

SERBIA & MONTENEGRO

1 Arrivals

1 Total number of individual asylum seekers who arrived with monthly breakdown and percentage variation between years

Table 1:

Month	2003	2004	Variation +/- (%)
January	8	9	+12.5
February	0	2	-
March	3	1	-66.7
April	20	0	-100
May	13	4	-69.2
June	0	6	-
July	18	0	-100
August	22	3	-86.4
September	0	15	-
October	35	4	-88.6
November	10	2	-80.0
December	6	4	-33.3
Total	135	50	-63.0

Source: UNHCR

Comments

Owing to the absence of adequate infrastructure and domestic refugee legislation consistent with international standards (notably the 1951 Convention relating to the Status of Refugees and its 1967 Protocol), UNHCR continued to conduct refugee status determination (RSD) procedures for refugees from outside the former Yugoslavia on behalf of the SCG government in 2004. Statistics given therefore refer to the RSD procedures conducted by the UNHCR representation in Serbia and Montenegro (SCG).

Progress was made during 2004 with the opening of a UNHCR office at Belgrade Airport in July. However aside from this, there is no referral system to UNHCR in place nor are there reception facilities for asylum-seekers at land borders or seaports. It is also unclear as to what criteria the police and other government officials use to determine who is able to access UNHCR and who is denied. There are no figures available as to the number of asylum seekers turned away or deported without having been able to contact UNHCR. Persons fearing persecution in their country of origin are therefore not adequately protected in SCG against the possibility of return.

UNHCR was aware of 50 asylum-seekers arriving in SCG in 2004. Once UNHCR is informed of the presence of asylum-seekers, their deportation is put on hold until the outcome of the RSD process by UNHCR. The only durable solution for those granted refugee status by UNHCR is resettlement to a third country that has agreed to receive them.

2 Breakdown according to the country of origin/nationality with percentage variation

Table 2:

Country	2003	2004	Variation +/- (%)
Turkey	2	15	+ 650
Iraq	70	10	- 85.7
India	0	5	-
Nigeria	0	4	-
Georgia	0	3	-
Mongolia	0	3	-
Sudan	0	2	-
Ukraine	0	2	-
Armenia	1	1	-
Azerbaijan	3	1	- 66.7
Canadian	0	1	-
Iran	9	1	- 88.9
Romanian	0	1	-
Stateless Palestinians	5	1	- 80
Afghanistan	26	0	- 100
Algeria	1	0	- 100
Bangladesh	4	0	- 100
Bulgaria	2	0	- 100
Egypt	4	0	- 100
Jordan	1	0	- 100
Moldova	3	0	- 100
Sierra Leone	3	0	- 100
Somalia	1	0	- 100
Total	135	50	- 63.0

Source: UNHCR

Comments

See Section 1

3 Persons arriving under family reunification procedure

According to UNHCR data, no persons arrived in SCG under family reunification procedures during the reporting period.

4 Refugees arriving as part of a resettlement programme

There are no resettlement programmes to SCG. SCG refugees returning home have often been forcibly returned from their countries of refuge and there are no programmes in place to receive and assist them. According to UNHCR data, no persons arrived in SCG as part of a resettlement programme during the reporting period.

5 Unaccompanied minors

No figures available.

2 Recognition Rates

6 The statuses accorded at first instance and appeal stages as an absolute number and as a percentage of total decisions:

Table 3:

Status	2003		2004	
	Number	%	Number	%
No status awarded	128	92.8	33	94.9
Convention status	10	7.2	2*	5.1
Total	138	100	35	100

Source: UNHCR

Comments

* In 2004, refugee status was granted to two Ukrainian nationals who applied to UNHCR during the year. Of the 33 individuals not granted refugee status, 13 were rejected and 20 cases were otherwise closed with no substantive decision having been made, usually the result of a “no-show” by the asylum-seeker, rejection on formal grounds, etc.

7 Refugee recognition rates (1951 Convention: as an absolute number and as a percentage of total decisions) according to country of origin, at first instance and appeal stages

Table 4:

Country of origin	2003		2004	
	Number	%	Number	%
Ukraine	0	-	2	5.7
Moldova	1	0.7	-	-
Russian Federation	9	6.5	-	-
Total	10	7.2	2	5.7

Source: UNHCR

Comments

* See Section 6.

