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NOTE

From: Presidency
To: Council

Subject: Follow up to the legislative proposals of 9 September 2015
- Common EU list of safe countries of origin
- Crisis relocation mechanism

1. On 9 September 2015, the Commission submitted to the Council and the European Parliament, as part of the second package of proposals following the European Agenda on Migration, a proposal for establishing an EU common list of safe countries of origin¹ as well as a proposal on a crisis relocation mechanism².

The Council preparatory bodies held initial exchanges of views on both proposals at their meetings on 17 ("Friends of the Presidency") and 29 September ("JHA Counsellors"). The current note summarises the results of the discussions which have taken place so far.

¹ 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 (doc. 11845/15).

² Proposal for a Regulation of the European Parliament and of the Council establishing a crisis relocation mechanism and amending Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person - doc. (11843/15).

2. EU common list of safe countries of origin

Delegations agreed on the importance of establishing an EU common list of safe countries of origin, on the basis of the common criteria set out in Directive 2013/32/EU³, which should facilitate the application by all Member States of the concept of a safe country of origin. At the same time, such a list should increase the efficiency of their asylum systems, helping Member States to deal in a more expedite way with the applications for international protection, which are likely to be unfounded.

During the above-mentioned discussions, the link between the EU common list and the national lists has been clarified. Delegations also made initial comments on the draft EU common list of safe countries referred to in Article 2 of the Commission proposal.

It was also noted that according to a requirement posed by the Court of Justice, the EU co-legislator should be able to demonstrate that it has carefully assessed the interference of a proposed instrument with the fundamental rights enshrined in the Charter and that it has explored alternative ways to attain the pursued objective, which would be less restrictive of the fundamental rights.

It was therefore agreed that for each country of origin in question, the Working Party would conduct a thorough assessment. To this end, the Asylum Working Party is invited to pursue the discussions on the draft Regulation.

³ Directive 2011/95/EU of the European Parliament and of the Council, of 13 December 2011, on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.

3. Framework for a crisis relocation mechanism

During the initial discussions on the above proposal, a number of delegations considered that it would be preferable to assess the results of the temporary emergency schemes on the relocation of 40 000 and 120 000 persons in need of international protection from Italy and Greece, adopted by the Council on 14 and 22 September respectively⁴, before starting the discussion on the this crisis relocation mechanism.

Other delegations considered that the proposal was a good starting point for discussions which could lead to having a solid mechanism enabling the EU to cope with crisis situations.

Some delegations also considered that it would be preferable to examine this proposal in a wider context and possibly as part of a broader package on asylum, i.e. the future reform of the Dublin Regulation, already announced in the Commission communication of 23 September 2015⁵.

In order to take these considerations into account, an in-depth analysis and assessment should be carried out at expert level. To this end, the Asylum Working Party is invited to pursue the examination of this proposal, in parallel with the ongoing evaluation of the Dublin Regulation and the assessment of the functioning and implementation of the emergency relocation schemes.

4. The Council is invited to take note of this report and to invite its preparatory bodies to pursue the examination of the above legislative proposals in order to reach an agreement on them, allowing the presidency to start their negotiation with the European Parliament as soon as possible.

⁴ Council Decision (EU) 2015/1523, of 14 September 2015, establishing provisional measures in the area of international protection for the benefit of Italy and of Greece, O.J. L 239, p. 146 of 15.09.2015 and Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece, O.J. 248, p.80 of 24.09.15.

⁵ Commission Communication to the European Parliament, the European Council and the Council 'Managing the refugee crisis: immediate operational, budgetary and legal measures under the European Agenda on Migration' (doc. 12313/1/15 REV 1 + ADD 1-7).