

ECRE COUNTRY REPORT 2002: SERBIA AND MONTENEGRO

ARRIVALS

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

Table 1:

Month	2001	2002	Variation +/- (%)
January	25	22	-12.0
February	7	15	+114.3
March	9	8	-11.1
April	2	0	-100.0
May	10	9	-10.0
June	20	0	-100.0
July	5	0	-100.0
August	2	48	+2300.0
September	8	0	-100.0
October	11	0	-100.0
November	45	16	-64.4
December	2	26	+1200.0
TOTAL	146	144	-1.4

Source: UNHCR.

Comments: These statistics refer to the number of asylum seekers who applied to UNHCR, either directly or after referral by the authorities. It is possible that others were not referred to UNHCR. Persons seeking asylum in Montenegro are referred to the relevant federal authorities in Belgrade.

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

Table 2:

Country	2001	2002	Variation +/- (%)
Iraq	21	77	+266.7
Afghanistan	51	34	-33.3
Iran	3	7	+133.3
Azerbaijan	0	5	-
Algeria	1	4	+300.0
Sudan	0	4	-
Russian Federation	33	2	-93.9
<i>Stateless Palestinians</i>	7	2	-71.4
Albania	0	2	-
Somalia	0	2	-
DR Congo	1	1	-
China	1	1	-
Ukraine	1	1	-
Kazakhstan	0	1	-
Armenia	0	1	-
Georgia	10	0	-100.0
Romania	5	0	-100.0
Bangladesh	5	0	-100.0
Pakistan	4	0	-100.0

India	2	0	-100.0
Sierra Leone	1	0	-100.0
TOTAL	146	144	-1.4

Source: UNHCR.

Comments: Serbia and Montenegro remains a transit country for asylum seekers and migrants travelling to other parts of Europe. The numbers of asylum seekers remain relatively small.

3. Persons arriving under family reunification procedure:

There have been no arrivals under any family reunification procedure.

4. Refugees arriving as part of a resettlement programme:

No refugees arrived in Serbia and Montenegro as part of a resettlement programme in 2002.

5. Unaccompanied minors: None (2001: 8).

RECOGNITION RATES

6. The statuses accorded as an absolute number and as a percentage of total decisions:

Table 3:

Status	2001		2002	
	Number	%	Number	%
No status awarded	127	87.0	127	88.2
Convention status	19	13.0	17	11.8
TOTAL	146	100	144	100

Source: UNHCR.

Comments: As already noted, Serbia and Montenegro is a transit country on migratory routes towards western Europe. Most applicants apply after having been apprehended by the authorities due to their illegal stay in the country, rather than as a result of wishing to seek asylum in the country.

7. Refugee recognitions (1951 Convention: as an absolute number) according to country of origin:

Table 4:

Country of origin	2001	2002
Afghanistan	13	6
Iraq	5	6
Azerbaijan	-	4
Algeria	1	1
TOTAL	19	17

Source: UNHCR.

RETURNS, REMOVALS, DETENTION AND DISMISSED CLAIMS

8. Persons returned on safe third country grounds: None (2001: None).

9. Persons returned on safe country of origin grounds: None (2001: None).

10. Number of applications determined inadmissible:

There is no inadmissibility procedure in Serbia and Montenegro.

11. Number of asylum seekers denied entry to the territory: Figures unavailable.

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

13. Deportations of rejected asylum seekers: Figures unavailable.

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

Serbia and Montenegro does not operate any assisted return programmes. A separate issue is the return programmes for refugees from Croatia and Bosnia-Herzegovina, which are taking place through UNHCR and its implementing partners. UNHCR organised a return programme to Kosovo, yet only small numbers have returned through that programme and other return programmes implemented by various international organisations.

15. Dublin Convention practice comments:

Serbia and Montenegro is not party to the Dublin Convention.

SPECIFIC REFUGEE GROUPS

16. Developments regarding refugee groups of particular concern:

UNHCR has recently produced two policy papers on the determination of the status of asylum seekers, with particular attention paid to harmonising the approach to asylum seekers from countries such as Afghanistan and Iraq. As UNHCR is mandated to do the RSD (refugee status determination) procedure in Serbia and Montenegro, these policy papers are important 'guiding documents' in the process.

