

# The concept of safe third countries applied in EU+ countries

## Background

In the context of the European Union (EU) asylum *acquis*, the notion of a safe third country is based on the presumption that certain countries which are not EU Member States can be designated as safe under specific circumstances for applicants for international protection. The concept is defined in the [recast Asylum Procedures Directive \(APD\)](#), Article 38, which stipulates that a Member State may apply the safe third country concept only when the competent authorities are satisfied that a person seeking international protection will be treated in accordance with the following principles in the third country:

- i) Life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;
- ii) There is no risk of serious harm as defined in Directive 2011/95/EU;
- iii) The principle of *non-refoulement* in accordance with the Geneva Convention is respected;
- iv) The prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected; and
- v) The possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Convention.

If these conditions are met, a Member State may consider an application for international protection to be inadmissible (recast APD, Article 33(2c)). Where the third country does not permit the applicant to enter its territory, a Member State must ensure that access to the asylum procedure is given, in accordance with the basic principles and guarantees described in the recast APD.

This Situational Update describes how the safe third country concept (STC) is applied in EU+ countries.<sup>1</sup> The lists of safe countries which have been adopted in EU+ countries are presented in the Annex with references to the relevant legal acts.

## HIGHLIGHTS

- ✓ 7 EU+ countries have officially designated third countries as safe.
- ✓ In the majority of countries, applications are processed under the admissibility procedure.
- ✓ The implementation of the safe third country concept has been limited in practice since only a few countries have consistently processed applications for international protection on this basis.

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<sup>1</sup> EU+ countries include EU Member States, Iceland, Norway and Switzerland.

