

**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from : Austrian delegation
to : Council

Subject : Common European list of safe third countries

Delegations will find attached a note from the Austrian delegation.

Proposal for a European list of safe third countries

1. The Tampere European Council decided to develop the Union as an area of freedom, security and justice and in that context to establish a Common European Asylum System. The European Council reaffirmed the importance the Union and the Member States attach to absolute respect of the right to seek asylum. It agreed to work towards establishing a Common European Asylum System, based on the full and inclusive application of the Geneva Convention relating to the Status of Refugees, thus ensuring that nobody is sent back to persecution, i.e. maintaining the principle of non-refoulement. This system is to involve common standards for a just and efficient asylum procedure.
2. The Laeken European Council undertook, on the basis of the Tampere conclusions and as soon as possible, to adopt a common asylum and immigration policy, which would maintain the necessary balance between protection of refugees in accordance with the principles of the 1951 Geneva Convention, the legitimate aspiration to a better life and the reception capacities of the Union and its Member States.
3. The Seville European Council decided that measures taken in the short and medium term for the joint management of migration flows must strike a fair balance between, on the one hand a policy for the integration of lawfully resident immigrants and an asylum policy complying with international conventions, principally the 1951 Geneva Convention, and, on the other, resolute action to combat illegal immigration and trafficking in human beings. In this connection refugees must have swift, effective protection and a procedure has to be established to avoid abuse of asylum.

4. Mr Ruud Lubbers, United Nations High Commissioner for Refugees, stated in his speech at the informal meeting of JHA Ministers in Copenhagen that approximately 90% of all asylum applications lodged within the European Union were unfounded. Austria was already seen in the European Union as one of the main countries concerned. Recent months have shown a dramatic increase in asylum applicants in Austria contrary to the European trend. It is necessary, on the one hand, to avoid this abuse and, on the other, to ensure that those who can only find protection in the EU are guaranteed a quick and efficient procedure.
5. The question of safe third countries is one of the main problems in asylum proceedings in the Member States. Legislation on the question of safe third countries differs greatly from one Member State to another. Some of them have specific regulations clearly listing or naming safe third countries. Other Member States try to resolve this question by regulations on manifestly unfounded asylum applications. Such radically different national attempts to resolve the problem in the Member States result in differing application of the principle of safe third countries. This prevents an EU asylum policy from working properly. There is therefore a serious need for harmonisation to successfully combat the phenomenon of asylum-shopping.
6. For these reasons, Austria calls on the Council as a political and strategic steering body to create a common European list of safe third countries. That list should be limited to European countries.
7. Apart from the Member States, it is above all desirable to include those candidate countries which are already engaged in the accession process. Negotiations with these countries have begun on the basis of compliance with the Copenhagen criteria, which inter alia guarantee the rule of law. In the framework of the accession negotiations these candidate countries have already agreed to implement the EU acquis and thus also to respect the Geneva Convention and the European Convention on Human Rights.

8. Austria therefore suggests treating the following countries as safe third countries:

All the EU Member States and
Norway, Switzerland, Iceland, Poland, the Czech Republic, Slovakia, Hungary, Slovenia,
Romania, Bulgaria, Estonia, Latvia, Lithuania, Cyprus and Malta.

9. The nature of the legal act should be clarified in the framework of negotiations between the Member States. A Council Regulation would be the most binding in this case and the best way of satisfying the inherent need for harmonisation. Austria is in favour of a Regulation coming into force for all Member States as quickly as possible and in any case before the end of 2002.

10. The legal basis for Council measures on safe third countries can be found in Article 63(1)(d) of the EC Treaty, pursuant to which the Council, in accordance with the procedure in Article 67 and the 1951 Geneva Convention and the 1967 Protocol relating to the Status of Refugees, can adopt minimum rules for procedures in the Member States for the recognition of refugee status.