



Between Efficiency and Fundamental Rights: The Concept of the Safe Country of Origin in EU Migration Law

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Abbreviation List

AIMA - Agência para a Imigração e Mobilidade

APR- Asylum Procedures Regulation

Art. - Article

CEAS- Common European Asylum System

CFREU - Charter of Fundamental Rights of the European Union

CJEU - Court of Justice of the European Union

COI - Country of Origin Information

CPR - Conselho Português para os Refugiados

CRC - UN Convention on the Rights of the Child

ECHR - European Convention on Human Rights

EU - European Union

EUAA - European Union Asylum Agency

MS - Member States

OHCHR - Office of the United Nations High Commissioner for Human Rights

SCO - Safe Country of Origin

SEF - Serviço de Estrangeiros e Fronteiras

STC - Safe Third Country

TEU - Treaty of the European Union

TFEU - Treaty on the Function of the European Union

AIMA - Agência para a Imigração e Mobilidade

APR- Asylum Procedures Regulation

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CEAS- Common European Asylum System

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STC - Safe Third Country

TEU - Treaty of the European Union

TFEU - Treaty on the function of the European Union

Abstract

When is a country truly “safe”? This report investigates the legal and practical implications of the Safe Country of Origin (SCO) concept in EU asylum law, particularly as redefined by the 2024 Common Procedure Regulation (EU) 2024/1348 under the New Pact on Migration and Asylum. While intended to enhance procedural efficiency by streamlining applications deemed manifestly unfounded, the SCO mechanism raises critical concerns regarding fundamental rights. The report examines how the presumptive designation of “safety” based on nationality affects access to individualized assessment, the right to asylum, the principle of non-refoulement, and procedural guarantees, especially in the context of accelerated procedures.

By analyzing legal sources, CJEU case law, recognition rate disparities, and national implementation practices, the report identifies the risks of discriminatory outcomes and systemic shortcomings in the harmonization of asylum procedures across Member States. A focused case study on Portugal illustrates both normative restraint and potential challenges in adapting to the mandatory application of the SCO concept by 2026. The study concludes that unless accompanied by robust safeguards, transparent criteria, and regular monitoring, the SCO mechanism risks undermining the foundational principles of protection and non-discrimination in EU asylum law.

Key words: Safe Country of Origin; Fundamental Rights; Portugal; New Pact on Asylum and Migration; European Union; Security.

Resumo

Quando é que um país pode ser verdadeiramente considerado “seguro”? O presente relatório analisa as implicações jurídicas e práticas do conceito de País de Origem Seguro (POS) no direito de asilo e migração da União Europeia, em particular na sua formulação mais recente pelo Regulamento (UE) 2024/1348, que estabelece o procedimento comum no âmbito do Novo Pacto sobre Migração e Asilo. Embora o mecanismo de POS vise reforçar a eficiência processual ao permitir uma tramitação acelerada de pedidos considerados manifestamente infundados, levanta preocupações sérias no que respeita à proteção dos direitos fundamentais.

O relatório examina de que forma a presunção de “segurança”, atribuída com base na nacionalidade, afeta o acesso a uma avaliação individualizada, o direito de asilo, o princípio da não-repulsão (*non-refoulement*) e as garantias processuais, sobretudo no contexto de procedimentos acelerados. Com base na análise de fontes legais, jurisprudência do Tribunal de Justiça da União Europeia (TJUE), disparidades nas taxas de reconhecimento e práticas nacionais de aplicação do conceito, o estudo identifica riscos de discriminação e fragilidades estruturais no processo de harmonização dos procedimentos de asilo entre os Estados-Membros.

Um estudo de caso centrado em Portugal evidencia tanto a restrição normativa como os desafios institucionais que o país enfrentará com a implementação obrigatória do conceito de POS a partir de 2026. O relatório conclui que, na ausência de salvaguardas robustas, critérios claros e monitorização contínua, o mecanismo POS poderá comprometer os princípios essenciais de proteção internacional e de não discriminação consagrados no direito da União Europeia em matéria de asilo e migração.

Palavras-chave: País de Origem Seguro; Direitos Fundamentais; Portugal; Novo Pacto sobre o Asilo e a Migração; União Europeia; Segurança.

1 Introduction

The European Union (EU) recognizes asylum as both a fundamental right and an international obligation. Article 18 of the Charter of Fundamental Rights of the European Union (CFREU) guarantees the right to asylum with due respect for the 1951 Geneva Convention and the 1967 Protocol, to which all Member States (MS) are parties. While the EU itself is not a party to the Convention, Article 78 of the Treaty on the Functioning of the European Union (TFEU) obliges the Union to develop a Common European Asylum System (CEAS) that complies with it. The EU has established common standards to ensure fair and effective asylum procedures across all MS, guaranteeing consistent outcomes regardless of where an application is made¹.

This report is structured to provide a critical analysis of the *safe country of origin* (SCO) concept under the New Pact on Migration and Asylum, with a particular focus on the fundamental rights implications of its implementation in the Common Procedure Regulation (EU) 2024/1348.

The concept of SCO plays a central role in determining access to protection in the EU and directly affects fundamental rights. Under Article 61(1) of the proposed Asylum Procedures Regulation (APR), a *safe country of origin* is a third country that can be designated as safe for a particular applicant if, based on their individual circumstances, there is generally and consistently no persecution or serious harm as defined in the Qualification Regulation, and the rule of law and respect for fundamental rights and freedoms are upheld.

Article 61(4) APR further allows Member States to apply the concept either on a *case-by-case* basis (individual designation) or by relying on a *national list* of designated safe countries of origin. In either case, the designation must be subject to regular review to ensure continued compliance with human rights standards.

The effect of designating a country as “safe” is that asylum applications from nationals of those countries may be subject to accelerated procedures or deemed *manifestly unfounded*, unless the applicant can rebut the presumption of safety by showing individual risk.

¹Matthew Hunt, ‘The Safe Country of Origin Concept in European Asylum Law: Past, Present and Future’ (2014) 26 *International Journal of Refugee Law* 500.

The rationale for the deployment of the SCO in Europe is relatively straightforward. This idea is rooted in a political narrative that portrays many refugee applications in Europe as "bogus" or unfounded. This framing suggests that a significant number of asylum seekers are not in genuine need of protection but are instead exploiting the asylum system. As a result, proponents argue for mechanisms to swiftly identify and filter out such individuals, thereby limiting their access to full asylum procedures². The SCO concept supports this aim by enabling group-based decision-making ("en bloc") rather than individualized assessments.

As part of the CEAS, the idea has progressively evolved at the EU level, leading to the approval of the clauses on the common EU list of SCOs. National SCO lists are already in place in many MS. All MS will be required to implement the SCO concept under Regulation EU 2024/1348 as part of their asylum procedures, and, as of *Article 64*, they will also have the discretion to create or maintain national SCO lists in addition to those designated at the EU level.

