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NOTE

From: General Secretariat of the Council

To: Delegations

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Subject: Council Conclusions on safe countries of origin

Delegations will find attached a document on the above issue as agreed by the JHA Council on 20 July 2015.

Council conclusions on safe countries[♦] of origin

Recalling that Directive 2013/32/EU of the European Parliament and of the Council, of 26 June 2013, on common procedures for granting and withdrawing international protection ('Asylum Procedures Directive')¹, enables Member States to designate safe countries of origin for the purposes a swift examination of applications for international protection, and to establish rules and modalities for such designation, or to apply this concept in practise and defines common criteria and procedures to be followed for such designation;

Recalling that, in order to support the swift processing of asylum applications of persons having the nationality of third countries designated as safe, the Commission has announced in the European Agenda on Migration its intention to strengthen the 'safe country of origin' provisions of the Asylum Procedure Directive;

Recalling that, as part of the measures on return/readmission/reintegration, the European Council, on 25 June 2015, invited the Commission to outline, by July 2015, measures to be taken by EASO to coordinate the implementation of the 'safe country of origin' provisions in the Asylum Procedures Directive. It also noted the Commission's intention to strengthen the 'safe country of origin' provisions in the Asylum Procedures Directive, including the possible establishment of a common EU list of safe countries of origin;

Recalling the EASO 2015 update of the key findings of its 2013 report on 'Asylum Applicants from the Western Balkans: comparative analysis of the trends, push-pull factors and responses'.

♦ The use of the term "countries" in these conclusions does not imply recognition of statehood.

¹ Directive 2013/32/EU of the European Parliament and of the Council, of 26 June 2013, on common procedures for granting and withdrawing international protection, OJ L 180 of 29.06.2013. ¹ In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark did not take part in the adoption of Directive 2013/32 and is not bound by it or subject to its application.

Whereas:

The designation by a Member State of a third country as safe country of origin allows this Member State to accelerate and/or conduct at the border or in transit zones the examination of applications for international protection made by applicants who have the nationality of this third country. This can therefore be an effective tool for addressing situations when large numbers of asylum applications are lodged by nationals of third countries for whom there is a presumption that they do not qualify for international protection.

A country may be considered as a safe country of origin under the conditions prescribed by Articles 36 and 37 as well as in Annex I of the Asylum Procedures Directive. Several Member States have designated at national level certain third countries as safe countries of origin, in the meaning of this Directive.

Member States must examine each case on its merits. In addition, where an applicant shows that there are valid 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.

Several Member States have designated at national level certain third countries as safe countries of origin, in the meaning of the Asylum Procedures Directive. Regular reviews of the situation in those countries need to be carried out.

The Asylum Procedures Directive acknowledges the need for a coordinated approach between Member States on the use of safe country of origin concept, leading to potential further harmonisation in this area in the future.

The European Council, already in June 2000, recognised that all the countries of the Western Balkans were potential candidates for membership of the EU² and reiterated the European perspective of the Western Balkans on numerous occasions. Furthermore, the progress achieved by these countries, in particular in the areas of rule of law and respect of fundamental rights, is annually assessed by the Commission in its communications on 'Enlargement Strategy and Main Challenges'.

THE COUNCIL OF THE EUROPEAN UNION

TAKES NOTE of the fact that several Member States have national lists of safe countries of origin within the meaning of the Asylum Procedures Directive.

STRESSES the importance of ensuring rapidly a coordinated approach between Member States on the designation at national level of third countries as safe countries of origin within the meaning of the Asylum Procedures Directive.

STRONGLY RECOMMENDS therefore that, without delay, Member States assess which third countries could be designated at national level as safe countries of origin, within a coordination process to be led by EASO and in line with the criteria and procedural requirements defined in the Asylum Procedures Directive.

² Santa Maria Da Feira European Council 19 And 20 June 2000 Conclusions of the Presidency, para.67.

NOTES with regards to the Western Balkans countries that a majority of national lists of safe countries of origin include these countries, that the European Council reiterated on numerous occasions their European perspective and that Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro and Serbia were transferred to the list of countries whose nationals are exempt from the visa requirement as of 19 December 2009 and 15 December 2010 respectively. Moreover, the EU-wide average asylum recognition rate for the Western Balkans countries was rather low in 2014. This suggests that the Western Balkans countries could be considered as safe countries of origin by all the Member States.

STRONGLY RECOMMENDS therefore that priority should be given to an assessment by all Member States of the safety of the Western Balkans³, within a coordination process to be led by EASO and in line with the criteria and procedural requirements defined in the Asylum Procedures Directive.

WELCOMES the intention of the Commission to strengthen the safe countries of origin provisions in the Asylum Procedures Directive, including the possible establishment of a common EU list of safe countries of origin.

³ Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Kosovo*.

* *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.*