



EUROPEAN COMMISSION

*Brussels, 3.2.2016  
C(2016) 444 final*

*Dear President,*

*The Commission would like to thank the Camera Deputaților for its Opinion on the proposal for a Regulation of the European Parliament and of the Council establishing an EU common list of safe countries of origin for the purposes of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection, and amending Directive 2013/32/EU {COM(2015) 452 final}.*

*This proposal forms part of a broader package of ambitious measures that the Commission has proposed or will propose to respond to the current refugee crisis and to prepare for future challenges, in line with its European Agenda on Migration.*

*As regards the concerns expressed in the Opinion, the Commission is pleased to provide a number of clarifications to the more technical comments in the attached Annex. Notably the Annex elaborates on the choice of the different criteria and components of the proposed EU common list of safe countries of origin, and provides further explanations on the safeguards applicants' for international protection will retain under the proposed scheme.*

*The Commission hopes that the clarifications provided in this reply address the issues raised by the Camera Deputaților, and looks forward to continuing the political dialogue in the future.*

*Yours faithfully,*

*Frans Timmermans  
First Vice-President*

*Dimitris Avramopoulos  
Member of the Commission*

*Mr Valeriu Ștefan ZGONEA  
President of the  
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## ANNEX

*The Commission welcomes the inquiry the Camera Deputaților has carried out into the proposal for a Regulation of the European Parliament and of the Council establishing an EU common list of safe countries of origin for the purposes of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection, and amending Directive 2013/32/EU {COM(2015) 452 final}.*

*The Commission has carefully considered the issues raised by the Camera Deputaților in its Opinion and would like to offer the following observations.*

### *General framework*

*In the European Agenda on Migration the Commission outlined, in addition to the immediate measures proposed shortly thereafter to respond to the crisis situation in the Mediterranean, further initiatives that need to be taken to provide structural solutions for better managing migration in all its aspects. As part of the structural initiatives considered and in light of the current unprecedented pressure on Member States' asylum systems, the Commission stressed the need to have a more effective approach to abuses and indicated its intention to strengthen the safe country of origin provisions of Directive 2013/32/EU on common procedures for granting and withdrawing international protection (hereinafter "Directive 2013/32/EU") in order to support the swift processing of asylum applications from persons originating from countries designated as safe. As underlined by the European Council in its conclusions of 25 and 26 June 2015, this includes the establishment of an EU common list of safe countries of origin.*

*In this regard, the Commission kindly reminds the Camera Deputaților that Directive 2013/32/EU does not require Member States to adopt a national list of safe countries of origin, it remains rather an option under Article 37. Even if only some Member States have adopted such national lists, they present some divergences that could result from differences in the assessment of the safety of certain third countries or from differences in the nature of the flows of third country nationals that the Member States are facing.*

### *Finding a balance*

*Directive 2013/32/EU enables Member States to apply specific procedural rules, in particular accelerated and border procedures, where the applicant is a national of a country (or a stateless person in relation to a third country of former habitual residence) that has been designated as safe country of origin by national law and that, in addition, may be considered as safe for the applicant in light of his or her particular circumstances. Therefore, an EU common list of safe countries of origin would enable the fast-tracking of applications for international protection by nationals of the countries enlisted.*

*However, applicants cannot be automatically rejected under any circumstances, whatever their origin is. The proposal upholds the fundamental rights of the applicant and observes the principles recognised by the EU Charter of Fundamental Rights, including the right to asylum and protection against refoulement, as provided for, respectively, in its Articles 18 and 19. In particular, it is recalled that, in line with Directive 2013/32/EU, the circumstance that a third country will be on the EU common list of safe countries of origin cannot establish an absolute guarantee of safety for nationals of that country and will not dispense therefore with the need to conduct an appropriate individual examination of their applications for international protection.*

