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THE EUROPEAN UNION**

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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

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**I**

The Asylum Working Party on 8-9 July 2004 and the JHA Counsellors on 23 July 2004 considered the minimum common list of safe countries of origin. As agreed by the Counsellors, the Presidency has prepared further documentation on the assumption that agreement may be reached on the designation of Benin, Botswana, Cape Verde, Ghana, Mali, Mauritius, and Senegal as safe countries of origin for the purpose of Articles 30 and 30A(1) of the draft Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status.

Furthermore, the Asylum Working Party discussed draft Council Conclusions on the establishment of a minimum common list of safe countries of origin. The Working Party agreed that the minimum common list of safe countries of origin will be contained in an Annex of the draft Directive, as stated in Article 30 of the draft Directive. A Recital will be added to the Preamble of the draft Directive with a reference to the Council Conclusions.

The draft Council Conclusions which were discussed refer to a Presidency Paper on the in-depth assessment of the first group of countries with regard to the criteria for the designation of safe countries of origin as set out in Annex II of the draft Directive. Changes to the draft Council Conclusions in 11227/04 ASILE 43 are given in **bold**.

The Presidency Paper contains an assessment of the countries concerned, based on the discussions of the Asylum Working Party and the JHA Counsellors, as well as a list of sources on which the assessment of the countries was essentially based.

## II

### Draft

### COUNCIL CONCLUSIONS

of [date]

on countries to be included in a minimum common list of safe countries of origin to be adopted as an annex to the draft Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status

Whereas:

- (1) The Council reached, on 29 April 2004, 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 such third countries be established, that shall be regarded by Member States as safe countries of origin. It is the intention of the Council to agree unanimously, at the time of the adoption of the draft Directive, on an initial list of such safe countries of origin to be annexed to the Directive. The adoption of this initial list is without prejudice to the possibilities pursuant to Article 30 of the draft Directive of amending the list by adding or removing third countries after the entry into force of the Directive.
- (2) The identification of countries to be considered for inclusion on the initial list should be based on the following three elements: on the experience of Member States with regard to the national application of the safe country of origin principle and the application of the 'ceased circumstances' cessation clause contained in Article 1 C (5) of the Geneva Convention relating to the Status of Refugees; on the fulfilment by these countries of the criteria in Annex II of the draft Directive; and on the number of asylum applications lodged in the Member States by nationals of those countries.
- (3) The Council stated, according to the minutes of its meeting of 29 April 2004, that having regard to the preparatory work already conducted, apart from Romania and Bulgaria, the following countries might be suitable for inclusion in a minimum common list of safe countries of origin to be adopted as part of the draft Directive: Benin, Botswana, Cape Verde, Chile, Costa Rica, Ghana, Mali, Mauritius, Senegal, Uruguay.

- (4) The Council undertook, in its statement of 29 April 2004, to conduct an in-depth assessment of this first group of countries to ensure that they fulfil the criteria in Annex II of the draft Directive. This assessment was to be based on a range of information sources, including information from the Member States, UNHCR, the Council of Europe and other international organisations.
- (5) In accordance with this undertaking, the Council has conducted this in-depth assessment. An account of this assessment is contained in the Presidency report of **9 September 2004**. Moreover, further consideration has been given to the number of asylum applications lodged in the Member States by nationals of those countries [...]. The fact that the report does not suggest the inclusion on the minimum common list of safe countries of origin of all of the ten countries under consideration, **is notably due to the generally small number of asylum applications of South and Central American nationals in the European Union as a whole**. Therefore, the findings of the report in this respect are without prejudice to the application, at national level, of the safe country of origin principle to the countries not suggested for inclusion on the common list.
- (6) The Council recalled that the individual examination of an application for asylum, in conformity with Article 30B (1) of the draft Directive, is a prerequisite for the application of the safe country of origin concept to the application of any particular applicant for asylum.

In keeping with its statement of 29 April 2004, and on the basis of the Presidency report of 9 September 2004,

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CONCLUDES that **Benin, Botswana, Cape Verde, Ghana, Mali, Mauritius, and Senegal** are to be included in the minimum common list of safe countries of origin to be annexed to the draft Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status. This conclusion is without prejudice to the results of the reconsultation of the European Parliament on the draft Directive and to any future developments in the third countries concerned which have a bearing on the fulfilment of the criteria in Annex II of the draft Directive.