LEGAL AND PROCEDURAL DEVELOPMENTS

17. New legislation passed:

No new legislation regarding refugees was passed, although the entire state structure has changed. A new union of Serbia and Montenegro was founded in February 2003, and as a part of the Constitutional Charter, the Federal Parliament also passed a Charter on Human and Minority Rights and Fundamental Freedoms (SM Official Gazette – June 2003). Serbia and Montenegro became a member of the Council of Europe in 2002, and thus also ratified the European Convention on Human Rights and Fundamental Freedoms.

The Agreement on the Social Insurance between FRY and Croatia was signed in 1997, but was only ratified by Croatia in December 2002.

Some drafts on asylum law were prepared, but no law was passed. The establishment of new state structures complicated and delayed the process (see also the 'Legal framework' section in paragraph 33 below).

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

There were no significant changes in these procedures in 2002. The process is conducted by UNHCR.

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

No information was provided.

20. Developments in the use of the exclusion clauses of the Refugee Convention in the context of the national security debate:

There were no significant developments in the use of the exclusion clauses in 2002.

21. Developments regarding readmission and cooperation agreements:

The Federal Republic of Yugoslavia concluded readmission agreements with the following countries in 2002:

- Ratified: Germany (renewed agreement from 1996), Sweden, Denmark, the Benelux countries.
- Not ratified: Croatia.

In addition to this, readmission agreements had been made earlier with six other countries:

- Ratified: Slovak Republic, Hungary (2001), Slovenia (2001), Bulgaria (2001).
- Not ratified: Switzerland (1997), Italy (2001).

Serbia and Montenegro is close to signing agreements with Austria and Greece, and negotiations on the conclusion of ten more readmission agreements are currently taking place.

THE SOCIAL DIMENSION

22. Changes in the reception system:

There were no significant changes in the reception system in 2002. Asylum seekers and migrants apprehended for an illegal stay in the country are detained in the Padinska Skela detention centre twenty kilometres outside Belgrade. In case of Convention status being granted, or protection granted on humanitarian grounds (for instance for medical reasons or when dealing with unaccompanied minors), UNHCR will request the individual's release from detention and provide accommodation, food and medical services.

Notable are some problems with the lack of a proper asylum system and associated procedures in general. The only current law in place is the 1980 Federal Law on the Movement of Foreigners, which is not an asylum law but rather an immigration law. It regulates the detention of those migrants who entered the country illegally (and who are denied asylum), as well as stipulating that asylum seekers are to be processed through the judicial system. Until there are proper asylum procedures in place, there will continue to be violations of the rights of asylum seekers and refugees.

23. Changes in the social welfare policy relevant to refugees:

There were no significant changes in the social welfare policy relevant to refugees in 2002.

24. Changes in policy relating to refugee integration:

There were no significant changes in policy relating to refugee integration in 2002.

25. Changes in family reunion policy:

There were no significant changes in family reunion policy in 2002.

OTHER POLICY DEVELOPMENTS

26. Developments in resettlement policy:

There were no significant developments in resettlement policy in 2002.

27. Developments in return policy:

There were no significant developments in return policy in 2002.

28. Developments in border control measures:

There were no significant developments in border control measures in 2002.

29. Other developments in refugee policy:

There were no other significant developments in refugee policy.

POLITICAL CONTEXT

30. Government in power during 2002:

The government in Serbia, elected in January 2001 and consisting of seventeen DOS (Democratic Opposition of Serbia) parties, remained in power during 2002. In February 2002 the trial of the former Yugoslav president Slobodan Milosevic began in the Hague (ICTY), while in April 2002 a cooperation law with the ICTY was approved by the Federal Parliament, meaning that for the first time cooperation with the international war crimes tribunal is recognised in Serbia. In July 2002 the DSS (Democratic Party of Serbia) was ousted from the DOS coalition, and its members from the Serbian Parliament, until finally the DSS members returned to Parliament in late October. Early presidential elections (for the republic) took place in September 2002: DSS candidate Vojislav Kostunica and G17+ candidate Miroljub Labus entered the second round, a round that failed due to low turnout (that is, under 50% of the electorate). After changing the electoral laws for the second round the elections were repeated in December 2002, but again failed at the first round due to low turnout.

The Serbian Prime Minister Zoran Djindjic was assassinated in March 2003, and consequently the government announced a State of Emergency.