*It is also recalled that, where an applicant shows that there are serious reasons to consider the country not to be safe in his or her particular circumstances, the designation of the country as safe can no longer be considered relevant for him or her. As regards the fact that there are individual cases of discrimination or violence in third countries proposed for inclusion in the EU common list of safe countries of origin, Member States should pay particular attention to these circumstances when examining whether a third country on this list can be considered as a safe country of origin for a particular applicant, as underlined in the Explanatory Memorandum to the Proposal.*

#### *Change of the situation in safe countries of origin*

*The Commission has concluded that Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Kosovo, Montenegro, Serbia and Turkey are to be considered safe countries of origin within the meaning of Directive 2013/32/EU and in particular the definition of a safe country of origin set out in its Annex 1. For their designation, the Commission has relied on all relevant information at its disposal, in particular reporting from the European External Action Service (EEAS) and the information from Member States, the European Asylum Support Office (EASO), the Council of Europe, the United Nations High Commissioner for Refugees (UNHCR) and other relevant international organisations. The Commission used in particular reports from the EEAS, including dedicated country-specific reports of 31 August and 1 September 2015; information from Member States, including national legislation on the designation of safe countries of origin; information from EASO, including written reports and the outcome of a coordination meeting on safe countries of origin with Member State experts of 2 September 2015; as well as publicly available information from the Council of Europe, the UNHCR and other relevant international organisations.*

*Nevertheless, the Commission is fully aware that such state of safety may well change in the future. Accordingly, the proposal provides that the Commission shall regularly review the situation in the third countries that are on the EU common list of safe countries of origin. In addition, in case of sudden changes in the situation of one of these third countries, the Commission would be empowered to suspend, for a period of one year, the presence of the third country from the list where it considers, on the basis of a substantiated assessment, that the conditions for regarding a third country as safe country of origin are no longer met.*

*Further, the Commission would be able to extend the suspension for a period of maximum one year, where it has proposed an amendment to the Regulation in order to remove permanently this third country from the EU common list of safe countries of origin. As regards the establishment of criteria for assessing such “sudden changes” of situation in third countries on the EU common list, the Commission would like to underline that it would assess such a change of situation in relation to the criteria already defined in the Asylum Procedures Directives for designating safe countries of origin.*

#### *Suspension or removal procedure by means of a delegated act*

*According to Article 290 of the Treaty on the Functioning of the European Union (TFEU), the legislator is allowed to delegate to the Commission the power to adopt non-legislative acts of general application. Delegated acts may amend or supplement the legislative act in its non-essential elements such as annexes. In accordance with the concept of delegated acts as general measures that supplement or amend non-essential elements of the legislative act providing for its adoption, the Commission's delegation is exercised in a discretionary manner within certain limits that are clearly defined in that legislative act.*

*On the substance of the delegation of powers to the Commission, in full accordance with Article 290(1) TFEU, the present proposal sets the objectives, content, scope and duration of the delegated powers of the Commission foreseeing, as mentioned above, that the Commission shall be empowered to adopt a delegated act to suspend, for a period of one year, the presence of a third country from the list of safe third countries, where it considers, on the basis of a substantiated assessment, that the conditions for regarding a third country as safe country of origin are no longer met. The power to adopt delegated acts is conferred on the Commission for a limited period of five years and shall be tacitly extended for periods of an identical duration, under the control of the European Parliament or the Council.*

*By contrast, the delegation of powers may not be used in order to include or remove a third country of the EU common list of safe countries, on the basis of the common criteria set in Directive 2013/32/EU. This can only be achieved through an eventual amendment of the future EU Regulation establishing an EU common list of safe countries in accordance with the ordinary legislative procedure.*

*Consequently, the discrepancy between the proposed procedures for including or suspending a third country on the list is justified in view of the different objectives pursued.*

*On the procedure of the delegation of powers to the Commission, the Commission would like to recall that in full accordance with Article 290(2) TFEU, the conditions for this delegation of powers are laid out in the proposal which contains provisions on the possibility for the European Parliament and the Council to revoke it at any time, the obligation for the Commission to notify the adoption of delegated acts to the European Parliament and to the Council and the fact that the delegated acts can only enter into force if no objection has been raised by these institutions within one month following this notification.*