



Ad-Hoc Query on safe countries of origin and safe third countries

Requested by the BG EMN NCP on 10th October 2014

Compilation produced on 22.12.2014

Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom plus Norway (25 in Total)

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1. Background Information

Changes to the Bulgarian Law on Asylum and Refugees are currently being considered. In relation to this, the Bulgarian State Agency for Refugees would like to collect information about the lists of safe countries of origin and safe third countries existing in other Member States. More specifically, we would like to know the following:

1. Does your Member State have a national list of safe countries of origin and safe third countries?
2. If so, which countries are included in this list?
3. Which criteria are followed in determining which countries should be included in the list?


Two additional questions:

4. Is the concept 'first country of asylum' introduced in your national legislation?
5. If yes, how do you apply it in practice?

We would very much appreciate your responses to the questions, if possible, by 17 October 2014.

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2. Responses¹

		Wider Dissemination? 2	Questions: <ol style="list-style-type: none"> 1. Does your Member State have a national list of safe countries of origin and safe third countries? 2. If so, which countries are included in this list? 3. Which criteria are followed in determining which countries should be included in the list? 4. Is the concept 'first country of asylum' introduced in your national legislation? 5. If yes, how do you apply it in practice?
	Austria	Yes	<p>1. According to Art. 2 para 1 (17) Asylum Act, a country of origin is the country of nationality of the foreigner (in case of stateless persons the country of former habitual residence). Art. 2 para 1 (20) defines third country as every country, which is not an EEA country or Switzerland.</p> <p>Art. 19 Federal Office for Immigration and Asylum Procedures Act mentioned the following countries of origin, in addition to the Member States, as safe: Australia, Iceland, Canada, Liechtenstein, New Zealand, Norway, and Switzerland.</p> <p>In the Decree of the Federal Government, with which states are determined as safe countries of origin, the following countries are mentioned as safe countries of origin: Bosnia and Herzegovina, Kosovo, Croatia, Macedonia, Montenegro, Serbia, Albania.</p> <p>A list of safe third countries does not exist. Art. 4 Asylum Act defines the principal requirements according to which a state is to be regarded a safe third country.</p> <p>2. According to Art. 19 para 5 (2) Federal Office for Immigration and Asylum Procedures Act, the following factors have to be considered: Existence or non-existence of state persecution, protection from private persecution and legal protection against violations of human rights.</p> <p>Art. 4 para 2 and 3 Asylum Act define the criteria for safe third countries: This protection is provided if a third-country national in that state has access to a procedure for determining refugee status or if this is guaranteed through another third country, if he or she has a right</p>

¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.


² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

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			<p>to stay in that country during the procedure and if he or she has protection from deportation to the country of origin in case of a threatening violation of Art. 2 or 3 of the ECHR. The same applies to states that have already carried out a refugee status determination. These requirements are provided, if the state has ratified the Geneva Refugee Convention and has introduced an asylum procedure in law, which has implemented the principles of the convention, the ECHR, as well as protocols 6, 11 and 13. This assumption is rebuttable.</p> <p>4. Art. 5 Asylum Act enshrines the concept of the Dublin Regulation, according to which the concept of the first asylum country within the EU is encompassed. The provision of Art. 4 Asylum Act on safe third countries (see above) substantially encompasses the concept of the first asylum country outside the EU.</p> <p>5. The question of protection in a safe third country is answered in the framework of individual assessments.</p> <p>Source: Federal Ministry of the Interior.</p>
	<p>Belgium</p>	<p>Yes</p>	<p>1. Since 2012 Belgium has introduced the concept of “safe country of origin” in its Aliens Act and included 7 countries in the list. The Commissioner general for Refugees and Stateless Persons (CGRS) will have the possibility not to take into consideration the asylum application if the declarations of the asylum seeker do not clearly indicate a well-founded fear of persecution or a real risk of suffering serious harm. A full jurisdictional appeal can be lodged with the Council for Aliens Law Litigation within 15 calendar days. The appeal is automatically suspensive but the periods for introduction of the appeal are shortened. Reception is guaranteed during the appeal phase.</p> <p>The concept “safe third country” (article 38 and 39 2013/32/EU) is not applied and there is no list regarding safe third countries.</p> <p>2. A Royal Decree of 24 April 2014 reconfirmed the list of safe countries of origin with the same seven safe countries of origin that was adopted for the first time in 2012: Albania, Bosnia-Herzegovina, Former Yugoslav Republic of Macedonia (FYROM), Kosovo, Serbia, Montenegro and India.</p> <p>3. Countries can be considered as a safe country of origin if the rule of law in a democratic system and the general political circumstances allow to conclude that in a general and durable manner there is no persecution or real risk of serious harm, taking into consideration the laws and regulations and the legal practice in that country, the respect for the fundamental rights and freedoms of the ECHR and of the principle of non-refoulement and the availability of an effective remedy against violations of these rights and principles. After having received a detailed advice of the CGRS, the government approves the list of safe countries of origin upon the proposal of the Secretary of State for Migration and Asylum and the Minister of Foreign Affairs.³ The list must be reviewed at least once a year.</p> <p>4. Yes, the Law of 8 May 2013, which entered into force on the 1st of September 2013, introduced the concept of a first country of asylum in the Belgian Aliens Act.</p>