This report analyses various concerns with the application of the SCO concept that can be expressed regarding the protection of the fundamental rights of individuals who are truly in need of international protection but are from SCOs. Unlike other 'safe country' notions, the SCO concept targets the applicant's own country, introducing a rebuttable presumption that their asylum claim is unfounded. This has significant implications for procedural fairness, particularly when linked to accelerated procedures and limited appeal rights. As the EU moves toward harmonization through a common SCO list, it becomes crucial to critically assess how this legal tool may undermine individualized assessments and the principle of non-refoulement, and how it could disproportionately impact vulnerable groups.

The first section of the report offers a concise overview of the legal evolution of the SCO concept, particularly following the 2015 migratory crisis, and introduces the objectives of the New Pact. The second section undertakes a fundamental rights analysis focusing on the right to asylum, the principle of *non-refoulement*, and access to effective remedies. It critically examines how the presumption of safety, combined with a higher burden of proof and limited

²Enry Marteson and John McCarthy, "'In General, No Serious Risk of Persecution': Safe Country of Origin Practices in Nine European States" (1998) 11 *Journal of Refugee Studies* 304.

procedural safeguards, may undermine these core protections. The third section shifts focus to the principle of non-discrimination, exploring how SCO designations and their application risk reinforcing systemic inequalities and discrimination. Section four presents detailed case studies, such as the Portuguese context, to illustrate these issues in practice and provides concrete recommendations. Finally, the report concludes by summarising its main critiques of the current framework and highlighting opportunities for strengthening rights-based asylum procedures within the evolving EU legal landscape.

2 Evolution of the Legal Concept

At the EU level, the concept of SCO was first formally introduced in 1992 through Council resolutions, which supported expedited procedures for asylum seekers from countries deemed generally free of persecution³. The SCO concept became more structured during the first phase of the CEAS with the 2005 Asylum Procedures Directive (2005/85/EC). This directive provided minimum standards for applying the SCO label, requiring countries to be broadly free from persecution, torture, inhuman treatment, or indiscriminate violence⁴. Assessments had to consider factors like human rights protections, the rule of law, non-refoulement, and access to remedies. The presumption of safety was rebuttable if the asylum seeker could show serious individual risk. MS had flexibility to designate entire countries or regions as safe and to apply national rules that could be less stringent. Although expedited processing was allowed for claims from SCO countries, it remained optional, and personal interviews could be omitted - though basic procedural safeguards were to be upheld⁵.

Additionally, the directive made it possible to adopt a unified EU list of SCOs. The European Parliament successfully appealed the clause to the Court of Justice of the European Union (CJEU) in 2008⁶. Because any such common list may only be approved through a legislative or "comitology" procedure in accordance with Article 67(5) of the Treaty establishing the European Community, the CJEU declared the provision to be invalid⁷.

³Hunt, "Safe Country of Origin" Concept in EU Asylum Law'.

⁴European Union Agency for Asylum., *Applying the Concept of Safe Countries in the Asylum Procedure*. (Publications Office 2022) <https://data.europa.eu/doi/10.2847/430441> accessed 4 May 2025.

⁵Hunt, "Safe Country of Origin" Concept in EU Asylum Law'.

⁶European Union Agency for Asylum, *Applying the Concept of Safe Countries in the Asylum Procedure*.

⁷*European Parliament v Council of the European Union* [2008] ECJ Case C-133/06.

However, the co-legislators did not accept the Commission's 2015 proposal for a unified EU list of SCOs.

With the New Pact, the Common Procedure Regulation (EU) 2024/1348 introduces significant changes aimed at harmonising and strengthening the use of the SCO concept within the EU asylum framework. It establishes common criteria for designating SCOs, with the goal of reducing divergence between MS' national lists, limiting secondary movements of asylum seekers, and increasing efficiency by accelerating the processing and rejection of applications deemed likely to be manifestly unfounded. However, this emphasis on efficiency raises concerns about the potential erosion of individualised assessment, as streamlined procedures may risk overlooking the unique and context-specific protection needs of certain applicants - particularly those from groups at risk of persecution despite their country's general designation as 'safe'. Under the new rules, a country may only be designated as an SCO where there is no risk of persecution or serious harm, based on the standards set in the updated Qualification Regulation (EU) 2024/1347. While the substantive criteria resemble those in previous directives, the new regulation introduces clearer definitions of prohibited acts and more precise obligations for assessing state compliance - moving beyond general references to the principle of non-refoulement.

One of the most notable developments is the renewed attempt to establish a common EU-level SCO list, after earlier proposals failed between 2015 and 2020. The new regulation allows for exceptions for particular regions or identifiable groups within a country. However, this selective recognition of safety can be problematic, as it may lead to unequal treatment and discrimination among asylum seekers from the same country. As Peers argues, such an approach risks taking rights only "half-seriously", undermining the principle of equal protection by embedding differential treatment into the asylum system itself⁸.

Moreover, the regulation affirms that SCO status is presumptive but rebuttable: applicants must be nationals (or formerly resident stateless persons), and their individual claims must be considered if they provide serious grounds to challenge the presumption of safety. If no such grounds are presented, the application may be rejected as unfounded and processed under an accelerated procedure - one that typically involves significantly reduced timelines and

⁸Steve Peers, 'The New EU Asylum Laws: Taking Rights Half-Seriously' (2024) 43 *Yearbook of European Law* 113-183. <https://doi.org/10.1093/yel/yeac003> Accessed 5 May 2025.

may limit procedural safeguards, such as access to full appeal rights or adequate time to prepare a defence. Although the use of border procedures is generally optional, the regulation reaffirms that all procedural safeguards must be respected, including the right of courts to decide whether an appeal has suspensive effect. However, in certain cases, their use is mandatory - Article 45(1) of the Asylum Procedure Regulation refers to the situations outlined in Article 42(1), points (c), (f), and (j). Furthermore, according to Article 64(2) MS must not designate a country as safe at the national level if it has been suspended at the EU level, and must notify the Commission and the EU Asylum Agency (EUAA) of any designations or changes (*Article 64(4)*). However, the new framework has drawn criticism, particularly for allowing accelerated procedures to apply to unaccompanied minors. This approach appears to contradict the principle of the best interests of the child, as enshrined in Article 24 of the CFREU and Article 3 of the UN Convention on the Rights of the Child (CRC), which require that the child's welfare be a primary consideration in all actions concerning them. Further, the framework is criticised for imposing a higher burden of proof on applicants from countries designated as safe.

3 Fundamental Rights Analysis I: Presumptive Safety and Rebuttability

The adoption of the 2024 New Pact on Migration and Asylum transformed the SCO mechanism from an optional to a mandatory feature, thus generating widespread debates about its compatibility with fundamental rights, particularly the right to asylum and the principle of non-refoulement. The next two chapters will critically analyze the fundamental rights challenges posed by the SCO concept.

3.1 The Legal Framework

3.1.1 Right to Asylum and Individual Assessment

The implementation of the SCO concept under the New Pact raises substantial difficulties and concerns regarding compliance with the Article 18 of the CFREU, the 1951 Geneva Convention and the Article 78 of the TFEU. These instruments collectively guarantee the right to asylum, and this right presupposes the principle of individualised assessment, which is central to EU and international refugee law, requiring that every individual application be examined based on its own merits, with due consideration for the applicant's specific circumstances^{9,10}.

