



# Safe Countries of Origin

## 1 Introduction

In the wake of the high influx of mainly Syrian asylum seekers in 2015, several (Member) States were confronted with a considerable number of asylum applications from persons coming from countries that have been designated by certain Member States as 'safe countries of origin' on the basis that they consider these countries as generally safe and where consequently the chance of a positive decision is relatively low. Examples of such countries are the Balkan countries and Algeria, Morocco and Tunisia. As large numbers of applications by nationals of safe countries of origin bear the risk of clogging the asylum system of (Member) States, many (Member) States have adopted measures to address the influx of asylum seekers from safe countries of origin. One of the measures adopted by a number of (Member) States was the introduction of a list of safe countries of origin. Connected to the introduction of a list of safe countries of origin, some (Member) States have also introduced an accelerated asylum procedure for the nationals of those countries. Others have also adapted their return policy for nationals of the concerned countries or introduced more sober reception conditions.

This Inform presents an overview of (Member) States policies and practices concerning safe countries of origin. It describes which countries have introduced a list of safe countries of origin and whether nationals from these countries are treated differently than nationals from other countries in the asylum procedure. Moreover, differences relating to reception conditions and return provisions are examined.

The aim of the Inform is to provide policy makers, researchers and NGO's on the national and EU level with a factual overview of the policies and practices (Member) States have adopted. This information can be used to facilitate the exchange of good practices and to identify areas where further EU action is needed.

The information in this Inform has been collected through a number of EMN ad-hoc queries.<sup>1</sup> 24 countries provided input for this Inform. The analysis was carried out by the national contact points of the EMN in Estonia and the Netherlands, with support also from the Polish national contact point. The information in the Inform was reviewed and verified by the other EMN national contact points and EASO.

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<sup>1</sup> 1) EMN EE and NL joint ad-hoc query on safe countries of origin (launched by EE and NL on 28th November 2016);  
2) EMN Ad-Hoc Query on Accelerated asylum procedure before first instance decision for nationals of safe countries of origin (launched by NL on 31st May 2017);  
3) EMN Ad-Hoc Query on Appeal procedure and reception conditions after first instance decision for nationals of safe countries of origin (launched by NL on 31st May 2017);  
4) EMN Ad-Hoc Query on Return of nationals from safe countries of origin for AT, BE, BG, DE, ES, HR, CZ, FI, FR, HU, IE, LU, MT, NL, RO, SK, SI, UK, NO (launched by NL on 6th October 2017);  
5) EMN NL, PL and EE joint follow-up ad-hoc query on process of developing the list of safe countries of origin (to AT, BE, BG, DE, ES, HR, CZ, FI, FR, HU, IE, LU, MT, NL, RO, SK, SI, UK, NO (launched by EE on 13th October 2017));  
6) EMN NL, PL and EE joint follow-up ad-hoc query 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 (launched by EE on 12th October 2017)).

## 2 Key points to note

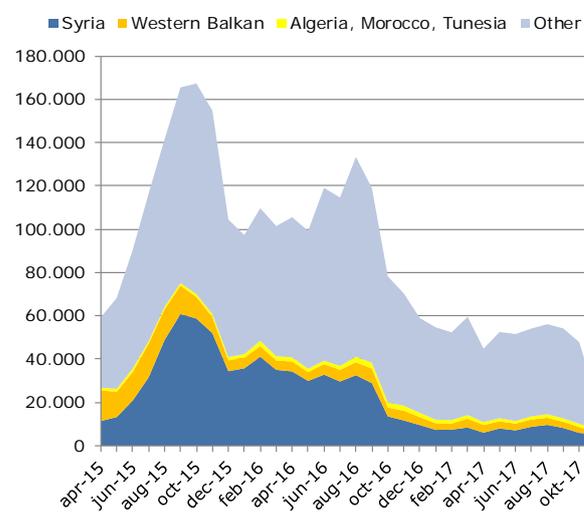
- ★ 14 out of 24 (Member) States that provided information for this EMN Inform have a list of safe countries of origin. Additionally, Norway and Finland (to a certain extent) use the concept of safe country of origin, despite there being no fixed list of countries that would be considered safe in every situation.
- ★ The top 6 countries which have been designated as safe countries of origin by the most (Member) States are Western Balkan countries.
- ★ The number of countries designated as safe countries of origin differs significantly between (Member) States. (Member) States with the most countries on their national lists are the Netherlands (32), the United Kingdom (24) and Austria (20). However, it should be taken into account that some (Member) States have designated some EU28 countries, the EEA countries and Switzerland as safe, while others have chosen not to add these countries to the list.
- ★ The majority of (Member) States regularly review the list to see if it is still up to date, but in general there is no clear fixed timespan on how often the list is updated.
- ★ In most of the (Member) States, the criteria which are used for the assessment are stipulated in national legislation and they generally correspond to the criteria laid out in EU Asylum Procedures Directive.
- ★ When assessing whether to designate a country as safe country of origin, most of the (Member) States take into account if other (Member) States have designated a country as safe.
- ★ In most of the (Member) States with a national list, the accelerated procedure which is applied to nationals from safe countries of origin, is half the length of the standard procedure.
- ★ Several (Member) States speed up their appeal procedure when a national of a safe country of origin is concerned. For example in a number of countries the appeal period is shorter, while in others the time limit for the court to decide on a case has been reduced. Additionally, in several (Member) States the appeal does not have a suspensive effect.

- ★ With regard to reception conditions for asylum seekers, in most of the (Member) States the reception conditions are provided the same way for asylum seekers from safe countries as for the applicants from other countries.
- ★ A number of (Member) States with a list of safe countries of origin have implemented specific rules or measures in the area of return. These measures include a shorter period for voluntary departure and/or a different policy for issuing entry bans for nationals of safe countries of origin.
- ★ Additionally, many (Member) States offer less return and/or reintegration support to nationals of safe countries of origin than to nationals of other countries. Support is mostly reduced when a migrant comes from a safe country of origin and/or has visa-free access to the country he/she is supposed to leave.

## 3 Background and context

Over the last years the EU received a constant stream of asylum seekers from relatively safe countries of origin, such as the Western Balkan countries and Algeria, Morocco and Tunisia (see figure 1 and 2).