### III

#### Draft

Presidency report  
of 9 September 2004

on the in-depth assessment of a first group of countries with regard to the criteria for the designation of safe countries of origin as set out in Annex II of the draft Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status

#### I. INTRODUCTION

The Presidency refers to the statement adopted by the Justice and Home Affairs Council on 29 April 2004 with regard to Article 30 (Minimum common list of third countries as safe countries of origin) of the amended proposal for a Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status (see Annex III to 8771/04 ASILE 33).

The Presidency recalls that the JHA Council considered, having regard to preparatory work conducted by JHA Counsellors, that the ten countries listed below 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 will be reconsulted with regard to this proposal, an in-depth assessment of the 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) 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.

## **II. WORKING METHOD**

The in-depth assessment whether the countries fulfil the criteria in Annex II of the Directive was conducted during several meetings of the Asylum Working Party. For this purpose, national country of origin experts participated in the meetings in addition to the usual delegates to the Working Party.

With a view to the assessment Member States provided input to the Working Party on the basis of a framework provided by the Presidency and set out in the Annex to this report, which draws on Annex II to the proposed Directive.

In accordance with the statement adopted by the JHA Council, 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. This enabled the Working Party to assess whether each of the countries may be considered a safe country of origin in accordance with Annex II. These information sources include reports from third countries, Member States, United Nations Treaty monitoring bodies, and other international organisations and are included in point III of this report.

Finally, consideration was again given to the number of asylum applications lodged in the Member States by nationals of those countries.

### **III. OUTCOME**

It results from the discussions in the Asylum Working Party that on the basis of the in-depth assessment the following countries currently fulfil the criteria of Annex II of the proposed Council Directive: Benin, Botswana, Cape Verde, Ghana, Mali, Mauritius, and Senegal.

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 of South and Central American nationals 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.

#### **1. General remarks**

First of all, the Asylum Working Party has noted that Benin, Botswana, Cape Verde, Ghana, Mali, Mauritius, and Senegal all have democratic systems in place, which is a first prerequisite for inclusion on the minimum common list of safe countries of origin.

Furthermore, the Asylum Working Party has noted that the sources used in the assessment of all seven countries mentioned below report occasional abuse of authority by police and security forces, occasional inability of police forces to curtail acts of mob justice or vigilantism, irregularities and corruption in the judiciary, as well as, more generally, harsh and unhealthy prison conditions. The economic and financial dimensions of these situations and conditions have been taken into consideration. The sources used point to occasional and exceptional violations of human rights, but do not support the conclusion that these occurrences or conditions lead to situations which can be considered as either persecution as defined in Article 9 of the Qualification Directive or as torture or inhuman or degrading treatment or punishment in any general way. Nor do they support the conclusion that the extent to which protection is provided against these occurrences or situations by the authorities of these seven countries is generally insufficient.

Finally, the Asylum Working Party has noted that in none of these countries there can be said to be a threat by reason of indiscriminate violence in situations of international or internal armed conflict. The situation in the Casamance region of Senegal is discussed below.

Therefore, the concerns the Asylum Working Party has shown about these issues cannot be considered to be of decisive importance in the context of the Directive as to not include these seven countries on the minimum common list of safe countries of origin.

The Asylum Working Party has, however, also shown country-specific concerns with regard to Benin, Botswana, Cape Verde, Ghana, Mali, and Senegal.

## **2. Benin**

Benin was included in the first group of countries to be considered for inclusion in the minimum common list of safe countries of origin, on the basis of the following assessment resulting from the discussions of the Asylum Working Party.

Benin embarked on a transition to democracy in 1990. This transition has led to a democratic system which can now be considered to be relatively mature.

The Asylum Working Party has concluded that there is generally and consistently no persecution as defined in Article 9 of the Qualification Directive, and no torture or inhuman or degrading treatment or punishment in Benin. The protection provided by the authorities against persecution or mistreatment can be considered to be generally sufficient.

However, the Asylum Working Party has taken note of some concerns, apart from the general concerns mentioned in paragraph III.1. of this report. In particular the following concerns were taken notice of.