8 Subsidiary and other status granted (as an absolute number and as a percentage of total decisions) according to country of origin, at first instance and appeal stages

No figures available.

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

There is no information as to the number of asylum-seekers that SCG returned to safe third countries. None of the readmission agreements signed by SCG provides guarantees that returned asylum-seekers will have access to RSD procedures or receive appropriate protection in the countries to which they are returned. The new laws currently in the process of being drafted are to comply with international standards on refugees and asylum-seekers and should incorporate the safe third country concept into SCG legislation.

See Sections 1 and 17.

10 Persons returned on safe country of origin grounds

See Section 21.

11 Number of applications determined inadmissible

UNHCR rejected the applications of 13 asylum seekers during 2004.

Source: UNHCR

12 Number of asylum seekers denied entry to the territory

See Section 1.

13 Number of asylum seekers detained, the maximum length of and grounds for detention

See Section 1, 22.

14 Deportations of rejected asylum seekers

See Section 1.

15 Details of assisted return programmes, and numbers of those returned

SCG has no programmes in place for the return of individuals who have been denied the right to asylum. The government of Serbia and Montenegro does not operate any assisted return programmes, although UNHCR continued to assist refugees wishing to return to Croatia and Bosnia and Herzegovina. During 2004, UNHCR assisted 744 individuals to return to Croatia and 177 to return to Bosnia and Herzegovina. These numbers are down from the 2003 figures of 1,341 and 1,140 respectively.

16 Number of asylum seekers sent back to the Member State responsible for examining the asylum application under the Dublin II Regulation

SCG is not party to the Dublin Convention.

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

No developments.

5 Legal and Procedural Developments

18 New legislation passed

In December 2004, the Minister of the Interior for Serbia agreed to establish a working group to draft new asylum legislation for the Republic of Serbia. The SCG Parliament passed the new Law on Asylum in draft form in March 2005. The law does not specify procedures for the reception and protection of asylum-seekers and only guarantees the right to seek asylum. The Republic of Montenegro passed in draft form a new State Border Control Law, Asylum Law and Law on Aliens in December 2004. In 2005, it is expected that each republic will adopt their own comprehensive laws on asylum in accordance with international standards and UNHCR continues to work with both republics to satisfy these objectives.

20 Important case law relating to the qualification for refugee status and other forms of protection

No developments.

21 Developments in the use of the exclusion clauses of the Refugee Convention in the context of the national security debate

No developments.

22 Developments regarding readmission and cooperation agreements

The Government of SCG has been under pressure from Western European countries to respect readmission agreements, which are a main prerequisite for entry to the “white” Schengen visa list, yet SCG continues to lack the programmes and infrastructure that would allow for the safe reception of returnees. The Ministry of Human and Minority Rights at the State Union level signs readmission agreements and is responsible for monitoring the process, while the Serbian Ministry of the Interior is responsible for the realisation of the agreements.

SCG has signed readmission agreements with the following countries: Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Germany, Hungary, Italy, Luxemburg, Netherlands, Slovakia, Slovenia, Sweden, and Switzerland. All the above-mentioned agreements have been ratified apart from the agreements with Austria and Croatia. The process of making readmission agreements with the following countries is currently underway: Albania, Canada, France, Great Britain, Greece, Macedonia, Norway, Portugal, and Romania. Currently there is little data on the way these agreements are being implemented.

The readmission agreements which SCG has concluded and ratified with the EU and neighbouring countries frequently include provisions for the return of citizens from third countries. However, Western countries do not currently apply the safe third country principle to SCG, as its existing legislation, procedures and capacities provide no guarantees that asylum-seekers from third countries will be protected from being expelled if returned. As authorities in SCG are not currently implementing asylum procedures in the country (UNHCR currently does so), the return of large numbers of people based on the safe third country principle can only burden and additionally destabilise the current asylum system with unpredictable effects.

