to the Union and he or she can still avail himself or herself of that protection; or the~~ **applicant's life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;**
 - (b) ~~the applicant otherwise has enjoyed sufficient protection in that country before travelling to the Union and he or she can still avail himself or herself of that protection.~~ **the applicant faces no real risk of serious harm as defined in Article 16 of Regulation (EU) No XXX/XXX (Qualification Regulation);**
 - (ba) **the applicant is protected against refoulement and against removal, in violation of the right to protection from torture and cruel, inhuman or degrading treatment or punishment as laid down in international law;**
 - (bb) **the applicant enjoyed effective protection as defined in Article 43a before travelling to the Union and he or she can still avail himself or herself of that protection.**
2. ~~The determining authority shall consider that an applicant enjoys sufficient protection within the meaning of paragraph 1(b) provided that it is satisfied that:~~
 - (a) ~~life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;~~

⁷ **BE, SE, NL:** scrutiny reservation. **EL:** reservation linked to Dublin. **IT, EL:** scrutiny reservation linked to the position of this delegation in relation to the Dublin Regulation. **CY:** no support for the deletion of the reference to the GC. **PRES:** the reference to the GC is not deleted, but moved to Article 44(1)(bb) which refers to 43a(1) dealing with the GC.

⁸ **IT:** keep "*shall*".

- ~~(b) — there is no risk of serious harm as defined in Regulation (EU) No XXX/XXX (Qualification Regulation);~~
- ~~(c) — the principle of *non-refoulement* in accordance with the Geneva Convention is respected;~~
- ~~(d) — the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law is respected;~~
- ~~(e) — there is a right of legal residence;~~
- ~~(f) — there is appropriate access to the labour market, reception facilities, healthcare and education; and~~
- ~~(g) — there is a right to family reunification in accordance with international human rights standards.~~

2a. The concept of first country of asylum may be applied only following an individual assessment of the particular circumstances of the applicant taking into account elements submitted by the applicant explaining why the concept of first country of asylum would not be applicable to him or her.

[Proposal for a recital to accompany Article 44(2a):

The concept of first country of asylum should not be applied in respect of an applicant who applies and is entitled to benefit, in the Member State that examines the application, from the rights set out in Directive 2003/86/EC or Directive 2004/38/EC as family member of a third country national or of a Union citizen.]

~~3. — Before his or her application can be rejected as inadmissible pursuant to Article 36(1)(a), the applicant shall be allowed to challenge the application of the first country of asylum concept in light of his or her particular circumstances when lodging the application and during the admissibility interview.~~

4. ~~As regards unaccompanied minors, the concept of first country of asylum may only be applied where the authorities of Member States have first received from the authorities of the third country in question the assurance that the unaccompanied minor will be taken in charge by those authorities and that he or she shall immediately benefit from one of the forms of protection referred to in paragraph 1.~~
5. ~~Where an application is rejected as inadmissible in application of the concept of the first country of asylum, the determining authority shall:~~
- ~~(a) inform the applicant accordingly;~~
 - ~~(b) provide him or her with a document informing the authorities of the third country, in the language of that country, that the application has not been examined in substance as a consequence of the application of the first country of asylum concept.~~
6. Where the third country in question does not ~~admit or~~ readmit the applicant to its territory, the **applicant** shall ~~revoke the decision rejecting the application as inadmissible and shall give~~ **have** access to the procedure in accordance with the basic principles and guarantees provided for in Chapter II and Section I of Chapter III.⁹
7. ~~Member States shall inform the Commission and the European Union Agency for Asylum every year of the countries to which the concept of the first country of asylum is applied.~~

⁹ **DE, SK, HR:** scrutiny reservation. **BE, FR, HU:** reservation; in case of non-admission, the file should be managed as a subsequent application. **SK:** the determining authority should either continue the examination of the application, or new application should be made.