**Figure 1. Asylum applications in the EU28**

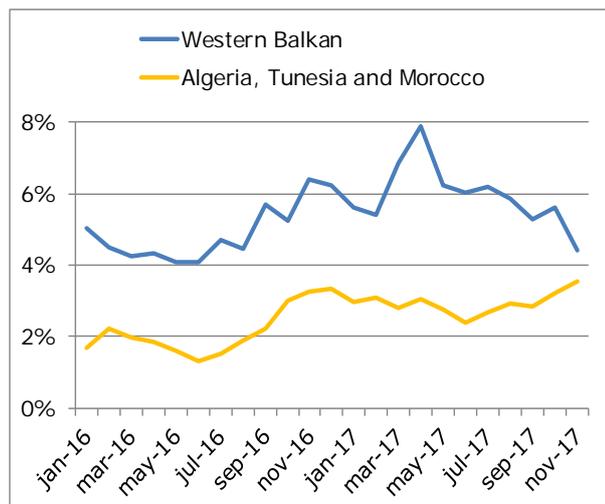


Source: Eurostat

Note: Concerns first applications. Western Balkan countries: Macedonia, Montenegro, Serbia, Albania, Bosnia and Herzegovina and Kosovo.

Overall, applications from safe countries of origin<sup>2</sup> appear to account only for a small part of all asylum applications launched in the EU. For example, the share of asylum applications submitted by nationals of the Western Balkan countries and Algeria, Tunisia and Morocco in the EU fluctuate between 4-8% and 1-4% respectively since the beginning of 2016 (see figure 2).

**Figure 2. Share of applications from nationals of Western Balkan countries and Algeria, Tunisia and Morocco of total applications in the EU28 (2016)**



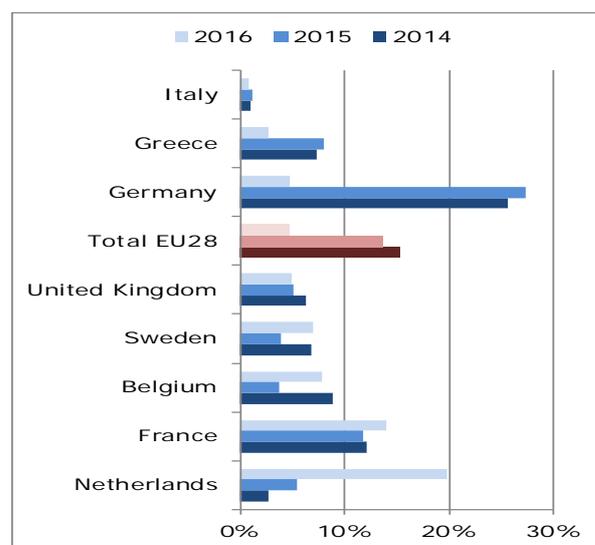
Source: Eurostat

Note: Concerns first applications. Western Balkan countries: Macedonia, Montenegro, Serbia, Albania, Bosnia and Herzegovina and Kosovo.

In some countries however, the share of applications from safe countries of origin reached significantly higher levels. In the Netherlands for example almost 50% of the first asylum applications in 2016 were launched by nationals of countries that have been designated as safe by the Dutch government.

The countries with the highest share of applications from the Western Balkan countries in 2016 were the Netherlands (20%), France (14%), Belgium (8%) and Sweden (7%). As figure 3 shows, the share of applications from Western Balkan nationals changed considerably from year to year in some (Member) States, for example decreasing sharply in Germany and increasing strongly in the Netherlands.

**Figure 3. Share of applications from nationals of Western Balkan countries of total applications in selected (Member) States**



Source: Eurostat

Note: Concerns first applications. Only countries that received more than 100 asylum applications from nationals of the Western Balkan countries in 2016 are presented. Western Balkan countries: Macedonia, Montenegro, Serbia, Albania, Bosnia and Herzegovina and Kosovo.

## 4 Legal framework

The recast EU Asylum Procedures Directive<sup>3</sup>, which has been applicable since July 2015, stipulates which countries can be considered as 'safe countries of origin'.<sup>4</sup> It states that "a country is considered as a safe country of origin where, on the basis of the legal situation, 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 Directive 2011/95/EU,<sup>5</sup> no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate

<sup>3</sup> Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast)

<sup>4</sup> The Directive is not applicable to Denmark, the United Kingdom and Ireland.

<sup>5</sup> Article 9 (2) of the EU Asylum Procedures Directive (recast) defines what act constitutes an act of persecution. It states: "Acts of persecution [...] 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 within the scope of the grounds for exclusion as set out in Article 12(2); (f) acts of a gender-specific or child-specific nature."

<sup>2</sup> It should be noted that which countries are designated as 'safe countries of origin' depends on the (Member) State. Moreover, there is no common EU list of safe countries of origin.

violence in situations of international or internal armed conflict.”

In making the assessment whether a third country is safe, (Member) States bound by the Directive have to take into account the extent of protection that the country provides against persecution or mistreatment. The following issues are considered:

- 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 United Nations Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention;
- c) Respect of the *non-refoulement* principle according to the Geneva Convention; and
- d) Provision for a system of effective remedies against violations of these rights and freedoms.<sup>6</sup>

(Member) States bound by the Directive are allowed, but not obliged, to create a national list of safe countries of origin and draft national regulations and procedures to give effect to this list. The Asylum Procedures Directive stipulates that the assessment of whether a country is a safe country of origin should be based on a range of sources of information, including in particular, information from other (Member) States, the European Asylum Support Office (EASO), the United Nations High Commissioner for Refugees (UNHCR), the Council of Europe and other relevant international organizations. Moreover, (Member) States must regularly review the situation in third countries designated as safe countries of origin.<sup>7</sup>

In 2015 the European Commission proposed a Regulation establishing an EU common list of safe countries of origin. The Commission proposed adding the following countries to the list in the first phase: Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Kosovo, Montenegro, and Serbia, as well as Turkey. The negotiations concerning the proposal were still ongoing in December 2017.<sup>8</sup>