The majority of requests for returning SCG citizens were submitted by Germany, followed by Switzerland and Luxembourg. SCG only directly participates in the reception and processing of individuals who were officially deported, and not those “voluntarily” returned. Therefore, SCG does not have complete data on the total number of returnees. Furthermore, there is no information on how many citizens of third countries were returned to SCG on the basis of readmission agreements, or how many asylum-seekers SCG returned to safe third countries on the basis of these.

The majority of returnees to Serbia and Montenegro are Roma. Roma returnees are in a particularly difficult situation as they are frequently returned to SCG without any belongings, documentation, or accommodation arrangements. Consequently, they experience problems finding employment and accessing health care and other social welfare services as they have little knowledge of how these systems function in SCG. Their children often speak neither the Roma language nor Serbian and cannot complete their education.

Working with the relevant republic ministries and organs of local government, the Ministry of Human and Minority Rights is preparing a programme for the reintegration of Roma returnees. Problems regarding readmission agreements persist, as the Ministry does not have the operational capacity to properly supervise their implementation (the Readmission Unit within the Ministry consists of only one person). To date little has been done regarding the issue, though the return of these deprived and

marginalised people represents a large social problem for the Serbian society. Since the start of 2004, EU countries discontinued deportation of Roma originating from Kosovo to SCG.

6 The Social Dimension

23 Changes in the reception system

As previously mentioned, SCG remains a transit country for asylum-seekers and migrants trying to reach Western Europe. The number of asylum-seekers who enter UNHCR RSD procedures remains relatively small as most individuals apply only after having been apprehended by SCG authorities at border crossings or during the course of illegal stays in the country. In July 2004, UNHCR in co-operation with the Serbian Ministry of the Interior, opened an office at Belgrade Airport to receive persons seeking asylum into the UNHCR application process. Aside from this office, SCG has no facilities in place to receive asylum-seekers and illegal migrants, nor are there efficient mechanisms to separate both.

In the absence of a national asylum system in Serbia and Montenegro, UNHCR continued to operate its refugee status determination procedure. Still, many potential asylum-seekers are not allowed to enter SCG (i.e. they are turned away at the border), nor address UNHCR and officially inform it of their presence. Those admitted into the UNHCR procedure for obtaining asylum are allowed to reside in Serbia and Montenegro but without any economic or social rights. These individuals are issued with UNHCR ID cards, which grant them temporary residence status. Although they have no access to other social and economic rights, UNHCR does support them with a fixed amount of financial aid to help with clothing, food etc. UNHCR also has an agreement in place with the SCG, which allows asylum-seekers to access health services in the country. Children of asylum seekers have the right to education and attend an elementary school near Belgrade.

All illegal immigrants and asylum seekers who have been apprehended by the police are taken to the criminal court, where they can be sentenced to detention for up to one month under Article 106 of the Federal Law on the Movement and Residence of Foreigners. Asylum-seekers who are subject to court proceedings and detention as a result of their illegal entry/stay have no access to legal counsel. Illegal migrants are able to apply for asylum but only following the completion of their sentence.

According to UNHCR data, the police take into consideration the vulnerability of certain groups, so the police immediately send mothers with children and unescorted children to UNHCR, where accommodation is provided for them in the motel "Hiljadu ruza" (10 kms south of Belgrade).

Women are rarely sentenced to detention, and in an increasing number of cases, the practice of directing the male family member to the criminal court to serve the sentence no longer takes place.

After serving their sentence, provided they are not deported, asylum seekers return to the shelter for foreigners, a closed-type institution in Padinska Skela prison (about 10 kilometres north of Belgrade). There, asylum seekers are placed with other non-nationals who are awaiting the final determination of their status (most frequently deportation after having committed a criminal act and having served the resulting sentence). As many asylum seekers do not have documents, their stay in detention conditions can last for extended periods, which remains a difficult and sensitive issue. (UNHCR registered one case of an individual whose request for refugee status had been rejected, and who was detained for more than a year at Padinska Skela, awaiting formalities regarding his return to his country of origin to be resolved). UNHCR attempts to secure alternative accommodation for persons detained in Padinska Skela as soon as possible, if there are serious indications that they need international protection. The problem is that asylum-seekers sometimes disappear from the accommodation provided by UNHCR and continue their trip to Western countries through illegal, smuggling channels.