The concept of safe third country¹⁰

1. A third country ~~shall~~ **may only** be designated as a safe third country ~~provided that~~ **where in that country:**¹¹
 - (a) **non-nationals'** life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;
 - (b) **non-nationals face** ~~there is no~~ **real** risk of serious harm as defined in **Article 16 of Regulation (EU) No XXX/XXX (Qualification Regulation)**;
 - (c) **non-nationals are protected against** ~~the principle of non-refoulement in accordance with the Geneva Convention is respected~~ **and against** ~~(d) the prohibition of removal, in violation of the right to~~ **protection** ~~freedom~~ from torture and cruel, inhuman or degrading treatment **or punishment** as laid down in international law ~~is respected;~~¹²
 - (e) the possibility exists **to request and, if conditions are fulfilled, receive effective protection as defined in Article 43a** ~~protection in accordance with the substantive standards of the Geneva Convention or sufficient protection as referred to in Article 44(2), as appropriate.~~
- 1a. **The designation of a third country as a safe third country may be made with exceptions for clearly identifiable categories of persons.**¹³

¹⁰ **DE, FR, IT, SE, LU:** scrutiny reservation. **CY:** reservation.

¹¹ **EE:** prefers "*shall*".

¹² **DE, ES:** add "*and*" at the end of this point. **PRES:** the conditions in para (1) are cumulative.

¹³ **SE:** scrutiny reservation. **FR:** reservation. **ES, FR, IT:** delete this para. **PRES:** the reference to part of the territory has been deleted.

- 1b.** ~~The assessment of~~ **When assessing** whether a third country may be designated as a safe third country in accordance with this Regulation **account shall be taken of** ~~shall be based on~~ a range of **relevant and available** sources of information, including ~~in particular information~~ from Member States, the European Union Agency for Asylum, the European External Action Service, the United Nations High Commissioner for Refugees, ~~the Council of Europe~~ and other relevant **intergovernmental or international** organisations.
2. The concept of safe third country shall be applied:¹⁴
- (a) ~~where a third country has been designated as safe third country at Union or national level in accordance with Articles 46 or 50;~~¹⁵
- 2a. The concept of safe third country may be applied**
- (b) ~~where a third country is designated as a safe third country at Union level; or~~
- (c) ~~in individual cases in relation to a specific applicant~~ **where the country has not been designated as safe third country at Union or national level, provided that the conditions set out in paragraph 1 are met with regard to that applicant.**¹⁶
- 2b. The concept of safe third country may only be applied provided that:**¹⁷
- (a) **an individual assessment of the particular circumstances of the applicant, has been carried out taking into account elements submitted by the applicant explaining why the concept of safe third country would not be applicable to him or her;**

¹⁴ **FR, RO, SE:** "may" instead of "shall".

¹⁵ **IT:** designation should only be at Union level. **EL:** reservation. Mandatory only upon designation at Union level. **FR:** reservation.

¹⁶ **SI:** delete the para, no added value

¹⁷ **NL:** add a new point: "*Where the EU and a third country jointly have come to a statement, arrangement or agreement that migrants admitted under this statement, arrangement or agreement will be protected in accordance with the relevant international standards and in respect of the principle of non-refoulement, the conditions of paragraph 2 may be considered fulfilled.*".

[Proposal for recital to accompany Article 45(2b)(a):

The concept of safe third country should not be applied in respect of an applicant who applies and is entitled to benefit, in the Member State that examines the application, from the rights set out in Directive 2003/86/EC or Directive 2004/38/EC as family member of a third country national or of a Union citizen.]