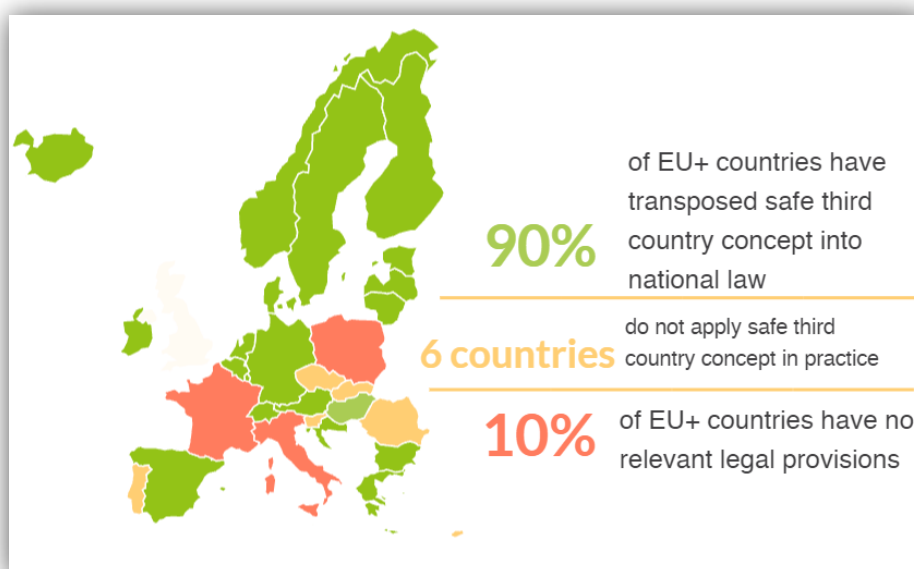


## KEY FINDINGS

### 1. EU+ countries that apply the safe third country concept

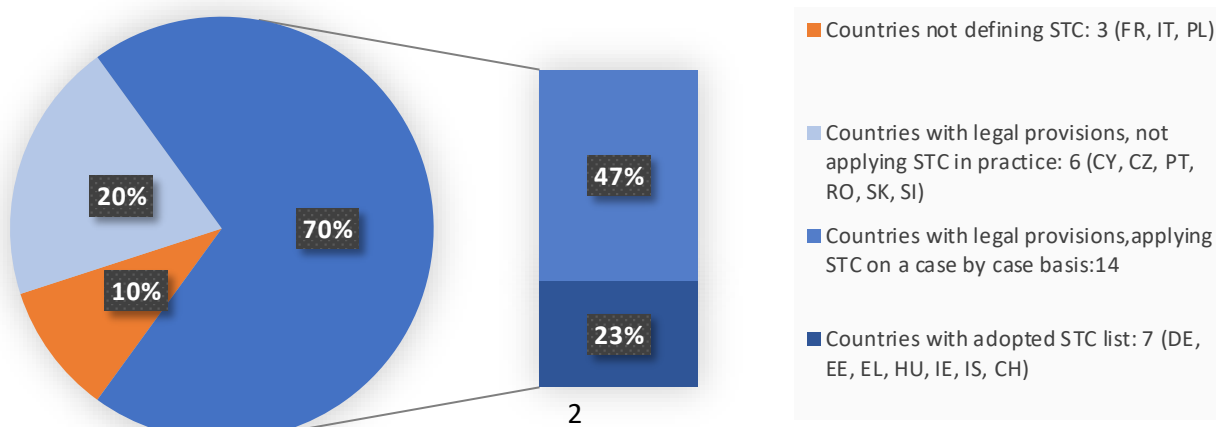
The safe third country concept is not applied uniformly in all EU+ countries. France, Italy and Poland do not foresee any relevant provisions in their national legal framework. Although 27 EU+ countries have incorporated the safe third country concept in their national legislation, only 7 countries have adopted lists designating third countries as safe.

Figure 1. Map of EU+ countries which apply the safe third country concept



At the same time, Cyprus, Czechia, Portugal, Romania, Slovakia and Slovenia reportedly have not applied this concept in practice, despite the adoption of relevant legal provisions. The remaining EU+ countries apply the concept on a case-by-case basis.

### Safe third country concept in EU+countries





## 2. Processing applications based on the safe third country concept

If a country which is not an EU Member State is considered to be a safe third country for the applicant, the application is processed under the admissibility procedure in 24 EU+ countries applying the safe third country concept. In Bulgaria, the application may also be processed under the accelerated procedure, while in Greece, the application may be prioritised. In Croatia and Estonia, there is no specific admissibility procedure.

Although Denmark is not bound by the recast APD, the safe third country concept is applied under the admissibility procedure which is linked to entry to the territory. However, it has little significance in practice as it only applies when a foreigner is entering or is apprehended immediately after entry. In addition, the foreigner should be entering Denmark directly from a safe third country, which cannot be the country of origin. Switzerland applies a similar procedure as the admissibility procedure, granting a decision of no entry into the substance (*décision de non-entrée en matière*) at the end of the preparatory phase according to the Asylum Act, Article 31a.

## 3. Third countries designated as safe in practice

Given that only seven countries have adopted a safe third country list, the comparisons are limited without comprehensive conclusions. Hungary has one of the lengthiest lists with 15 third countries, followed by Estonia (9), Switzerland (4), Germany (2) and Greece, Iceland and Ireland which have designated only one country each.

Iceland and Ireland have designated the United Kingdom as a safe third country. Switzerland acknowledges EU Member States, Iceland, Liechtenstein and Norway as safe. Germany recognises Norway and Switzerland as safe.

Greece has designated Turkey as a safe third country but only for nationals from Afghanistan, Bangladesh, Pakistan, Somalia and Syria.

Hungary has determined safe countries to be EEA Member States,<sup>2</sup> EU candidate countries<sup>3</sup> along with:

- Australia
- Bosnia and Herzegovina
- Canada
- Kosovo
- New Zealand
- Switzerland
- United States\* (states that do not apply the death penalty)

Similarly, Estonia considers all EU candidate countries as safe except for Turkey. In addition, the safe third country concept is applied to the following countries:

- Albania,
- Armenia
- Bosnia and Herzegovina
- Georgia
- Kosovo
- Montenegro
- North-Macedonia
- Serbia
- Ukraine

<sup>2</sup> The European Economic Area, abbreviated as EEA, consists of EU Member States and three countries of the European Free Trade Association (EFTA) (Iceland, Liechtenstein and Norway; excluding Switzerland).

[https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:European Economic Area \(EEA\)](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:European_Economic_Area_(EEA))

<sup>3</sup> Albania, the Republic of North Macedonia, Montenegro, Serbia and Turkey are candidate countries.

<https://ec.europa.eu/environment/enlarg/candidates.htm>



Although not bound by the safe third country framework as set in the recast APD, Denmark has listed Canada and the United States as safe third countries.