Individuals not awaiting the resolution of their status in the Padinska Skela detention centre are placed in the Hiljadu Ruza Motel where UNHCR pays for their accommodation and food. The motel offers acceptable standards with regard to providing for basic needs and safety but it is still inadequate for the reception of asylum seekers. It lacks the staff and facilities to properly receive and care for individuals

in need of international protection and should not be equated with reception centres in other European countries. A small number of asylum seekers in the RSD process with UNHCR pay for their own accommodation.

The process of obtaining asylum status can last anywhere from several months to two years. If applicants are granted refugee status, UNHCR transfers them to other countries that have agreed to receive them. Once granted refugee status asylum seekers often have to wait at the Hiljadu Ruza Motel for lengthy periods whilst the final details of their claim are resolved.

Montenegro does not deal with illegal immigrants; individuals taken into custody there are transported to Serbia for further processing.

24 Changes in social welfare policy relevant to refugees

No developments.

25 Changes in policy relating to refugee integration

No developments.

26 Changes in family reunion policy

No developments.

7 Other Policy developments

27 Developments in resettlement policy

No developments.

28 Developments in return policy

No developments.

29 Developments in border control measures

Progress in SCG towards an integrated border management system continues to be slow. New legislation on border control is in the process of being drafted but it remains to be seen how long it will take for laws to be passed and implementation to begin. The Montenegrin portion of the state border has now been demilitarised with the Ministry of the Interior assuming border control duties since the beginning of 2004. The Serbian portion of the state border remained under the control of the Army of Serbia and Montenegro during 2004 as the Serbian Ministry of the Interior claimed it still lacked the necessary funding and training to take over duties.

Steps towards integrated border management were further complicated by a lack of coordination at the State Union level between the republics themselves as well as at the inter-republic level by insufficient cooperation between the various agencies involved.

Source: EU

30 Other developments in refugee policy

No developments.

8 Political Context

31 Government in power during 2004

State Union

Serbia and Montenegro continues to adjust to the new State Union formed in 2003. At the state level, the Constitutional Charter provides for indirect election of members of the State Parliament for the first two years. The two Republican Parliaments adopted legislation for the nomination of their respective members of the State Parliament in mid-February 2003 and subsequently appointed these Members of Parliament. Montenegrin Svetozvar Marović, of the Democratic Party of Socialists (DPS) was chosen as President in March 2003. Following the Serbian parliamentary elections of December 2003, the Serbian Parliament elected new members to the Serbian side of the State Parliament in February 2004. As President of the State Union Mr. Marović also acts as chairman of the Council of Ministers and the Supreme Defense Council as well as being head of the Council for European Integration.

Montenegro

In Montenegro, Milo Đukanović of the Democratic Party of Socialists (DPS) became Prime Minister after his party came to power in October 2002, taking 39 of 75 seats. Filip Vujanović of the governing DPS party remained in office as President having taken the post in May 2003. The election was the third attempt to fill the presidency as low turnout caused elections held in December 2002 and February 2003, to be invalidated; the Montenegrin Parliament consequently abolished the 50%+1 turnout requirement needed for an election to be considered valid.

Serbia

In June 2004, Boris Tadić of the Democratic Party (DS) was elected president after a series of failed elections in 2002/2003. The post had been vacant since January 2003, when then-president, Milan Milutinović surrendered to the Hague Tribunal at the end of his term. The series of failed presidential elections in 2002/2003 resulted in the Speaker of the House taking on the role of Acting President and led to the February 2004 removal of the controversial 50%+1 turnout requirement needed for an election to be considered valid.

Vojislav Koštunica of the centre-right Democratic Party of Serbia (DSS) became Prime Minister in March 2004. Koštunica's coalition government continues to feud with the DS (which he had formed with assassinated Prime Minister Zoran Đinđić before leaving to establish the DSS) and relies on support from the Socialist Party.