³ <http://www.asylumineurope.org/reports/country/belgium/asylum-procedure/safe-country-concepts>

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			<p>5. The concept first country of asylum can be applied in Belgium in 2 situations:</p> <ul style="list-style-type: none"> - First, when an asylum seeker already has refugee status (not subsidiary protection status) in another EU member state, the CGRS can decide, within 15 working days, not to take into consideration the asylum application, unless the asylum seeker can prove that they cannot effectively rely on this status anymore. - Secondly, when there is a non-EU country of asylum where the asylum seeker already enjoys an actual protection that he can still rely on. The concept of “first country of asylum” as in the EU Asylum Procedures Directive was only transposed into the Belgian Aliens Act to allow for a more efficient case handling. Those asylum-seekers who already enjoy real protection in another State (refugee status or real protection with respect of the principle of non-refoulement) could be considered not to be in need of international protection in Belgium. However, if the applicant provides elements that he or she can no longer benefit from this protection or that he or she cannot regain access to the territory of the first country of asylum, the concept cannot be applied. In that case, the fear of persecution or serious harm will not be examined vis-à-vis the country in which he or she obtained this protection but vis-à-vis the country or countries of nationality, or in case of a stateless persons vis-à-vis the form place of residence. The concept first country of asylum is not a ground for inadmissibility, nor are these asylum applications accelerated or prioritized. The first country of asylum concept has been applied to refuse asylum applications from Tibetans having lived in India before coming to Belgium.
	<p>Bulgaria</p>	<p>Yes</p>	<ol style="list-style-type: none"> 1. Yes. However, it dates from 2005 and needs to be updated. Currently, the list is not applied in practice. 2. <u>Safe countries of origin</u> Europe: Albania, Armenia, Bosnia and Herzegovina, Georgia, Macedonia, Serbia, Montenegro, Turkey, Ukraine; Asia: Bangladesh, India, China; Africa: Algeria, Ghana, Ethiopia, Nigeria, Tanzania. <p><u>Safe third countries</u> Europe: Bosnia and Herzegovina, Macedonia, Romania, Russian Federation, Serbia, Montenegro, Ukraine. The Republic of Bulgaria accepts as safe third countries all countries which have ratified the Geneva Convention of 1951 and the Protocol relating to the status of refugees of 1967, and which provide effective protection to asylum seekers.</p> <ol style="list-style-type: none"> 3. The criteria which are followed in determining the countries to be included in the list are set out under Art. 98 of the Law on Asylum and Refugees: “Article 98. (New, SG No. 52 of 2007) (1) Every year by 30 November, the Chairman of the State Agency for Refugees shall, in agreement with the Minister of Foreign Affairs, table national lists of safe countries of origin and safe third states to be adopted by the Council of Ministers. (2) In adopting the lists, the Council of Ministers shall, using information sources from the European Union Member States, the United Nations High Commissioner for Refugees, the Council of Europe or other international organisations, assess the degree to which a state provides protection against persecution, on the basis of: <ol style="list-style-type: none"> 1. instruments enacted in that area, and how they are enforced; 2. how rights and freedoms dealt with in the Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights or the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are observed;