In practice, Belgium has applied this concept to Switzerland. Potential safe third countries in Finland are EEA countries, Australia, Canada, Japan, New Zealand and the United States.

Following the Constitutional Court's ruling in March, Croatia ceased to apply the safe third country concept to Serbia.

Given the above, the countries designated as safe and the implementation of the safe third country concept in practice have been limited as only a few countries have consistently processed applications for international protection on this basis.

#### 4. Safe country of origin concept before the courts

##### Approach by European courts

The Court of Justice of the EU (CJEU) clarified in the case *European Parliament v Council of the European Union*<sup>4</sup> that Directive 2005/85/EC on minimum standards for procedures on granting and withdrawing refugee status, Article 36(3) which provides that the European Commission shall propose a common list of third countries, was contrary to EU law and no common list of safe third countries can be adopted at the EU level. It stated that the existing directive contains the basic principles and rules necessary to establish that a country can be designated as a safe third country.

The CJEU has interpreted and analysed the application of this concept by Member States in two landmark cases. First, when assessing the Hungarian legislation in the case of *LH*<sup>5</sup> in 2020, it found that the conditions laid down in the recast APD, Articles 33(2) and 33(2b) were not satisfied, since the condition of having a connection to a safe third country or to the first country of asylum was not met and transit alone does not constitute a connection. The court clarified that the conditions to deem an application inadmissible, as provided in the recast APD, Article 38, are cumulative and Hungary transposed it only in part. In the second case, *FMS and Others*,<sup>6</sup> also in 2020, the CJEU reiterated that an automatic rejection of an asylum application based on transit through a safe third country, as provided by Hungarian legislation, is contrary to EU law.

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<sup>4</sup> European Union, Court of Justice of the European Union [CJEU], [European Parliament v Council of the European Union](#), No C-133/06, ECLI:EU:C:2008:257, 6 May 2008. Link redirects to the English summary in the EASO Case Law Database.

<sup>5</sup> European Union, Court of Justice of the European Union [CJEU], [LH v Bevándorlási és Menekültügyi Hivatal \[Hungary\]](#), No C-564/18, ECLI:EU:C:2020:218, 19 March 2020. Link redirects to the English summary in the EASO Case Law Database.

<sup>6</sup> European Union, Court of Justice of the European Union [CJEU], [FMS and Others v Országos Idegenrendészeti Főigazgatóság Dél-alföldi Regionális Igazgatóság and Országos Idegenrendészeti Főigazgatóság](#), Nos. C-924/19 and C-925/19, ECLI:EU:C:2020:367, 14 May 2020. Link redirects to the English summary in the EASO Case Law Database.

Procedurally, the CJEU stated in *Mikiyias Addis*<sup>7</sup> that an interview must be conducted prior to rendering an inadmissibility decision based on the safe third country concept, thus ensuring that the applicant benefits of the guarantees laid down in the recast APD, Article 15.

In a landmark case, *Ilias and Ahmed*,<sup>8</sup> the European Court of Human Rights (ECtHR) in 2019 set up the general principles of protection against *refoulement* and inhuman and degrading treatment or torture of asylum applicants prior to deciding whether the receiving country may be considered a safe third country. According to the ECtHR, when the country of removal does not examine the merits of the asylum application, and irrespective of whether the receiving third country is an EU Member State or a party to the Convention, the authority must examine thoroughly whether there is a real risk that the asylum applicant in the receiving third country would be deprived of access to an adequate asylum procedure, free from expulsion or *refoulement*. In the absence of sufficient guarantees, the asylum applicant is not to be removed to a third country.

The same guiding principles and safeguards prior to a removal were reiterated in another judgment, *M.K. and Others*.<sup>9</sup> The ECtHR found in fact a violation of the European Convention on Human Rights (ECHR), Article 3, due to the expeditious removal of a third-country national to Belarus without due consideration for the *non-refoulement* principle and without effective guarantees against a real risk of being exposed to inhuman and degrading treatment or torture.

### National jurisprudence

Based on the above-mentioned principles settled by ECtHR case law, the Constitutional Court in **Croatia** has clarified the duties of national authorities when applying the safe third country concept.<sup>10</sup> The applicant challenged his removal from Croatia to Serbia, and the court found that the authorities did not sufficiently establish that Serbia is a European safe third country where the applicant would have access to the appropriate asylum procedure and be protected against *refoulement*. The court referred the case for re-examination due to a failure of the authorities to fulfil their obligations under the ECHR, Article 3.