<sup>6</sup> Asylum Procedures Directive (recast) Annex 1

<sup>7</sup> Asylum Procedures Directive (recast)

<sup>8</sup> European Parliament (2017), *Legislative Train Schedule – Towards a new migration policy*, available at <http://www.europarl.europa.eu/legislative-train/theme->

## 5 National policies concerning lists of safe countries of origin

### 5.1 PRESENCE OF LISTS IN (MEMBER) STATES

Out of 24 (Member) States that provided information for this EMN Inform, 14 countries stated that they have a list of safe countries of origin. Out of the 10 countries that do not have a list of safe countries of origin, **Finland** has reported not having a fixed list of safe countries of origin, but during asylum decision-making in individual cases certain countries can be considered as safe. **Norway** has also reported not having an official list of safe countries of origin, but there is an accelerated procedure for citizens of some countries. An asylum seeker from one of these countries will initially have his/her application processed on its individual merits within 48-hours. Hence, in this Inform, **Finland** and **Norway** are categorized as countries that use the concept of safe countries of origin (although there is no fixed list of countries that would be considered safe in every situation).

**Table 1. Overview of which countries have a list of safe countries of origin**

Country	List of safe countries of origin?
Austria	Yes
Belgium	Yes
Bulgaria	Yes <sup>9</sup>
Croatia	Yes
Cyprus	No

[towards-a-new-policy-on-migration/file-european-list-of-safe-countries-of-origin](#) [consulted on 7 December 2017]

European Commission (2015), *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*, available at [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/proposal\\_for\\_regulation\\_of\\_the\\_ep\\_and\\_council\\_establishing\\_an\\_eu\\_common\\_list\\_of\\_safe\\_countries\\_of\\_origin\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/proposal_for_regulation_of_the_ep_and_council_establishing_an_eu_common_list_of_safe_countries_of_origin_en.pdf) [consulted on 7 December 2017]

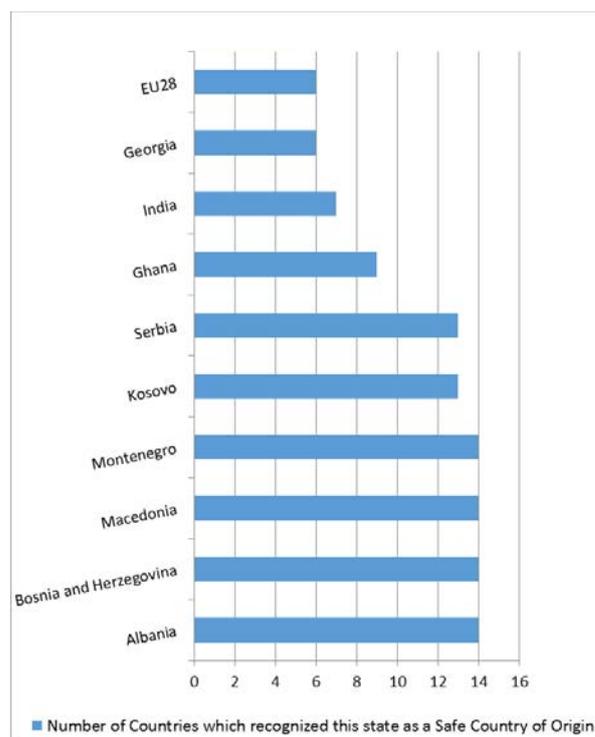
European Parliament (2015), *Briefing: Safe countries of origin Proposed common EU list*, available at <http://www.europarl.europa.eu/EPRS/EPRS-Briefing-569008-Safe-countries-of-origin-FINAL.pdf> [consulted on 7 December 2017]

<sup>9</sup> In Bulgaria a list of safe countries of origin was adopted by a Decision of the Council of Ministers in May 2005. Since their accession to the EU in 2007, the adopted national list has neither been officially repealed, nor updated, whereas at the same time it has not been applied in practice.

Country	List of safe countries of origin?
Czech Republic	Yes
Estonia	No
Finland	No, but concept of SCO is used
France	Yes
Germany	Yes
Greece	No <sup>10</sup>
Hungary	Yes
Ireland	Yes
Italy	No
Latvia	No
Lithuania	No
Luxembourg	Yes
Netherlands	Yes
Poland	No
Portugal	No
Slovakia	Yes
Slovenia	Yes
Sweden	No
United Kingdom	Yes
Norway	No, but the concept of SCO is used

The countries included in the national lists of safe countries of origin varies significantly among (Member) States.<sup>11</sup> The top 6 countries which have been designated as safe countries of origin are all **Western Balkan** countries (see figure 4).

**Figure 4. Number of countries which recognize this state as a safe country of origin**



The **number of countries designated as safe countries of origin** differs significantly between (Member) States (see figure 5). **The Netherlands** has the longest list of safe countries of origin (32 safe countries of origin), followed by the **United Kingdom** (24 countries<sup>12</sup>) and **Austria** (20 countries). At the same time it should be taken into account that some (Member) States have designated all EU28 countries<sup>13</sup>, the EEA countries and Switzerland as safe, while others may have chosen not to add these countries to the list, but nevertheless deem these countries to be safe.

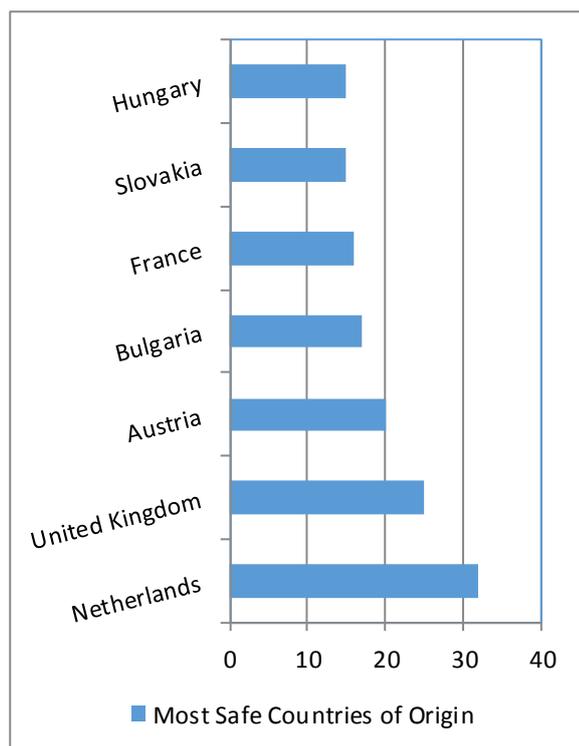
<sup>10</sup> Greece did not provide information to this inform, but according to EASO in Greece there is no adopted list of safe countries, but the concept is included in Law. The Director of the Asylum Service proposes a list. The Minister of Foreign Affairs and the Minister of Migration Policy upon a Joint Ministerial Decision adopts a list. The List shall be communicated to the European Commission by the MFA.