32 Governmental policy vis-à-vis EU developments

As eventual accession to the European Union is a stated aim of SCG, efforts are underway to harmonise SCG legislation and practices with EU and international standards. Accordingly, issues surrounding border control and asylum-seekers continue to influence government policy and new legislation as it is developed. In April 2005, following further cooperation with the Hague Tribunal, SCG received a positive feasibility study from the EU who indicated it would take steps to begin talks on a Stabilisation and Association Agreement. See also Sections 17, 22.

33 Asylum in the national political agenda

See Section 31.

34 Additional information

Refugees from the former Socialist Federal Republic of Yugoslavia and internally displaced persons (IDPs) from Kosovo

The latest refugee registration began on December 27 2004 ending on January 25 2005 during which time 139,483 refugees were registered. UNHCR estimates that after the registry list is reviewed and those who are felt to have found durable solutions are removed the final figure should not exceed 120,000 individuals. The number of refugees is down considerably from the 1996 high of 551,000 as many individuals have returned to their homes in BiH and Croatia or integrated into SCG.

Further steps towards the goal of resolving the refugee issue are being taken with the governments of BiH, Croatia and Serbia and Montenegro along with the EU, OSCE and UNHCR having launched the “3 x 3” programme. This initiative is aimed at jointly developing an overarching plan to enable the voluntary return and integration of refugees and displaced people with objectives to be carried out at both the national and regional level. The first meeting took place in Sarajevo on January 31 2005 with the goal of finding durable solutions for all refugees by the end of 2006.

In October 2003, SCG and BiH signed a bilateral agreement on the return of refugees that obliged the countries to create conditions for voluntary, organised and mutually coordinated returns. A key to the return process has been the resolution of property issues, which previously represented a serious impediment to return. The property situation in BiH has improved considerably with almost all claimed properties having been returned to the original owners. Returns continue to be hindered by several factors, notably the lack of employment opportunities due to the poor economy, insufficient funds for restoring or reconstructing damaged or destroyed properties, along with incidents of intimidation and assault directed towards returnees. To date UNHCR estimates that 65,000 refugees have returned to BiH.

Despite the absence of a formal bilateral agreement between SCG and Croatia, the situation continues to slowly improve. The Croatian government further extended its visa exemption for SCG citizens through to the end of 2005 but was unable to meet its goal of having all private property returned to the original owners. Legal issues relating to rights of temporary occupants continue to cause difficulties for potential returnees as the rights of temporary occupants frequently continue to supersede those of the original owners. Government policy allows temporary occupants to remain where they are until provided with other permanent housing by the government. Problems continue to exist for returnees with respect to: the reconstruction of damaged properties, the regulation of problems relating to ‘persons with the right to occupy flats’ in regard to premises which were state-owned before the war, fear of criminal persecution for war crimes, access to the labour market and other institutions connected with the fulfilment of educational, health, cultural and social needs, the opportunity for peaceful co-existence with members of local communities, and the practice of having to obtain citizenship as a prerequisite for integration or return. Return rates to Croatia remain lower than to BiH with UNHCR estimating 50,000 people having returned as of 2004.

Resettlement to other countries has further reduced the number of refugees with 22,000 migrating to “third countries” such as the US, Canada and Australia. The number of refugees emigrating through resettlement programmes is considerably lower than in the past with UNHCR resettling 236 individuals in 2004, mainly members of vulnerable groups such as rape victims, single parents etc. Many refugees choose to integrate into SCG rather than return or resettle and as of 2004, 108,000 refugees had applied for and were granted SCG citizenship.

The situation for refugees in Montenegro is less promising as the government of Montenegro is inflexible regarding the possibility of naturalisation of refugees residing there. As a result, they cannot obtain citizenship; find employment or access social programmes and services. Despite some individual success in registering their businesses, most refugees and IDP’s are forced to earn their incomes on the black market. This puts them in a vulnerable position, as continuing reforms aimed at curbing Montenegro’s black market are hardest on those who are forced to rely on this market to earn their living.