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			<p>3. how the ban on expulsion or return in the meaning of the Convention relating to the Status of Refugees of 1951 is observed;</p> <p>4. if there is a system of effective sanctions against any violation of these rights and freedoms.”</p> <p>4. No.</p> <p>5. N/A.</p>
	Croatia	Yes	
	Cyprus	Yes	
	Czech Republic	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Denmark	Yes	
	Estonia	Yes	<p>1. No, Estonia does not have a national list of safe countries of origin and safe third countries.</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. No</p> <p>N/A</p>
	Finland	Yes	<p>1. No.</p> <p>2. N/A.</p> <p>3. N/A.</p> <p>4. Yes. The concept of first country of asylum (safe country of asylum) is included in the Finnish Aliens Act, Section 99: <i>“When deciding on an application in the asylum procedure, a State may be considered a safe country of asylum for the applicant if it is a signatory, without geographical reservations, to the Convention relating to the Status of Refugees, the International Covenant on Civil and Political Rights (Treaty Series of the Statute Book of Finland 8/1976) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Treaty Series of the Statute Book of Finland 60/1989) and adheres to them.”</i></p> <p>5. Sections 103 and 104 of the Finnish Aliens Act define how the principle of first country of asylum is applied: Pursuant to Section 103, subsection 1, an <u>application may be dismissed</u> if the applicant has arrived from a safe country of origin: <i>“An application for international protection may be dismissed if:</i> <i>1) the applicant has arrived from a safe country of asylum defined in section 99 where he or she enjoyed or could have enjoyed protection referred to in sections 87 and 88 and where he or she may be returned”</i> Pursuant to Section 104, subsection 1, the <u>decision must be made within 7 days of the asylum interview</u>, when applying the principle of safe country or asylum: <i>“If the applicant is considered to come from a safe country of asylum or origin, a decision on the application shall be made within seven days of the date when the minutes of the interview were completed and the information on their completion was entered in the Register of Aliens.”</i></p>



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			<p>Pursuant to the Finnish Aliens Act Section 104, subsection 2, the <u>applicant shall be issued with a document stating that his/her application was not examined in substance</u> in Finland. <i>“An alien who is returned to a safe country of asylum is issued with a document stating that his or her application was not examined in substance in Finland.”</i></p>
	<p>France</p>	<p align="center">Yes</p>	<ol style="list-style-type: none"> 1. Yes, the notion of “safe country of origin” was introduced in France by the law of 10 December 2003. The first list of safe countries of origin was established in June 2005 by the French Office for the Protection of Refugees and Stateless Persons (OFPRA) and is regularly reviewed. 2. The current list of safe countries of origin includes the following countries: Albania, Armenia, Benin, Bosnia-Herzegovina, Cape-Verde, Georgia, Ghana, India, Macedonia (FYROM), Mauritius, Moldova, Mongolia, Montenegro, Senegal, Serbia, and Tanzania. 3. According to Article L.741-4-2 of the Code on Entry and Residence of Foreigners and the Right of Asylum (CESEDA), a third country is considered as a safe country of origin if it ensures respect for the principles of freedom, democracy and the rule of law, as well as human rights and fundamental freedoms. <p>4-5. According to Article L.741-4-1 of the CESEDA, an application for asylum in France may be refused if the examination of the asylum application falls under the competence of another Member State, according to Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.</p> <p>However, in practice, an applicant for asylum with refugee status in another country may still benefit from protection in France, provided that she/he fulfills the requirements for legal entry to French territory applied to all third-country nationals in France. The OFPRA examines his/her application and may decide to transfer his/her refugee status to France under a “transfer of protection” arrangement.</p>
	<p>Germany</p>	<p align="center">Yes</p>	<ol style="list-style-type: none"> 1. Yes. 2. <u>Safe countries of origin</u>: Member states of the European Union, Ghana and Senegal. A draft legislation which has already been adopted by the Bundesrat [<i>Federal German Council</i>] which classifies Bosnia and Herzegovina, Macedonia and Serbia as safe countries of origin will presumably come into force as early as in October 2014. <u>Safe third countries</u>: Member states of the European Union, Norway and Switzerland. 3. The classification of a state as <u>safe country of origin</u> is only then admissible if on the basis of the legal situation in that country, 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 the Qualification Directive, 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