<sup>11</sup> Please see the annex for the complete overview of the countries

<sup>12</sup> Some of these are deemed safe only for certain groups (for example men)

<sup>13</sup> For example AT, DE, HU, NL, NO have added EU28 countries to the list, while BE, BG, HR, CZ, FR, IE, LU, SK, SI and UK have chosen not to. FI considers EU28 as countries which can be considered as safe for the applicant although there is no fixed list of safe countries of origin.

**Figure 5. Countries that have the highest number of safe countries of origin**



Some (Member) States have made specifications with regards to **specific social groups**. For example, Ghana (LU, UK), Benin (LU), Kenya, Nigeria, Gambia, Liberia, Malawi, Mali and Sierra Leone (UK) are designated as safe for men, but not for women. On the other hand, Kosovo is seen as not safe for minorities (NO). Botswana and Namibia (NO), Algeria, Jamaica, Morocco, Senegal, Togo and Tunisia (NL) are not considered safe for LGBT. Ghana and Tanzania are not considered as safe for girls under 18 claiming fear of Female Genital Mutilation, or sexual minorities, or albinos, specifically in Tanzania (NO).

Most (Member) States also stated that there are currently no future plans foreseen for expansion of the list. In **Germany**, the extension of the list of safe countries of origin to the Maghreb states Algeria, Morocco and Tunisia is in the legislative process, but there is still no consent from the Bundesrat (Federal Council). In the **Netherlands**, the Ministry of Justice and Security recently assessed whether Bangladesh, Jordan, Lebanon, Moldova and Nepal can be added to the national list. The conclusion of the assessment was that these countries cannot be considered as safe countries of origin and therefore will not be added to the list.

## 5.2 (MEMBER) STATES WITHOUT A LIST OF SAFE COUNTRIES

As mentioned before, 10 countries out of 24 that provided information for this inform, do not have an official list of safe countries of origin. However, **Norway** and **Finland** use the concept of safe country of origin despite there being no fixed list of countries of origin which would be considered safe in every situation.

From the countries that do not have a national list of safe countries of origin **Estonia** and **Lithuania** have the **provision in the national legislation** for the introduction of the list. On the other hand, **Italy**, **Latvia**, **Sweden** and **Poland** do not have this possibility stipulated in their national legislation, but in **Poland** the Ministry of the Interior and Administration is working on the amendment 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 third country" and "safe country of origin".

Only **Estonia** and **Poland** are **planning to introduce a list in the near future**. In **Estonia**, the implementation of the list is under finalization at government level. In **Poland**, the amendment to the Act on granting protection to foreigners on the territory of the Republic of Poland is still in the consultation process. One of the proposed articles in the amendment 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.

**Latvia**, **Lithuania**, **Italy** and **Sweden** have no plans to introduce a list at the moment. In **Lithuania**, it is currently regarded as unnecessary since the number of asylum applications submitted by persons arriving from countries that can be considered safe is very small. In **Latvia**, it has not been under consideration to introduce the list of safe countries of origin. In **Sweden**, there have been some public discussions on the subject in 2015 after the big increase in the number of asylum seekers, but since then the issue has not been raised in the media. In **Italy**, 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 not to adopt a national list of safe countries following the rules included in Italian Constitution where it's clear that applying for asylum is an individual right.

### 5.3 PROCEDURES FOR ADDING COUNTRIES TO THE LIST

The **legal status of the national lists** of safe countries of origin differs between (Member) States. The list of safe countries of origin is enacted in (Member) States either in the form of royal, ministerial or governmental decree (BE, CZ, HU, NL, SK), decision of a minister (HR), governmental or ducal regulation (AT, LU), a legislative order (IE) or a governmental ordinance (SI). In **Germany**, the list has the legal status of a law and constitutes an annex to the Asylum act. In **United Kingdom**, the list is enacted in the law, but can be added to or subtracted from by the Secretary of State (with the approval of Parliament). In **Norway** there is no official list of safe countries of origin as such, but there are certain countries to which the 48-hour accelerated procedure applies. The list of these countries is an attachment to the official guidelines.

In the majority of the (Member) States the **list is established by** the ministries (Ministry of the Interior (HR, CZ, SK), Ministry of Foreign and European Affairs (HR, SK), Ministry for Justice and Equality (IE), Minister of Immigration and Asylum (LU) or the (federal) Governments (AT, BE, DE, HU, SI)). In the UK the list is established by the Home Office.

Often the **list is established in cooperation between different authorities**. For example in **Austria**, the Country of Origin Information Unit which is part of the Federal Office for Immigration and Asylum, is in charge of the preparation of the list, but the Federal Government is authorized to determine further safe countries of origin by regulation. In **Belgium**, the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) is asked by the government to give advice on every country that potentially could be put on the list of safe countries. The advice of the CGRS for safe countries is required by law, but it is the government who decides. In **Croatia** and the **Slovak Republic**, the Ministries of the Interior decide on the list in conjunction with their respective Ministries of Foreign and European Affairs. In the **United Kingdom**, the Home Office establishes and reviews this list, and the Secretary of State may add or remove countries from this list, subject to approval by Parliament. In **Norway**, the Ministry of Justice and Public Security can make changes by issuing special directives/regulations. It is the Asylum Division in The Norwegian Directorate of Immigration that decides whether a country should be included, or taken off, the 48-hour accelerated procedure list.

