

[Text Version](#) [Search](#) [Glossary](#) [Links](#) [Site Map](#) [Contact Us](#) [FAQs](#) [Feedback](#) [Press Releases](#)**IMMIGRATION & NATIONALITY
DIRECTORATE**[WORK
PERMITS](#)[EMPLOYERS
INFORMATION](#)[TOURISM/CARRIERS
INFORMATION](#)[LAW &
POLICY](#)[ABOUT
US](#)[ASYLUM
IN THE UK](#)[▶ STAYING IN THE UK](#) [▶ APPLYING FOR BRITISH NATIONALITY](#)**Asylum In The UK**

- ▶ [Asylum](#)
- ▶ [Country specific po](#)
- ▶ [Operational Guidance](#)
- ▶ [Montenegro](#)

SHORTCUTS

- ▶ [Getting Immigration Advice](#)
- ▶ [Application Forms](#)
- ▶ [Appeals](#)
- ▶ [Recruitment IND](#)
- ▶ [Latest Information](#)
- ▶ [IPIDS](#)
- ▶ [Mycroft Programme](#)
- ▶ [Complaints Comments](#)

[Operational Guidance Notes](#)[select](#)**OPERATIONAL GUIDANCE NOTES****MONTENEGRO****1. INTRODUCTION**

1.1 This document summarises the general, political and human rights situation in Montenegro and provides information on the nature and handling of claims frequently received from nationals/residents of that Republic. It must be read in conjunction with the Montenegro section of the Serbia & Montenegro country assessment and any CIPU Country bulletins.

1.2 This guidance is intended to provide clear guidance on whether the main types of claim are or are not likely to justify the grant of asylum, Humanitarian Protection or Discretionary Leave. Caseworkers should refer to the following Asylum Policy Instructions for further details of the policy on these areas:

API on Assessing the Claim

API on Humanitarian Protection

API on Discretionary Leave

API on the European Convention on Human Rights.

1.3 Claims should be considered on an individual basis, but taking full account of the information set out below, in particular Part III on main categories of claim.

1.4 Montenegro is a republic within Serbia & Montenegro (SaM), a country listed in section 94 of the Nationality Immigration and Asylum Act 2002. Asylum and human rights claims must be considered on their individual merits. However if, following consideration, the claim is refused, caseworkers should certify the claim as clearly unfounded unless satisfied that it is not. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail. The information set out below contains relevant country information, the most common types of claim and guidance from the courts, including guidance on whether cases are likely to be clearly unfounded.

Source documents:

1.5 Where paragraph numbers have been cited, these refer to the Montenegro section of the Federal Republic of Yugoslavia Country Assessment April 2003. Other source documents are listed at the end of this note.

2. COUNTRY ASSESSMENT

2.1 The state union of Serbia and Montenegro (SaM) is made up of two republics, Serbia and Montenegro. SaM replaced the Federal Republic of Yugoslavia (FRY) on 4 February 2003 and is a looser union than its predecessor. The joint administration is responsible for defence, foreign affairs, international relations and human rights: all other matters are dealt with separately by the respective republics. The agreement is for an initial period of three years, after which it can be reviewed and the individual republics have the right to withdraw following a referendum. [para. 4.11.]

2.2 In terms of its area, population and economy, Montenegro is much the smaller of the two republics. It has a population of about 650,000, with the ethnic breakdown approximately as follows: Montenegrins 60% Bosniak Muslims 15%, Serbs 9 %, Albanians 6%, Croats 1%, Others 6 %. It is a constitutional republic with a president and parliamentary system of government based on multi-party elections. [paras 2.1 - 3.3, 5.1]

2.3 From 1997, President of Montenegro Milo Djukanovic pursued a policy of increasing separation from Serbia, in opposition to Milosevic's policies. This policy culminated in October 2000 with his refusal to recognise the new Federal Government, which was installed after the fall of Milosevic. Since then, internal politics in Montenegro has been dominated by the issue of independence. [paras. 4.12. - 4.14.]

