

LUXEMBOURG

1 Arrivals

1 Total number of applications for asylum lodged, with monthly breakdown and percentage variation between years

Table 1:

| Month | 2003 | 2004 | Variation +/- (%) |
|--------------|--------------|--------------|-------------------|
| January | 79 | 131 | +65% |
| February | 107 | 193 | +80% |
| March | 112 | 188 | +67% |
| April | 127 | 141 | +11% |
| May | 107 | 136 | +27% |
| June | 120 | 127 | +05% |
| July | 138 | 127 | -07% |
| August | 89 | 112 | +25% |
| September | 135 | 117 | -13% |
| October | 151 | 98 | -35% |
| November | 177 | 95 | -46% |
| December | 207 | 110 | -46% |
| Total | 1,549 | 1,575 | +1.6% |

Source: Ministry of Foreign Affairs and Immigration

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

Table 2:

| Country | 2003 | 2004 | Variation +/- (%) |
|---------------------|------|------|-------------------|
| Nigeria | 86 | 330 | +283 |
| Kosovo | 420 | 259 | -38 |
| Serbia & Montenegro | 121 | 102 | -15,7 |
| Algeria | 81 | 69 | -14,8 |
| Guinea (Conakry) | 25 | 53 | +112 |
| Russia | 60 | 52 | -13,3 |
| Liberia | 60 | 53 | -11,6 |
| Sierra Leone | 24 | 40 | +66,6 |
| <i>Others</i> | 672 | 619 | -7,8 |

Source: Ministry of Foreign Affairs and Immigration

3 Persons arriving under family reunification procedure

No figures available.

4 Refugees arriving as part of a resettlement programme

Luxembourg does not operate any resettlement programmes.

5 Unaccompanied minors

109 minors (79 boys and 16 girls) are known to Caritas.

In descending order, the most represented nationalities are: Nigeria, Ivory Coast, Somalia, Liberia, Guinea, Gambia.

2 Recognition Rates

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

Table 3:

| Statuses | 2003 | | 2004 | | | |
|---|--------------------------|-------------|--------|---|--------------------------|-------------|
| | First instance Number | Appeal % | Number | % | First instance Number | Appeal % |
| No status awarded | 1039 | 68.3 | | | 1508 | 79.5 |
| Convention status | 62 | 4 | | | 82 | 4.3 |
| Subsidiary status (humanitarian status) | 106 | 6.9 | | | 219 | 11.5 |
| Tolerated stay | 43 | 2. | | | 88 | 4.6 |
| Total | 1,520 | | | | 1,897 | |

Source: Ministry of Foreign Affairs and Immigration

Comments

There is no distinction in the statistics between first instance and appeal.

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

82 persons (47 cases) were granted refugee status under the Geneva Convention.

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/country of origin information available

In 2004, 88 persons received a “tolerance” status, which is given when the execution of a removal is technically impossible and the Ministry of Justice decides to temporarily tolerate the stay of a person until circumstances (e.g. illness, no travel documents) change. This is for a determined period without permission to work. At the beginning of 2005, minorities from Kosovo received tolerance status; but apart from this there were no special groups who received this status.

219 persons received a residence permit on humanitarian grounds, which included the right to work for the duration of the residence permit. (No country breakdown is available but most of the persons came from Ex-Yugoslavia).

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

No figures available (2 persons in 2003).

(For 99 persons, the asylum claim was rejected as manifestly unfounded- Source: Ministry of Foreign Affairs and Immigration)

10 Persons returned on safe country of origin grounds

No figures available.

11 Number of applications determined inadmissible

10 cases/22 persons (23 persons in 2003).

12 Number of asylum seekers denied entry to the territory

3 cases/3persons (3 persons in 2003).

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

There are no official figures, but since March 2004, when members of NGOs were granted access to the holding centre, 81 people have requested a visit by Caritas. With regards to the nationalities of the people visited, 43% were from Africa, 28% from Montenegro and 29% from the other Balkan countries and the former Soviet Union. As a rule, people are held there for a maximum period of 3 months because they do not have any documents. Fifty people can be held at any one time. If after 3 months the police are not able to get travel documents in order to deport the person concerned, they must be released.

Asylum seekers without documents or with forged travel documents may be held at the Schrassig detention centre upon their arrival in Luxembourg. The detention period is normally limited to one month, but this one-month period can be renewed twice.