In the **Netherlands**, the State Secretary of Justice and Security is in charge of the assessment of the list, the ministry of Justice and Security and the administrative department execute this policy. In **France**, the deciding authority is the administrative board<sup>14</sup> of the French Office for the Protection of Refugees and Stateless Persons<sup>15</sup> (OFPRA).

The majority of (Member) States (HR, FR, DE, IE, LU, NL, SI, NO, UK) **regularly review the list** to see if it is still up to date. A few (Member) States do not update the list regularly (AT) or do it as often as needed (CZ, SK) or at least once a year (BE). Generally, there are no clear fixed timespans on how often the list is updated.

In most of the (Member) States, the **criteria which are used for the assessment** are stipulated in national legislation. The criteria generally reflect the criteria laid out in EU Asylum Procedures Directive (see section 4). One of the most frequent criteria that the (Member) States legislations stipulate is that there is generally and consistently no persecution, torture or inhuman or degrading treatment or punishment and to threat by reason of discriminate violence in situations of international or internal armed conflict. Secondly, an important criteria is that the rights and freedoms should be respected by the country of origin in accordance with 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)<sup>16</sup> of the said European Convention.

<sup>14</sup> Decisions to include or withdraw a particular country of origin from the list of safe countries of origin (SCO) are made by OFPRA management board. It is important to keep in mind that this Board consists of members of the National Assembly, of the Senate, of French members of the European Parliament, of representatives of the government and of one OFPRA staff's representative. The UNHCR delegate and 3 qualified personalities (1 of them representing the organizations in charge of the reception of asylum seekers) also take part to the management board meetings, with a right to vote on the list of SCO. As for the general director of OFPRA, although he/she attends the management board meetings, he/she has no right to vote on the list. In that respect, the SCO list results from a decision which is not in OFPRA executive management's hands.

<sup>15</sup> Under the authority of the French Ministry of the Interior

<sup>16</sup> According to this Article no derogation from Article 2 (right to life), except in respect of deaths resulting from lawful acts of war, or from Articles 3 (prohibition of torture), 4 (paragraph 1, prohibition of slavery) and 7 (no punishment without law) shall be made under this provision.

Additionally in many (Member) States another criteria is respect of the *non-refoulement* principle according to the Geneva Convention and the availability of a system of actual legal measures against violations of human rights and freedoms.

When assessing whether a third country is safe, a variety of **information sources** are taken into account. Many of the (Member) States mentioned that the assessment is *inter alia* based on information from international organizations (e.g. UN organizations, IOM, Council of Europe), including human rights organizations (e.g. Amnesty International, Human Rights Watch, Freedom House, ECRE). Most of the (Member) States emphasized that they use information collected by EASO and NGOs. Additionally, the assessment is based on national reports, information gathered by Ministries of Foreign Affairs and other (Member) States. Also some (Member) States reported using reputable media outlets and research institutions. **Norway** also highlighted the importance of information gathered by the Landinfo through the fact-finding missions.<sup>17</sup> It was also mentioned that the sources that are used can differ per country, as not all sources report on all countries.

In most of the (Member) States (AT, HR, CZ, DE, HU, IE, LU, SK, SI, NO), the **national courts** have not renounced any decisions to place a certain country on the list. Only four countries (BE, FR, NL, UK) reported having the national courts reject a decision on this matter.

In **Belgium**, the Belgian Council of State has contested several times the fact that Albania is on the list of safe countries of origin. In its judgment of June 23th 2016 for example, the Council of State (partially) rejected the inclusion of Albania on the list of safe countries of origin established by the Royal Decree of 2015.

In **France**, the decisions on the list of safe countries of origin have several times been challenged in the French Council of State by NGOs.

The Council agreed to the lists submitted to, except for Albania and Niger (13 February 2008), Armenia, Turkey, Madagascar, Mali<sup>18</sup> (23 July 2010), Albania and Kosovo (26 March 2012), Bangladesh (4 March 2013), Kosovo (10 October 2014). The main impact of these decisions have been that at OFPRA's level the applications lodged by nationals from the countries of origin which were withdrawn from the list were no longer processed within the framework of the accelerated procedure pursuant to the Asylum Procedures Directive.

In the **Netherlands**, the first tier courts have renounced the decision in the case of Albania, Serbia, Mongolia, Morocco, Macedonia, India, Algeria, Georgia and Tunisia, but in appeal the Administrative Jurisdiction Division of the Council of State (the highest administrative court in the Netherlands) has - so far - overturned all these first instance judgments and has ruled that these countries of origin have been deemed safe on good grounds.

In the **United Kingdom**, in March 2015, the Supreme Court in the case of Brown (Jamaica), R (on the applications of) v Secretary of State for the Home Department found that the designation of Jamaica was unlawful. This was because, although Jamaica could be considered 'generally safe' for the most part, this could not be said about the LGBT community there. Jamaica currently still appears on the safe list in the legislation but in practice this can no longer be relied upon. In light of that judgement the UK has been reviewing all designated countries to determine whether other changes to the list are necessary in order to comply with the rationale of the Supreme Court judgement. That review process is nearing completion. Any proposals for changes to the designation of countries must be made by order and will be put to the Parliament.

When assessing whether to designate a country as a safe country of origin, most of the **(Member) States take into account if other (Member) States have designated a country as safe**, but this is usually not regarded as a decisive factor. It is rather considered in line with other factors (UK) and it does not necessarily determine the outcome on the matter (NO). The fact that other (Member) States have designated a country as safe is not taken into account in **France**, in **Hungary** and in principle not in **Austria** (with exceptions).

<sup>17</sup>Landinfo's country analysts conduct regular fact-finding missions to relevant countries and regions. The main objective of these missions is to collect specific information not easily accessed or unavailable otherwise. In cases of conflicting statements from crucial sources, fact-finding missions are conducted to verify information. A wide range of sources is consulted during the missions. Whenever possible, topics are discussed with both local and international nongovernmental organisations, state officials and representatives of the UN and other multilateral organisations operating in the area. Source: <https://landinfo.no/id/2215.0>

<sup>18</sup> Only when it comes to women.