However, the application of a SCO mechanism with lists undermines this principle by enforcing a general presumption of safety based on nationality that might not represent the complex realities faced by applicants, especially minorities or members of opposition groups¹¹. While the presumption is formally rebuttable (applicants may present evidence that their circumstances require protection), the burden of proof is disproportionately shifted onto the applicant. In practice, this creates an issue for applicants by undermining key procedural safeguards such as access to effective remedy and legal representation¹², especially in the context of fast-track procedures.

Although the CJEU has recognised the importance of procedural protection in asylum procedures, it has also affirmed the discretion of MS to implement accelerated procedures based on an applicant's country of origin¹³. This wide discretion, combined with strict proof required to overturn the presumption of safety, brings doubts regarding an effective asylum rights protection within the EU.

⁹ UN High Commissioner for Refugees (UNHCR), *Improving Asylum Procedures: Comparative Analysis and Recommendations for Law and Practice – Key Findings and Recommendations* (March 2010), 65-71 <https://www.unhcr.org/media/improving-asylum-procedures-comparative-analysis-and-recommendations-law-and-practice-key> Accessed 5 May 2025

¹⁰Matthew Hunt, *The Safe Country of Origin Concept in European Asylum Law: Past, Present and Future*, 503-508, 516.

¹¹Camila Nogueira Crispim, 'The Safe Country of Origin Concept and the New Pact on Migration and Asylum: Streamlining or Sidelining?' (*NOVA Refugee and Migration Clinic Blog*, 24 April 2025) https://novarefugeelegalclinic.novalaw.unl.pt/?blog_post=the-safe-country-of-origin-concept-and-the-new-pact-on-migration-and-asylum-streamlining-or-sidelining Accessed 5 May 2025.

¹²UNHCR, *Improving Asylum Procedures: Comparative Analysis and Recommendations for Law and Practice – Key Findings and Recommendations* (UNHCR, March 2010), 65-71 <https://www.unhcr.org/sites/default/files/legacy-pdf/4c7b71039.pdf> Accessed 5 May 2025

¹³The CJEU confirmed that MS may prioritize or accelerate the examination of asylum applications based on the applicant's nationality or country of origin, even beyond the categories explicitly listed in Article 23(4) of Directive 2005/85/EC. The CJEU found that this article is non-exhaustive, allowing MS flexibility to respond to national needs. See in *Case C-175/11 HID and BA v Refugee Applications Commissioner and Others* [2013] ECLI:EU:C:2013:45.

3.1.2 Non-Refoulement and the Risk of Shortcutting Protection

The principle of non-refoulement, enshrined under Article 19(2) CFREU, prohibits the return of individuals to countries where they could encounter a real risk of torture, inhuman or degrading treatment, or other serious harm. This principle is fundamental and non-derogable, serving as a cornerstone of international refugee protection. Furthermore, Article 3 of the Geneva Convention prohibits discrimination in access to asylum procedures based on country of origin¹⁴.

The SCO mechanism, by presuming safety for entire nationalities, risks violating this principle, particularly when the presumption is difficult to counter or when country conditions frequently change rapidly, especially in situations where political, ethnic, or gender-based persecution persists beneath the surface of general safety. The political nature of the SCO lists together with outdated information creates additional protection risks^{15,16}.

This problem can be aggravated based on the reliance on static or politically influenced lists, which frequently fail to reflect the shifting conditions on the ground. For instance, the Office of the United Nations High Commissioner for Human Rights (OHCHR) has warned against labeling countries like Tunisia as “safe”^{17,18} due to the documented risks faced by political opponents, LGBTQ+ individuals, and returnees¹⁹. Consequently, relying on SCO lists to assess safety may lead to systematic violations of *non-refoulement* if not coupled with individual assessments along with regularly updated Country of Origin Information (COI).

¹⁴Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137.

¹⁵Crispim, ‘The Safe Country of Origin Concept and the New Pact on Migration and Asylum: Streamlining or Sidelining?’

¹⁶Femke Vogelaar, ‘The Presumption of Safety Tested: The Use of Country of Origin Information in the National Designation of Safe Countries of Origin’ (2021) 40(1) *Refugee Survey Quarterly* 106, p. 110 <https://academic.oup.com/rsq/article/40/1/106/6008942> Accessed 5 May 2025.

¹⁷OHCHR, *Tunisia: ‘UN experts concerned over safety of migrants, refugees and victims of trafficking’* (7 OHCHR Press Release, October 2024) <https://www.ohchr.org/en/press-releases/2024/10/tunisia-un-experts-concerned-over-safety-migrants-refugees-and-victims> Accessed 5 May 2025.

¹⁸European Parliamentary Research Service, *Safe country of origin' concept in EU asylum law* (Briefing 2024, EPRS BRI(2024)762315, 7 May 2024) (6) [https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762315/EPRS_BRI\(2024\)762315_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762315/EPRS_BRI(2024)762315_EN.pdf) Accessed 5 May 2025

¹⁹Mariagiulia Giuffrè, ‘On “Safety” and EU Externalization of Borders: Questioning the Role of Tunisia as a “Safe Country of Origin” and a “Safe Third Country”’ (2022) 24 *European Journal of Migration and Law*, 581–591 https://brill.com/view/journals/emil/24/4/article-p570_5.xml Accessed 5 May 2025

3.2 The Burden of Rebuttal: Real-Life Implications for Applicants Procedural Hurdles and Access to Justice

The rebuttable presumption of safety is, in theory, a safeguard mechanism that establishes a rebuttable presumption that certain countries are generally safe, thereby allowing for accelerated examination of asylum claims from nationals of these countries. In current practice, however, the threshold for rebuttal is frequently set too high, requiring applicants to present "serious grounds" for considering their country an unsafe country^{20,21}. This burden of proof is particularly heavy on the asylum seeker due to the applicant's limited access to quality legal assistance and the tight timelines of accelerated procedures²², undermining the principle of individual assessment. The situation is aggravated because accelerated procedures often come with short timelines, making it challenging for applicants to gather and present the necessary evidence to rebut the presumption of safety.

In Portugal, while the law is aligned with the APD and includes the accelerated procedure for applicants from presumed SCO, there is currently no formal national list of SCOs²³, which demonstrates how informal practices can lead to *de facto* discrimination. Even without formal SCO lists, the use of informal practices can lead to unequal treatment and breach the right to an individualised assessment. Moreover, the reliance on SCO lists can lead to inconsistencies and a lack of transparency in asylum procedures. The EUAA notes that while many EU+ countries have adopted national lists, the criteria and procedures for designation vary, potentially leading to unequal treatment of applicants based on the MS processing their claim²⁴.

²⁰ European Parliamentary Research Service, *Safe country of origin' concept in EU asylum law* (Briefing 2024, 7 May 2024) [https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762315/EPRS_BRI\(2024\)762315_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762315/EPRS_BRI(2024)762315_EN.pdf) accessed 5 May 2025.