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			<p>assessment, account is taken, inter alia, of the extent to which protection is provided against persecution or mistreatment by:</p> <ol style="list-style-type: none"> 1. the relevant laws and regulations of the country and the manner in which they are applied, 2. the observance of the rights and freedoms laid down in the European Convention on Human Rights and/or the International Covenant for Civil and Political Rights and/or the Convention of the United Nations against Torture, in particular the rights from which derogation cannot be made under Article 15 (2) of the said European Convention, 3. the respect of the non-refoulement principle according to the Geneva Convention relating to the Status of Refugees and 4. the provision for a system of effective remedies against violations of these rights and freedoms. <p>The classification of a state as <u>safe third country</u> can only then be made if this country guarantees the application of the Geneva Convention relating to the Status of Refugees (GC) and the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).</p> <p>4. No. However, the notion of “first country of asylum” is applied correspondingly in connection with the application of the procedure laid down in the Dublin Convention; that means in this case: procedure for the determination of the state responsible for examining an application for asylum.</p> <p>5. N/A</p>
	<p>Greece</p>	<p align="center">Yes</p>	<ol style="list-style-type: none"> 1. No 2. N/A 3. N/A 4. Yes, under article 19 of the Presidential Decree no. 113/2013 (transposition of the Asylum Procedures Directive 2005/85/EC). The application in that case is rejected as inadmissible according to article 18(a) and (c), provided that the “first country of asylum” fulfills the conditions required under article 20par.1as follows: <ol style="list-style-type: none"> a. the applicant's life and liberty are not threatened for reasons of race, religion, nationality, membership of a particular social group or political opinion, b. this country respects the principle of non refoulement, in accordance with the Geneva Convention, c. the applicant is in no risk of suffering serious harm in accordance with the relevant legal provisions of the Presidential Decree no 141/2013 (transposition of the Qualification Directive 2011/95/EU) . d. the country prohibits the removal of an applicant to a country where he/she risks to be subject to torture and cruel, inhuman or degrading treatment or punishment, as defined in international law, e. the possibility to apply for refugee status exists and, if the applicant is recognized as a refugee, to receive protection in accordance with the Geneva Convention and f. the applicant has a connection with that country, under which it would be reasonable for the applicant to move to it. 5. The Asylum Service –operational since June 2013- has not dealt so far with such cases.
	<p>Hungary</p>	<p align="center">No</p>	<p>This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.</p>

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	Ireland	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Italy	Yes	<ol style="list-style-type: none"> 1. No, Italy doesn't have those lists. 2. <i>See 1</i> 3. <i>See 1</i> 4. No 5. <i>See 4</i>
	Latvia	Yes	<ol style="list-style-type: none"> 1. No. We do have neither a national list of safe countries of origin nor list of safe third countries however the Asylum Law includes the definition of the safe country of origin and safe third country. 2. N/A 3. According to the definitions of the Asylum Law safe country of origin is a country where, in accordance with the legal situation, the application of legal acts in a democratic system and general political conditions, persecution, torture, an inhuman or degrading attitude or an inhuman or degrading punishment, as well as threats of violence in case of international or domestic armed conflicts do not exist and safe third country is a country where an asylum seeker has resided prior to the arrival in the Republic of Latvia and where, as specified in international legal acts, his or her life and freedom is not threatened due to his or her race, religion, nationality, affiliation to a specific social group or his or her political views, where the prohibition to deport the asylum seeker to such country where his or her life and freedom is threatened due to his or her race, religion, nationality, affiliation to a specific social group or his or her political views and where he or she might be tortured, as well as exposed to a cruel, inhuman and degrading attitude or an inhuman and degrading punishment is observed, and where the asylum seeker has the opportunity to request refugee status and, if he or she is recognized as a refugee, to acquire protection in accordance with the Convention Relating to the Status of Refugees adopted on 28 July 1951. 4. According to the Asylum Law first country of asylum is a country which will take back an asylum seeker, where he or she is recognized as a refugee and may continue to benefit from such protection or enjoy other sufficient protection and where also a prohibition to deport the asylum seeker to such country where his or her life and freedom are threatened due to his or her race, religion, nationality, affiliation with a specific social group or his or her political views is observed. <p>Till now the further rules and modalities for the application of safe country of origin or safe third country or first country of asylum concepts had not been implemented in the national legislation. Taking into consideration common caseload, countries where asylum seekers came from and asylum seekers travel routes any asylum application has been examined individually without the application of previously mentioned concepts.</p>
	Lithuania	Yes	<ol style="list-style-type: none"> 1. No. Each case is examined individually. 2. n/a 3. n/a 4. No. 5. n/a