## 6 Processing of applications and reception conditions

### 6.1 ACCELERATED PROCEDURE

The Asylum Procedures Directive stipulates that the asylum procedure of persons from safe countries or origin can be accelerated. Table 2 presents an overview of the duration of standard and accelerated procedures used by (Member) States. In nearly all the cases, the accelerated procedure which is applied to nationals from safe countries of origin, is half the length of the standard procedure.

A few (Member) States also use **other measures to speed up and organize the procedure** for nationals of safe countries of origin more efficiently. In **Germany**, all applications from nationals of safe countries of origin are handled in an optimized setting which allows for faster processing. Applicants from safe countries of origin are obliged to reside in a reception facility in the close vicinity to the responsible branch of the Federal Office for Migration and Refugees. Moreover, they may only temporarily leave the area and need permission from the Federal Office. Local authorities (e.g. aliens registration office, police and public health department) are also present at the reception facility and can thus provide their services more efficiently. Applicants are easily available for the interview and can directly be served with a decision. The **Netherlands** prioritizes applications from nationals from safe countries of origin, meaning that the waiting period before the procedure (which can be a few months) is significantly shortened. Furthermore, The Netherlands omits certain steps in the procedure for nationals of safe countries of origin that are usually part of the standard procedure, such as the resting and preparation period that normally precedes the procedure and a medical examination.

In around half of the (Member) States that have an accelerated procedure, a **positive decision** on the asylum application of a national of a safe country of origin can be granted in the accelerated procedure, without the application having to be transferred to the standard procedure first (AT, BE, FR<sup>19</sup>, HR, DE, SK, LV, LU, LT, SK). In the other half of the (Member) States the application is channeled into the standard procedure (CZ, FI, HU, NL, SI, NO, UK).

**Table 2. Comparison between standard and accelerated procedures**

Country	Duration of a standard procedure	Duration of an accelerated procedure
Austria	15 months	5-6 months
Belgium	6 months	15 days
Croatia	180 days	60 days
Czech Republic	6 months	30 days**
Finland	No fixed duration	5 months
France	6 months*	15 days**
Germany	No fixed duration	No fixed duration
Hungary	2 months*	15 days
Latvia	5 months (approx.)	2-3 months
Lithuania	3 month*	7 days**
Luxembourg	6 months	2 months**
Norway	No fixed duration	48 hours
Slovakia	90 days*	60 days
Slovenia	6 months	2 months
The Netherlands <sup>20</sup>	8 days*	No fixed duration
United Kingdom	6 months*	No formal acceleration**

Note: The duration of the procedure refers to the period from lodging the application until the first instance decision is taken.

Possible extensions:

\* FR: 9+3 months, HU: 21 days, LT: 3 months, SK, UK: extension possible, NL: 6-15 months.

\*\*LT: 2 days, LU: extension possible, FR: further shortened to 96 hours in case of detention, CZ: in case application takes longer, it is transferred to the standard procedure, UK: claims that are clearly unfounded may not be evaluated for credibility.

<sup>19</sup> Automatic placement for accelerated procedure

<sup>20</sup> In the Netherlands the standard asylum procedure takes 8 days. However, after having lodged the application, asylum seekers often have to wait several month before the official 8-day procedure starts.

## 6.2 APPEAL PROCEDURE

Several (Member) States speed up their appeal procedure if a national of a safe country of origin is concerned.

In a number of countries (BE, HU, IE, LU, NL, SK, SI) the **appeal period** (the time limit until when the applicant can launch an appeal) is shortened. Both Belgium and Luxembourg shorten the appeal period for example from 30 to 15 days.

A few countries (FR, SI) also reduce the **decision period** (the time limit for the court to decide on a case). For instance, in France the court has to provide its judgment within 5 weeks if a national of a safe country of origin is concerned, while the usual time limit is 5 months.

In Luxembourg, the **court responsible for handing an appeal** differs between nationals of safe countries of origin and nationals of other countries. In Luxembourg, the decision can only be appealed before the first-instance administrative court, while other asylum cases can also be challenged in a second-instance court. In France, the appeal court is the same (the National Court of Asylum) but, contrary to other cases, it is constituted by only a single judge.

In several (Member) States, an appeal does not have automatic **suspensive effect**, meaning that nationals of safe countries of origin are generally not allowed to remain in the territory of the Member State while awaiting an appeal decision on their rejected asylum application (AT<sup>21</sup>, DE, FI, HU, NL, SK<sup>22</sup>, UK, LT<sup>23</sup>). This is different from nationals of other countries that are not designated as safe, who usually have the right to await the decision on the appeal in the country that processed their application.

<sup>21</sup> In case a national from a safe country of origin lodges an appeal against a first instance negative decision, the authority may lift the appeal's suspensive effect. Within one week, the federal administrative court modifies this decision and grants suspensive effect, if it is reasonable to assume that a rejection/removal/forcible return would result in a real risk of a violation of Article 2, 3, 8 ECHR or of the protocols No. 6 and 13 of the ECHR. In case the suspensive effect is not granted, the return decision is enforceable and the person is obligated to leave the country. However, until the person effectively leaves the country (independently or via forced return), basic welfare support is granted.

<sup>22</sup> In Slovakia an appeal against a negative decision where the asylum application was considered as manifestly unfounded does not have suspensive effect (in a standard procedure, when an asylum application is rejected, it does). However, the court can also decide otherwise and grant suspensive effect. In such a case, reception is continued as well.

<sup>23</sup> However, the applicant has the right to submit a request for interim measures within 14 days. If granted, this has suspensive effect and reception facilities are continued.

Belgium solely grants a suspension of the execution of a negative decision in case of expulsion or *refoulement*. In Germany, the suspensive effect is only ordered if the Court has serious doubts on the rejection of the asylum application as manifestly unfounded. In Austria, the Federal Office for Immigration and Asylum decides on a case by case basis whether the suspensive effect of an appeal may be lifted, depending on the circumstances of the case. The other (Member) States that have a list of safe countries of origin allow the concerned nationals to await the appeal decision concerning their rejected asylum application in their territory (BE, BG, HR, CZ, FR<sup>24</sup>, IE, LU, SI, SV, NO).