The Grand Committee of the **Norwegian** Immigration Appeals Board in 2020 dealt with a case where the refugee status and residence permit of an applicant were revoked because he omitted to mention, at the time of the application, that he has previously resided in a safe third country, namely in Hungary.<sup>11</sup> The board unanimously concluded that an applicant can be refused to have his/her

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<sup>7</sup> European Union, Court of Justice of the European Union [CJEU], [Mikiyias Addis \(Eritrea\) vs Bundesrepublik Deutschland \[Federal Republic of Germany\]](#), No C-517/17, ECLI:EU:C:2020:579, 16 July 2020. Link redirects to the English summary in the EASO Case Law Database.

<sup>8</sup> Council of Europe, European Court of Human Rights [ECHR], [Ilias and Ahmed \(Bangladesh\) v Hungary](#), No 47287/15, ECLI:CE:ECHR:2019:1121JUD004728715, 21 November 2019. Link redirects to the English summary in the EASO Case Law Database.

<sup>9</sup> Council of Europe, European Court of Human Rights [ECHR], [M.K. and Others v Poland](#), Nos. 40503/17, 42902/17 and 43643/17, 23 July 2020.

<sup>10</sup> Croatia, Constitutional Court [Ustavni Sud], [Applicants \(Afghanistan\) v Ministry of the Interior](#), Nos U-I 11-4865/2018, U-III-837/2019, U-III-926/2019, 4 March 2021. Link redirects to the English summary in the EASO Case Law Database.

<sup>11</sup> Norway, Immigration Appeals Board, [Applicant \(Syria\) v Directorate of Immigration \(UDI\)](#), No N2002291030, 30 October 2020. Link redirects to the English summary in the EASO Case Law Database.



application processed when he/she has legal access to a safe third country. Nevertheless, the determining authority would not be entitled to refuse to process an application on merits based on the fact that an applicant has had a residence permit or residence in a safe third country some years ago.

Recently, the Federal Administrative Court (FAC) in **Switzerland** rejected appeals against the application of the safe third country concept in several cases concerning applicants that have received international protection in Greece, confirming the inadmissible decisions.<sup>12</sup> However, regarding the implementation of removal orders following the negative decisions, the FAC referred all cases to the determining authority for a full examination on facts and individual circumstances. The FAC indicated that the re-examination shall include an assessment of the medical situation of several applicants, and of the situation of beneficiaries of international protection in Greece, prior to decide on the legality of the removal execution.

In **Luxembourg**, the Administrative Tribunal analysed the situation of Morocco as a safe third country based on individual circumstances and the connection criteria. In a judgement concerning a Syrian applicant, it was found that the applicant, who was married to a Moroccan national and was also the parent of a Moroccan child, could obtain a residence permit in Morocco as provided by the national legislation.<sup>13</sup> Therefore, once the connection was demonstrated, the inadmissibility decision was confirmed. In contrast, in a different case the Administrative Tribunal concluded that Morocco could not reasonably be considered a safe third country for the applicant since his attempts to obtain a visa in Morocco were unsuccessful, despite his wife having Moroccan nationality and no other facts indicated a sufficient connection.<sup>14</sup>

In a recent case, the Administrative Tribunal in Luxembourg found that there was no link between the applicant and Moldova, because – although he was born in Moldova, allegedly knew the languages and has visited his grandparents twice – these facts do not constitute sufficient proof to consider that it was reasonable for the applicant to return.<sup>15</sup> In contrast, in another case the Administrative Tribunal noted that the applicant was born in Georgia, lived there for 11 years, his wife was also of Georgian