- (b) **there is a connection between the applicant and the third country in question on the basis of which it would be reasonable for that person to go to that country.**¹⁸

[Proposal for recital to accompany Article 45(2b)(b):

(37) **Member States should have the possibility to apply t**~~The concept of safe third country should be applied as a ground for inadmissibility where the applicant, due to a connection to the third country including one through which he or she has transited **over a certain duration**, can reasonably be expected to seek protection in that country, and there are grounds for considering that the applicant will be admitted or readmitted to that country. Member States should proceed on that basis **provided that an individual assessment of the particular circumstances of the applicant has been carried out and** only where they are satisfied ~~including, where necessary or appropriate, based on assurances obtained from the third country concerned,~~ that the applicant will have the possibility to receive protection in accordance with ~~the substantive standards of the~~ Geneva Convention or will **otherwise** enjoy sufficient **effective** protection.]~~

3. ~~The determining authority shall consider a third country to be a safe third country for a particular applicant, after an individual examination of the application, only where it is satisfied of the safety of the third country for a particular applicant in accordance with the criteria established in paragraph 1 and it has established that:~~

¹⁸ **NL:** reservation, delete the connection requirement. **LU:** the word 'meaningful' should be added. **SE, PL, ES, LU:** delete "*including because the applicant has transited through that third country*"; it should not be stated how the connection has arisen since it could be in many ways, such as previous stay in a country or family ties. **FR, ES:** a simple transit of a few hours through a third country doesn't qualify as a connection between the applicant and this country. **FR:** the concept of 'transit' should be clarified in a recital, so as to better reflect the connection link. In that regard, it must be explicitly stated that a few hours transit does not sufficiently establish the existence of a connection link.

~~(a) — there is a connection between the applicant and the third country in question on the basis of which it would be reasonable for that person to go to that country, including because the applicant has transited through that third country which is geographically close to the country of origin of the applicant;~~

~~(b) — the applicant has not submitted serious grounds for considering the country not to be a safe third country in his or her particular circumstances.~~

~~4. — Before his or her application can be rejected as inadmissible pursuant to Article 36(1)(b), an applicant shall be allowed to challenge the application of the concept of safe third country in light of his or her particular circumstances when lodging the application and during the admissibility interview.~~

~~5. — As regards unaccompanied minors, the concept of safe third country may only be applied where the authorities of the Member States have first received from the authorities of the third country in question confirmation that the unaccompanied minor shall be taken in charge by those authorities and that he or she shall immediately have access to one of the forms of protection referred to in paragraph 1(e).~~

6. Where an application is rejected as inadmissible in application of the concept of the safe third country, the ~~determining~~ **competent** authority shall:

~~(a) — inform the applicant accordingly; and~~

~~(b) — provide him or her~~ **the applicant** with a document informing the authorities of the third country, in ~~the~~ **a** language of that country, that the application has not been examined ~~in substance on the merits~~ as a consequence of the application of the concept of the safe third country.

7. Where the third country in question does not admit or readmit the applicant to its territory, the **applicant** determining authority shall **have** ~~revoke the decision rejecting the application as inadmissible and shall give~~ access to the procedure in accordance with the basic principles and guarantees provided for in Chapter II and Section I of Chapter III.¹⁹

Article 46

Designation of safe third countries at Union level²⁰

1. Third countries shall, **by means of an amendment to this Regulation**, be designated as safe third countries at Union level, in accordance with the conditions laid down in Article 45(1).²¹
2. The Commission shall ~~regularly~~ review the situation in third countries that are designated as safe third countries at Union level, with the assistance of the European Union Agency for Asylum and based on the other sources of information referred to in ~~the second paragraph of~~ Article 45(1b).
- 2a. **The European Union Agency for Asylum shall, at the request of the Commission, provide it with information on specific third countries which could be designated as safe third countries at Union level. The Commission may take into account a request from Member States to assess whether a third country could be designated as a safe third country at Union level.**²²

¹⁹ **HU, IT, PL, SI:** reservation linked to the Dublin Regulation. **DE:** scrutiny reservation. **BE, HU:** reservation, in case of non-admission, the file should be managed as a subsequent application. **NL:** Add a new para 45(8): "*Where a situation of severe crisis as mentioned in Article 34m of [the Dublin Regulation] occurs, paragraphs 1(e) and 2b(b) do not apply, provided that :*

(a) the applicant will be admitted to the territory of the third country;

(ii) he or she has access to reception conditions or means of subsistence sufficient to maintain at least a basic standard of living;

(iii) access to emergency healthcare and essential treatment of illnesses; and

(iv) access to elementary education under the same conditions as for the nationals of the third country."

