EMN Ad-Hoc Query on NL, PL and EE joint follow-up AHQ on safe countries of origin to MS who currently do not have a list of safe countries of origin (to CY, EE, IT, LV, LT, PL, PT, SE)

Requested by Barbara ORLOFF on 12th October 2017

Protection

Responses from Belgium, Estonia, Italy, Latvia, Lithuania, Poland, Slovenia, Sweden (8 in total)

<u>*Disclaimer:*</u>

Background information:

On 28 November 2016 the ad-hoc query number 2016.1118 on safe countries of origin was launched. From the responses to the query it followed that some MS do not have a list of safe countries of origin. As a follow-up to the query we would like to receive some additional information on the possibilities to have a list of safe countries of origin and future plans. The replies to this ad-hoc query and other AHQs will be used as input for the EMN Inform on Safe Countries of Origin.

Questions

1. Is there a provision in your national legislation for the introduction of a list of safe countries of origin?
2. Is your MS planning to introduce a list in the near future? Yes/No
3. If yes, at what stage of the introduction is the list in your MS?
4. If your MS is not planning to introduce the list, has it ever been under consideration in your MS? If yes, why was it decided not to introduce a list?

Responses

	Country	Wider Dissemination	Response
	Belgium	Yes	**1.** Yes, On 24 November 2011, Belgium introduced the possibility to designate safe countries of origin, and the Royal Decree implementing this concept came into force on 1 June 2012. The list of safe countries of origin was last updated in the Royal Decree of 3 August 2016. The Royal Decree was published in the Belgian Official Gazette and came into force on 29 August 2016. The list of safe countries of origin currently includes the following eight countries: 1. Albania 2. Bosnia and Herzegovina 3. FYROM 4. Kosovo 5. Serbia 6. Montenegro 7. India 8. Georgia **2.** Already introduced **3.** Already introduced

			4. Already introduced
	Estonia	Yes	**1.** Yes, according to the Act on Granting International Protection to Aliens, the he Police and Border Guard Board has the right to determine a safe country of origin and establish a list of safe countries of origin. **2.** Yes. **3.** The implementation of the list is under finalization at the government level. **4.** N/A
	Italy	Yes	**1.** No, the national legislation does not include any provision at this regard. **2.** n/a **3.** n/a **4.** Italy did not ever have a list of safe countries. On 20th of October 2015, the Senate Permanent Commission had expressed its favorable opinion on the proposal for a Regulation of the European Parliament and of the Council establishing a common list of countries of origin of the European Union considered safe. However, Italy chose to not adopt a list of safe countries following the rules included in Italian Constitution (art. 10) where it's clear that applying for asylum is an individual right.
	Latvia	Yes	**1.** No. **2.** No such plans for the near future. **3.** N/A

			4. Introduction of a list of safe counties of origin hasn't been under consideration in Latvia.
	Lithuania	Yes	**1.** Yes, there is. The description of the procedure for granting and withdrawing asylum in the Republic of Lithuania, approved by the Minister of the Interior of the Republic of Lithuania, stipulates that the Migration Department, having determined that the country of origin from which the number of applications for asylum during the last year accounted for more than 10 percent of the total the number of applications for asylum may be recognized as safe, prepares a report on the situation in this state, which is then approved by the Director of the Migration Department under the Ministry of Interior. Approval of this report equates to the country in question being nationally classified as a safe country of origin. **2.** Currently, this is not necessary, since the number of asylum applications submitted by persons arriving from countries that can be considered safe is very small (i.e. this figure does not exceed 10% of the total number of applications in question). **3.** n/a **4.** n/a
	Poland	Yes	**1.** Not yet. However Polish Ministry of the Interior and Administration is working on the amendment to the Act on granting protection to foreigners on the territory of the Republic of Poland as of 2003, which intends to introduce to Polish legislation the concept of "safe country of return" and "safe country of origin". This Act is still in the public consultation procedure. The current wording of the draft amendments states that "A non-Member State on the list of safe third countries is considered a safe third country for the applicant if there is a link between the applicant and that country, which is not the applicant's country of origin, that the return of the applicant to that country would be reasonable his point of view and in that country: 1) the applicant's life and freedom are not endangered by race, religion, nationality, political beliefs or belonging to a particular social group; 2) there is no actual risk of serious harm; 3) the principle referred to in Art. Article 33 of the Geneva Convention; (4) a ban on expulsion is observed when it is contrary to the right to freedom from

			torture and cruel, inhuman or degrading treatment; 5) there is a possibility of applying for refugee status and, if so granted, obtaining protection under the Geneva Convention." **2.** Yes **3.** In the amendment to the Act on granting protection to foreigners on the territory of the Republic o Poland as of 2003 [still in the consultation process] one of the proposed articles includes a delegation to issue a regulation of the Council of Ministers, which will establish a list of safe countries of origin and a list of safe third countries for a period of two years. So that the list of third countries recognized as safe countries of origin will be established and the timeframe for the revision of the list shall be guaranteed, as required by art. Article 37 2 of Directive 2013/32 / EU. **4.** Currently, only for the operational purposes Polish Border Guard and the Office for Foreigners created for their own needs [for return and asylum accordingly] working list of safe countries of return and origin, which monitors the EC recommendations and is updated in accordance to the changes in the migration situation.
	Slovenia	Yes	**1.** / **2.** / **3.** / **4.** /
	Sweden	Yes	**1.** No, not explicitly. **2.** Not to the best of our knowledge **3.** NA

			4. There were some public discussions, initiated by some political parties, in the autumn of 2015, after the big increase in the number of asylum seekers but since then the issue has not been raised in the media.