The IDP population in SCG is comprised primarily of Serbs, Roma and other non-Albanians who fled Kosovo in 1999. Serbia hosts 207,000 with a further 18,000 residing in Montenegro. Ethnic violence directed at Serb, Roma and Ashkali minority groups in Kosovo during March 2004 created some 4,100 new IDPs mainly displaced within Kosovo. Five months after the events some 2,300 of these people had not yet returned to their homes. It is widely assumed that the actual number of IDPs may be significantly higher as it is believed that large numbers of Roma have not officially registered.

For political reasons Serbian authorities are unwilling to offer integration programmes to IDPs insisting on their return to Kosovo. Difficulties for returning IDPs persist as there are concerns about the ability to ensure their physical safety, acceptable standards of living, freedom of movement, along with issues surrounding property rights and reconstruction of damaged properties. Returns were down by 46 percent during the first eight months of 2004 from the same period in 2003 and to date less than 12,000 individuals have returned to Kosovo. UNHCR continued to co-ordinate efforts such as “Go-and-See Visits” and “Go-and-Inform Visits” and promotes the right to return, but feels the situation remains non-conducive to large-scale return at this point.

The plight of IDPs was theoretically eased by changes made in 2003 that allowed them to de-register as residents of Kosovo and take up residence anywhere in the country. In reality, IDPs continue to face difficulties in fully realising their rights as SCG citizens. Many have no personal documentation as a result of it being left behind, lost or destroyed as they fled Kosovo. Without birth certificates they are unable to obtain citizenship papers, identity cards and passports. The registry offices, that issue these documents have been moved from Kosovo to various municipalities in southern Serbia but as IDPs are unable to apply for their documents from the place of their temporary residence they must travel to whichever registry office is responsible for their area of Kosovo to apply for and often to pick up their documents. As 90% of IDPs fall below the poverty line these travel expenses represent a difficult burden for many individuals.

Problems accessing the labour market remain the primary cause of poverty among IDPs. There is a large amount of competition for few jobs and IDPs face additional difficulties, as they are often not in possession of the documents that allow them to prove their qualifications and experience. The documents were frequently destroyed or left behind with companies in Kosovo and often issuing new ones is not possible as a result of the data and documentation necessary to do so having been lost or destroyed. Without these booklets IDPs are unable to qualify for unemployment benefits or register with the Labour Market Institute to find new employment.

The most vulnerable refugees and IDPs are the elderly, Roma, single parents, those in collective centres and the disabled. These individuals are further threatened as many international organisations such as the ICRC, the WFP and ECHO are now discontinuing or considerably reducing their humanitarian assistance programmes. With domestic social programmes not yet capable of replacing this aid on which many IDPs remain dependent, these groups are at particular risk of being deprived of assistance with respect to food and other basic items. UNHCR is the only large international organisation, which continues to offer humanitarian assistance to ensure that these vulnerable individuals have their basic needs provided for.

The 2002 plan by the Commissariat for Refugees of the Republic of Serbia affecting both refugees and IDPs called for the closure of all official collective centres by the end of 2005, with the support of UNHCR and international donors. At the beginning of 2003, there were 446 official collective centres in SCG. By October 2004, the number had been reduced to 148 through closures, and the adaptation of some collective centres into homes for the elderly. Some 5,700 refugees and 8,000 IDPs remain in collective centres representing some of the most vulnerable members of SCG society. IDPs are placed in a particularly difficult position as the programme provides funding and material assistance only to refugees and not displaced people.

Biography

Danilo Rakić & Andrew Trider

GRUPA 484

Group 484's activities focus on migration issues in the Balkans, especially the protection and realisation of the rights of forced migrants. Founded in 1995, our original objective was to provide humanitarian, legal and psychosocial help to the large numbers of refugees who were coming to Serbia and Montenegro. Since that time, our organisation and its activities have continued to evolve and expand in order to meet the changing dynamic and needs of our communities. Today, working together with our beneficiaries, we offer civil society development along with advocacy, legal, and psychosocial assistance to refugees, internally displaced persons and others throughout Serbia and Montenegro with the intent of finding durable solutions at both the national and regional level. We remain committed to the development of a peaceful, tolerant society, and our initiatives focus on educating young people to become active participants in the realisation of this goal.

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