

**14383/04**

---

**Interinstitutional File:  
2000/0238 (CNS)**

---

**LIMITE**

**ASILE 65**

**NOTE**

---

from : the Presidency

---

Prev. doc. : 13723/04 ASILE 62

---

No. Cion prop. : 10279/02 ASILE 33 + REV 1 (de, en, fr) - COM(2002) 326 final/2

---

Subject : Amended proposal for a Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status  
- Minimum common list of safe countries of origin

---

On 29 April 2004, the Council reached a general approach on the draft Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status. Article 30 of this draft Directive provides that a common minimum list of third countries be established, that shall be regarded by Member States as safe countries of origin. The Council considered, having regard to preparatory work conducted by JHA Counsellors, that ten countries might be suitable for inclusion on a minimum common list of safe countries of origin to be adopted as part of the Directive and undertook to conduct, prior to the date on which the European Parliament would be reconsulted with regard to this proposal, an in-depth assessment of these countries to ensure that they fulfil the criteria for the designation of countries as safe countries of origin set out in Annex II of the proposed Directive. The countries in question are Benin, Botswana, Cape Verde, Chile, Costa Rica, Ghana, Mali, Mauritius, Senegal, and Uruguay.

The choice of countries identified for inclusion in the initial list was based on a preliminary assessment as to

- the experiences of Member States with regard to the national application of the safe country of origin principle and the application of the ‘ceased circumstances’ cessation clauses contained in Article 1 C (5) and (6) of the Geneva Convention relating to the Status of Refugees,
- the fulfilment by these countries of the criteria in Annex II of the proposed Directive, and
- the number of asylum applications lodged in the Member States by nationals of those countries.

The in-depth assessment of whether the countries fulfil the criteria in Annex II of the draft Directive was conducted during several meetings of the Asylum Working Party. With a view to the assessment Member States submitted a range of information sources on the legal situation, the application of the law and the general political circumstances in the countries concerned for consideration by the Working Party, on the basis of a framework provided by the Presidency and based on Annex II to the proposed Directive. These information sources include reports from third countries, Member States, United Nations Treaty monitoring bodies, and other international organisations. Finally, consideration was again given to the number of asylum applications lodged in the Member States by nationals of those countries.

With regard to Chile, Costa Rica, and Uruguay, the Working Party concluded that it was advisable, notably in the light of the generally small number of asylum applications lodged by nationals of most of the South and Central American countries in Member States, not to consider it a priority, given the time restraints under which the exercise was carried out, to fully assess these countries for an inclusion in the initial minimum common list of safe countries of origin.

With regard to Benin, Botswana, Cape Verde, Ghana, Mali, Mauritius and Senegal, the Presidency prepared, after discussions in the Asylum Working Party and by the JHA Counsellors, further documentation on the assumption that agreement might be reached on the designation of Benin, Botswana, Cape Verde, Ghana, Mali, Mauritius, and Senegal as safe countries of origin. However, full agreement was not reached at this stage.

Therefore, the Strategic Committee for Immigration, Frontiers and Asylum discussed the minimum common list of safe countries of origin on 7 October 2004. Some delegations maintained their reservations against the inclusion of several countries on the list or against the list as a whole.

Following bilateral consultations and discussions by the JHA Counsellors on 3 November 2004, the Presidency has come to the conclusion that the adoption by unanimity of a list of safe countries of origin including Benin, Botswana, Cape Verde, Ghana, Mali, Mauritius and Senegal is unlikely at an early stage. If agreement was reached on a more limited list, there is a risk that such a list would not be useful in practice. Recognizing that an early adoption of the Directive, preceded by a reconsultation of the European Parliament, is necessary with a view to the completion of the legislation establishing the first phase of the Common European Asylum System, and given the significance and urgency of a timely adoption of the draft Directive as pointed out in the Hague Programme, the Presidency would prefer to postpone the establishment of a common list of safe countries of origin until after the adoption of the draft Directive, on the basis that, at present, it is not possible to reach agreement on such a list.

This approach proposed by the Presidency was endorsed by the Strategic Committee during its meeting on 8 November 2004. The Strategic Committee agreed to the postponement of the minimum common list of safe countries of origin until after the adoption of the draft Directive. The Strategic Committee also agreed on an alternative text of Article 30 (1) and (2) and on the change of Recital 19 and the deletion of former Recital 21 of the Preamble, as postponing the establishment of the list requires a change in the text of the draft Directive (see 14203/04 ASILE 64).

---