The Asylum Working Party has shown concern about the social discrimination of women in Benin, in particular about the practice of female genital mutilation which is widespread among ca. 20% of the population, in the north of the country. Since female genital mutilation is suppressed under the African Charter on the Rights and Welfare of the Child, to which Benin acceded in 1990, and FGM is suppressed by a national law of May 2003, formal safeguards against FGM are in place. In practice the government ran a large-scale campaign against excision during the late nineties. Local NGOs are also involved in the campaigns to abolish this practice, which is declining steadily.



The Asylum Working Party has also shown concern about child trafficking and child labour in Benin. But note has been taken of serious efforts of the government to prevent these practices on the local level and of the economic dimensions of these problems.

These concerns however do not detract from the conclusion that the authorities in Benin generally and consistently meet the international human rights standards on which Annex II of the Directive is based. Therefore, these concerns cannot be considered to be of decisive importance in the context of the Directive as to not include Benin on the minimum common list of safe countries of origin.

This assessment was based on the following publicly accessible sources:

Summary record of the CAT meeting re: Benin. 21/11/2001

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/86fccf0fb9823123c1256b13005aadb5?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/86fccf0fb9823123c1256b13005aadb5?Opendocument)

European Commission, Country Strategy Paper, Benin, 15/4/2002

[http://europa.eu.int/comm/development/body/csp\\_rsp/scanned/bj\\_csp\\_fr.pdf#zoom=100](http://europa.eu.int/comm/development/body/csp_rsp/scanned/bj_csp_fr.pdf#zoom=100)

Netherlands Ministry of Foreign Affairs, 'Benin' (10/03)

[http://www.minbuza.nl/default.asp?CMS\\_ITEM=90E867872F6647ABA12AC2CFFC07C953X3X54239X26](http://www.minbuza.nl/default.asp?CMS_ITEM=90E867872F6647ABA12AC2CFFC07C953X3X54239X26)

US Dept of State (25 February 2004) Country Reports on Human Rights Practice 2003- Benin

<http://www.state.gov/g/drl/rls/hrrpt/2003/27712pf.htm>

US Dept of State (November 2003) International Religious Freedom Report 2003- Benin

<http://www.state.gov/g/drl/rls/irf/2003/23689pf.htm>

US Dept of State (1 June 2001) Benin: Report on Female Genital Mutilation (FGM) or Female Genital Cutting (FGC)

<http://www.state.gov/g/wi/rls/rep/crfgm/10046pf.htm>

### **3. Botswana**

Botswana was included in the first group of countries to be considered for inclusion in the minimum common list of safe countries of origin, on the basis of the following assessment resulting from the discussions of the Asylum Working Party.

The Asylum Working Party has concluded that there is generally and consistently no persecution as defined in Article 9 of the Qualification Directive, and no torture or inhuman or degrading treatment or punishment in Botswana. The protection provided by the authorities against persecution or mistreatment can be considered to be generally sufficient.

However, the Asylum Working Party has taken note of some concerns, apart from the general concerns mentioned in paragraph III.1. of this report. In particular the following concerns were taken notice of.

The Asylum Working Party has shown concern about discrimination and sporadic ethnic tensions. But note has been taken of serious efforts of the government to fight these tensions. It has worked on an amendment of the Constitution aiming at the equal treatment of all ethnic groups.

These concerns however do not detract from the conclusion that the authorities in Botswana generally and consistently meet the international human rights standards on which Annex II of the Directive is based. Therefore, these concerns cannot be considered to be of decisive importance in the context of the Directive as to not include Botswana on the minimum common list of safe countries of origin.

This assessment was based on the following publicly accessible sources:

European Commission, Country Strategy Paper, Botswana, 12/04/2004

[http://www.europa.eu.int/comm/development/body/csp\\_rsp/scanned/bw\\_csp\\_en.pdf#zoom=100](http://www.europa.eu.int/comm/development/body/csp_rsp/scanned/bw_csp_en.pdf#zoom=100)

Netherlands Ministry of Foreign Affairs, 'Botswana' (09/03)

[http://www.minbuza.nl/default.asp?CMS\\_ITEM=68FC317ACFF842EBB680ECCCC6C2659BX3X59002X55](http://www.minbuza.nl/default.asp?CMS_ITEM=68FC317ACFF842EBB680ECCCC6C2659BX3X59002X55)

