

SERBIA AND MONTENEGRO

ARRIVALS

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

Table 1:

Source: UNHCR

Month	2002	2003	Variation +/-(%)
January	22	8	-63.63
February	15	0	-100.00
March	8	3	-62.5
April	0	20	+100
May	9	13	+44
June	0	0	0
July	0	18	+100
August	48	22	-54.17
September	0	0	0
October	0	35	+100
November	16	10	-37,5
December	26	6	- 76,9
TOTAL	144	135	-6,2

At present, in the absence of a Law on Refugees consistent with international standards (in particular with the 1951 Geneva Convention and its 1967 Protocol, to which Serbia and Montenegro is a party), UNHCR is still conducting refugee status determination procedures on an interim basis on behalf of the Government. Therefore, statistics refer to the asylum procedures conducted by UNHCR Representation in Serbia and Montenegro.

It should be noted, therefore, that the above-mentioned figures represent only the (very small) group of asylum-seekers from outside the former Yugoslavia who either managed to approach UNHCR or were referred to UNHCR by the authorities of Serbia and Montenegro. The figures do not reflect the reality of the situation in terms of persons in need of international protection.

At present, asylum-seekers who enter the territory of Serbia and Montenegro illegally as well as those who have been apprehended by the police without identification documents are subject to detention, both judicial and administrative (with the exception of female family members of foreign nationals or with minor children or unaccompanied minors, prior to their referral to UNHCR).

There is currently no referral system to UNHCR in place for asylum-seekers at international airports, land borders and sea ports, nor reception centres for processing asylum applications in accordance with international standards. This means that persons who fear persecution in their country of origin are not protected against *refoulement*.

Once UNHCR is informed of the presence of asylum seekers, deportations are put on hold until the outcome of the asylum procedure. For those granted refugee status by UNHCR however, the only durable solution available is resettlement in a third country.

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

Table 2:

Source: UNHCR

Country	2002	2003	Variation +/- (%)
Iraq	77	70	-9.10
Afghanistan	34	26	-23.53
Iran	7	9	+28.57
Stateless Palestinians	2	5	+150
Bangladesh	0	4	-
Egypt	0	4	-
Azerbaijan	5	3	-40
Sierra Leone	0	3	-
Moldova	0	3	-
Bulgaria	0	2	-
Turkey	0	2	-
Algeria	4	1	-25
Somalia	2	1	-50
Armenia	1	1	-
Jordan	0	1	-
Sudan	4	0	-
Russian Federation	2	0	-
Albania	2	0	-
Democratic Republic of Congo	1	0	-
China	1	0	-
Ukraine	1	0	-
Kazakhstan	1	0	-
TOTAL	144	135	-6.2

With the accession of Hungary to the European Union, Serbia and Montenegro has become a border country to the EU, and an unavoidable transit country for many asylum seekers and illegal migrants in their efforts to reach Western Europe. In the absence of adequate legislation, it is unclear what criteria some illegal migrants have been deported by, by the police. Few were able to access the asylum procedure.

3. Persons arriving under family reunification procedure

According to UNHCR Representation in Serbia and Montenegro, no persons have arrived in the country under the family reunification procedure during the reporting period.

4. Refugees arriving as part of a resettlement programme

According to UNHCR Representation in Serbia and Montenegro, no persons have arrived in the country as part of a resettlement programme during the reporting period.

5. Unaccompanied minors

No figures available.

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:

Source: UNHCR

Status	2002		2003	
	Number	%	Number	%
No status awarded	127	88.2	128	92.8
Convention status	17	11.8	10*	7.2
TOTAL	144	100	138	100

*In 2003, refugee status was granted to only ten persons, a Moldovan national and nine Russian nationals. The Russian nationals entered the asylum procedure before 2003, and are therefore not included in the 135 asylum-seekers arriving in Serbia and Montenegro in 2003.

7. Refugee recognition rates (1951 Geneva Convention) according to country of origin

Table 4:

Source: UNHCR

Country of origin	2002		2003	
	Number	%	Number	%
Russian Federation	-	-	9	6.5
Moldova	-	-	1	0.7
Afghanistan	6	4.2	-	-
Iraq	6	4.2	-	-
Azerbaijan	4	2.8	-	-
Algeria	1	0.6	-	-
TOTAL statuses awarded	17	11.8	10*	7.2
(Total decisions)	(144)		(138)	

*See Section 6.

RETURNS, REMOVALS, DETENTION AND DISMISSED CLAIMS

8. Persons returned on 'safe third country' grounds

The concept of 'safe third country' has not yet been introduced into national legislation.