Some (Member) States use **other measures** to speed the appeal procedure of nationals from safe countries of origin. For example the Hungarian courts prioritize these cases. Ireland does not grant a hearing in appeal proceedings for applicants from safe countries of origin.

## 6.3 RECEPTION CONDITIONS DURING THE ASYLUM PROCEDURE

During the asylum procedure asylum seekers from safe countries are provided the reception conditions the same way as applicants from other countries in all (Member) States, except for Germany and the Netherlands. In Germany, these applicants are obliged to live in a certain reception facility until a decision is taken. In the Netherlands the applicants concerned start the procedure in the central reception facility and will not be relocated to another reception facility elsewhere in the Netherlands.

## 6.4 RETURN

A number of (Member) States, that have a list of safe countries of origin, have implemented specific rules or measures in the area of return. These measures are among others aimed at facilitating a speedy return of nationals from safe countries of origin, discouraging repeated illegal immigration and reducing monetary pull factors. Countries with the most measures in the area of return include Austria, Germany, the Netherlands, Finland and Norway.

### *Period of voluntary departure*

A few (Member) States (AT, DE, FI, NL, NO) provide a shorter or no period for voluntary departure for nationals of safe countries of origin than for nationals of other countries.

<sup>24</sup> Except in cases of abusive asylum applications, Dublin cases and re-examination of applications. This process is the same for nationals of other countries.

Austria, the Netherlands, Finland and Norway usually do not provide a period of voluntary departure in this instance, meaning that the migrants in question have to leave the country immediately after receiving a negative decision on their asylum application.<sup>25</sup> In **Germany**, the nationals of safe countries of origin are granted a shortened period of voluntary departure of 7 days, compared to a period of 30 days that usually applies. Whether the period of voluntary departure is shortened in the above-mentioned countries is not directly tied to the nationality of the applicant, but to whether the application was rejected as “manifestly unfounded”. As asylum applications by nationals of safe countries of origin are mostly rejected as manifestly unfounded, the period of voluntary departure is usually shortened for this category of migrants. It should be noted that the majority of (Member) States that have a list of safe countries of origin do not shorten the period of voluntary departure for nationals of these countries (BE, BG, HR, CZ, FR, HU<sup>26</sup>, IE, LU, SK, SI, UK).

### *Entry bans*

In the vast majority of (Member) States that have a list of safe countries, the policy for issuing entry bans does not differ between the nationals of safe countries of origin and the nationals of other countries. The exceptions are Germany, Finland, the Netherlands and Norway. In **Germany** nationals of safe countries of origin will receive an entry ban of one year by virtue of law, while in the case of nationals of other countries the time limit of an entry ban imposed to an individual is a discretionary decision. In the **Netherlands**, an entry ban of two years is usually applied automatically to persons from safe countries of origin. In **Finland** and **Norway**, any rejected asylum seeker whose application is viewed as manifestly unfounded, which is generally the case for nationals of safe countries of origin, and who is not granted a period of voluntary departure, receives an entry ban. In Finland the length of an entry ban in such a situation is generally two years and in Norway one year.

<sup>25</sup> In Finland and Norway the migrant has to leave the country immediately after the decision is enforceable.

<sup>26</sup> In Hungary there is no fixed period for voluntary return; it is always set based on all circumstances of the individual case.

### *Return and reintegration support*

Around half of the (Member) States that have a list of safe countries of origin offer **less return and/or reintegration support** to nationals of safe countries of origin than to nationals of other countries (AT<sup>27</sup>, BE, FI<sup>28</sup>, FR, DE, LU, NL<sup>29</sup>, NO). Support is mostly reduced when a migrant comes from a safe country of origin and/or has visa-free access to the country he/she is supposed to leave. The other half of the (Member) States that have a list of safe countries of origin appear to not systematically reduce support for nationals of safe countries of origin based on nationality (BG, HR, CZ, HU, IE, SK, SI, UK).

In the last two years **most countries did not reduce the amount of support**. In all countries except the Netherlands, the return and/or reintegration support for nationals of safe countries of origin was not reduced. In the **Netherlands** the government abolished the return and reintegration support for nationals with visa-free access to the Netherlands (e.g. Western Balkan countries) and excluded nationals from countries immediately surrounding the EU with a visa requirement from reintegration support (e.g. Algeria, Morocco, Tunisia).

There appear to be a number of **gradations in the amount of support** granted to the nationals of safe countries of origin, depending on their country of origin. (Member) States appear to apply the following gradations: 1) exclusion from all kinds of support; 2) exclusion from reintegration support, but providing support to organize documents and cover travel costs; 3) migrants from safe countries of origin receive less money within return and/or reintegration programmes compared to other migrants with other nationalities.

<sup>27</sup> Nationals from Western Balkan countries are excluded from the initiative “1000 EUR for 1000 voluntary returnees”. Meaning, not all nationals from third countries are generally excluded or receive less return and/or reintegration support.

<sup>28</sup> Finland has no specific policy for the return and/or reintegration support for nationals of safe countries. However, the amount of assistance depends on the country of return, and for example the assistance for returnees to the Balkan countries, which are often considered as safe countries of origin, tends to be lower than the amount of assistance to some other countries, and thus there is some correlation.

<sup>29</sup> The Netherlands has no specific policy for the return and/or reintegration support for nationals of safe countries. In practice however, nationals of several safe countries of origin receive less return and/or reintegration support than nationals of other countries. The reduction of return and/or reintegration support depends on whether a migrant has visa-free access to the Netherlands (and not on whether he/she comes from a safe country of origin). As many nationalities that have visa-free access to the Netherlands are also placed on the list of safe countries of origin, there is a correlation however.

**Belgium and Luxembourg** mention, for example, that the nationals of some safe countries of origin are excluded completely from reintegration support and only receive a bus or a plane ticket. **Finland** has a system, where there are four different categories of countries. Each category offers a different level of cash support<sup>30</sup> for returnees. It should be noted that there are (Member) States in which nationals of certain safe countries of origin benefit from return and reintegration support in the same way as nationals of countries that are not considered safe. For example in the **Netherlands**, Ghana, India, Jamaica, Senegal and Togo are on the list of safe countries of origin, yet their nationals receive the same amount of return and/or reintegration support as nationals of other countries that are not on the list. In **Germany** nationals from Ghana and Senegal receive the same support as nationals of other countries, while nationals from Albania, Bosnia, Serbia, Montenegro, Macedonia and Kosovo receive less support in case of voluntary return.