²⁰ **SK:** scrutiny reservation.

²¹ **EL:** a simpler procedure is needed.

²² **NL:** see drafting proposal under Article 48 (4). **EE, NL, RO:** "*shall*" not "*may*". **PRES:** such a change would interfere with COM right of initiative.

3. The Commission shall be empowered to adopt delegated acts to suspend the designation of a third country as a safe third country at Union level subject to the conditions as set out in Article 49.²³

Article 47

The concept of safe country of origin²⁴

1. A third country may be designated as a safe country of origin in accordance with this Regulation 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 no persecution as defined in Article 9 of Regulation (EU) No XXX/XXX (Qualification Regulation); ~~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~~ **and no real risk of serious harm as defined in Article 16 of Regulation (EU) No XXX/XXX (Qualification Regulation).**²⁵
- 1a. **The designation of a third country as a safe country of origin may be made with exceptions for clearly identifiable categories of persons.**²⁶
2. ~~The assessment of~~ **When assessing** whether a third country may be designated as a safe country of origin in accordance with this Regulation **account shall be taken of** ~~shall be based on~~ a range of **relevant and available** sources of information, including ~~in particular~~ information from Member States, the European Union Agency for Asylum, the European External Action Service, the United Nations High Commissioner for Refugees, ~~the Council of Europe as well as~~ **and** other relevant **intergovernmental or international** organisations, and shall take into account **where available** the common analysis of the country of origin information referred to in Article 10 of Regulation (EU) No XXX/XXX (EU Asylum Agency).²⁷

²³ **CY:** scrutiny reservation.

²⁴ **BE, SE:** scrutiny reservation. **CY:** reservation.

²⁵ **DE:** scrutiny reservation on "that there is generally no persecution".

²⁶ **FR:** reservation. **IT:** at the end add "*or particular social group*" to align the text to both Geneva Convention and Art. 44(1)(a).

²⁷ **FR:** prefers "*shall be based on*".

3. In making this assessment, account shall be taken, *inter alia*, of the extent to which protection is provided against persecution or ~~mistreatment~~ **serious harm** by:²⁸
- (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 or the International Covenant for Civil and Political Rights 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) the absence of expulsion, removal or extradition of own citizens to third countries where, inter alia, there is a serious risk that they would be subjected to the death penalty, torture, persecution or other inhuman or degrading treatment or punishment, or where their lives or freedom would be threatened on account of their race, religion, nationality, sexual orientation, membership of a particular social group or political opinion, or from which there is a serious risk of an expulsion, removal or extradition to another third country;~~
 - (d) the provision for a system of effective remedies against violations of those rights and freedoms.

²⁸ **SI:** scrutiny reservation on para (3).

4. ~~The concept of A third country designated as a safe country of origin in accordance with this Regulation may, after an individual examination of the application, be considered as a safe country of origin for a particular applicant only~~ **be applied provided that** where:²⁹
- (a) ~~he or she~~ **the applicant** has the nationality of that country or he or she is a stateless person and was formerly habitually resident in that country;
- and
- (b) **an individual assessment of the particular circumstances of the applicant has been carried out taking into account that the applicant** ~~he or she~~ has not submitted any serious grounds for considering the country not to be a safe country of origin in his or her particular circumstances;³⁰
- (ba) **the applicant does not belong to a category of persons for which an exception was made when designating the third country as a safe country of origin.**³¹

Article 48

Designation of safe countries of origin at Union level³²

1. Third countries listed in Annex 1³³ to this Regulation are designated as safe countries of origin at Union level, in accordance with the conditions laid down in Article 47.
2. The Commission shall ~~regularly~~ review the situation in third countries that are on the EU common list of safe countries of origin, with the assistance of the **European** Union Agency for Asylum and based on the other sources of information referred to in Article 47~~5~~(2).