²¹ Steve Peers, 'Safe countries of origin' in asylum law: the CJEU first interprets the concept' (*EU Law Analysis, Expert insight into EU law developments*, 14 October 2024) <https://eulawanalysis.blogspot.com/2024/10/safe-countries-of-origin-in-asylum-law.html> accessed 5 May 2025

²² Steve Peers, 'New EU Asylum Laws: Taking Rights Half-Seriously (2024)' *Yearbook of European Law*, 39-41 <https://academic.oup.com/yel/advance-article/doi/10.1093/yel/yeae003/7733120> Accessed 5 May 2025.

²³ European Union Agency for Asylum. (2022). *Applying the concept of safe countries in the asylum procedure*. (Publications Office of the European Union.). 13. https://euaa.europa.eu/sites/default/files/publications/2022-12/2022_safe_country_concept_asylum_procedure_EN.pdf Accessed 6 June 2026.

²⁴ Ibid. 70-71.

3.2.1 Recognition Rates and the Presumption of Safety

The New Pact further solidified this logic and consolidated a dual rationale of mechanisms that are normatively and procedurally autonomous from each other, but both serve to expedite asylum claims by presuming safety in the applicant's country of origin. It introduced new mandatory grounds for accelerated procedures under Articles 42(1)(c), (f), and (j), and 45(1) of the Asylum Procedures Regulation (APR), based on EU-wide recognition rates below 20%. This statistical threshold now functions independently from the designation of SCOs, which remains a separate and pre-existing ground for acceleration.

Although both mechanisms share a common rationale rooted in the presumption of safety, the recognition rate criterion is formally distinct from the SCO concept and is not defined under Article 61, which governs the concept²⁵. Rather, it represents a shift toward the increasing use of quantitative criteria in asylum governance, reflecting, but not necessarily replicating, the logic underpinning SCO assessments and mirroring statistical trends in protection outcomes across MS; whereas the SCO remains a qualitative assessment grounded in the presumption of safety and stability in the applicant's country of origin.

Both mechanisms aim to streamline asylum processing. They are normatively and procedurally autonomous: the use of low recognition rates does not, in itself, entail SCO designation, and vice-versa. This distinction is crucial, as it underscores the increasing reliance on statistical indicators in asylum governance, raising concerns about the neutrality and objectivity of such metrics²⁶.

Recognition rates are not merely neutral reflections of objective safety conditions in countries of origin; rather, they are shaped by a multitude of factors, including national asylum practices, administrative capacities, and political priorities within individual MS. The use of recognition rates as a basis for designating countries and as safe further complicates the asylum process faces criticism²⁷. It risks codifying discriminatory practices by linking safety to low

²⁵ Crispim, 'The Safe Country of Origin Concept and the New Pact on Migration and Asylum: Streamlining or Sidelining?'

²⁶ Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU [2024] OJ L1348/1, art 42(1)(j).

²⁷ Peers, 'New EU Asylum Laws: Taking Rights Half-Seriously (2024)'.

recognition rates, even though evidence suggests that significant numbers of applicants from ‘safe’ countries are granted protection²⁸, risking oversimplifying complex individual circumstances and potentially undermining the right to a fair asylum assessment.

Empirical data on recognition rates from recent years vividly illustrate these disparities. For instance, in 2023 the recognition rate for Afghans ranged from 34% in Belgium to 100% in Italy, and for Venezuelans, from 0% in Spain and 4% in Germany to 99% in Italy. These discrepancies indicate that factors beyond “objective” safety in the country of origin are at play, such as national asylum policy and administrative practice, underscoring the risk of oversimplification when using recognition rates as the sole basis for SCO designation²⁹. This volatility undermines the rationale for fixed, EU-wide procedural categories and exposes the inherent limitations of relying on aggregated statistics to assess safety. The central critique remains: linking the presumption of safety to quantitative metrics alone disregards individual circumstances and institutionalizes geopolitical biases, undermining the fundamental principle of non-refoulement.

4 Fundamental Rights Analysis II: The principle of Non-Discrimination

No one can guarantee that a country is safe for all its citizens³⁰. In this sense, the application of the SCO concept in the new Asylum and Migration Pact proves challenging with regard to the principle of non-discrimination, enshrined in Article 21 of the CFREU and with Article 3 of the Refugee Convention, which stipulates that an applicant for international protection cannot be discriminated against on grounds of nationality. The CJEU has clarified that the examination of applications through an accelerated procedure does not inevitably infringe the principle of non-discrimination, provided that the applicants are given the procedural guarantees needed (*C-175/11, H.I.D., B.A. v. Refugee Applications Commissioner, Refugee Appeals Tribunal, Minister for Justice, Equality and Law Reform*)³¹. Nevertheless, the

²⁸Crispim, ‘The Safe Country of Origin Concept and the New Pact on Migration and Asylum: Streamlining or Sidelining?’

²⁹European Union Agency for Asylum, *Asylum Report 2024*. (43-47).

³⁰AEDH, EuroMeds Rights, FIDH, “Safe” countries: A denial of the right of asylum (OHCHR Report, May 2016) https://www.ohchr.org/sites/default/files/Documents/Issues/MHR/ReportLargeMovements/FIDH2_.pdf, (3). Accessed 5 May 2025.

³¹European Union Agency for Fundamental Rights, *Opinion of the European Union Agency for Fundamental Rights concerning an EU common list of safe countries of origin* (FRA, March 2016) http://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-opinion-safe-country-of-origin-01-2016_en.pdf, (21). Accessed 5 May 2025.

practice of this concept leaves open the possibility for direct and indirect discrimination, producing severe consequences for specific groups of asylum seekers.

4.1 SCO as an Inherent Concept of Discrimination?

Although the EU is not itself a party to the Refugee Convention, the EU's responsibility to respect international refugee law is acknowledged in Article 78(1) of the Treaty on the Functioning of the EU³². While there is a common understanding that Article 21 of the CFREU³³ doesn't extend to third-country nationals, and the CJEU has not directly addressed the issue from a point of discrimination challenges, the European Court of Human Rights might provide a more promising and favorable forum for challenging the discriminatory effects of SCO practices, especially when combined with claims under Articles 3 and 14 ECHR³⁴.

The concept of SCO in its very nature implies a logic of a generalized presumption of security applied solely on the basis of an applicant's nationality. According to the UNHCR, this concept “would a priori preclude a whole group of asylum-seekers from refugee status”³⁵. Whereas the UNHCR has acknowledged that countries that adopt such presumptions may be able to assist in assessing who does or may not present legitimate grounds for requesting protection, they must be based on the following criteria “verifiable, current assessments of factual situations, are rebuttable and provision is made for the individual, exceptional case”³⁶.

Nonetheless, such a presumption of safety, as mentioned in the previous section, might contradict with the requirement for an individualized assessment of applications for protection, by creating a higher burden of proof for people of a certain nationality and potentially resulting in indirect discrimination by subjecting applicants from these countries to accelerated

³² Crispim, ‘The Safe Country of Origin Concept and the New Pact on Migration and Asylum: Streamlining or Sidelineing?’