2.4 Djukanovic's government fell following his signature in March 2002 of the agreement for setting up the new state of Serbia and Montenegro, which was seen as a betrayal by pro-independence parties within the governing coalition. However, new assembly elections were held in October 2002, in which Djukanovic secured an outright majority, giving him a mandate for the union with Serbia and consolidating his position as head of government. The elections were judged to be free and fair. [para. 4.9.]

2.5 Djukanovic subsequently resigned as President and was appointed Prime Minister. Recent presidential elections failed to reach the 50% turnout required for a valid result. It is likely that this law will be amended before further elections are held. As a temporary solution Filip Vujanovic holds the position of acting President. [paras. 4.11. - 4.12.]

2.6 Montenegro has a history of being significantly more tolerant towards ethnic minorities than Serbia and accepted a large number of ethnic Albanian and Roma refugees from Kosovo during the 1999 conflict, many of whom remain. Such ethnic tolerance continues and ethnic minorities have guaranteed parliamentary representation. [paras 6.1, 6.28]

2.7 The government generally respects the human rights of its citizens. There are constitutional provisions for an independent judiciary and the judiciary provides citizens with a fair judicial process. Although there are some concerns about inefficiency and corruption in the judicial process and police brutality, the Montenegrin authorities generally provide a sufficiency of protection for their citizens. [para 6.1]

3. MAIN CATEGORIES OF CLAIMS

3.1 This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in the province of Montenegro. It also contains any common claims which may raise issues covered by the API on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal flight are set out in the relevant API's, but how these affect particular categories of claim are set out in the instructions below.

3.2 Each claim should be assessed to determine whether there are reasonable grounds for believing that the applicant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in *Karanakaran* should be followed when deciding how much weight to be given to the material provided in support of the claim (see the API on Assessing the Claim).

3.3 If the applicant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the applicant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.

3.4 This guidance is **not** designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the API on Assessing the Claim)

3.5 Also, this guidance does not generally provide information on whether or not a person should be excluded from the Refugee Convention or from Humanitarian Protection or Discretionary Leave. (See API on Humanitarian Protection and API on Exclusion under Article 1F or 33(2) and API on DL)

3.6 Ethnic Albanians

Treatment

3.6.1 Montenegro has a history of tolerance towards ethnic Albanians and other minorities. It was the only area in the region where refugees from Kosovo of every ethnicity (Serbs, Roma, Albanians and others) were accepted. At one point after the war, refugees made up 20% of the population of Montenegro, though this has dropped now to 10 - 12% (50-60,000). There is a substantial Albanian population in Montenegro, which lives in relative harmony with the Serb and Montenegrin majority. [paras 6.31.- 6.41.]

3.6.2 The government has committed itself to policies of ethnic inclusion. Ethnic Albanians, who make up about 7% of the population, are guaranteed representation in the Montenegrin government, though the level of representation falls short of their proportion of the population. The Minister for Ethnic Minorities, an Albanian, has praised the government's record on minority rights. [paras 6.33.]

3.6.3 A few claims for asylum have been received by people claiming that they

were persecuted by members of the FRY army stationed in Montenegro. Although there were some incidents of such harassment during the Kosovo conflict in 1999, it was not widespread and is no longer an issue.

Sufficiency of protection

3.6.4 There is no evidence to suggest that ethnic Albanians are at risk of ill treatment, but in any event the Montenegrin authorities provide a sufficiency of protection.

Internal flight / relocation

3.6.5 As this category are not generally at risk, internal relocation will not usually be a relevant option. However there are no limitations on freedom of movement for anyone wishing to relocate.

Conclusion

3.6.6 Most cases in this category will not qualify for asylum or HP and will be clearly unfounded. A grant of asylum would only be appropriate in exceptional cases, where an individual is able to show that he/ she remains at risk because of specific factors related to his/her particular personal history and that because of specific factors relating to him/her there was not a sufficiency of protection available and internal flight was not an option.