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<sup>12</sup> Switzerland, Federal Administrative Court [Bundesverwaltungsgericht - Tribunal administratif fédéral - FAC], [A, B, C, D \(Irak\) v State Secretariat for Migration](#) (Staatssekretariat für Migration – SEM), No E-1332/2021, 9 April 2021.; Switzerland, Federal Administrative Court [Bundesverwaltungsgericht - Tribunal administratif fédéral - FAC], [A \(Syria\) v State Secretariat for Migration](#) (Staatssekretariat für Migration (SEM)), No E-1413/2021, 8 April 2021.; Switzerland, Federal Administrative Court [Bundesverwaltungsgericht - Tribunal administratif fédéral - FAC], [A \(Irak\) v State Secretariat for Migration](#) (Staatssekretariat für Migration (SEM)), No D-1333/2021, 31 March 2021.; Switzerland, Federal Administrative Court [Bundesverwaltungsgericht - Tribunal administratif fédéral - FAC], [A \(Irak\) v State Secretariat for Migration](#) (Staatssekretariat für Migration (SEM)), No D-1333/2021, 31 March 2021. Links redirect to the English summary in the EASO Case Law Database.

<sup>13</sup> Luxembourg, Administrative Tribunal [Tribunal administratif], [Applicant \(Syria\) vs Ministry of Migration and Asylum](#) (Ministère de l'Immigration et de l'Asile), No 45916, 1 June 2021. Link redirects to the English summary in the EASO Case Law Database.

<sup>14</sup> Luxembourg, Administrative Tribunal [Tribunal administratif], [Applicant \(Syria\) v Ministry of Immigration and Asylum](#) (Ministère de l'Immigration et de l'Asile), No 45865, 7 June 2021. Link redirects to the English summary in the EASO Case Law Database.

<sup>15</sup> Luxembourg, Administrative Tribunal [Tribunal administratif], [Applicant \(Syria\) v Ministry of Immigration and Asylum](#) (Ministère de l'Immigration et de l'Asile), No 46189, 28 July 2021. Link redirects to the English summary in the EASO Case Law Database.

nationality and all the facts supported the existence of a sufficient connection to the country and justified the application of the safe third country concept, in the absence also, of a risk of *refoulement* to his country of origin.<sup>16</sup>

The principle of reasonableness, the fact that an applicant could be legitimately expected to apply for asylum in a safe third country, was analysed by the Council of State in the **Netherlands**.<sup>17</sup> The determining authority has a duty to take into consideration all individual circumstances relevant to demonstrate a link that the applicant has with the safe third country. In this specific case, the right to family life was considered a circumstance deemed to be included in the context of the reasonableness test.

On a related note, the German courts examined the possibility to apply the concept to EU MS. In this regard, the Federal Administrative Court ruled in two judgments<sup>18</sup> that an EU Member State cannot be considered a safe third country and partly overturned the determining authority decisions with regard to applicants who have previously obtained international protection in Bulgaria. Both judgements followed the approach of the CJEU in the [Ibrahim](#) judgement, where the legality of an inadmissible decision was assessed as intrinsically linked with an examination of whether a beneficiary of international protection may expect living conditions that would amount to inhuman or degrading treatment, contrary to the ECHR, Article 3 and the EU Charter, Article 4.

## Methodological note

This update is based on information exchange within the EASO IDS Advisory Group launched in July 2021. 28 EU+ countries validated the overview (AT, BE, BG, CH, CY, DE, DK, EE, EL, FI, FR, HR, HU, IE, IS, IT, LT, LU, LV, MT, NL, NO, PL, PT, RO, SE, SI, SK) and agreed to publicly share their contributions. For additional information, the analysis is supplemented by diverse sources of information, which are duly referenced. The overview of relevant jurisprudence is based on the [EASO Case Law Database](#).

EASO expresses gratitude to asylum and reception authorities in EU+ countries for the continued cooperation and information exchange. The contributions of national asylum experts are invaluable in helping EASO maintain an accurate and up-to-date overview of asylum-related developments in Europe and beyond.

<sup>16</sup> Luxembourg, [Administrative Tribunal \[Tribunal administratif\], Applicant \(Azerbaijan\) v Ministry of Migration and Asylum \(Ministere de l'Immigration et de l'Asile\)](#), No 41817, 13 December 2018. Link redirects to the English summary in the EASO Case Law Database.

<sup>17</sup> Netherlands, Council of State [Afdeling Bestuursrechtspraak van de Raad van State], [Applicant \(Nicaragua\) v State Secretary for Justice and Security \(Staatssecretaris van Justitie en Veiligheid\)](#), ECLI:NL:RVS:2021:122, 20 January 2021. Link redirects to the English summary in the EASO Case Law Database.

