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4.3.2.1. Recent changes in national lists of safe countries

4.3.2.1. Recent changes in national lists of safe countries

During periodic reviews, new countries may be determined as safe and others may be withdrawn from the national list.

Safe country of origin

In 2022, several EU+ countries revised their lists of safe countries. The main changes occurred in Cyprus,353 Estonia,354Greece,355 Iceland,356 Norway357 and Slovenia.358 Belgium was the only country where no changes were introduced,359 although in March 2023, the Council of Ministers approved the removal of Georgia from the list.360

In the Netherlands, the State Secretary announced in 2021 that 12 countries will be removed because there was no substantial interest or relevance to keep them on the list.361 In addition, it maintained the United States,362 Armenia (with the exception of LGBTIQ applicants and persons who have been placed in criminal detention),363 and Trinidad and Tobago (with the exception of LGBTIQ applicants)364 as safe countries of origin.

On 5 April 2022, the Council of State ruled that specific groups within a country can be excluded from the designation of a safe country of origin. Until this ruling was delivered, the Netherlands could opt to pay special attention to specific groups that did not completely meet the threshold to be excluded from the safe country of origin designation. Therefore, the accelerated procedure in Track 2 still applied. With the new ruling, all groups to which special attention was given in Track 2 were subsequently excluded from the safe country of origin designation.

In Ireland, the International Protection Act was amended to allow for the prioritisation of applications from safe countries of origin and for the acceleration of the appeal procedure in front of the International Protection Appeals Tribunal (IPAT).365 Under the revised procedure, applicants from safe countries of origin receive a date for their substantive interview within 4 to 6 weeks of making the initial application.366

In October 2022, a fast-track procedure was re-introduced in Switzerland for certain countries of origin: countries on the list of safe countries of origin, visa-exempt countries, and – because of the high number of insufficiently-justified claims – Algeria, Morocco and Tunisia. This procedure merges the normally separate procedures of the Dublin interview and interviews in the national

asylum procedure according to AsylA, Articles 26 and 29. According to the SEM, this would allow the asylum procedure to be completed more quickly.367

For specific groups of applicants, aditus strongly criticised the presence of a number of countries on the safe country list in Malta because they discriminate and criminalise LGBTIQ individuals. The organisation pointed out that this practice undermines the proper safeguards at second instance for these individuals who are fleeing persecution on the basis of their sexual orientation and gender identity, especially in cases where the first instance decision rejects the application as manifestly unfounded.368 The International Protection Agency stated that all procedural guarantees apply within the accelerated procedure.

Following the Russian invasion in February 2022, Ukraine was removed or de facto suspended in all EU+ countries that had previously designated Ukraine as a safe country of origin (Austria,369 Cyprus,370 Czechia, Estonia, Greece,371Iceland,372 Italy,373 Luxembourg and the Netherlands 374).

The change in the security situation in Ukraine led the Supreme Administrative Court in Czechia to accept appeals lodged before February 2022 by Ukrainian nationals based on the safe country of origin concept and held that these cases should be re-considered due to the ongoing armed conflict.

In *S.H. v Malta (Application No 37241/21)*, the ECtHR found that there had been violations of Article 13 in conjunction with Article 3 of the Convention when Malta ordered the return of an applicant to Bangladesh, which the International Protection Act deems as a safe country of origin. Under Rule 39 of the Rules of the Court, the ECtHR indicated to the Maltese government not to expel the applicant.

Similarly, the Tribunal of Catania overturned a negative decision and stated that Tunisia cannot be considered a safe country of origin due to the deteriorating the security situation.

The Court of the Hague overturned decisions given to some applicants from safe countries of origin. In one case it found that the determining authority had not asked sufficient questions during the interview with an applicant from Georgia, and in another, there was insufficient investigation of the individual circumstances of the applicant from Armenia.

The Dutch Council of State underlined that even when a country is considered as a safe country for origin for unaccompanied children, the authority should examine if adequate reception is available in the return country.

In contrast, national courts upheld the designation of some countries as safe countries of origin. There was no information available to challenge the designation for Cameroon, Egypt, Georgia and Morocco.

The Irish High Court sent several cases back to IPAT to re-examine whether Georgia can be considered as safe for victims of domestic violence *(see Section 5.2).*

Safe third country

Only a few changes were reported for national lists of safe third countries in 2022. Following the Russian invasion, Estonia removed Ukraine from the list on 25 May 2022.

Greece introduced the list in June 2021, specifying Türkiye as a safe third country for certain nationalities.375 The list was further supplemented in December 2021 with the addition of applicants entering from Albania and North Macedonia.376

The retention of Türkiye as a safe third country on 12 December 2022377 drew a strong reaction from civil society organisations.378 15 NGOs addressed a letter to the Director of the Asylum Service, noting that the latest European Commission report on Türkiye (SWD(2022) 333)379 counters Greece's designation of Türkiye as a safe third country for refugees.380 The lack of readmission leading to prolonged detention on the islands was also criticised by NGOs.381

Members of the European Parliament (E-001347/2022) raised with the European Commission the issue of the applicability of the recast APD, Article 38(4) as Türkiye had suspended all transfers from Greece.382 The European Commission underlined that if the applicant is not permitted to enter the safe third country, in particular if the underlying situation preventing entry persists since 2018 or 2020, the Member State should ensure that access to the asylum procedure is given, in accordance with the recast APD.383 The Refugee Support Aegean and the Greek Refugee Council submitted an annulment of this piece of legislation to the Greek Council of State, which referred questions to the CJEU for a preliminary ruling.384

However, despite the suspension of returns to Türkiye since March 2020, applications lodged by applicants falling under the scope of Joint Ministerial Decision 42799/2021 (FEK B' 2425/07.06.2021) in 2022 were still examined in the context of the safe third country concept and the fast-track border procedure. The Appeals Committee does not apply Article 38(4) of the Procedural Directive to applications rejected as inadmissible on the basis of the safe third country concept with regard to Türkiye, despite the fact that readmissions to Türkiye have been suspended since March 2020. It is only in a limited number of cases that the Appeals Committee proceeded to an in-merit examination of an application. UNHCR continued its advocacy for the examination on the merits, based on its public statement issued in August 2021.385

Challenges were also brought up by the Norwegian Organisation of Asylum Seekers (NOAS) about the application of the concept of the safe third country. NOAS proposed a series of legislative and procedural changes to ensure that asylum seekers who are returned to a safe third country following the Immigration Act, Section 32(1d) are not exposed to the risk of *refoulement*, including chain *refoulement.386*

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