²⁹ **SI:** scrutiny reservation on para (4).

³⁰ **CZ:** scrutiny reservation. **SE:** delete point (b); serious ground is too high of a requirement in the field of evidence. **IT:** replace "*serious*" with "*substantive*".

³¹ **SE:** scrutiny reservation. **EL, FR, IT, NL:** reservation.

³² **SE, SK:** scrutiny reservation.

³³ **BE, DE, EE, ES, FR, IE, MT, SE, SK:** scrutiny reservation on Annex I. **CY:** reservation on Annex I. **CY, DE:** deciding whether to include Turkey in the list depends on further developments there and it should be done in close consultation with the European partners and EU institutions. **IT:** the list in Annex I should include all TC relevant for MS.

3. ~~In accordance with Article 11(2) of Regulation (EU) No XXX/XXX (EU Asylum Agency Regulation), the Commission may request the~~ **The European** Union Agency for Asylum **shall, at the request of the Commission,** to provide it with information on specific third countries which could be considered for inclusion in the common EU list of safe countries of origin.³⁴ **The Commission may take into account a request from Member States to assess whether a third country could be included in the common EU list of safe countries of origin.**
4. The Commission shall be empowered to adopt delegated acts to suspend the presence of a third country from the EU common list of safe countries of origin subject to the conditions as set out in Article 49.³⁵

Article 49

Suspension and removal of the designation of a third country designated as a safe third country at Union level or from the EU common list of safe country of origin³⁶

1. In case of ~~sudden~~ **significant** changes in the situation of a third country which is designated as a safe third country at Union level or which 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 Article 45 or Article 47 and, if the Commission considers that those conditions are no longer met, it shall adopt a delegated act suspending the designation of a third country as a safe third country at Union level or suspending the presence of a third country from the EU common list of safe countries of origin for a period of six months.

³⁴ **NL:** reservation.

³⁵ **CY:** scrutiny reservation.

³⁶ **SE:** scrutiny reservation. **HU:** reservation.

2. The Commission shall continuously review the situation in that third country taking into account *inter alia* information provided by the Member States **and the European Agency for Asylum** regarding subsequent changes in the situation of that country.³⁷
3. Where the Commission has adopted a delegated act in accordance with paragraph 1 suspending the designation of a third country as a safe third country at Union level or suspending the presence of a third country from the EU common list of safe countries of origin, it shall within three months after the date of adoption of that delegated act submit a proposal, in accordance with the ordinary legislative procedure, for amending this Regulation to remove that third country from the designation of safe third countries at Union level or from the EU common list of safe countries of origin.³⁸
4. Where such a proposal is not submitted by the Commission within three months from the adoption of the delegated act as referred to in paragraph 2, the delegated act suspending the third country from its designation as a safe third country at Union level or suspending the presence of the third country from the EU common list of safe countries of origin shall cease to have effect. Where such a proposal is submitted by the Commission within three months, the Commission shall be empowered, on the basis of a substantiated assessment, to extend the validity of that delegated act for a period of six months, with a possibility to renew this extension once.³⁹
- 4a. Without prejudice to paragraph 4, where the proposal submitted by the Commission to amend this Regulation to remove the third country from the designation of safe third countries at Union level or from the EU common list of safe countries of origin is not adopted within eighteen months from when the proposal was submitted by the Commission, the suspension of the designation of a third country as a safe third country at Union level or of the presence of a third country from the EU common list of safe countries of origin shall cease to have effect.**⁴⁰

³⁷ **IT:** delete para (2) as it is redundant.