US Dept. of State Country Report on Human Rights Practices - Botswana - 2003

Released February 25, 2004

<http://www.state.gov/g/drl/rls/hrrpt/2003/27713.htm>

Freedom House, Freedom in the World 2003. The Annual Survey of Political Rights and Civil Liberties: Botswana

<http://www.freedomhouse.org/research/freeworld/2003/countryratings/botswana.htm>

#### **4. Cape Verde**

Cape Verde was included in the first group of countries to be considered for inclusion in the minimum common list of safe countries of origin, on the basis of the following assessment resulting from the discussions of the Asylum Working Party.

The Asylum Working Party has concluded that there is generally and consistently no persecution as defined in Article 9 of the Qualification Directive, and no torture or inhuman or degrading treatment or punishment in Cape Verde. The protection provided by the authorities against persecution or mistreatment can be considered to be generally sufficient.

However, the Asylum Working Party has taken note of some concerns, apart from the general concerns mentioned in paragraph III.1. of this report. In particular the following concerns were taken notice of.

The Asylum Working Party has shown concern about child labour and abuse.

The Asylum Working Party has taken note of efforts of the Government, following the elections in 2001, to take action against alleged human rights violations.

These concerns however do not detract from the conclusion that the authorities in Cape Verde generally and consistently meet the international human rights standards on which Annex II of the Directive is based. Therefore, these concerns cannot be considered to be of decisive importance in the context of the Directive as to not include Cape Verde on the minimum common list of safe countries of origin.

This assessment was based on the following publicly accessible sources:

European Commission, Country Strategy Paper, Cape Verde, 2002-2007

[http://europa.eu.int/comm/development/body/csp\\_rsp/scanned/cv\\_csp\\_fr.pdf#zoom=100](http://europa.eu.int/comm/development/body/csp_rsp/scanned/cv_csp_fr.pdf#zoom=100)

Netherlands Ministry of Foreign Affairs, 'Cape Verde' (05/04)

[http://www.minbuza.nl/default.asp?CMS\\_ITEM=4FE6BE8D03664A189D02EFFE475D29A6X3X50980X58#TOC\\_12](http://www.minbuza.nl/default.asp?CMS_ITEM=4FE6BE8D03664A189D02EFFE475D29A6X3X50980X58#TOC_12)

US Dept of State (25 February 2004) Country Reports on Human Rights Practices- Cape Verde

<http://www.state.gov/g/drl/rls/hrrpt/2003/27717pf.htm>

US Dept of State (18 December 2003) International Religious Freedom Report- Cape Verde

<http://www.state.gov/g/drl/rls/irf/2003/23694pf.htm>

Freedom House, Freedom in the World 2003. The Annual Survey of Political Rights and Civil Liberties: Cape Verde

<http://www.freedomhouse.org/research/freeworld/2003/countryratings/capeverde.htm>

## **5. Ghana**

Ghana was included in the first group of countries to be considered for inclusion in the minimum common list of safe countries of origin, on the basis of the following assessment resulting from the discussions of the Asylum Working Party.

The Asylum Working Party has concluded that there is generally and consistently no persecution as defined in Article 9 of the Qualification Directive, and no torture or inhuman or degrading treatment or punishment in Ghana. The protection provided by the authorities against persecution or mistreatment can be considered to be generally sufficient.

However, the Asylum Working Party has taken note of some concerns, apart from the general concerns mentioned in paragraph III.1. of this report. In particular the following concerns were taken notice of.

Notice has been taken about child labour and the trafficking in children, which is mostly caused by poor economic conditions in Ghana.

Female genital mutilation is a concern, and exists among ca. 15-30% of the women in the north of the country, but note has been taken of efforts of the government to prevent these practices and to make it a criminal offence in 1994. All levels of government have come out strongly against female genital mutilation. Convictions take place occasionally.

Furthermore occasional tribal conflicts in the northern regions are worrying, although interethnic relations are generally good.

These concerns however do not detract from the conclusion that the authorities in Ghana generally and consistently meet the international human rights standards on which Annex II of the Directive is based. Therefore, these concerns cannot be considered to be of decisive importance in the context of the Directive as to not include Ghana on the minimum common list of safe countries of origin.