<sup>18</sup> Federal Administrative Court [Bundesverwaltungsgericht], [Applicant \(Syria\) v Federal Office for Migration and Refugees](#), ECLI:DE:BVerwG:2020:170620U1C35.19.0, 17 June 2020; Germany, [Federal Administrative Court \[Bundesverwaltungsgericht\], Applicant \(Palestine\) v BAMF](#), ECLI:DE:BVerwG:2020:210420U1C4.19.0 21 April 2020. Links redirect to the English summary in the EASO Case Law Database.

### Annex. Safe third countries lists and legislation in EU+ countries

Country	Safe third country list	Legal provisions	Concept applied in practice
<b>Austria</b>	No fixed list	Asylum Act, Article 4 ( <a href="#">Asyl Gesetz, 2005</a> ), as amended by <a href="#">Federal Law Gazette I No 145/2017</a>	Yes The concept is applied on a case-by-case basis.
<b>Belgium</b>	No fixed list	Aliens Act, Article 57/6/6 Aliens Act 1980 ( <a href="#">Loi sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers, 1980</a> ), last amended by the <a href="#">21 November 2017 Law</a> , published on 12 March 2018	Yes The concept is applied on a case-by-case basis, e.g. for Switzerland
<b>Bulgaria</b>	No fixed list	<a href="#">Law on Asylum and Refugees, Article 13(1), Item 14</a> as introduced by SG 89/2020 of 16 October 2020	Yes The concept may be applied on a case-by-case basis
<b>Croatia</b>	No fixed list	<a href="#">Law on International and Temporary Protection, Article 45</a>	Following the Constitutional Court of the Republic of Croatia Judgment ( <a href="#">U-III-4865/2018, U-III-837/2019 and U-III-926/2019</a> ) of 4 March 2021, the safe third country concept is no longer applied to Serbia in practice.
<b>Cyprus</b>	No fixed list	<a href="#">Refugee Law 2000 (6(I)/2000), Article 12B</a>	No
<b>Czechia</b>	No fixed list	<a href="#">Act of 11 November 1999 on Asylum, Article 2I</a>	No
<b>Denmark</b>	No fixed list	<a href="#">Aliens (Consolidation) Act (No 239 of 10 March 2019), Article 48a(1)</a>	Yes. The concept of a safe third country is defined with reference to the recast APD. Denmark is not bound by it or subject to its application. However, Denmark currently acknowledges Canada and the United States as safe third countries.
<b>Estonia</b>	<ul style="list-style-type: none"> <li>• Albania,</li> <li>• Armenia</li> <li>• Bosnia and Herzegovina</li> <li>• Georgia</li> <li>• Kosovo</li> <li>• Montenegro</li> <li>• North-Macedonia</li> <li>• Serbia</li> <li>• Ukraine</li> </ul>	<a href="#">AGIPA</a> , Articles 8 and 9	Yes





<b>Finland</b>	No fixed list	<a href="#">Aliens Act (301/2004)</a> , Article 99a	Yes The concept is applied on a case-by-case basis. Examples of countries that might be considered as safe include: EEA countries, Australia, Canada, Japan, New Zealand and the United States.
<b>France</b>	The concept is not foreseen in law		
<b>Germany</b>	<a href="#">Asylum Act</a> , Section 26a(2) recognises as safe third countries: <ul style="list-style-type: none"> <li>• all EU <a href="#">Member States</a></li> <li>• states listed in <a href="#">Annex I</a> to the <a href="#">Asylum Act</a> (see Federal Law Gazette I 2008, p. 1798), namely: <ul style="list-style-type: none"> <li>• Norway</li> <li>• Switzerland.</li> </ul> </li> </ul>	Section 26a, <a href="#">Asylum Act</a>	Yes
<b>Greece</b>	Joint Ministerial Decision No 42799 Gov. Gaz. B' 2425/7.06.2021  Turkey is designated as a safe third country for nationals from: <ul style="list-style-type: none"> <li>• Syria</li> <li>• Afghanistan</li> <li>• Pakistan</li> <li>• Bangladesh</li> <li>• Somalia.</li> </ul>	Law 4636/2019, Article 86	Yes
<b>Hungary</b>	<ul style="list-style-type: none"> <li>• EU Member States</li> <li>• EEA Member States</li> <li>• EU candidate countries</li> <li>• Australia</li> <li>• Bosnia and Herzegovina</li> <li>• Canada</li> <li>• Kosovo</li> <li>• New Zealand</li> <li>• Switzerland</li> <li>• United States* (states that do</li> </ul>	<a href="#">Government Decree No 191/2015. (VII.21)</a> determines safe countries of origin and safe third countries	Yes

