

AMENDMENT 183

by Jean Lambert, on behalf of the Verts/ALE Group

Report**A6-0222/2005****Wolfgang Kreissl-Dörfler**

Procedures in Member States for granting and withdrawing refugee status

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

Text proposed by the Council

Amendment by Parliament

Amendment 183

Recital 17

(17) A key consideration for the well-foundedness of an asylum application is the safety of the applicant in his/her country of origin. Where a third country can be regarded as a safe country of origin, Member States should be able to designate it as safe and presume its safety for a particular applicant, unless he/she presents serious counter-indications

deleted

Or. en

Justification

The concept of "safe country" should be fully abolished since it is not useful in the context of granting and withdrawing refugee status, where the assessment of the safety in the country should take place regularly.

21.9.2005

A6-0222/184

AMENDMENT 184

by Jean Lambert, on behalf of the Verts/ALE Group

Report

A6-0222/2005

Wolfgang Kreissl-Dörfler

Procedures in Member States for granting and withdrawing refugee status

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

Text proposed by the Council

Amendment by Parliament

Amendment 184

Recital 18

(18) Given the level of harmonisation achieved on the qualification of third country nationals and stateless persons as refugees, common criteria for designating third countries as safe countries of origin should be established

deleted

Or. en

Justification

The concept of "safe country" should be fully abolished since it is not useful in the context of granting and withdrawing refugee status, where the assessment of the safety in the country should take place regularly.

21.9.2005

A6-0222/185

AMENDMENT 185

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

A6-0222/2005

Text proposed by the Council

Amendment by Parliament

Amendment 185
Recital 19

(19) Where the Council has satisfied itself that those criteria are met in relation to a particular country of origin, and has consequently included it in the minimum common list of safe countries of origin to be adopted pursuant to this Directive, Member States should be obliged to consider applications of persons with the nationality of that country, or of stateless persons formerly habitually resident in that country, on the basis of the rebuttable presumption of the safety of that country. In the light of the political importance of the designation of safe countries of origin, in particular in view of the implications of an assessment of the human rights situation in a country of origin and its implications for the policies of the European Union in the field of external relations, the Council should take any decisions on the establishment or amendment of the list, after consultation of the European Parliament

deleted

Or. en

Justification

The concept of "safe country" should be fully abolished since it is not useful in the context of granting and withdrawing refugee status, where the assessment of the safety in the country should take place regularly.

21.9.2005

A6-0222/186

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

Text proposed by the Council

Amendment by Parliament

Amendment 186
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

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

Text proposed by the Council

Amendment by Parliament

Amendment 187
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 in the country of origin should always be conducted on an individual basis rather than on a general presumption on country-related criteria. When individuals are required to rebut such presumptions of safety in an accelerated procedure that lack essential safeguards (such as a right to a suspensive appeal), there is a real risk of refoulment, in breach of international law.

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

Text proposed by the Council

Amendment by Parliament

Amendment 188
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.

Justification

The assessment of risk in the country of origin should always be conducted on an individual basis rather than on a general presumption on country-related criteria. When individuals are required to rebut such presumptions of safety in an accelerated procedure that lack essential safeguards (such as a right to a suspensive appeal), there is a real risk of refoulment, in breach of international law.

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Procedures in Member States for granting and withdrawing refugee status

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

Text proposed by the Council

Amendment by Parliament

Amendment 189
Article 30A*Article 30A**deleted**National designation of third countries as safe countries of origin**1. Without prejudice to Article 30, Member States may retain or introduce legislation that allows, in accordance with Annex II, for the national designation of third countries other than those appearing on the minimum common list, as safe countries of origin for the purpose of examining applications for asylum. This may include designation of part of a country as safe where the conditions in Annex II are fulfilled in relation to that part.**2. By derogation to paragraph 1, Member States may retain legislation in force at the time of adoption of this Directive that allows for the national designation of third countries, other than those appearing on the minimum common list, as safe countries of origin for the purposes of examining applications for asylum where they are satisfied that persons in the third countries concerned are generally neither subject to:**(a) persecution as defined in Article 9 of Council Directive 2004/83/EC; nor**(b) torture or inhuman or degrading treatment or punishment.*

3. Member States may also retain legislation in force at the time of the adoption of this Directive that allows for the national designation of part of a country as safe or a country or part of a country as safe for a specified group of persons in that country where the conditions in paragraph 2 are fulfilled in relation to that part or group.

4. In assessing whether a country is a safe country of origin in accordance with paragraphs 2 and 3, Member States shall have regard to the legal situation, the application of the law and the general political circumstances in the third country concerned.

5. The assessment of whether a country is a safe country of origin in accordance with this Article shall be based on a range of sources of information, including in particular information from other Member States, the UNHCR, the Council of Europe and other relevant international organisations.

6. Member States shall notify to the Commission the countries that are designated as safe countries of origin in accordance with the provisions of this Article.

Or. en

Justification

The assessment of risk in the country of origin should always be conducted on an individual basis rather than on a general presumption on country-related criteria. When individuals are required to rebut such presumptions of safety in an accelerated procedure that lack essential safeguards (such as a right to a suspensive appeal), there is a real risk of refoulement, in breach of international law.

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Procedures in Member States for granting and withdrawing refugee status

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

Text proposed by the Council

Amendment by Parliament

Amendment 190
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 in the country of origin should always be conducted on an individual basis rather than on a general presumption on country-related criteria. When individuals are required to rebut such presumptions of safety in an accelerated procedure that lack essential safeguards (such as a right to a suspensive appeal), there is a real risk of refoulement, in breach of international law.