3.7 Roma

Treatment

3.7.1 While there is no official discrimination against Roma population, prejudice is widespread. Social and racial discrimination, as well as the effects of traditional Roma practices and customs limit their access to education, health centres and employment. Local authorities often ignore or condone societal intimidation and ill treatment of members of the Romani community. Particular obstacles to Roma children accessing education include their lack of knowledge of the Serbian language, social discrimination, cultural barriers, poverty and hygiene issues. [paras 6.37., 6.38.]

3.7.2 Roma refugees, mostly from Kosovo, tend to fare worse than those from other

ethnic backgrounds, about 50% of them living in large collective centres, often in very poor conditions with no electricity, running water or sanitation. The lack of official documents means many Roma refugees have little or no access to health care or education. [para 6.39.]

3.7.3 Although Roma may experience considerable difficulties in relation to discrimination, harassment and their living conditions, the cumulative effect of these does not generally reach the threshold for persecution or a breach of human rights.

3.7.4 There have been some reports of police inaction or brutality in relation to cases involving Roma. Although there is evidence of action being taken in cases of police misconduct, complaints are not always adequately dealt with.

Sufficiency of protection

3.7.5 Although there is sufficiency of protection for most Roma in Montenegro, there may be individuals whose cases have not been dealt with by the police in

a satisfactory manner.

Internal flight / relocation

3.7.6 As Roma applicants will not usually be at risk of persecution or in need of humanitarian protection, the issue of internal relocation will not usually arise. However, internal relocation to another part of Montenegro is an option where there is a risk of localised persecution. However, options for Roma to improve their living conditions by relocating are likely to be minimal.

Conclusion

3.7.7 Roma will not usually qualify for asylum or humanitarian protection and most cases will be clearly unfounded. A grant of asylum or humanitarian protection would only be appropriate in exceptional cases, where an individual is able to show that he/ she remains at risk because of specific factors related to his/her particular personal history and that there was not a sufficiency of protection available and internal flight was not an option.

3.8 Evasion of military service

3.8.1 There have been a few applications made on the basis of fear of persecution in relation to draft evasion by people who wished to avoid fighting in Kosovo in 1998 -1999. However, the government of Montenegro defied draft orders for men called up for the Kosovo war and the republic police refused to hold resisters in jail. In November 2001, the Montenegrin assembly passed a law granting amnesty to persons who had evaded the draft from June 1998 to June 1999. Some 14,000 received amnesty as a result of the legislation. The FRY Amnesty Law passed in February 2001 also applies to Montenegro. This Act granted amnesty to all draft evaders / deserters whose offences occurred before 7 October 2000. Military service offences committed after 7 October 2000 would be dealt with in a proportionate manner. [paras 5.24., 5.27.]

Sufficiency of protection

3.8.2 Not applicable as this category is not at risk.

Internal flight / relocation

3.8.3 Not applicable as this category is not at risk.

Conclusion

3.8.4 People who are wanted for military service offences between June 1988 and 7 October 2000 would be entitled to amnesty and would not be prosecuted. Applicants from this category are not entitled to asylum or humanitarian protection and these cases will be clearly unfounded. Punishment for military service offences committed after 7 October 2000 would not amount to persecution or a breach of human rights.

4. DISCRETIONARY LEAVE

4.1 Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See API on Discretionary Leave)

4.2 With particular reference to Montenegro the types of claim which may raise

the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances not covered by the categories below which warrant a grant of DL-see the API on Discretionary Leave.

4.3 Possible categories for Discretionary Leave

4.4 Unaccompanied minors

4.4.1 The policy on unaccompanied minors is set out in the API on Children. Unaccompanied minors who have not been granted asylum or HP can only be returned where there are adequate reception arrangements. Efforts should be made to verify the claimed age before deciding the case. Unaccompanied minors without a family to return to should, if they do not qualify for leave on any more favourable grounds, be granted Discretionary Leave for one year or until their 18th birthday, whichever is the shorter period. [paras 6.50.]

4.4.2 At the moment we do not have sufficient information to be satisfied that there are adequate reception arrangements in place. [para 6.50.]