³³ 1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited. 2. Within the scope of application of the Treaties and without prejudice to any of their specific provisions, any discrimination on grounds of nationality shall be prohibited.” CFREU [2012] OJ C326/391, art.21.

³⁴ Crispim, ‘The Safe Country of Origin Concept and the New Pact on Migration and Asylum: Streamlining or Sidelineing?’

³⁵ UNHCR, ‘Background Note on the Safe Country Concept and Refugee Status’ (UNHCR, 26 July 1991) <<https://www.unhcr.org/publications/background-note-safe-country-concept-and-refugee-status>>. Accessed 5 May 2025.

³⁶ Inês Avelã Nunes, “Safe Country of Origin and Safe Third Countries: Authentic Concepts of Safety?” (Global Campus Europe, 2019) <https://repository.gchumanrights.org/items/2ffa67b9-fb3d-4383-b4ac-00c0c74e5d21> (34). Accessed 5 May 2025.

procedures, shortened deadlines and with possible no right to use automatic suspension in the event of a refusal, which might be worsened by the absence of adequate legal aid in the appeal.

Furthermore, although a context of conflict or widespread violence can make it easier to identify potential risks, in countries where the majority of nationals benefit from “generalized security”, certain minorities are exposed to mistreatment. For instance, a 2015 report indicated that in Albania, LGBTQI+ and Roma minorities are subject to hate speech, bullying and discrimination. Precisely for these refugee groups, the SCO concept creates high risks of injustice, as there is an opening for the risk of rejecting authentic claims and misrepresenting complex human realities, jeopardizing individual assessments³⁷

The common list of SCOs provides an important factor to take into consideration. One of the main issues in the application of the SCO concept is the inconsistency between the different EU MS. The lists established by different states differ substantially and reflect both different rates of asylum recognition, but also political and diplomatic factors, creating a form of systemic indirect discrimination. The politicisation of SCO lists makes the asylum system less trustworthy and less fair, because the outcomes for applicants might depend more on the country of application than the merits of the asylum claims³⁸.

The Canadian example provides an interesting parallel to the European discussion. The introduction of the list of “Designated Countries of Origin” led to the exclusion of certain applicants, such as the Hungarian Roma, from the right to appeal and fair procedural deadlines, which in 2015 the Federal Court found to be in violation of Canada’s Charter of Rights and Freedoms.³⁹

When a MS considers a third state as a SCO, this may, unfortunately, lead to self-perpetuation, in that by reinforcing a country's presumed security, the rejection of valid claims may result in *refoulement*⁴⁰. Indeed, the use of these lists will not necessarily be all-encompassing, given that in several cases, MS defines exceptions for particular geographical areas or profiles of a given country's applicants for international protection (LGBTQI+, Roma,

³⁷ECRE, *AIDA Legal Briefing No. 3: Safe Country of Origin* (September 2015) https://ecre.org/wp-content/uploads/2016/06/AIDA-Third-Legal-Briefing_Safe-Country-of-Origin.pdf. Accessed 5 May 2025.

³⁸Cathryn Costello, ‘Safe Country? Says Who?’ (2016) 28 *International Journal of Refugee Law* 11. <https://doi.org/10.1093/ijrl/cew042> Accessed 5 May 2025-

³⁹Nunes, “Safe Country of Origin and Safe Third Countries: Authentic Concepts of Safety?” 47-48.

⁴⁰Crispim, ‘The Safe Country of Origin Concept and the New Pact on Migration and Asylum: Streamlining or Sidelining?’

journalists, political and environmental activists, religious minorities). For example, in Norway there is an exception for applicants from Tanzania and Ghana who face forced marriage, while in Luxembourg, countries such as Benin, Ghana and Mali are only considered safe for men⁴¹. Nevertheless, in 2022, over twelve MS included Ghana as a SCO, being one of the top African countries considered by the authorities to be a SCO. However, the mere fact that such violations have been detected raises some doubts regarding the EU authorities' "safety" qualification that intends to apply to these countries.⁴²

Nonetheless, while the Pact allows the partial use of these lists, such a measure can create new forms of discrimination, in the sense that this selective distinction regarding safety can generate unequal impacts on different groups, as instead of strengthening this protection, it creates a false impression of accuracy in the system, allowing the risk of other human rights violations to be covered up and thus refusing legitimate requests⁴³.

Ultimately, while the use of these lists might lead to an end to discrimination between individuals applying for international protection based on their country of arrival in the EU, it will not ultimately lead to an end to unequal rights between applicants based on their origin⁴⁴. In the next section, we will further discuss this reasoning.

5 The Road to Harmonization: Existing Waxes and Wanes

Since the 1999 Tampere Treaty decision, which unfolded the communitarization of the CEAS, critics have often highlighted that it has been too focused on security and not enough on fundamental human rights. Still, since then, the road to harmonization has been one of the major legislative challenges in EU law. In 2008, a decision by the CJEU⁴⁵ to annul the provision that sought to establish an EU-wide list of SCO without the co-decision of the European Parliament created a deadlock debate on this topic since EU competence in this asylum field and reflected the broader reluctance of MS to cede control over asylum determinations, an area closely tied to national sovereignty. However, this stalled reality has been shifted based on two

⁴¹European Union Agency for Asylum, *Applying the concept of safe countries in the asylum procedure*, (EEUA Report, December 2022) (8). https://euaa.europa.eu/sites/default/files/publications/2022-12/2022_safe_country_concept_asylum_procedure_EN.pdf Accessed 5 May 2025.

⁴²AEDH, EuroMeds Rights, FIDH, "Safe" countries: A denial of the right of asylum, 12.

⁴³Crispim, 'The Safe Country of Origin Concept and the New Pact on Migration and Asylum: Streamlining or Sidelining?'

⁴⁴AEDH, EuroMeds Rights, FIDH, "Safe" countries: A denial of the right of asylum, 3.

⁴⁵Case C-175/11 *H.I.D. and B.A. v Refugee Applications Commissioner and Others* EU:C:2013:45, para 74.

insights: (1) the expanded powers of the EU Parliament since the Lisbon Treaty, and (2) the increased integration at the EU level of asylum policies⁴⁶.

With regard to the recently re-launched new European Pact on Migration and Asylum⁴⁷, the recasted Asylum Procedure Regulation (APR) seeks to harmonize the application of the SCO concept across the EU, which represents an important shift from the previous Directive (2013/32/EU) where the preceding standards of minimum harmonization given the wide margin of discretion left to MS to maintain and apply national SCO lists⁴⁸ have proven to create deficits in EU asylum law. Instead, we have a more centralized decision-making in asylum governance at the EU level with the establishment of a common EU list of SCOs⁴⁹ (Art. 40-43). Still, while the proposed EU list would become a binding document, it does not eliminate national discretion - MS may still maintain their own national SCO lists.