9. Persons returned on safe 'country of origin' grounds

The concept of 'safe country of origin' has not yet been introduced into national legislation.

10. Number of applications determined inadmissible

No information provided.

11. Number of asylum seekers denied entry to the territory

See Section 1.

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

See Section 1.

13. Deportations of rejected asylum seekers

See Section 1.

14. Details of assisted return programmes, and numbers of those returned

Serbia and Montenegro currently does not operate any return programmes. UNHCR, together with other international humanitarian organizations, has mainly been responsible for the facilitation and promotion of return of refugees to Croatia and Bosnia-Herzegovina. Negotiations are in progress with the Commission for Refugees of the Republic of Serbia concerning participation in assisting and facilitating voluntary return.

According to UNHCR, 65,000 people have returned to Bosnia-Herzegovina so far, and 60,000 to Croatia. During 2003, UNHCR assisted 1,140 returnees to Bosnia and 1,341 to Croatia.

As far as Kosovo is concerned, in April 2002 the Serbian Government Agency and the Coordination Centre for Kosovo and Metohija adopted a Strategy for Return of Internally Displaced Persons. In June 2003, UNMIK Office for Returns and Communities (ORC), UNDP and UNHCR founded the Rapid Response Returns Facility (RRRF). Nevertheless, the number of returnees to Kosovo is very limited and according to UNHCR, less than 10,000 ethnic minority individuals (i.e. Serbs, Roma and other non-Albanians) have been returned so far.

15. Number of asylum seekers sent back to the Member State responsible for examining the asylum application under the Dublin Convention.

Serbia and Montenegro is not party to the Dublin Convention.

SPECIFIC REFUGEE GROUPS

16. Developments regarding refugee groups of particular concern

There were no developments regarding refugee groups of particular concern in 2003.

LEGAL AND PROCEDURAL DEVELOPMENTS

17. New legislation passed

On 4 February 2003, the Federal Parliament adopted the Constitutional Charter of the Union of Serbia and Montenegro and the Federal Republic of Yugoslavia ceased to exist.

As an integral part of the Constitution, on 27 February 2003 the Assembly also adopted the Charter on Human and Minority Rights and Civil Liberties. Articles 37 and 38 of the Charter enshrine the rights of refugees in Serbia and Montenegro. These articles however are only declaratory and are not currently supported by adequate implementing legislation. The Charter prescribes that the procedure for granting asylum is determined by law but no legislation has been passed yet.

The existing laws in Serbia and Montenegro in the area of refugees and asylum are not consistent with international conventions and are applicable only to refugees from the region of the former Yugoslavia, not to asylum seekers and refugees from third countries.

Serbia and Montenegro became a member of the Council of Europe on 3 April 2003, and on 26 December, it ratified the European Convention on Human Rights and Fundamental Freedoms (ECHR), which came into force on 3 March 2004. With the ratification of the ECHR, Serbia and Montenegro has committed itself to ensure full application of the provisions of this international agreement, to harmonize its legislations with the standards determined by the Convention and to fully respect international human rights norms. Serbia and Montenegro also accepted the jurisdiction of the European Court of Human Rights.

Both Serbia and Montenegro have agreed to pass their laws six months after laws of the State Union are passed.

18. Changes in refugee determination procedure, appeal or deportation procedures

See Sections 1 and 17.

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

There is no efficient judicial system in Serbia and Montenegro to ensure appropriate compensation. There are cases of refugees, victims of forced mobilisation in Serbia in 1995, that are seeking compensation from the state for illegal arrest and return to the territory of Croatia and Bosnia affected by the war. Compensation in some cases is so small (approx. €300) that it cannot offer refugees moral and material satisfaction for the endured sufferings.

20. Developments in the use of the exclusion clauses of the 1951 Geneva Convention in the context of the national security debate

There were no developments in the use of the exclusion clauses in 2003.

21. Developments regarding readmission and cooperation agreements

So far, readmission agreements have been signed with the following countries: Germany, Switzerland, Denmark, Italy, Belgium, The Netherlands, Luxembourg, Austria, Slovak Republic, Hungary, Slovenia, Croatia and Bulgaria. Except for the agreement with Austria, all the other agreements mentioned above have been ratified. Negotiations are underway with: United Kingdom, France, Norway, Portugal, Macedonia, Bosnia-Herzegovina and Canada.

The majority of requests came from Germany, followed by Switzerland and Luxembourg. Out of the total number of persons who were given permission to return to the country, 80% were Albanian nationals living in Kosovo and Metohija returning to the Province (since the second half of 1999) on the basis of a special agreement between the relevant countries and the UNMIK administration, without the intervention of Serbia and Montenegro authorities.