This assessment was based on the following publicly accessible sources:

European Commission, Country Strategy Paper, Ghana, 22/10/2002

[http://europa.eu.int/comm/development/body/csp\\_rsp/scanned/gh\\_csp\\_en.pdf#zoom=100](http://europa.eu.int/comm/development/body/csp_rsp/scanned/gh_csp_en.pdf#zoom=100)

UK Home Office Country Assessment - Ghana - April 2002

[Http://www.asylumlaw.org/docs/ghana/ind0402\\_ghana\\_ca.pdf](http://www.asylumlaw.org/docs/ghana/ind0402_ghana_ca.pdf)

German Federal Foreign Office, Ghana Innenpolitik, March 2004

[http://www.auswaertiges-amt.de/www/de/laenderinfos/laender/laender\\_ausgabe\\_html?type\\_id=10&land\\_id=50](http://www.auswaertiges-amt.de/www/de/laenderinfos/laender/laender_ausgabe_html?type_id=10&land_id=50)

Netherlands Ministry of Foreign Affairs, 'Ghana' (06/04)

[http://www.minbuza.nl/default.asp?CMS\\_ITEM=94F70138359A49E0975CC214E416B207X3X50045X56](http://www.minbuza.nl/default.asp?CMS_ITEM=94F70138359A49E0975CC214E416B207X3X50045X56)

US Dept. of State Country Report on Human Rights Practices - Ghana - 2003

Released February 25, 2004

<http://www.state.gov/g/drl/rls/hrrpt/2003/27730.htm>

Ghana, Landeskundliche Informationsseite, 31/01/2004

<http://www.dse.de/za/lis/ghana/index.htm>

Freedom House, Freedom in the World 2003. The Annual Survey of Political Rights and Civil Liberties: Ghana

<http://www.freedomhouse.org/research/freeworld/2003/countryratings/ghana.htm>

## **6. Mali**

Mali was included in the first group of countries to be considered for inclusion in the minimum common list of safe countries of origin, on the basis of the following assessment resulting from the discussions of the Asylum Working Party.

The Asylum Working Party has concluded that there is generally and consistently no persecution as defined in Article 9 of the Qualification Directive, and no torture or inhuman or degrading treatment or punishment in Mali. The protection provided by the authorities against persecution or mistreatment can be considered to be generally sufficient.

However, the Asylum Working Party has taken note of some concerns, apart from the general concerns mentioned in paragraph III.1. of this report. In particular the following concerns were taken notice of.

The Asylum Working Party has shown concern about the persisting and widespread practice of

female genital mutilation. There is no law against this practice. But note has been taken of efforts of the government to introduce legislation against this practice in the future. Also note has been taken of the activities of the government to prevent these practices on local level. The government does support educational schemes to counter these forms of mutilation. A national committee coordinating all activities of NGO's in this field has been established. A five-year awareness campaign has recently started, with the aim of convincing the population that this practice is medically and psychologically harmful and morally wrong. It is helped by local radio stations, Muslim religious leaders and *griots*, traditional folk singers. Female genital mutilation is widespread (to 90-95 % of adult women) in the south-eastern part of Mali, but less so in the north and east of the country, where the percentage of women who have suffered genital mutilation can drop to 15-20%. The Asylum Working Party has noted that among Malinese women support for female genital mutilation is very strong, which illustrates the difficult task facing the authorities and their preference for educational and awareness activities.

These concerns however do not detract from the conclusion that the authorities in Mali generally and consistently meet the international human rights standards on which Annex II of the Directive is based. Therefore, these concerns cannot be considered to be of decisive importance in the context of the Directive as to not include Mali on the minimum common list of safe countries of origin.