		not apply death penalty)	
<b>Iceland</b>	United Kingdom		Yes The concept is applied on a case-by-case basis.
<b>Ireland</b>	United Kingdom and Northern Ireland	<a href="#">S.I. No 725/2020 - International Protection Act 2015 (Safe Third Country) Order 2020</a>	Yes
<b>Italy</b>	The concept is not foreseen in law		
<b>Latvia</b>	No fixed list	Asylum Law, <a href="#">Section 1</a>	Yes Yes The concept is applied on a case-by-case basis. An official list of countries has not been created, but the safe third country concept can be applied to an asylum application. There have been only a few such cases in Latvia.
<b>Lithuania</b>	No fixed list	<a href="#">Law of the Republic of Lithuania on the Legal Status of Aliens</a> , Articles 1(25) and 77	Yes The concept is applied on a case-by-case basis.
<b>Luxembourg</b>	No fixed list	Modified <a href="#">Law of 18 December 2015 on International and Temporary Protection</a> , Article 31	Yes The concept is applied on a case-by-case basis.
<b>Malta</b>	No fixed list	<a href="#">Subsidiary Legislation 420.07</a> , Article 22	Yes The concept is applied on a case-by-case basis.
<b>Netherlands</b>	No fixed list	<a href="#">Aliens Act 2000</a> , Article 30a Aliens Act Implementation Guidelines (Vc), Sections C2/6.2 and C2/6.3	Yes The concept is applied on a case-by-case basis.
<b>Norway</b>	No fixed list	Norwegian Immigration Act, Section 32(1d)	Yes The concept is applied on a case-by-case basis.
<b>Poland</b>	The concept is not foreseen in law		
<b>Portugal</b>	No fixed list	<a href="#">Law No 27/2008, of 30 June establishing the conditions and procedures for granting asylum or subsidiary protection and the status of asylum seeker, refugee and subsidiary protection</a> , Article 19A.1.d.	No
<b>Romania</b>	No fixed list	<a href="#">Law 122/2006 on Asylum in Romania</a> , Article 97	No
<b>Slovakia</b>	No fixed list	<a href="#">Act 480/2002 on Asylum and Amendment of Some Acts</a> , Sections 2 and 11	No
<b>Slovenia</b>	No fixed list	<a href="#">International Protection Act</a> , Articles 53-55	No
<b>Spain</b>	No fixed list	Asylum Law, Article 20(1)(d)	Yes



			The concept is applied on a case-by-case basis.
<b>Sweden</b>	No fixed list	<p>While not explicitly defining the safe third country concept, Chapter 5, Section 1b(3) defines: “An asylum application may be rejected if the applicant may be sent to a country where he/she:</p> <ul style="list-style-type: none"> <li>- does not risk being subjected to persecution,</li> <li>- does not risk to be subjected to the death penalty, corporal punishment, torture or other inhuman or degrading treatment or punishment,</li> <li>- is protected from being sent on to a country where he or she does not have equivalent protection,</li> <li>has the opportunity to apply for protection as a refugee, and</li> <li>- has such a connection to the country in question that it is reasonable for him or her to travel there.” <p>In cases referred to in paragraph 3, however, the application may not be rejected if:</p> <ol style="list-style-type: none"> <li>1. The applicant has a spouse, a child or a parent residing in Sweden and the applicant does not have an equally close family connection to the country to which the enforcement of a deportation or expulsion decision can take place; or</li> <li>2. The applicant due to a previous long stay in Sweden with a residence permit or right of residence has received a special connection here and lacks such connection or connection through relatives in the country where the execution of a deportation or expulsion decision can take place</li> </ol> </li></ul>	<p>Yes</p> <p>The concept is applied on a case-by-case basis.</p>
<b>Switzerland</b>	<p>EU Member States          EFTA Member States</p> <p>The concept may apply to other countries as well on a case-by-case basis</p>	Asylum Act, Articles 6a(2b) and 31a(1)	