Serbs, Roma and other non-Albanians from Kosovo whose safety would be at risk in Kosovo, are not returned to the province, but to other parts of Serbia and Montenegro where they become internally displaced persons. However, the European Roma Rights Centre has been informed that several European countries have been returning Roma directly to Kosovo (*ERRC and UN OHCHR, Protection of Roma Rights in Serbia and Montenegro, April 2003*).

The majority of returnees to Serbia and Montenegro are Roma. National authorities directly participate in reception activities and data processing only for persons deported with an official escort, not for those who have 'voluntarily' returned. Therefore, complete data on the total number of returnees is not available. According to the former Federal Ministry of Interior, from 10 January 2003, 140,000 citizens were authorised to return from Germany, out of which between 40,000 to 50,000 were Roma. By July 2003, 12,000 Roma were returned to Serbia. According to data provided by the Council of Europe, 12,000 Roma are expected to return from the Netherlands, 3,000 from Belgium, 3,000 from Switzerland and 2,000-3,000 from Luxembourg.

There are no figures available concerning the number of third country nationals returned to Serbia and Montenegro on the basis of readmission agreements, nor the number of those returned from Serbia and Montenegro to a third country on the basis of these agreements.

Roma returnees face particular difficulties when they return to Serbia. Very often they do not possess documents, have no belongings or accommodation and it is very difficult for them to access employment, health and social welfare systems. Children very often speak neither Romani nor Serbian and therefore do not easily integrate into society and the education system.

The Union Minister for Human and Minority Rights is responsible for signing and monitoring the implementation process of readmission agreements, whilst the National Ministers of Interior are responsible for the implementation itself. In coordination with national authorities, the Minister for

Human and Minority Rights is preparing a programme for the re-integration of Roma returnees. So far nothing has been implemented.

On 25 November 2003, the Parliamentary Assembly of the Council of Europe issued Recommendation 1633, expressing its concern on the expulsion of Roma to Serbia and Montenegro (including Kosovo).

THE SOCIAL DIMENSION

22. Changes in the reception system

Serbia and Montenegro remains a transit country for asylum seekers and migrants travelling to other parts of Europe. The number of asylum seekers remains relatively small and most applicants apply after having been apprehended by the authorities for their illegal stay in country. Serbia and Montenegro does not have reception facilities and efficient mechanisms to separate asylum seekers from illegal migrants.

Foreign nationals, who are admitted into the asylum procedure run by UNHCR, are generally allowed to reside in Serbia and Montenegro, but do not have any economic and social rights.

Third country asylum seekers apprehended by the police are taken to the misdemeanour court (according to Article 106, para. 4, of the Federal Law on the Movement and Residence of Foreigners, SI list SFRY 56/80, a foreigner will be given a fine, or a penalty of imprisonment of up to 30 days if he/she has illegally entered the Socialist Federal Republic of Yugoslavia and is not recognised as a refugee). They are sentenced to detention for three weeks and have no access to legal counsel. After having served their sentence, if they are not deported, they are either transferred to the Padinska Skela penitentiary (approx. 10km north of Belgrade), or to an open centre in a motel that was transformed into a refugee camp in Hiljadu ruza (10km south-east of Belgrade). The latter facility accommodates mainly persons with children or unaccompanied minors awaiting a final decision on their status by UNHCR.

Asylum procedures can last up to two years. If an individual is granted asylum, UNHCR transfers (resettles) him/her to another country, mainly in Western Europe.

In Montenegro, illegal migrants are placed in custody and then transferred to Serbia for further processing.

23. Changes in the social welfare policy relevant to refugees

There were no changes in the social welfare policy relevant to refugees in 2003.

24. Changes in policy relating to refugee integration

There were no changes in policy relating to refugee integration in 2003.

25. Changes in family reunion policy

There were no changes in family reunion policy in 2003.

OTHER POLICY DEVELOPMENTS

26. Developments in resettlement policy

There were no developments in resettlement policy in 2003.

27. Developments in return policy

There were no developments in return policy in 2003.

28. Developments in border control measures

The Ministries for Internal Affairs of the Republic of Serbia and the Republic of Montenegro are still responsible for border controls between the republics, while the Union borders are controlled by the Army of Serbia and Montenegro.

In the framework of police reform in both the Republics, training of officers, including border management, has been initiated. The EC-funded CAFAO-FRY programme, which includes both legislative advice and staff training components, as well as work on the Horgos and Batrovici border crossings, will help to improve integrated border management.

29. Other developments in refugee policy

There were no further developments in refugee policy in 2003.