This assessment was based on the following publicly accessible sources:

State Party report on ICCPR: Mali. 13/01/2003

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/c4ce16366b68b3d0c1256ce10034e9c9?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/c4ce16366b68b3d0c1256ce10034e9c9?Opendocument)

Concluding observations of the Human Rights Committee: Mali. 16/04/2003

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/1b93b939fb14761dc1256d17004aca6f?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/1b93b939fb14761dc1256d17004aca6f?Opendocument)

European Commission, Country Strategy Paper, Mali, 18/03/2003

[http://europa.eu.int/comm/development/body/csp\\_rsp/scanned/ml\\_csp\\_fr.pdf#zoom=100](http://europa.eu.int/comm/development/body/csp_rsp/scanned/ml_csp_fr.pdf#zoom=100)

Netherlands Ministry of Foreign Affairs, 'Mali' (05/04)

[http://www.minbuza.nl/default.asp?CMS\\_ITEM=3ADB98B149DF4F30B267ABE2D2AC0CC4X3X40519X29](http://www.minbuza.nl/default.asp?CMS_ITEM=3ADB98B149DF4F30B267ABE2D2AC0CC4X3X40519X29)

US Dept of State (25 February 2004) Country reports on Human Rights Practice 2003- Mali

<http://www.state.gov/g/drl/rls/hrrpt/2003/27738pf.htm>

US Dept of State (18 December 2003) International Religious Freedom Report- Mali

<http://www.state.gov/g/drl/rls/irf/2003/23719pf.htm>

US Dept Of State (1 June 2001)

Mali: Report on Female Genital Mutilation (FGM) or Female Genital Cutting (FGC)

<http://www.state.gov/g/wi/rls/rep/crfgm/10105pf.htm>

Mali: Excision practiced where pre-Islamic traditions strongest– IRIN News Report 15/6/04

[http://www.irinnews.org/report.asp?ReportID=41684&SelectRegion=West\\_Africa&SelectCountry=MALI](http://www.irinnews.org/report.asp?ReportID=41684&SelectRegion=West_Africa&SelectCountry=MALI)

Freedom House, Freedom in the World 2003. The Annual Survey of Political Rights and Civil Liberties: Mali

<http://www.freedomhouse.org/research/freeworld/2003/countryratings/mali.htm>

## **7. Mauritius**

Mauritius was included in the first group of countries to be considered for inclusion in the minimum common list of safe countries of origin, on the basis of the following assessment resulting from the discussions of the Asylum Working Party.

The Asylum Working Party has concluded that there is generally and consistently no persecution as defined in Article 9 of the Qualification Directive, and no torture or inhuman or degrading treatment or punishment in Mauritius. The protection provided by the authorities against persecution or mistreatment can be considered to be generally sufficient.



Apart from the general concerns mentioned in paragraph III.1. of this report, the Asylum Working Party considers there are no other, specific concerns arising from the sources used for the assessment.

This assessment was based on the following publicly accessible sources:

Concluding Observations of the Committee against Torture: Mauritius. 05/05/99

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/fffda253689a936c8025676800439876?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/fffda253689a936c8025676800439876?Opendocument)

Second periodic report of States parties to Committee Against Torture: Mauritius. 23/06/98

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/6da53f7c3faedef8802566aa0052fc85?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/6da53f7c3faedef8802566aa0052fc85?Opendocument)

European Commission, Country Strategy Paper, Mauritius, 21/02/2002

[http://europa.eu.int/comm/development/body/csp\\_rsp/scanned/mu\\_csp\\_en.pdf#zoom=100](http://europa.eu.int/comm/development/body/csp_rsp/scanned/mu_csp_en.pdf#zoom=100)

Netherlands Ministry of Foreign Affairs, 'Mauritius' (01/04)

[http://www.minbuza.nl/default.asp?CMS\\_ITEM=576561E242EF4F29BC8750BE6C90E4A6X3X41824](http://www.minbuza.nl/default.asp?CMS_ITEM=576561E242EF4F29BC8750BE6C90E4A6X3X41824)

US Dept. of State Country Report on Human Rights Practices - Mauritius - 2003

Released February 25, 2004

<http://www.state.gov/g/drl/rls/hrrpt/2003/27739.htm>

Amnesty International Report - Mauritius - 2003 - This report covers the period January to December 2002

<http://web.amnesty.org/report2003/mus-summary-eng>

Freedom House, Freedom in the World 2003. The Annual Survey of Political Rights and Civil Liberties: Mauritius

<http://www.freedomhouse.org/research/freeworld/2003/countryratings/mauritius.htm>

## 8. Senegal

Senegal was included in the first group of countries to be considered for inclusion in the minimum common list of safe countries of origin, on the basis of the following assessment resulting from the discussions of the Asylum Working Party.