In addition, in order to ensure the enforcement of a decision to transfer to another EU country on the basis of the Dublin Convention, single adults as well as male heads of families may be detained the day before their transfer. For the same reason, families may be detained in a special institution on the day of transfer. Asylum seekers subject to the implementation of the Dublin Convention, who refuse to co-operate with their transfer, may also be detained. When the period of detention is over they have to be released but if police are controlling them and discover that they are illegal or have not claimed asylum, they can be placed in the holding centre once more.

Asylum seekers whose applications can be dealt with under the provisions of Section 15 of the Law of 28 March 1972, according to which a non-national who cannot be removed from Luxembourg for practical reasons can be held "at the Government's disposal" until removal can be effected. Administrative detention in the Schrassig detention centre must not exceed three months even for people who do not co-operate with transfer. The decision to detain may be appealed to the Administrative Court within one month. The Court must render its decision within ten days. It is also possible to lodge a further appeal with the Administrative Court of Appeal within three days of notification of the Administrative Court's negative decision. Again, the Court of Appeal must make its decision within ten days.

14 Deportations of rejected asylum seekers

Table 4:

| | |
|-------------|-----------------|
| Montenegro | 36 (51 in 2003) |
| Serbia | 4 (35 in 2003) |
| Kosovo | 4 |
| Albania | 2 |
| Estonia | 2 |
| Lithuania | 2 |
| Benin | 1 |
| Brazil | 1 |
| Ivory Coast | 1 |
| Georgia | 1 |
| Iran | 1 |
| Russia | 1 |
| Total | 56 persons |

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

Table 5:

| | |
|----------------------|-------------------|
| Montenegro | 166 (504 in 2003) |
| Macedonia | 37 (4 in 2003) |
| Kosovo | 32 (19 in 2003) |
| Bosnia & Herzegovina | 21 (13 in 2003) |
| Serbia | 19 (42 in 2003) |
| Russia | 13 (12 in 2003) |
| Albania | 9 |
| Nigeria | 9 |
| Others | 23 |
| Total | 325 persons |

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

521 cases corresponding to 613 persons.

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

Between January and December four flights were organised to Montenegro, returning 27 families and 33 singles. Those flights returned 166 persons to Montenegro

- Monitoring minors has remained an important task. The age of new asylum seekers has fallen considerably, and the Passepartout project, which is responsible for young people, has therefore taken on an unequivocally educational role. The court has awarded guardianship of several minors to the tutors to enable them to assist vulnerable young people.

- In view of the large numbers of asylum seekers from English-speaking countries in Africa, particularly Nigeria, Caritas offers an English speaking “council office”. Most people come here to request information on the asylum procedure, to seek the assistance of a lawyer or to obtain general information on matters relating to their everyday lives as asylum seekers.

In Luxembourg, people often associate African asylum seekers with drug dealing, and for that reason one of Caritas's objectives in 2004 was to cooperate with African asylum seekers to try to improve their image. Indeed, this remains one of the objectives for 2005.

5 Legal and Procedural Developments

18 New legislation passed

No developments.

19 Changes in refugee determination procedure, appeal or deportation procedures

A bill was deposited with the deputy chamber on 21 January 2005. The aim of this new law will be to transpose four European directives into the national law. It is foreseen that the law will be voted on in the middle of this year.

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

11.11.2004 Appeal by the State of the Grand Duchy of Luxembourg against a judgment given by the administrative court on an appeal by Mr X against a decision of the Minister of Justice regarding stateless-person status (judgment of 26 May 2004, case no 17209). When deciding to deny Mr X stateless-person status, the Minister of Justice wrongly based his decision on the alleged illegality of Mr X's residence in the territory of the Grand Duchy. This decision is based on the New York Convention by saying that the regular residence condition isn't linked to the recognition of the stateless-person-status.

14.04.2005 Appeal by Mr X against two decisions of the Minister of Justice concerning refugee status - Appeal - case no 19175

The appellant argues that at first instance the court ruled wrongly as to the facts. On the basis of the information provided, the court ought to have conferred on him the status of refugee as referred to in the Geneva Convention. He claims that if he were to return to his country of origin, Kosovo, he would be severely traumatised, as he would be unable to withstand the psychological pressures arising from such a return, because as a member of an ethnic minority in Kosovo, namely the Serb population group, he would run the risk of daily persecution by elements of the Albanian population.