POLITICAL CONTEXT

30. Government in power during 2003

The assassination of the Prime Minister of the Republic of Serbia, Zoran Djindjic, on 12 March 2003, led to a state of emergency in Serbia and then to political instability and uncertainty as regards further democratic changes. The members of criminal structures linked to state security forces and strongly opposed to reform and cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague, were charged with the assassination. The general political crisis resulted in a failure to elect a president of Serbia in November 2003 due to insufficient turnout and led to early parliamentary elections on 28 December 2003, in which the coalition, the Democratic Opposition of Serbia (DOS), lost its power.

The strongest individual party after the elections (with 82 out of 250 available seats in parliament) was the extreme Serbian Radical Party of the former regime, whose president Vojislav Šešelj is awaiting trial for war crimes at the ICTY in The Hague. DOS collapsed and the Democratic Party gained 37 seats in parliament. The ruling party of the 1990s, the Socialist Party of Serbia (SPS), (whose leader Slobodan Milošević is also on trial in The Hague) gained 22 parliamentary mandates and gave support to the minority government formed in March 2004 by the Democratic Party of Serbia, G17+ (a newly-formed reform-oriented party) and the coalition of the Serbian Renewal Movement (SPO) and New Serbia (NS). The leader of the Democratic Party of Serbia, Vojislav Koštunica, became Prime Minister of Serbia.

At the parliamentary elections in Montenegro of October 2002, the Democratic Party of Socialists of Montenegro (SDPCG), led by Milo Djukanović and advocating an independent Montenegro, won the elections with 39 out of the 75 available seats. The presidential elections in Montenegro failed twice due to insufficient turnout, in December 2002 and February 2003. Following reform of the electoral system, Filip Vujanović, the candidate for the SDPCG, won the presidential elections on 11 May 2003 and Milo Djukanović became Prime Minister.

The Constitutional Charter of the new State Union of Serbia and Montenegro of February 2003 confirmed the considerable autonomy that both republics of the former Federal Republic of Yugoslavia already enjoyed, but it slowed down the aspirations of the authorities in Montenegro for full independence. For the first two years after the adoption of the Constitutional Charter, members of the Parliament of Serbia and Montenegro are elected from each state in proportion to the representation in the individual parliaments of the two republics. In 2003, as with all other institutions of the State Union, the Parliament of Serbia and Montenegro functioned poorly and rarely held sessions.

31. Governmental policy vis-à-vis EU developments

In March 2004, the European Commission presented the Annual Report on the process of stabilisation and integration in Serbia and Montenegro, which reviews last year's situation in the Union and assesses its readiness to join the EU.

Serbia and Montenegro is the only country in the region that has not met the basic conditions that would enable the European Commission to produce a positive feasibility study (the report on the readiness of Serbia and Montenegro to start negotiations on signing the Stabilization and Association Agreement with the Union). Serbia and Montenegro is still not a functional union with stable, democratic institutions and a competitive market economy. In its report, the European Commission has noted a certain improvement in the area of human and minority rights and regional cooperation, but the rate of

implementation of overall reforms has been assessed as slower than expected. The second important precondition for joining the EU regarding cooperation with the ICTY in The Hague has not been met.

In spite of the fact that Serbia and Montenegro is a signatory to many international agreements that regulate asylum procedure, the European Commission has noted that it still does not have an adequate infrastructure (above all centres for reception of asylum seekers and illegal immigrants), legislation, financial resources and personnel to efficiently deal with migration. In practice, UNHCR is the main body dealing with asylum seekers. Furthermore, according to the European Commission, factors such as visa regulations that have not been harmonised at the national level in line with EU requirements, unclear division of competences between the two republics and inadequate legislation and border permeability have resulted in Serbia and Montenegro becoming a transit country for illegal migration flows.

32. Asylum in the national political agenda

In 2001, as part of the process of stabilisation and integration into the EU, national teams were formed within the Balkan states with the aim of developing action plans establishing legal frameworks and structural capacities to address the issues of migration and asylum in accordance with EU standards. On 21 January 2004, Serbia and Montenegro adopted the national plan in draft form. The process of formulating the National Action Plan for better management of migration and asylum issues, return of refugees from the Former Republic of Yugoslavia, integrated border controls and acceptable visa regimes in the region, is underway.

The regional action plan focuses on:

- establishing common standards for passing and applying refugee law;
- ensuring free legal assistance to asylum seekers;
- bilateral agreements on readmission not only with EU countries but with those in the region;
- creating conditions for integration of refugees and internally displaced persons;
- creating conditions to ensure special protection for asylum-seeking women and children;
- and the implementation of the principle of family reunification.