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	<p>Luxembourg</p>	<p>Yes</p>	<ol style="list-style-type: none"> 1. Yes. Luxembourg has a list of safe countries established in the Grand-ducal regulation of 21 December 2007 fixing the list of safe countries as mentioned in the amended law of 5 May 2005 on the right of asylum and complementary forms of protection (Asylum law). It has been modified by Grand-ducal regulations of 1 April 2011 and of 19 June 2013. 2. At the moment the list of safe countries : <ul style="list-style-type: none"> Albania Benín Bosnia-Herzegovina Cape Verde Croatia Former Yugoslav Republic of Macedonia Ghana Kosovo Montenegro Senegal Serbia Ukraine <p>Are considered safe country only for the male population:</p> <ul style="list-style-type: none"> Benin Ghana 3. According to Article 16 (4) of the Asylum law, the Minister may apply the safe third country concept only when he is satisfied that the applicant will be treated in accordance with the following principles in the third country concerned: <ol style="list-style-type: none"> (a) life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion; (b) the principle of non-refoulement in accordance with the Geneva Convention is respected; (c) the prohibition of removal, in violation 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. <p>According to Article 21 (2) of the Asylum law, a country which is designated a safe country of origin may only be regarded, following an individual examination of the application for international protection, as a safe country of origin for an applicant if he/she possesses the nationality of that country or formerly had his/her habitual residence in that country and the applicant has not put forward any valid grounds for believing that the country in question is not a safe country of origin in his/her particular circumstances.</p> <p>A grand ducal regulation can enact a country as a safe country of origin if it is established that in that country there is no general and constant persecution as laid out in the Geneva convention. The criteria taken into consideration are:</p> <ol style="list-style-type: none"> (a) the respect of the rights and freedoms established in the Convention for the Protection of Human Rights and Fundamental
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			<p>Freedoms, the International Covenant on Civil and Political Rights or the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are observed;</p> <p>(b) the respect of the principle of non-refoulement in accordance with the Geneva Convention;</p> <p>(c) if there is an effective appeal system against any violation of these rights and freedoms.</p> <p>4. Yes.</p> <p>5. According to article 16 (3) of the Asylum law, a country may be regarded as a first country of asylum for a particular applicant if that applicant</p> <p>(a) has been recognized in that country as a refugee and s/he can still avail him/herself of that protection; or</p> <p>(b) Enjoys, on some other basis, adequate protection in that country, including the benefit of the principle of non-refoulement, on condition that he/she is re-admitted into that country.</p> <p>In applying the concept of first country of asylum to the particular circumstances of an applicant, the Minister may take into account the provisions listed in article 16(4) (see question 3).</p>
	Malta	Yes	<p>1. Yes. The Refugees Act, Chapter 420 of the Laws of Malta provides a list of countries that are considered as safe countries of origin.</p> <p>2. The countries are: Australia, Benin, Botswana, Brazil, Canada, Cape Verde, Chile, Croatia, Costa Rica, Gabon, Ghana, Iceland, India, Jamaica, Japan, Liechtenstein, New Zealand, Norway, Senegal, Switzerland, United States of America, Uruguay, Member States of the European Union and the European Economic Area.</p> <p>3. Article 24(3) of the Refugees Act specifies that the Minister for Home Affairs and National Security may by regulations amend the list of regulations.</p> <p>4. Yes. The concept of ‘first country of asylum’ is found in the Refugees Act, Chapter 420 of the Laws of Malta.</p> <p>The concept has never been applied in practice.</p>
	Netherlands	Yes	<p>1. No, there is no list of safe countries of origin or safe third countries.</p> <p>2. Not applicable</p> <p>3. Not applicable</p> <p>4. Yes, in specific way, the country of former (habitual) residence can be considered as first country of asylum.</p> <p>5. There is a possibility to reject an application for asylum if the asylum seeker has been in a country of former (habitual) residence and he was there protected against refoulement. The country of former (habitual) residence must at least be party to the Geneva Convention and fulfil its obligations under that Convention. The country also must give a written confirmation that the asylum seeker will be allowed to return to that country. If the country of former (habitual) residence is no party to the Geneva Convention. The Netherlands consider that there is a long-lasting protection (i.a.) if the country has given the asylum seeker a residence permit that protects him long-lasting against return.</p>
	Poland	Yes	<p>1. No.</p> <p>2. n/a</p> <p>3. n/a.</p>