³⁸ **IT:** one month instead of three months.

³⁹ **IT:** one month instead of three months.

⁴⁰ **EL:** scrutiny reservation. **CZ, SK:** 12 months instead of 18.

Article 50

Designation of third countries as safe third countries or safe country of origin at national level

1. ~~For a period of five years from entry into force of this Regulation,~~ Member States may retain or introduce legislation that allows for the national designation of safe third countries or safe countries of origin other than those designated at Union level or which are on the EU common list in Annex 1 for the purposes of examining applications for international protection.⁴¹
2. Where a third country is suspended from being designated as a safe third country at Union level or the presence of a third country has been suspended from the EU common list in Annex 1 to this Regulation pursuant to Article 49(1), Member States shall not designate that country as a safe third country or a safe ~~third~~ country of origin at national level ~~nor shall they apply the safe third country concept on an *ad hoc* basis in relation to a specific applicant.~~⁴²
3. Where a third country is no longer designated as a safe third country at Union level or a third country has been removed from the EU common list in Annexe I to the Regulation in accordance with the ordinary legislative procedure, a Member State may notify the Commission that it considers that, following changes in the situation of that country, it again fulfils the conditions set out in Article 45(1) and Article 47.

The notification shall include a substantiated assessment of the fulfilment by that country of the conditions set out in Article 45(1) and Article 47 including an explanation of the specific changes in the situation of the third country, which make the country fulfil those conditions again.

Following the notification, the Commission shall request the European Union Agency for Asylum to provide it with information on the situation in the third country.

⁴¹ **NL:** reservation.

⁴² **NL, SE:** in this case, it should still be possible to apply the concept of safe third countries on basis of Article 45(2)(c); therefore delete "*nor shall they apply the safe third country concept on an ad hoc basis in relation to a specific applicant.*"

The notifying Member State may only designate that third country as a safe third country or as a safe country of origin at national level provided that the Commission does not object to that designation.⁴³

The Commission's right of objection shall be limited to a period of two years after the date of removal of that third country from the EU common list of safe countries of origin or the date of suspension from the designation as a safe third country at Union level. Any objection by the Commission shall be issued within a period of three months after the date of notification by the Member State and after due review of the situation in that third country, having regard to the conditions set out in Articles 45(1) and 47 of this Regulation. After the period of two years, the Member State shall consult with the Commission on the designation of that third country as a safe third country or as a safe country of origin at the national level.

Where it considers that those conditions are fulfilled, the Commission may propose an amendment to this Regulation in order to add that third country to the EU common list of safe countries of origin or designate it as a safe third country at Union level.

⁴³ **DE:** unclear how suspending/removing a country from the common EU list will affect an existing designation at national level. Art. 50(2) and (3) only refer to the subsequent national designation. **PRES:** where a third country is on the EU common list it must be removed from a national list. **IE:** scrutiny reservation on this subpara.

4. Member States shall notify the Commission and the European Union Agency for Asylum of the third countries that are designated as safe third countries or safe countries of origin at national level immediately after such designation. Member States shall inform the Commission and the Agency once a year of the other safe third countries to which the concept is applied ~~on an *ad hoc* basis~~ in relation to specific applicants.⁴⁴

[...]

⁴⁴ **SK:** scrutiny reservation. **ES:** in the light of para (1), both newly designated countries and the third countries already designated at national level should be notified on the date of entry into force of this Regulation; it would also be useful to mention a deadline by which Member States should inform the Commission and the European Union Agency for Asylum in relation to the countries to which they apply "ad hoc" (see also the comment under para (2)) the concepts in question (given that this would allow an EU-wide analysis to be carried out in the year in which the information is communicated in this case, and on the basis of this analysis, unitary practices could be stimulated / adopted). **FR, SE:** delete the second sentence (see comment on Art. 44 (7)). **PRES:** MS must notify of any existing list of the time of application of this regulation or of any changes of that list.