In Montenegro, a minority government consisting of the DPS (Democratic Party of Socialists) and the SDP (Social Democratic Party), and supported by the Liberal Party from the opposition, was in power until May 2002, when the government stood down due to the Liberal Party's withdrawal of support. Extraordinary parliamentary elections were held in October, in which the governing coalition (DPS and SDP) gained a simple majority, and the Montenegrin President Milorad Djukanovic was elected as the new Prime Minister. Presidential elections were held in December, but failed due to low turnout and an opposition boycott.

No changes occurred in the Federal government during 2002. Intensive negotiations continued throughout the year in order to implement the agreement on the new state structure (the so-called 'Belgrade Agreement'). In February 2003 the two republics Serbia and Montenegro formed a new state entity - the state union of Serbia and Montenegro - and the Federal Republic of Yugoslavia, which had formed in April 1992, ceased to exist. As a part of the new Constitutional Charter, the Federal Parliament passed the Charter on Human and Minority Rights and Fundamental Freedoms. Article 38 of this Charter provides the right to refuge in the state union of Serbia and Montenegro.

31. Governmental policy vis-à-vis EU developments:

The EU High Representative, Javier Solana, brokered negotiations that resulted in the signing of the so-called 'Belgrade Agreement', which envisaged a new state union between the republics of Serbia and Montenegro. During the year the republics worked to produce a Constitutional Charter of the new State Union, which was finally adopted alongside its respective implementation law by all parliaments (those of Serbia, Montenegro and the Federal Parliament) in February 2003.

The EU Stabilisation and Association Process (SAP), which began in summer 2001, continued during 2002 with three Consultative Task Force (CTF) meetings. In these meetings the EU Commission examined and gave recommendations to all state bodies at federal and republic level, as well as in different sectors. The CTF process finished in July 2002 with a recommendation to produce an 'Action Plan' to harmonise the economies of the two republics within a set period of time. After completing the Action Plan the commission would proceed with a feasibility study in order to investigate the possibility of entering into negotiations for a Stabilisation and Association Agreement. During 2002 the EU CARDS (Community Assistance for Reconstruction, Development and Stabilisation) programme provided €170m in Serbia proper, €3m in Montenegro and €134m in grant aid to Kosovo for several sectors.

32. Asylum in the national political agenda:

As mentioned in paragraph 17 above, some drafts on asylum law were made, but no law was passed. The issue has been complicated (and its addressing delayed) by changes in the state structure, most importantly the establishment of the new state union of Serbia and Montenegro.

33. Additional information:

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

In Serbia and Montenegro there are still some 400,000 refugees from Croatia and Bosnia-Herzegovina, and 230,000 IDPs from Kosovo (of which in Serbia there are around 337,000 refugees and 205,000 IDPs).

In May 2002 the Serbian government completed and endorsed the National Strategy for Resolving the Problems of Refugees and IDPs, with the aim of providing durable solutions for the displaced. The strategy focuses on two viable options: return and local integration. To promote local integration of refugees, important areas for assistance are identified as housing, employment and the overall legal framework (for instance changes in refugee law, procedures for granting citizenship). The strategy looks at the problems of refugees in quite a comprehensive manner, with the aim of finding durable solutions; yet its implementation is facing serious problems, not least due to financial difficulties. The strategy is very expensive (and therefore probably quite unrealistic), relying to a large extent on external (donor) funding, which has not been forthcoming to the degree required. Funds have mainly been provided for the closure of collective centers where refugees and IDPs from the wars in the 1990s were taken, which has been identified as one of the initial priorities, as well as for housing and employment (although in much smaller amounts than required).

An additional weakness of the strategy, or more precisely its Implementation Programme, is that it does not cover IDPs sufficiently. The main durable solution identified for IDPs in the Strategy is return to Kosovo, which is still not possible on a large scale. Meanwhile, IDPs are facing many problems in exercising their basic human rights in the fields of housing, employment, personal documentation, freedom of movement (registering their residence), access to the social welfare system and healthcare. In a similar manner as refugees are facing problems relating to the incompatibility of legal frameworks between countries, IDPs from Kosovo face problems resulting from the various legal

frameworks and authorities in question (that is, Serbian and Kosovan authorities and UNMIK). As regards development in the returns framework, towards the end of 2002 UNMIK created a new operational framework to maximise returns. The concept paper entitled 'Right to Sustainable Return' was released in May 2002, and in November 2002 UNMIK and the ORC (Office of Returns and Communities) presented their joint '2003 Strategy for Sustainable Returns'. The Strategy aims to ensure a principled and prioritised approach to returns in 2003, and provides guiding principles, an operational framework and multi-sectoral project components for returns. Additionally, a Manual for Sustainable Return (at the operational level) was finalised in January 2003. The concrete results remain to be seen - so far there has been no substantial change in return rates.