However, what becomes complex is that more than an implementation deficit, what persists is a protracted compliance deficit. It is true that harmonized legislation is only one part of the policy process, but a colossal part is the frontline enforced by MS's through their national authorities⁵⁰. Also, the legislative design of the CEAS does not facilitate correct implementation, because the rules essentially compel MS to act in many cases against their interests. This gap between EU law and national practice underscores that legal harmonization, in the absence of political will and institutional accountability, risks becoming symbolic rather than substantive. Furthermore, in operational terms, despite ambitious reforms, fundamental rights concerns - such as those surrounding the SCO concept - may persist unless national practices align with EU standards in both law and practice⁵¹.

⁴⁶Anca Gurzu, 'Safe Country of Origin List at the EU Level: The Bargaining Process and the Implications' (2012) 7(1) *Canadian Journal of European and Russian Studies* 11.

⁴⁷European Commission, *Proposal for a Regulation on Asylum and Migration Management* COM(2020) 609 final.

⁴⁸European Union Agency for Asylum, 'Applying the Concept of Safe Countries in the Asylum Procedure'.

⁴⁹Anja Radjenovic, 'Safe Country of Origin' Concept in EU Asylum Law (*European Parliamentary Research Service*, May 2024) 7.

[https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762315/EPRS_BRI\(2024\)762315_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762315/EPRS_BRI(2024)762315_EN.pdf)

Accessed 5 June 2025.

⁵⁰Salvatore Fabio Nicolosi, 'The Common European Asylum System' in Miroslava Scholten (ed), *Research Handbook on the Enforcement of EU Law* (Edward Elgar Publishing 2023) 498. <https://doi.org/10.4337/9781802208030.00041> Accessed 8 May 2025.

⁵¹*Ibid.* 502.

5.1 From Diversity to Uniformity? The National Practices of SCO

The stated goal of the Common List of SCO was to help states deal efficiently with asylum claims of applicants that may be unfounded⁵². In essence, as mentioned, the New Pact started to create a pathway to harmonization between MS in adopting a Common List for the SCO concept, prompting the question of whether it might remedy the issue of inconsistencies between MS - Italy has 19 countries considered SCOs. Furthermore, if this list is approved by MS and the European Parliament, the EU list would become binding, but at the same time would not prevent member countries from drawing up more lists. So far, Bulgaria, Lithuania, Portugal, and Romania have not adopted such lists and therefore do not apply the concept. In Latvia and Spain, there are no legal provisions for designating a national SCO list, while in Poland, the concept is not legally defined.

However, even though it was made to mend inconsistencies between MS, it's important to note that this designation of 'safe country' varies greatly between them, demonstrating the politicization of the determination⁵³. For instance, Georgia was removed from Belgium SCO list, yet it is listed within Germany and Ireland lists. As such, this highlights how foreign policy considerations can influence the designation process and, consequently, the risk of discriminatory outcomes. In addition, some countries have not updated their national list in a long time, such as Ireland, whose list remains unchanged since 2018, contradicting the ECRE's⁵⁴ notice of maintaining an ongoing updated list. Accordingly, it is also relevant to note that the differences between national lists somewhat reflect the differences in applicants between member states, or even an exception for certain regions or categories of asylum seekers in a country of origin.

In this sense, despite the New Pact being set to solve the discrepancies, these examples illustrate that there are still severe risks to basic rights - particularly if the attempts at harmonization neglect the factors of politicization, lack of transparency, and discrimination in the designation processes.

⁵²Simone De La Feld, 'The EU Proposes a List of Seven Safe Countries of Origin. There Are Bangladesh, Egypt, and Tunisia' (*Eunews*, 16 April 2025) <https://www.eunews.it/en/2025/04/16/the-eu-proposes-a-list-of-seven-safe-countries-of-origin-there-are-bangladesh-egypt-and-tunisia/> Accessed 7 May 2025.

⁵³Costello, 'Safe Country? Says Who?' (2016) 28 *International Journal of Refugee Law*, 2.

⁵⁴ ECRE, 'Information Note on 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)' (December 2014) <<https://www.refworld.org/reference/research/ecre/2014/en/103320>> Accessed 21 April 2025, 42-43.

6 The Portuguese Case

Examining the Portuguese case in depth, the mandatory transposition of the SCO concept starting in 2026 will present both institutional and normative challenges. Historically⁵⁵, Portugal has adopted a more individualized and human-rights oriented asylum procedure, guided by the principle of *in dubio pro refugio*. Like Spain, Poland, Latvia, or Lithuania, the absence of a national SCO list can represent the prioritization of *case-by-case* assessments instead of a blanket of presumptions of safety⁵⁶. This is reflected in the current Portuguese asylum framework. Although the Asylum Act contains a definition of SCO aligned with Article 36 of the recast APR, the law does not regulate its application in substantive terms, nor has Portugal introduced legislation to designate national lists of safe countries of origin. The only explicit reference is the SCO concept as a possible ground for accelerated procedures⁵⁷, yet this has remained largely theoretical.

In practice, the Portuguese authorities - including the former SEF and, more recently, AIMA - have not maintained a formal list of SCOs nor used the concept consistently in practice. According to information shared with the CPR, SEF did not apply the concept to channel claims into accelerated procedures. Furthermore, AIMA⁵⁸ has denied using SCO as a justification to reject claims, although there are reports suggesting that some applicants, particularly from countries such as Gambia and Senegal, were informally told that their nationality would hinder their chances of obtaining a positive decision⁵⁹. This background highlights Portugal's institutional restraint in applying the SCO concept, and what various European stakeholders, such as ECRE, have criticized: this kind of nationality-based examination is an approach guided more by migration prevention than by protection.

⁵⁵Lúcio Sousa and Paulo Manuel Costa, 'The Development of the Asylum Law and Refugee Protection Regimes in Portugal, 1975–2017' (2018) 34(2) *Refuge: Canada's Journal on Refugees* 30 <https://repositorioaberto.uab.pt/entities/publication/38d816cd-d83c-4677-ac8a-cde406ab6ba3> Accessed 6 July 2025.

⁵⁶European Union Agency for Fundamental Rights, *Migration: Key Fundamental Rights Concerns – Quarterly Bulletin 4 (1 October–31 December 2020)* ((FRA, Publications Office of the EU, released 16 February 2021) ISSN 2599-8900 https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-migration-bulletin-4_en.pdf Accessed 2 July 2025.

⁵⁷ Lei n.º 27/2008, de 30 de junho, Diário da República n.º 123/2008, Série I-A (2008).

⁵⁸ European Council on Refugees and Exiles (ECRE), 'Safe Country of Origin' in *Asylum Information Database – Portugal* <https://asylumineurope.org/reports/country/portugal/asylum-procedure/the-safe-country-concepts/safe-country-origin/> Accessed 7 May 2025.

⁵⁹ Inês Carreirinho, *AIDA Country Report: Portugal – 2023 Update* (Portuguese Refugee Council, julho de 2024) 71-110 https://asylumineurope.org/wp-content/uploads/2024/07/AIDA-PT_2023-Update.pdf Accessed 5 May 2025.