33. Additional information

Refugees from the Former Republic of Yugoslavia and internally displaced persons (IDPs) from Kosovo

In 2004, according to UNHCR, Serbia and Montenegro housed 289,680 refugees (189,472 from Croatia and 99,761 from Bosnia), as well as 224,833 internally displaced persons (IDPs) from Kosovo. For a country exhausted by war and international sanctions during the previous decade, the large number of refugees still represents a serious social and economic problem.

The change of government in Serbia in October 2000 contributed to regional stability and created conditions for the possible return or integration of refugees. In October 2003, Mirsad Kebo, Minister for Human Rights and Refugees of Bosnia and Herzegovina and Rasim Ljajić, Minister for Human and Minority Rights of Serbia and Montenegro, signed a bilateral agreement on the return of refugees that obliged the signatories to create conditions for voluntary, organised and mutually-coordinated return. A trilateral agreement between Serbia and Montenegro, Croatia and Bosnia-Herzegovina is planned.

In May 2002, the Serbian government adopted the National Strategy for Solving the Problem of Refugees and IDPs, focused on either returning or integrating refugees from Bosnia and Croatia into society, depending on the preference of the refugees. The implementation of the strategy required \$620, \$460 of which was to be raised through foreign donation. Unfortunately, the flow of funds did not satisfy expectations. As far as IDPs are concerned, the Government is advocating their return to Kosovo, although this is still impossible mainly due to safety considerations, destroyed homes, unsolved proprietary issues and lack of employment possibilities. Refugees and IDPs are included as particularly vulnerable groups in the Poverty Reduction Strategy that the Serbian government adopted in October 2003. However, little has been done to implement it so far.

In 2003 and at the start of 2004, the International Committee of the Red Cross (ICRC), the United Nations World Food Programme (WFP) and the European Commission Humanitarian Aid Office

(ECHO) discontinued their programmes of humanitarian assistance to the most vulnerable parts of the population, particularly refugees and IDPs. Other international and non-governmental organisations have announced that they will discontinue assistance as regards provision of food and other basic items and will direct their activities to income generation and development projects. However, there is still a great need for humanitarian assistance and therefore withdrawal of the food packages will adversely affect the poorest among refugees and IDPs. The percentage of IDPs below the poverty line is almost 90% (compared to 10% of the indigenous population).

Among refugees and IDPs especially vulnerable groups are: Roma, single parents, children, those in collective centres, pensioners and disabled persons. With nearly five years in displacement almost all IDPs are facing problems with exercising their human rights and accessing public services. In 2002, the Commissariat for Refugees adopted a plan to close 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 (44 in Montenegro) where 21,704 refugees and 10,868 IDPs were accommodated. In March 2004 that number was reduced to 185 collective centres with 7,958 refugees and 8,623 IDPs. However, the programme of providing financial help and material assistance to people leaving collective centres has been directed only at refugees and not at IDPs.

In Montenegro, the authorities are unwilling to offer integration programmes to refugees and IDPs. IDPs in Montenegro are treated as citizens of Serbia and are not given the same rights as citizens of Montenegro. This is in contradiction with Article 7 of the Constitutional Charter according to which ‘a citizen of a member state is a citizen of Serbia and Montenegro’ and ‘a citizen of a member state has equal rights and obligations to the citizens of any other member state, apart from the right to vote’. With the adoption, on October 1999, of the Law on Citizenship (Sl. list RCG No. 41/99), which states that a person must have resided permanently for ten years in Montenegro in order to receive citizenship, refugees and IDPs were denied the possibility of receiving citizenship, as the majority of them had only temporary residence. This law also resulted in discrimination being applied to areas such as employment, accommodation and obtaining documents. In May 2003, the Government adopted a regulation on employing non-residents obliging employers to pay €2.5 a day. With this regulation refugees and IDPs, who also fall into the category of ‘non-residents’, are placed in the same position as those who have come to work in Montenegro for economic reasons.

In Kosovo the international Government has not succeeded in ensuring basic physical safety to Serbs, Roma and other non-Albanians, or in creating the necessary conditions for the return of displaced persons. During the attacks on 17-18 March 2004 by the Albanian majority against the Serbian community and the international Government, 19 people were killed, around 900 were injured, and approximately 700 Serbian and Roma houses, 30 churches and two monasteries, were burned down. Around 4,500 Serbs and Roma were displaced, mainly within the province. Furthermore, the international Government has not managed to ensure other necessary conditions for return, such as rebuilding destroyed houses and solving proprietary problems.