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			No, but we are planning to introduce this concept together with the rest of regulations laid down by the so-called procedural directive. It should therefore be introduced in the second half of 2015.
	Portugal	Yes	<ol style="list-style-type: none"> 1. No 2. N/A 3. N/A 4. Yes, the concept of first country of asylum is foreseen in Portuguese Asylum Act <p>This concept is one of the criteria to consider an application inadmissible according the situations of inadmissibility procedures provided for APD recast</p>
	Romania	Yes	
	Slovak Republic	Yes	<ol style="list-style-type: none"> 1. According to the Article 53 of the Act no. 480/2002 Coll. on Asylum and on Changes and Amendments of Some Acts, the Government will issue lists of countries which it considers as safe countries of origin and safe third countries. The list of safe countries of origin was thus set by the Regulation of the Government of the Slovak Republic No. 716/2002. Currently, the following countries are included in the list of safe countries of origin: the Commonwealth of Australia, Montenegro, the Republic of Ghana, the Republic of Iceland, Japan, the Republic of South Africa, Canada, the Republic of Kenya, the Principality of Liechtenstein, the Republic of Mauritius, the Kingdom of Norway, New Zealand, the Republic of Seychelles, United States of America, and the Swiss Confederation. At the moment, there is no country included in the list of safe third countries. 2. See 1. 3. The term <i>a safe country of origin</i> has been defined by the Article 2 (l) of the Act No.480/2002 Coll. on Asylum and on Changes and Amendments of Some Acts as a stable State governed by the rule of law with a democratic system, of the alien's citizenship or, in the case of a stateless person, of the alien's former residence, <ol style="list-style-type: none"> 1) in which the State power protects human rights and fundamental freedoms and ensures their observance, 2) which is, in general, not left by its citizens or stateless persons residing in it for the reasons under Article 8 (<i>see below</i>), 3) which ratified and complies with international treaties on human rights and fundamental freedoms and 4) which allows performance of activities by legal entities overseeing observance of human rights in the country. <p><i>According to the Article 8 of the Act No.480/2002 Coll. on Asylum and on Changes and Amendments of Some Acts:</i> <i>Unless otherwise stipulated by this Act, the Ministry shall grant asylum to an applicant who</i></p> <ol style="list-style-type: none"> a) <i>has well-founded fear of being persecuted in his/her country of origin for reasons of race, ethnic origin or religion, holding of a particular political opinion or membership of a particular social group, and is unable or, owing to such fear, is unwilling to return to such country, or</i> b) <i>is persecuted in his/her country of origin for exercise of political rights and freedoms.</i> <p>According to the Article 2 (m) of the Act No.480/2002 Coll. on Asylum and on Changes and Amendments of Some Acts, <i>a safe third country</i> is defined a stable State governed by the rule of law with a democratic system, other than the country of origin,</p> <ol style="list-style-type: none"> 1) if prior to his/her arrival to the territory of the Slovak Republic the alien stayed there and had an opportunity to seek protection under an international treaty, 2) to which the alien can be returned and where he/she can seek protection under an international treaty without being




BG EMN Ad-Hoc Query: Safe countries of origin and safe third countries

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			<p>exposed to persecution, torture, cruel, inhuman or degrading treatment or punishment,</p> <p>3) provided that it is not a State, to which a ban on expulsion or refoulement applies</p> <p>4) provided that this State ensures protection against expulsion or refoulement similarly like the Slovak Republic.</p> <p>4. Yes, the concept of “the first country of asylum” has been included in the Article 11 (1) (a) of the Act No.480/2002 Coll. on Asylum and on Changes and Amendments of Some Acts according to which, <i>the Ministry shall reject an application for granting asylum as inadmissible if the applicant was granted asylum by the state which is not a Member State of the European Union, and the applicant can effectively use the protection provided by this state; this shall not apply if it is not possible to effectively return the applicant to this state.</i></p> <p>There have been only three such cases (the application for international protection was rejected as inadmissible) so far.</p>
	<p>Slovenia</p>	<p align="center">Yes</p>	<p>Q1: We only have national list of Safe third countries</p> <p>Q2: Croatia is on the list</p> <p>Q3: According to article 61. of International Protection Act (IPA): (1) If a country is to be proclaimed safe third country the following requirements must be met, namely:</p> <ul style="list-style-type: none"> - Life and freedom there are not endangered on the account of race, religion, nationality membership in a particular social group or political opinion; - The non-refoulement principle by virtue of the Geneva Convention is respected; - Prohibition of any deportation that violates the prohibition of torture, inhuman or degrading treatment or punishment set out in the international laws is respected; <p>- There is a possibility to apply for the refugee status and if it has been established that the person is truly a refugee, to obtain protection by virtue of the Geneva Convention.</p> <p>(2) The Government of Slovenia defines the safe third country on the basis of the criteria set out in the previous paragraph of this Article.</p> <p>(3) The Government of Slovenia notifies the European Commission of defining a safe third country by virtue of this Act.</p> <p>Q4; Yes; Article 67. of IPA: (1) The country of the first asylum is the country where:</p> <ul style="list-style-type: none"> - the applicant was recognised the refugee status that still applies, or - the applicant enjoys effective protection including the non-refoulement principle. <p>(2) The requirement to implement this concept is that he will be readmitted by that country.</p> <p>(3) With regard to the implementation of the first country of asylum concept, the competent authority acts in compliance with Article 63 of this Act.</p> <p>Q5; According to 63. Article of IPA: (1) In the procedures under Articles 60. and 62 of this Act, the competent authority rejects the application of the person coming from a safe third country by decision.</p> <p>(2) Throughout the procedure mentioned in the previous paragraph of this Article the applicant can submit relevant evidence that, as far as he is personally concerned, the country in question is not a safe third country.</p>