The Asylum Working Party has concluded that there is generally and consistently no persecution as defined in Article 9 of the Qualification Directive, and no torture or inhuman or degrading treatment or punishment in Senegal. The protection provided by the authorities against persecution or mistreatment can be considered to be generally sufficient.

However, the Asylum Working Party has taken note of some concerns, apart from the general concerns mentioned in paragraph III.1. of this report. In particular the following concerns were taken notice of.

Note has been taken about reports of occasional harassment of journalists by government officials, arbitrary arrests by the police and limitations on the freedom of speech.

The Asylum Working Party has furthermore shown concern about the insecurity and tensions in the Casamance region, although the situation in the Casamance has very much calmed down in comparison to some years ago. The investigations of the government into human rights violations during the conflict have been pending for years and have until now not contributed much to any future prosecution. But the government's recent willingness to ensure better respect for human rights has been noted. Alleged human rights violations in the Casamance can now be regarded as exceptional.

These concerns however do not detract from the conclusion that the authorities in Senegal generally and consistently meet the international human rights standards on which Annex II of the Directive is based. Therefore, these concerns cannot be considered to be of decisive importance in the context of the Directive as to not include Senegal on the minimum common list of safe countries of origin.

This assessment was based on the following publicly accessible sources:

Concluding observations of the Human Rights Committee: Senegal. 19/11/97

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/180cf36510ca28608025655300533c4a?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/180cf36510ca28608025655300533c4a?Opendocument)

Concluding observations of the Committee against Torture: Senegal. 09/07/96

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/9eb6dcdff3976e61c12563e20039630f?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/9eb6dcdff3976e61c12563e20039630f?Opendocument)

European Commission, Country Strategy Paper, Senegal, 13/05/2003

[http://europa.eu.int/comm/development/body/csp\\_rsp/scanned/sn\\_csp\\_fr.pdf#zoom=100](http://europa.eu.int/comm/development/body/csp_rsp/scanned/sn_csp_fr.pdf#zoom=100)

German Federal Foreign Office–Bilateral Relations with Senegal & Country Information

<http://www.auswaertiges->

[amt.de/www/de/laenderinfos/laender/laender\\_ausgabe\\_html?type\\_id=10&land\\_id=149](http://www.auswaertiges-amt.de/www/de/laenderinfos/laender/laender_ausgabe_html?type_id=10&land_id=149)

US Dept. of State Country Report on Human Rights Practices - Senegal - 2003

Released February 25, 2004

<http://www.state.gov/g/drl/rls/hrrpt/2003/27748.htm>

Amnesty International Report - Senegal - 2003 - This report covers the period January to December 2002

<http://web.amnesty.org/report2003/sen-summary-eng>

Profile of Internal Displacement: Senegal

Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council (as of 19 August, 2003)

[http://www.db.idpproject.org/Sites/IdpProjectDb/idpSurvey.nsf/ExtFileLookup/Senegal-November2001/\\$file/Senegal+-August+2003.pdf](http://www.db.idpproject.org/Sites/IdpProjectDb/idpSurvey.nsf/ExtFileLookup/Senegal-November2001/$file/Senegal+-August+2003.pdf)

Anke Christine Lerch, Parlamentswahlen und Regierungsneubildung in Senegal (Konrad-Adenauer-Stiftung)

[http://www.kas.de/db\\_files/dokumente/auslandsinformationen/7\\_dokument\\_dok\\_pdf\\_279\\_1.pdf](http://www.kas.de/db_files/dokumente/auslandsinformationen/7_dokument_dok_pdf_279_1.pdf)

Amnesty International Information

<http://www.amnesty.ch/d/edosd/edos112d.html>

Senegal: Help Needed For Returnees To Casamance - IRIN News Report 9/1/04

[http://www.irinnews.org/report.asp?ReportID=38846&SelectRegion=West\\_Africa&SelectCountry=SENEGAL](http://www.irinnews.org/report.asp?ReportID=38846&SelectRegion=West_Africa&SelectCountry=SENEGAL)

Senegal: Amnesty highlights 180 disappearances in Casamance– IRIN News Report 4/12/03