4.5 Medical Treatment in Montenegro

4.5.1 Applicants may claim they cannot return to Montenegro due to a lack of specific medical treatment. See API on ECHR and DL and the IDI on Medical Treatment which set out the requirements for Article 3 to be engaged.. [See revised wording in para 4.5.4]

4.5.2 Generally health facilities in Montenegro (21 Primary Health Care facilities, 8 hospitals, 3 special hospitals and 2 special institutions) are functioning and in reasonable condition. However, age and lack of funds for maintenance, mainly in the Northern part, has affected both buildings and equipment, with a need to update obsolete machinery. State health care remains largely free, but patients often have to bring their own consumables and drugs. The influx of refugees in the past decade has put severe strains on the health service. In general, the service is heavily dependent upon foreign donor support.

4.5.3 Treatment and medication for most conditions (including mental health conditions) are available in Montenegro. Where treatment is not available in Montenegro, patients have access to health care in Serbia. [paras 5.28. - 5.33.]

4.5.4 Where the lack of treatment on return would make removal contrary to Article 3 a grant of discretionary leave to remain will be appropriate. However, the Article 3 threshold will not be reached in the great majority of medical cases.

5. RETURNS

5.1 Return to Montenegro - not via Kosovo

The return of people from Montenegro **should not** be made via Kosovo. Although the Immigration and Appeals Tribunal has accepted this geographically convenient route, there are political reasons why it should not be used. The UN Mission in Kosovo (UNMIK) has a mandate and responsibility to accept back any former residents of the province. But they are not prepared to accept individuals who do not originate from Kosovo. The Foreign and Commonwealth Office has made it very clear that this position must be

respected.

5.2 Removal directions

Removal directions should specify **Serbia and Montenegro (Montenegro)**. The abbreviation "SaM" should not be used. There have been some cases where applicants have been accepted as being from Montenegro and removal directions have been wrongly set for Kosovo. In such cases, the removal directions should be amended - either formally or by an undertaking from the Presenting Officer.

5.3 Documentation

5.3.1 The SaM authorities have indicated to the Immigration Service that they will accept the return of individuals whom they accept as being SaM nationals. For individuals without a valid national passport/travel document they will accept applications lodged on behalf of the United Kingdom Immigration Service (UKIS) by the Immigration Service Documentation Unit (ISDU). In order to be able to issue a travel document the SaM authorities will require some original supporting documentary evidence such as an expired passport, identity card, or a driving licence.

5.3.2 For applications without acceptable supporting documentary evidence, the SaM authorities can verify identity and nationality details by referring back to official records held in Serbia and Montenegro, but not in the Kosovo region at this time. For any such referral to be effective, the applicant's full name, place of birth, date of birth, address details and photograph are required. The verification process takes 2 - 8 weeks to complete.

5.3.3 The SaM Embassy is not currently authorised to allow the UKIS to remove individuals using a European Union Proforma Removal Letter (EU Letter), though discussions with the SaM authorities about this issue are ongoing.

Wherever possible, caseworkers should be encouraged to obtain supporting evidence of identity and nationality, as this may be crucial to the documentation process.

5.4 Voluntary assisted returns programme

5.4.1 *Any failed asylum seekers from Montenegro should be directed to the Voluntary Assisted Returns Programme*, which is organised by the International Organisation of Migration on behalf of the Government. Applications should be registered with Refugee Action offices at The Old Fire Station, 150 Waterloo Road, London SE1 8SB tel 020 7654 7700.

6. UK VISAS: ENTRY CLEARANCE FROM MONTENEGRO

6.1 There is no visa issuing post in Montenegro and visa applications should be made at the British Embassy in Belgrade. The waiting time for an interview is about four weeks from receipt of application. If the ECO is satisfied that immigration rules have been met, the visa is usually issued the same day. If further documents or enquiries are required, the waiting time can be extended by a few days to months, depending upon the situation. Therefore, the earliest a settlement visa can be issued is 4 weeks.

**Country Information and Policy Unit
Asylum and Appeals Policy Directorate
June 2003**