In Montenegro there is no long-term strategy elaborated for refugees and IDPs (such as the National Strategy for Resolving the Problems of Refugees and IDPs in Serbia). The citizenship law adopted in Montenegro, which requires ten years permanent residence in Montenegro, is effectively preventing refugees and IDPs from obtaining Montenegrin citizenship.

The UN (UN OCHA and UNHCR) made important efforts during 2002, alongside some international and national NGOs, to introduce and strengthen the value and implementation of the UN Guiding Principles on Internal Displacement. This is to be used as a guiding tool and instrument by all decision-makers and actors working in the field of IDP protection and assistance. Training was arranged both in Serbia proper and Kosovo both for governmental and non-governmental actors, as well as IDPs themselves. In Montenegro similar training for governmental and non-governmental actors will be organised in May 2003.

During 2002, the Serbian and Montenegrin governments also initiated the development of the Poverty Reduction Strategy Papers (PRSP), a new process initiated by the World Bank and the International Monetary Fund. Altogether some 80 countries throughout the world are taking part in writing PRSPs, which represent a part of the overall development strategy of Serbia and Montenegro, with a specific emphasis on reducing poverty in society among the most vulnerable groups. Refugees and IDPs are included as one of the particularly vulnerable groups in the first draft of the PRSP in Serbia, which was published in April 2003. The final strategies should be completed by August 2003.

Legal framework (covering refugees, IDPs and asylum issues)

Three legal regimes exist in Serbia and Montenegro: the federal regime, which is under reconstruction but still functioning, and those of the respective Member States. The only refugee law in Serbia is the April 1992 Refugee Law of Serbia, which refers solely to refugees from Croatia and Bosnia-Herzegovina. In Montenegro the question of refugees from the former Yugoslavia is regulated through the 'Montenegrin Order on Displaced Persons' of July 1992.

There is currently no specific asylum legislation governing procedures in Serbia and Montenegro. The 1980 Federal Law on the Movement and Residence of Foreigners contains some provisions for granting asylum, and defines a refugee, but these provisions are not applied in practice. Within the framework of the Stability Pact's Migration and Asylum Initiative (MAI), or with the current merger of the MAI and RRI (Refugee Return Initiative), collectively known as MARRI (Migration, Asylum and Refugees Regional Initiative), a National Action Plan (NAP) was drafted by the Federal Ministry of Internal Affairs. Some drafts for an Asylum Law were made throughout 2002 and the beginning of 2003, but nothing materialised. Changes in state structures in February 2003, with the creation of the new state union of Serbia and Montenegro, also had an influence on dealing with refugee and asylum issues and initiatives. The Federal Ministry of Interior ceased to exist, and the Federal Ministry of Human and Minority Rights inherited the planning of asylum procedures, while border control is in the hands of republics' Ministries of Interior. How the exact division of work will evolve on asylum issues remains unclear; currently UNHCR is still mandated to conduct the refugee status determination procedure in Serbia and Montenegro.

There is no separate legal regime or legislation governing IDPs from Kosovo. Officially, they have the same legal status as all other citizens of Serbia and Montenegro, yet in practice they face problems in exercising many of their basic rights. There exists no comprehensive strategy for IDPs in Serbia and Montenegro, and neither are mandates for the protection of IDPs clarified. Currently none of the institutions or authorities bear responsibility for IDP protection and assistance. For instance, the Serbian Commissariat for Refugees is only responsible for IDPs in collective accommodation centres and issuing of IDP cards in municipalities. These issues require further efforts in future in order to ensure that IDPs can enjoy all their rights, including the protection to which they are entitled. In Montenegro IDPs face specific problems, as the requirements of Montenegrin citizenship law prevent them from obtaining Montenegrin citizenship, thus creating potential areas for discrimination in the field of regulating their residence, tax obligations, the right to work in public enterprises and political rights. These problems will hopefully be addressed and solved within the newly established state union of Serbia and Montenegro.