As noted in a report by CPR,⁶⁰ the procedural reforms introduced by the New Pact do not equitably distribute responsibility across the EU. Instead, they appear to intensify pressure on border Member States and third countries, particularly those in the Western Balkans. The regulation proposes mandatory border procedures for certain nationalities - specifically those whose EU-wide average protection rate is below 20% - while allowing Member States to optionally apply the SCO or STC concepts. However, the Commission had already proposed that these concepts be made mandatory, raising alarm among NGOs and legal experts.

These critiques underline two fundamental flaws in the EU's assumptions⁶¹: (1) that most people arriving in Europe do not require protection; (2) that asylum claims can be processed quickly and efficiently at the border.

Yet an integrated analysis of first-instance and appeal decisions across the EU shows that most asylum seekers have, in fact, been granted protection in the last three years^{62,63}. The idea that procedural efficiency can be achieved by reducing safeguards, such as through screening mechanisms or fast-track rejections based on nationality, is not only inaccurate but also undermines the quality and fairness of asylum procedures. Still, this transition could lead to the emergence of a two-tier asylum system, in which applicants from certain countries are automatically subjected to inferior procedures, determined primarily by nationality. The simultaneous issuance of asylum and return decisions, in the absence of explicit protections for *non-refoulement*, the best interests of the child, and the right to family and private life, poses serious risks of non-compliance with EU and international legal obligations. Furthermore, the elimination of the automatic suspensive effect of appeals in border procedures significantly weakens the right to an effective remedy⁶⁴.

⁶⁰Portuguese Refugee Council, *The Pact on Migration and Asylum: A Fresh Start to Avoid the Mistakes of the Past* (CPR, 24 September 2020) https://cpr.pt/wp-content/uploads/2020/10/Pacto-em-mat%C3%A9ria-de-Migra%C3%A7%C3%A3o-e-Asilo_ONGD.pdf Accessed 28 June 2025.

⁶¹Ibid, 6.

⁶²Eurostat, 'Asylum in the EU – 1st time applicants up by 18% in 2023' (*Eurostat News*, 25 April 2025) <https://ec.europa.eu/eurostat/web/products-eurostat-news/w/ddn-20250425-1> Accessed 3 July 2025.

⁶³European Council on Refugees and Exiles (ECRE), 'AIDA Country Report on Portugal – 2023 Update' (*ECRE Update*, 10 July 2024) <https://ecre.org/aida-country-report-on-portugal-2023-update/> Accessed 3 July 2025.

⁶⁴Conselho Português para os Refugiados (CPR), *Portugal National Report: 'Access to Protection: A Human Right'* (CPR, April 2021) https://cpr.pt/wp-content/uploads/2021/04/Portugal_National-Report.pdf Accessed 4 July 2025.

As the 2026 deadline approaches, Portugal - supported by its active civil society and legal community - must engage critically with the new obligations. Rather than adopting a purely formalistic compliance approach, Portugal has the opportunity to champion a model of implementation that prioritises legal safeguards, vulnerability assessments, and human dignity at its core. This would not only maintain coherence with its national asylum ethic but also contribute to a more balanced and rights-respecting interpretation of the SCO concept at the European level.

7 Concluding Remarks

In the 25 years since Guy Goodwin-Gill's editorial reflection on the emerging SCO practices, the use of this concept has significantly expanded within the EU asylum framework. With the re-launch of the CEAS under the 2024 New Pact on Migration and Asylum, the SCO mechanism has been elevated from a discretionary tool to a binding obligation, marking a significant transformation in EU asylum governance. This report has discussed the concept of SCO within the CEAS concerning the re-launched New Pact, with the overarching aim of assessing how this concept has evolved within the EU framework and its potential implications for fundamental rights. Moreover, it has been argued that while MS continue to rely on SCO designations, their approaches differ substantially - both in terms of which countries are deemed "safe" and in the procedural consequences that follow such designations.

Furthermore, this analysis has highlighted that the EU is turning once again to further common rules, to ensure convergence in outcomes for asylum processes thereby. In fact, the New Pact seeks to streamline solidarity among MS, but in order for SCO to be fair and reliable they must rely on rigorous, evidence-based procedures and sources. As argued, while the standards set out in EU law, particularly in the Recast Procedures Directive, are adequate in principle, the current institutional frameworks - especially at the national and EU levels - risk politicizing these determinations.

As Goodwin-Gill concluded in 1991, "what is finally required, of course, is a total approach, which uses knowledge as the medium, linking movement to solutions through protection. And that is the next chapter". This vision remains relevant today. The challenge now lies in ensuring that efficiency does not conceal [procedural] justice, and that the SCO mechanism upholds the core values of individualized assessment, non-discrimination, and protection, core values in EU and international refugee standards.

8 Bibliography

Carreirinho, I. *AIDA Country Report: Portugal – 2023 Update* (Portuguese Refugee Council, julho de 2024) https://asylumineurope.org/wp-content/uploads/2024/07/AIDA-PT_2023-Update.pdf accessed 5 May 2025.

Conselho Português para os Refugiados, *Portugal National Report: ‘Access to Protection: A Human Right’* (April 2021) https://cpr.pt/wp-content/uploads/2021/04/Portugal_National-Report.pdf accessed 7 July 2025.

Costello C, ‘Safe Country? Says Who?’ (2016) 28 *International Journal of Refugee Law* 2.

Costello C, ‘The Asylum Procedures Directive and the Proliferation of Safe Country Practices: Deterrence, Deflection and the Dismantling of International Protection?’ (2005) 7 *European Journal of Migration and Law* 50.

Crispim CN, ‘The Safe Country of Origin Concept and the New Pact on Migration and Asylum: Streamlining or Sidelining?’ (NOVA Refugee and Migration Clinic, 24 April 2025)

De La Feld S, ‘The EU Proposes a List of Seven Safe Countries of Origin. There Are Bangladesh, Egypt, and Tunisia’ (Eunews, 16 April 2025) <https://www.eunews.it/en/2025/04/16/the-eu-proposes-a-list-of-seven-safe-countries-of-origin-there-are-bangladesh-egypt-and-tunisia/> accessed 7 May 2025

European Council on Refugees and Exiles, ‘Information Note on 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)’ (December 2014) <https://www.refworld.org/reference/research/ecre/2014/en/103320> accessed 21 April 2025

European Council on Refugees and Exiles, *AIDA Legal Briefing No. 3: Safe Country of Origin* (September 2015), https://ecre.org/wp-content/uploads/2016/06/AIDA-Third-Legal-Briefing_Safe-Country-of-Origin.pdf

European Commission, *Communication on a New Pact on Migration and Asylum* COM(2020) 609 final, 23 September 2020 <https://eur->

lex.europa.eu/resource.html?uri=cellar:85ff8b4f-ff13-11ea-b44f-01aa75ed71a1.0002.02/DOC_3&format=PDF accessed 8 May 2025.