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	Spain	Yes	<ol style="list-style-type: none"> 1. Spain does not have a national list of safe countries of origin nor the concept of 2. N/A 3. N/A 4. The concept of first country of asylum is not included in the Spanish legal system
	Sweden	Yes	<ol style="list-style-type: none"> 1. Does your Member State have a national list of safe countries of origin and safe third countries? No. 2. If so, which countries are included in this list? N/A 3. Which criteria are followed in determining which countries should be included in the list? N/A 4. Is the concept 'first country of asylum' introduced in your national legislation? Yes, see Swedish Aliens Act chapter 5 section 1 b §. It was introduced 1 of January 2010 in the Swedish Aliens Act as a consequence of the the Asylum Procedures Directive. 5. If yes, how do you apply it in practice? <p>See the section 1 b §: An application for asylum may be dismissed if the applicant</p> <ol style="list-style-type: none"> 1. has been declared a refugee in another EU state, 2. has been declared a refugee in a country that is not an EU state or has equivalent protection there, if the applicant will be allowed entry into that country and is protected there against persecution and against being sent on to another country where he or she risks persecution, or 3. can be sent to a country where he or she <ul style="list-style-type: none"> – does not risk being subjected to persecution, – does not risk suffering the death penalty or being subjected to corporal punishment, torture or other inhuman or degrading treatment or punishment, – is protected against being sent on to a country where he or she does not have equivalent protection, – has the opportunity to apply for protection as a refugee, and – has such ties to the country concerned that it is reasonable for him or her to travel there. <p>However, in cases referred to in the first paragraph, point 3, an application may not be dismissed if</p> <ol style="list-style-type: none"> 1. the applicant has a spouse, a child or a parent who is resident in Sweden and the applicant does not have equally close family ties to the country to which a refusal-of-entry or expulsion order may be enforced, or 2. the applicant, because of a previous extended stay in Sweden with a residence permit or right of residence, has acquired special ties to this country and lacks such ties or ties through relatives to the country to which a refusal-of-entry or expulsion order may be enforced.
	United Kingdom	Yes	<ol style="list-style-type: none"> 1. The UK has a list of safe third countries and safe countries of origin. (Questions 2 and 3 are answered separately for countries of origin and third countries). <p><u>Safe Third Countries</u></p> <ol style="list-style-type: none"> 2. At the present time the list of safe 'third countries' is as follows:

