

31.8.2005

A6-0222/175

AMENDMENT 175

by Giusto Catania, on behalf of the GUE/NGL Group

Report

A6-0222/2005

Wolfgang Kreissl-Dörfler

Grant and withdrawal of refugee status

Proposal for a directive (14203/2004 – C6-0200/2004 – 2000/0238(CNS))

Text proposed by the Commission

Amendment by Parliament

Amendment 175
Article 23, paragraph 4, point (c)

(c) the application for asylum is considered to be unfounded: *deleted*

- because the applicant is from a safe country of origin within the meaning of Articles 30, 30A and 30B of this Directive, or

- because the country which is not a Member State is considered to be a safe third country for the applicant, without prejudice to Article 29(1); or

Or. en

Justification

The assessment of risk shall always be carried out on individual basis rather than on general presumption on country-related criteria.

31.8.2005

A6-0222/176

AMENDMENT 176

by Giusto Catania, on behalf of the GUE/NGL Group

Report

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Wolfgang Kreissl-Dörfler

Grant and withdrawal of refugee status

Proposal for a directive (14203/2004 – C6-0200/2004 – 2000/0238(CNS))

Text proposed by the Commission

Amendment by Parliament

Amendment 176
Article 27

Article 27

deleted

The safe third country concept

1. Member States may apply the safe third country concept only where the competent authorities are satisfied that a person seeking asylum will be treated in accordance with the following principles in the third country concerned:

(a) life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion; and

(b) the principle of non-refoulement in accordance with the Geneva Convention is respected; and

(c) the prohibition on removal in breach of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law is respected; and

(d) the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Convention.

2. The application of the safe third country concept shall be subject to rules laid down

in national legislation, including:

(a) rules requiring a connection between the person seeking asylum and the third country concerned based on which it would be reasonable for that person to go to that country;

(b) rules on the methodology by which the competent authorities satisfy themselves that the safe third country concept may be applied to a particular country or to a particular applicant. Such methodology shall include case by case consideration of the safety of the country for a particular applicant and/or national designation of countries considered to be generally safe;

(c) rules, in accordance with international law, allowing an individual examination of whether the third country concerned is safe for a particular applicant which, as a minimum, shall permit the applicant to challenge the application of the safe third country concept on the grounds that he/she would be subjected to torture, cruel, inhuman or degrading treatment or punishment.

3. When implementing a decision solely based on this Article, Member States shall:

(a) inform the applicant accordingly; and

(b) provide him/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.

4. Where the third country does not permit the applicant for asylum in question to enter its territory, Member States shall ensure that access to a procedure is given in accordance with the basic principles and guarantees described in Chapter II.

5. Member States shall inform the Commission periodically of the countries to which this concept is applied in accordance with the provisions of this Article.

Justification

The assessment of risk shall always be carried out on individual basis rather than on general presumption on country-related criteria.

31.8.2005

A6-0222/177

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A6-0222/2005

Proposal for a directive (14203/2004 – C6-0200/2004 – 2000/0238(CNS))

Text proposed by the Commission

Amendment by Parliament

Amendment 177
Article 30

Article 30

deleted

Minimum common list of third countries as safe countries of origin

1. The Council shall, acting by a qualified majority on a proposal from the Commission and after consultation of the European Parliament, adopt a minimum common list of third countries that shall be regarded by Member States as safe countries of origin in accordance with Annex II.

2. The Council may, acting by a qualified majority on a proposal from the Commission and after consultation of the European Parliament, amend the minimum common list by adding or removing third countries, in accordance with Annex II. The Commission shall examine any request made by the Council or by a Member State that it submit a proposal to amend the minimum common list.

3. When making its proposal under paragraphs 1 or 2, the Commission shall make use of information from the Member States, its own information and, where necessary, information from UNHCR, the

Council of Europe and other relevant international organisations.

4. Where the Council requests the Commission to submit a proposal for removing a third country from the minimum common list, the obligation of Member States pursuant to Article 30B(2) shall be suspended with regard to this third country as of the day following the Council decision requesting such a submission.

5. Where a Member State requests the Commission to submit a proposal to the Council for removing a third country from the minimum common list, that Member State shall notify the Council in writing of the request made to the Commission. The obligation of this Member State pursuant to Article 30B(2) shall be suspended with regard to the third country as of the day following the notification of the request to the Council.

6. The European Parliament shall be informed of the suspensions under paragraphs 4 and 5.

7. The suspensions under paragraphs 4 and 5 shall end after three months, unless the Commission makes a proposal, before the end of this period, to withdraw the third country from the minimum common list. The suspensions shall end in any case where the Council rejects, a proposal by the Commission to withdraw the third country from the list.

8. Upon request by the Council, the Commission shall report to the Council and the European Parliament on whether the situation of a country on the minimum common list is still in conformity with Annex II. When presenting its report to the Council and the European Parliament, the Commission may make such recommendations or proposals as it deems appropriate.

Or. en

Justification

The designation of countries as safe is legally problematic; thus there should be no need for a safe country list.

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AMENDMENT 178

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Report

A6-0222/2005

Wolfgang Kreissl-Dörfler

Grant and withdrawal of refugee status

Proposal for a directive (14203/2004 – C6-0200/2004 – 2000/0238(CNS))

Text proposed by the Commission

Amendment by Parliament

Amendment 178
Article 30B

Article 30B

deleted

Application of the safe country of origin concept

1. A third country designated as a safe country of origin either in accordance with the provisions of Article 30 or 30A can, after an individual examination of the application, be considered as a safe country of origin for a particular applicant for asylum only if:

(a) he/she has the nationality of that country or,

(b) he/she is a stateless person and was formerly habitually resident in that country; and he/she has not submitted any serious grounds for considering the country not to be a safe country of origin in his/her particular circumstances in terms of his/her qualification as a refugee in accordance with Council Directive 2004/83/EC.

2. Member States shall, in accordance with paragraph 1, consider the application for asylum as unfounded where the third country is designated as safe pursuant to

Article 30.

3. Member States shall lay down in national legislation further rules and modalities for the application of the safe country of origin concept.

Or. en

Justification

The assessment of risk shall always be carried out on individual basis rather than on general presumption on country-related criteria.

31.8.2005

A6-0222/179

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Grant and withdrawal of refugee status

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Proposal for a directive (14203/2004 – C6-0200/2004 – 2000/0238(CNS))

Text proposed by the Commission

Amendment by Parliament

Amendment 179
Annex B

Annex B

deleted

Designation of safe countries of origin for the purposes of articles 30 and 30A(1)

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 Council Directive 2004/83/EC; 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.

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

(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 Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention;

(c) respect of the non-refoulement principle according to the Geneva Convention;

(d) provision for a system of effective remedies against violations of these rights and freedoms.

Or. en

Justification

The designation of countries as safe is legally problematic; thus there should be no need for a safe country list.