European Council on Refugees and Exiles (ECRE), ‘Statistics – Asylum Information Database: Country Report on Portugal’ (AIDA, June 2025) <https://asylumineurope.org/reports/country/portugal/statistics/> accessed 9 July 2025.

European Parliamentary Research Service, *Safe country of origin' concept in EU asylum law* (Briefing 2024, EPRS_BRI(2024)762315, 7 May 2024) [https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762315/EPRS_BRI\(2024\)762315_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762315/EPRS_BRI(2024)762315_EN.pdf) accessed 5 May 2025

European Union Agency for Asylum, *Asylum Report 2024* (June 2024) Eurostat, ‘Asylum in the EU – 1st time applicants up by 18% in 2023’ (Eurostat News, 25 April 2025) <https://ec.europa.eu/eurostat/web/products-eurostat-news/w/ddn-20250425-1> .

European Union Agency for Asylum, *Applying the Concept of Safe Countries in the Asylum Procedure* (Publications Office, 2022) <https://data.europa.eu/doi/10.2847/430441> accessed 4 May 2025

European Union Agency for Fundamental Rights (FRA), *Migration: Key Fundamental Rights Concerns – Quarterly Bulletin 4 (1 October–31 December 2020)* (Publications Office of the EU, 16 February 2021) ISSN 2599-8900 https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-migration-bulletin-4_en.pdf accessed 9 July 2025.

European Union Agency for Fundamental Rights, Opinion of the European Union Agency for Fundamental Rights concerning an EU common list of safe countries of origin (March 2016), http://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-opinion-safe-country-of-origin-01-2016_en.pdf

Giuffré, M. *On “Safety” and EU Externalization of Borders: Questioning the Role of Tunisia as a “Safe Country of Origin” and a “Safe Third Country* (2022) 24 *European Journal of Migration and Law* https://brill.com/view/journals/emil/24/4/article-p570_5.xml accessed 5 May 2025

Goodwin-Gill GS, ‘The Refugee in International Law’ (1992) 4 *International Journal of Refugee Law* 181.

Gurzu A, ‘Safe Country of Origin List at the EU Level: The Bargaining Process and the Implications’ (2012) 7(1) *Canadian Journal of European and Russian Studies* 11.

Hunt M, ‘The Safe Country of Origin Concept in European Asylum Law: Past, Present and Future’ (2014) 26 *International Journal of Refugee Law* 500.

Martenson H and McCarthy J, “‘In General, No Serious Risk of Persecution’: Safe Country of Origin Practices in Nine European States’ (1998) 11 *Journal of Refugee Studies* 304.

Nicolosi SF, ‘The Common European Asylum System’ in Miroslava Scholten (ed), *Research Handbook on the Enforcement of EU Law* (Edward Elgar Publishing 2023) 492–508 <https://doi.org/10.4337/9781802208030.00041>

Nunes IA, *Safe Country of Origin and Safe Third Countries: Authentic Concepts of Safety?* (Dissertação de Mestrado, European Master’s Degree in Human Rights and Democratisation, Universidade de Lovaina, 2018/2019).

Office United Nations High Commissioner for Human Rights, *Tunisia: UN experts concerned over safety of migrants, refugees and victims of trafficking* (7 October 2024) <https://www.ohchr.org/en/press-releases/2024/10/tunisia-un-experts-concerned-over-safety-migrants-refugees-and-victims> accessed 5 May 2025.

Peers S, ‘The New EU Asylum Laws: Taking Rights Half-Seriously’ [2024] *Yearbook of European Law* <https://academic.oup.com/yel/advance-article/doi/10.1093/yel/yeae003/7733120#478155761> accessed 4 May 2025.

Peers S, *Safe countries of origin” in asylum law: the CJEU first interprets the concept* (EU Law Analysis, Expert insight into EU law developments, 14 October 2024) <https://eulawanalysis.blogspot.com/2024/10/safe-countries-of-origin-in-asylum-law.html> accessed 5 May 2025.

Portuguese Refugee Council, ‘Safe Country of Origin – Portugal’ (Asylum Information Database, 10 July 2024) <https://asylumineurope.org/reports/country/portugal/asylum-procedure/the-safe-country-concepts/safe-country-origin/> accessed 7 May 2025.

Portuguese Refugee Council, *The Pact on Migration and Asylum: A Fresh Start to Avoid the Mistakes of the Past* (CPR 24 September 2020) <https://cpr.pt/wp-content/uploads/2020/10/Pacto-em-mat%C3%A9ria-de-Migra%C3%A7%C3%A3o-e->

[Asilo ONGD.pdf](#) accessed 28 June 2025.

Sousa L and Costa PM, ‘The Development of the Asylum Law and Refugee Protection Regimes in Portugal, 1975–2017’ (2018) 34(2) *Refuge: Canada’s Journal on Refugees* 28–37 <https://repositorioaberto.uab.pt/entities/publication/38d816cd-d83c-4677-ac8a-cde406ab6ba3> accessed 9 July 2025.

Thym D, ‘The Good, the Bad and the Ugly in EU Migration Law: Is the European Pact on Migration and Asylum Deliberately Flawed?’ (2020) 22 *European Journal of Migration and Law* 169.

United Nations High Commissioner for Refugees ‘*Background Note on the Safe Country Concept and Refugee Status*’ (UNHCR, 26 July 1991) <https://www.unhcr.org/publications/background-note-safe-country-concept-and-refugee-status>

United Nations High Commissioner for Refugees, *Improving Asylum Procedures: Comparative Analysis and Recommendations for Law and Practice – Key Findings and Recommendations* (March 2010) <https://www.unhcr.org/media/improving-asylum-procedures-comparative-analysis-and-recommendations-law-and-practice-key> accessed 5 May 2025

Vogelaar F, *The Presumption of Safety Tested: The Use of Country of Origin Information in the National Designation of Safe Countries of Origin* (2021) 40 (1) *Refugee Survey Quarterly* 106 <https://academic.oup.com/rsq/article/40/1/106/6008942> accessed 5 May 2025.

8.1 Primary Legislation and Treaties

Charter of Fundamental Rights of the European Union [2012] OJ C 326/391.

Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137.

Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status [2005] OJ L326/13
Protocol Relating to the Status of Refugees (adopted 31 January 1967, entered into force 4 October 1967) 606 UNTS 267

Regulation (EU) 2024/1347 of the European Parliament and of the Council of 14 May 2024 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection [2024] OJ L121/81

Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU [2024] OJ L121/1

Consolidated Version of the Treaty on the Functioning of the European Union [2012] OJ C 326/47

UN Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3

Portugal, Lei n.º 15/1998, de 26 de março, Diário da República n.º 70/1998, Série I-A (1998).

Portugal, Lei n.º 27/2008, de 30 de junho, Diário da República n.º 123/2008, Série I-A (2008).

8.2 Case Law

Joined Cases C-133/06, C-135/06 and C-136/06 *European Parliament v Council of the European Union* [2008] ECLI:EU:C:2008:257

Case C-175/11 *H.I.D. and B.A. v Refugee Applications Commissioner and Others* EU:C :2013:45