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			<p>Austria, Belgium, Bulgaria, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece*, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, The Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden and Switzerland.</p> <p><i>* since the ruling of the European Court of Human Rights in the case of MSS vs Belgium and Greece in January 2011 this provision has not been used to make Dublin Regulation transfers to Greece or returns to Greece of persons recognised to have protection there.</i></p> <p>The list can be found at Part 2 of Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. The list has been amended by the Asylum (First List of Safe Countries) (Amendment) Order 2006 and the Asylum (First List of Safe Countries) (Amendment) Order 2010.</p> <p>3. The listed countries shall be treated in law as places:</p> <p>(a) where a person's life and liberty are not threatened by reason of his race, religion, nationality, membership of a particular social group or political opinion,</p> <p>(b) from which a person will not be sent to another State in contravention of his rights under the European Convention of Human Rights (i.e. protection against onward removal in breach of Article 3 ECHR) and</p> <p>(c) from which a person will not be sent to another State otherwise than in accordance with the Refugee Convention (i.e. protection against refoulment).</p> <p><u>Safe Countries of Origin</u></p> <p>2. The countries currently designated as 'safe countries of origin' are: Albania, Bolivia, Bosnia, Brazil, Ecuador, Gambia (men only) Ghana (men only) India, Jamaica, Kenya (men only), Kosovo, Liberia (men only), Macedonia, Malawi (men only), Mali (men only), Mauritius, Moldova, Mongolia, Montenegro, Nigeria (men only), Peru, Serbia, Sierra Leone (men only), South Africa, South Korea, Ukraine</p> <p>3. The legal test for designating a country of origin is set down in legislation:</p> <ul style="list-style-type: none"> ▪ Section 94(4) of the Nationality, Immigration and Asylum Act 2002 [http://www.legislation.gov.uk/ukpga/2002/41/contents] makes provision for a list of countries from which asylum or human rights claims must be certified as <i>clearly unfounded</i> unless the Home Office is satisfied that they are not. ▪ In 2004, this provision was extended by the Asylum and Immigration Treatment of Claimants Act, [http://www.legislation.gov.uk/ukpga/2004/19/contents] which allowed for the addition of a State (or part of a State) to the list in respect of a description of person only rather than all residents. ▪ The legislation allows the Home Secretary to add a country to the list if he is satisfied that (a) there is in general no serious risk of persecution of persons entitled to reside there and (b) that removal to that country of persons entitled to reside there will not in general breach the UK's ECHR obligations.
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			<ul style="list-style-type: none"> ▪ Additions to the list are made by an Order which is debated in and approved by both Houses of Parliament. <p>4. Yes, the concept ‘first country of asylum’ has been introduced to UK national legislation. It is considered under similar legislation relating to safe third countries: Part 5 to Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 refers</p> <p>5. This provision is applied in a similar way, but in these circumstances there is not a list of countries, rather the particular country must be considered on an individual basis whether or not it is safe for the applicant in question. Examples of countries to which individuals have been returned in the last 10 years under these provisions are: Canada, USA.</p>
	<p>Norway</p>	<p>Yes</p>	<p>Question 1. 2. 3.</p> <p>Norway does not have a list of safe countries of origin or safe third countries. However we have an accelerated procedure, dealing with an application within 48 hours, for some countries.</p> <p>And we have developed a list of countries [1] for which the Directorate has sufficient information on the general security and human rights situation and from which the majority of applications have often been found to be manifestly unfounded. An asylum-seeker from one of these countries will initially have his or her application processed on its individual merits under the 48-hour procedure. Following an examination of the claim, those applications that are not found to be manifestly unfounded will be removed from the 48-hour procedure. The list of countries to which the 48-hour procedure applies is reviewed and updated on a regular basis.</p> <p>[1] As at September 2014, the list included the following countries: Albania, Argentina, Australia, Austria, Barbados, Belgium, Bosnia, Bulgaria, Canada, Chile, Costa Rica, Croatia, the Czech Republic, Denmark, Estonia, the Faeroes, the Falklands, Finland, France, FYROM, Georgia, Germany, Gibraltar, Greece, Greenland, Hungary, Iceland, Ireland, Israel, Italy, Japan, Kosovo Albanians from Kosovo, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Mongolia, Montenegro, the Netherlands, New Zealand, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, the UK, the Ukraine, the USA, the Vatican City State. Applications from nationals of Cyprus are also considered according to this procedure.</p> <p>403, or 3.3% of all applications lodged in 2013 were dealt with under this procedure [cid:image004.png@01CFE95D.F0965C90]</p> <p>Question 4. & 5.</p> <p>Yes. See below, Section 32 of the Immigration act</p> <p>Section 32 International cooperation etc. on examination of applications for residence on grounds of protection</p>

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			<p>An application for a residence permit under section 28 may be refused examination on its merits if:</p> <ul style="list-style-type: none">(a) the applicant has been granted asylum or another form of protection in another country,(b) it may be demanded that the applicant be accepted by another country participating in cooperation under the Dublin Agreement, see fourth paragraph,(c) it may be demanded that the applicant be accepted by another Nordic state under the provisions of the Nordic Passport Control Agreement,(d) the applicant has travelled to the realm after having stayed in a state or an area where the foreign national was not persecuted, and where the foreign national's application for protection will be examined. <p>In such cases as are mentioned in the first paragraph (b), (c) and (d), the application for a residence permit under section 28 shall nonetheless be examined on its merits if the foreign national has a connection with the realm that makes it most logical that Norway examines it. The King may by regulations make further provisions in respect of when an application that falls within the scope of the first paragraph shall be examined on its merits.</p>
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