../. the administrative court ruled that the appeal was admissible ... and dependant on the facts of the case, declared it to be justified and accordingly, quashing the contested judgment of 13 December 2004, conferred on Mr X the status of refugee as referred to in the Geneva Convention ../.

21 Development s 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 only readmission agreement that the author is aware of is with Albania and there is a cooperation agreement with Serbia-Montenegro.

6 The Social Dimension

23 Changes in the reception system

In most of the refugee centres, a 24 hours security system was introduced.

24 Changes in the social welfare policy relevant to refugees

No overwhelming changes. The money that minors receive from the Family Ministry was reduced from 108 euros to 48euros per month. The argument of the Family Ministry is that parents with minor children get 48euros per child and for this reason, they decided to give the same amount of money to minors without families.

25 Changes in policy relating to refugee integration

The ministry of Foreign Affairs and Immigration legalized all families who arrived before 2001, having at least one child going to secondary school and having not been in conflict with the law. This permission will be extended after one year if:

- 1) The family has a valid work permit, which was given based on the presentation of a permanent working contract;
 - 2) The family has private housing, which is not subsidized by a public authority.
- About one hundred families have been regularized in this way.

26 Changes in family reunion policy

No developments.

7 Other Policy Developments

27 Developments in resettlement policy

Luxembourg does not operate a resettlement programme.

28 Developments in return policy

In April 2005, two families and three singles were sent back by a Benelux charter to Macedonia. In the same month, the government started to expel rejected Albanian asylum seekers to Kosovo. Until this date, no persons from ethnic minorities were sent back to Kosovo. These deportations were heavily blamed on Luxembourg's press. It is expected that other rejected asylum seekers will be sent back to Kosovo during the next months.

29 Developments in border control measures

No developments.

30 Other developments in refugee policy

In the Grand Duchy of Luxembourg, the provisions concerning asylum procedures are currently governed by the Law of 3 April 1996, as subsequently amended, establishing:
A procedure for consideration of asylum applications; and
Arrangements for temporary protection.

Since that date, the phenomenon of asylum seekers in Luxembourg has changed greatly, as a result of which the law as it stands is no longer appropriate or complete. Accordingly, a bill has been drafted

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concerning 'the right of asylum and complementary forms of protection'. It was put before the Luxembourg Parliament on 21 January 2005 and is currently under consideration. It should be put to the vote in mid-2005.

The aim of the bill is to create legislation on international protection, which is as complete as possible. It is intended to supplement the existing legislation, which is only concerned with the consideration of asylum applications as referred to in the Geneva Convention of 1951, by creating a status of temporary protection known as 'status conferred by subsidiary protection'. As a result, all aspects of international protection will be considered under a single procedure, the aspects in question being asylum and subsidiary protection. The bill also devotes an entire chapter to temporary protection in the event of a mass influx of displaced persons.

Another important objective of the bill is to bring Luxembourg law into line with the European directives concerning asylum policy, which have been adopted during the first stage of the common European asylum system. It will transpose into national law the following directives:

1. Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (hereinafter referred to as the 'Temporary Protection Directive'),
2. Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers in the Member States (hereinafter referred to as the 'Reception Conditions Directive'),
3. Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (hereinafter referred to as the 'Qualification Directive'),
4. Amended proposal for a Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status.

The exact date for transposition is not yet known but these will be transposed into law with the vote on Luxembourg's new asylum law.

8 Political Context

31 Government in power during 2004

Coalition of socialists and Christian-socialists

32 Governmental policy vis-à-vis EU developments

Very much in favor of EU harmonization

33 Asylum in the national political agenda

The stress of the policy of asylum in 2004 was placed on the development of the new bill of 21.01.05, on the return of rejected applicants for asylum coming from former Yugoslavia as well as on the massive arrival of people coming from African countries.

Biography

Michèle Kridel

CARITAS LUXEMBOURG

- Through its assistance to refugees, caritas takes a stand for and with people forced to leave their country and seeking refuge in Luxembourg
- By offering a reception, a follow up, a mediation towards others and the defense of the elementary rights of the person
- By acting with others for a policy of asylum and immigration that contributes to an open and fairer society in Luxembourg and elsewhere.

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