[http://www.irinnews.org/report.asp?ReportID=38243&SelectRegion=West\\_Africa&SelectCountry=SENEGAL](http://www.irinnews.org/report.asp?ReportID=38243&SelectRegion=West_Africa&SelectCountry=SENEGAL)

Freedom House, Freedom in the World 2003. The Annual Survey of Political Rights and Civil Liberties: Senegal

<http://www.freedomhouse.org/research/freeworld/2003/countryratings/senegal.htm>

## **9. Summary of findings**

Basing itself on the publicly available sources mentioned above, the Asylum Working Party conducted the in-depth assessment of Benin, Botswana, Cape Verde, Ghana, Mali, Mauritius, and Senegal with regard to the criteria for the designation of safe countries of origin as set out in Annex II of the draft Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status. The Working Party concluded that these countries currently fulfil the criteria of Annex II of the proposed Directive and can therefore be included on the initial minimum common list of safe countries of origin to be adopted as part of the Directive.

## FRAMEWORK FOR ASSESSMENT

**1. Definition of a safe country of origin**

In line with Annex II of the proposed Directive a safe country of origin is one in respect of which it can be shown, that there is *generally and consistently* (meaning over a period of time)

- no persecution as defined in Article 9 of the Qualification Directive<sup>1</sup>;
- no torture or inhuman or degrading treatment or punishment;
- no threat by reason of indiscriminate violence in situations of international or internal armed conflict.

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<sup>1</sup> **Article 9**

1. Acts of persecution within the meaning of article 1 A of the Geneva Convention must:
  - (a) be sufficiently serious by their nature or repetition as to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms; or
  - (b) be an accumulation of various measures, including violations of human rights which is sufficiently severe as to affect an individual in a similar manner as mentioned in (a).
2. Acts of persecution as qualified in paragraph 1, can inter alia take the form of:
  - (a) acts of physical or mental violence, including acts of sexual violence;
  - (b) legal, administrative, police, and/or judicial measures which are in themselves discriminatory or which are implemented in a discriminatory manner;
  - (c) prosecution or punishment, which is disproportionate or discriminatory;
  - (d) denial of judicial redress resulting in a disproportionate or discriminatory punishment;
  - (e) prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling under the exclusion clauses as set out in Article 12(2);
  - (f) acts of a gender-specific or child-specific nature.

**2. Nature of assessment to be conducted in order to reach a decision in respect of whether a country may be considered to be a safe country of origin as set out above**

The legal situation, the application of the law within a democratic system (the existence of such a system being a prerequisite for designation) and the general political circumstances in the country concerned must be assessed to show that there is generally and consistently no persecution etc. as set out above.

Account must also be taken of the extent to which protection is provided against such persecution or mistreatment by means of:

- (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<sup>1</sup>;
- (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.

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<sup>1</sup> Article 2 Right to life (other than deaths resulting from lawful acts of war), Article 3 Prohibition of torture, Article 4(1) Prohibition of slavery and Article 7 No punishment without law.

### 3. Questions to be addressed with regard to each country

The Presidency considers that the following questions need to be addressed in respect of each of the countries:

- i. Does the country have a democratic system in place?
- ii. Having regard to the legal situation, the application of the law and the general political circumstances can it be shown that there is generally and consistently:
  - no persecution as defined in Article 9 of the Qualification Directive?
  - no torture or inhuman or degrading treatment or punishment?
  - no threat by reason of indiscriminate violence in situations of international or internal armed conflict?
- iii. To what extent is protection provided against persecution or mistreatment by means of 2(a) to (d) above in the country concerned? Is this sufficient to show that there is generally and consistently no persecution etc. in that country?
- iv. Is the material sufficient for the purpose of conducting the in-depth assessment referred to by the JHA Council? If not, in which areas (bearing in mind the nature of the assessment at paragraph 2 above) is it lacking? Do Member States that consider it to be insufficient have other sources available to them that would assist discussions? Are they in a position to share these sources with other Member States?
- v. Where a Member State, having considered the material considers that a particular country does not fulfil the designation criteria in Annex II of the proposed Directive, which criterion does that Member State consider the country not to meet? If other Member States consider that the country concerned meets the criteria, what additional information is available to them that would show that the country does fulfil the criterion in question?