In many (Member) States **exceptions are possible**. In **Belgium** for example special provisions are foreseen for specific categories of migrants (pregnant women, elderly people, medical cases) and for families with children. Support to these categories is provided on a case-by-case basis and has to be motivated. In **Finland** the law stipulates that the returnee's individual circumstances can be considered either to increase or to decrease the amount of support. The **Netherlands** stresses that even if persons from a certain country are in principle excluded from return and/or reintegration support, the Dutch authorities can still decide to offer support in individual cases.

**Germany** describes an **innovative practice**, namely that they operate return and reintegration programmes that specifically target nationals from safe countries of origin in order to assure a long-term reintegration of the migrants into their home communities. An example of such a programme is the URA project<sup>31</sup> which offers Kosovan returnees comprehensive advisory services and numerous reintegration and support activities.

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<sup>30</sup> In Finland the returnee can also choose in-kind support instead of cash support. The amounts of support are higher for in-kind support than for cash support, and there is no similar gradation depending on the category of the country of return. In-kind support is however not available for all countries of return.

<sup>31</sup><http://www.bamf.de/EN/Rueckkehr/Reintegration/ProjektKosovo/projektkosovo-node.html>

## Annex 1. Overview safe countries of origin by (Member) States

The table below provides an overview of which (Member) States have placed which countries on their national list of safe countries of origin as of 1 December 2017. Please note exceptions concerning certain countries are highlighted in the following colors:

Not safe for women
Not safe for LGBTs
Not safe for minorities
Not safe in specific regions

Please note that on some national lists also EEA countries can be found. It should be noted that just because a country of origin does not appear on the national list, it does not mean that the (Member) State concerned considers this country as unsafe. (Member) States might choose not to include certain countries (e.g. the EEA countries) on their national list, because they would consider it obvious that these countries are safe.

**Table 3. Overview table of which (Member) States have placed which countries on their national list of safe countries of origin**

	AT	BE	BG	HR	CZ	FI <sup>32</sup>	FR	DE	HU	IE	LU	NL	SK	SI	UK	NO <sup>33</sup>
Albania	X	X	X	X	X	X	X	X	X		X	X		X	X	X
Algeria	X		X	X								X		X		
Andorra												X				
Argentina																X
Armenia			X				X									X
Australia	X								X			X	X			X
Bangladesh			X											X		
Barbados																X
Benin							X				X					
Bolivia															X	
Bosnia and Herzegovina	X	X	X	X	X	X	X	X	X		X	X		X	X	X
Botswana																X

<sup>32</sup> Finland does not have a list of safe countries of origin, but the concept of safe country of origin is in use. A country can be considered as safe for an applicant based on individual merits of the case.

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	AT	BE	BG	HR	CZ	FI <sup>32</sup>	FR	DE	HU	IE	LU	NL	SK	SI	UK	NO <sup>33</sup>
Brazil												X			X	
Canada	X								X			X	X			X
Cape Verde							X				X					
Chile																X
China			X													
Costa Rica																X
Cyprus (Greek Part)																X
Ecuador															X	
Egypt																
Ethiopia			X													
EU28	X					X		X	X			X				X
Faroe Islands																X
Gambia															X	
Georgia	X	X	X				X					X				X
Ghana	X		X				X	X			X	X	X		X	X
Iceland	X				X				X			X	X			X
India		X	X			X	X					X			X	X
Israel						X										X
Jamaica												X			X <sup>34</sup>	
Japan												X	X			X
Kenya													X		X	
Kosovo	X	X		X	X	X	X	X	X		X	X		X	X	X
Liberia															X	
Liechtenstein	X				X							X	X			X
Macedonia (FYROM)	X	X	X	X	X	X	X	X	X		X	X		X	X	X
Malawi															X	
Mali															X	
Mauritius							X						X		X	

<sup>34</sup> Jamaica still appears on the safe list in UK legislation, but following the case in March 2015 of *Brown (Jamaica), R (on the application of) v Secretary of State for the Home Department* [2015] UKSC 8 (4 March 2015) the designation of Jamaica as a safe country was found to be unlawful. This was because although Jamaica could be considered safe for the most part, the same could not be said about the LGBT community there. In practice therefore the designation of safe is no longer relied upon.

	AT	BE	BG	HR	CZ	FI <sup>32</sup>	FR	DE	HU	IE	LU	NL	SK	SI	UK	NO <sup>33</sup>
Moldova							X								X	X
Monaco												X				X
Mongolia	X				X		X					X			X	X
Montenegro	X	X	X	X	X		X	X	X		X	X	X	X	X	X
Morocco	X			X								X		X		
Namibia																X
New-Zealand	X								X			X	X			X
Nigeria			X												X	
Norway	X				X				X			X	X			
Peru															X	
San Marino												X				
Senegal							X	X			X	X				
Serbia	X	X	X	X	X	X	X	X	X		X	X		X	X	X
Seychelles													X			
Sierra Leone															X	
South Africa										X			X		X	X
South Korea															X	
Switzerland	X				X				X			X	X			X
Tanzania			X													X <sup>35</sup>
Togo												X				
Trinidad and Tobago												X				
Tunisia	X			X								X		X		
Turkey			X	X					X					X		
Ukraine			X								X	X			X	
United States of America					X	X						X	X			X
United States of America <sup>36</sup>									X							
Vatican City												X				X

<sup>35</sup> Not for girls under 18, claiming fear of FMG or sexual minorities or albino's in Tanzania

<sup>36</sup> States without the Death Penalty



March, 2018

European Migration Network (2018). Safe Countries of Origin - EMN Inform. Brussels: European Migration Network.

**READ MORE:**

EMN website: <http://ec.europa.eu/emn>

EMN LinkedIn page: <https://www.linkedin.com/company/european-migration-network>