‘Safe Country of origin’ concept: Illustration of amalgamation between asylum and immigration?

Author: Gianna Pelletier-Sulmoni
Supervisor Dersim Yabasun
Abstract

“Safe country of origin” is a concept used and applied in asylum law, whether at national or European Union level. It has been recently put to the front of the stage with a call of the United Nation High Commissioner to remove Ukraine from the nationals lists of safe countries of origin, due to the demonstrations and events that took place there the last months.

Close from others concepts also applied in asylum law, such as ‘safe third country’ or ‘first country of asylum’, it is however considered as the most controversial of them. The ‘ politicisation’ of the qualification and the low safeguards for asylum seekers from ‘safe’ countries are the main critics addressed to that notion.

This thesis focuses on this concept. It aims at discussing how this concept is applied in practise, choosing to analyze in detail a national application. For different reasons explained later in the document, the country chosen is France. And yet, in the context of the progressive establishment if a Common European asylum System, the comprehension of this concept at the European Union Level must also be discussed. The main idea is to test the hypothesis according to which the concept would be used as a way of management of migration flows.
Table of content

Introduction ........................................................................................................................................... 7

Chapter 1: The application of the Safe Country of Origin Concept at the European Union Level ..................................................................................................................................................... 13

Section 1: Some general and necessary developments on the concept of ‘safe country of origin’ .................................................................................................................................................................................. 14

Paragraph 1: An essential presentation of the concept ................................................................. 14

A. Tracing the history of the concept ...................................................................................... 15
   1. National practices and the ‘London Resolution’ ......................................................... 15
   2. The Treaty of Maastricht .......................................................................................... 16
   3. The Tampere Programme ......................................................................................... 17
   4. The Hague and the Stockholm Programmes .............................................................. 17

B. A concept regulated at the EU level? .................................................................................. 19
   1. An explanation of some of the reasons for adopting the concept of safe country of origin ............................................................................................................................................... 19
   2. An essential distinction between the first and the second asylum procedure directive .............................................................................................................................................. 23

Paragraph 2: A relevant focus on the implications of the concept of safe country of origin ......................................................................................................................................................... 25

A. A difficult definition of the concept .................................................................................. 26

B. Concrete consequences for asylum seekers ........................................................................ 30

Paragraph 1: A risk of infringement of the fundamental rights of refugees ................................ 34

A. A discussion of compatibility with international refugee law ...................................... 34

B. A discussion of the qualification of ‘safe’ country of origin ......................................... 37
   1. A discussed establishment of the safety of a country of origin .................................. 37
   2. A focus on an unofficial political criterion: the existence of a link with the enlargement of the European Union? ......................................................................................................................... 42


A. The lack of a common list of safe countries, indicator of the limits of the concept? 45
B. The use of nationals lists of safe countries of origin, indicator of the trend to reduce the granting of asylum in Europe? ................................................................. 49

Chapter 2: Application of the concept of safe country of origin at national level: the case of France........................................................................................................... 53

§1: Presentation of the concept of safe country of origin .................................. 55
   A. An essential short presentation of the situation of asylum procedure in France ..... 55
   B. A short history of the concept of safe country of origin in France .................. 58

§2: The procedure of adoption discussed ............................................................ 60
   A. The authority in charge of the procedure: The procedure of adoption of the national list of safe country of origin .......................................................... 60
   B. A lack of transparency and motivation in the procedure of adoption of the list ..... 64

§1: Application of the concept of Safe Country of Origin .................................. 68
   A. The discussed use of a priority procedure .................................................. 69
   B. A limited assurance of the rights of asylum-seekers ................................... 72
      1. A limited guarantee of the recognized rights of asylum-seekers .............. 73
      2. The problematic absence of the suspensive effect ................................... 75

§2: A “safety highly questionable ................................................................. 80
   A. An essential definition of the criteria used for the evaluation of the safety of a country: ................................................................. 80
   B. The current list of safe countries of origin, a way of managing migration flows? 83

Conclusion: Is national application of the safe country of origin concept an indirect way of managing migration flows? ................................................................. 87

General Conclusion: ............................................................................................ 91
2014

 pérd Safe country of origin concept: illustration of amalgamation between asylum and immigration?

Pelletier Sulmoni, Gianna

https://doi.org/20.500.11825/435

Downloaded from Open Knowledge Repository, Global Campus’ institutional repository