Draft Order laid before Parliament under section 112(4)(b) of the Nationality, Immigration and Asylum Act 2002, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2007 No.

IMMIGRATION

The Asylum (Designated States) Order 2007

Made - - - -	*2007*
Coming into force - -	*2007*

The Secretary of State is satisfied that there is in general in the States to be added to section 94(4) of the Nationality, Immigration and Asylum Act 2002(**a**) by article 2 of this Order no serious risk of persecution of persons or men, as relevant, entitled to reside in those States and that removal to those States of persons or men, as relevant, entitled to reside there will not in general contravene the United Kingdom's obligations under the Human Rights Convention;

Therefore, the Secretary of State makes the following Order in exercise of the powers conferred on him by section 94(5), (5A) and (6) of that Act(**b**);

In accordance with section 112(4)(b) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Asylum (Designated States) Order 2007 and shall come into force on [ ] 2007, but shall not apply to an asylum claim or human rights claim made before that date.

Designated States – addition of States

2. The States listed below shall be added to the list of States in section 94(4) of the Nationality, Immigration and Asylum Act 2002:

"(cc) Bosnia-Herzegovina,

(dd) Gambia (in respect of men),

(ee) Kenya (in respect of men),

(**a**) 2002 c.41. Section 94(4) has been amended by the Asylum (Designated States) Order 2003 (S.I. 2003/970), the Asylum (Designated States) (No. 2) Order 2003 (S.I. 2003/1919), the Asylum (Designated States) (Amendment) Order 2005 (S.I. 2005/1016), the Asylum (Designated States) Order 2005 (S.I. 2005/330), the Asylum (Designated States) (No. 2) Order 2005 (S.I. 2005/3306), the Asylum (Designated States) (Amendment) Order 2006 (S.I. 2006/3215), the Asylum (Designated States) (Amendment) (No. 2) Order 2006 (S.I. 2006/3275) and section 27(4) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (2004 c.19).

(**b**) Section 94(5A) was inserted by section 27(1) and (5) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (2004 c.19). Section 94(6) was substituted by section 27(1) and (6) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (2004 c.19).

(ff) Liberia (in respect of men),

(gg) Malawi (in respect of men),

(hh) Mali (in respect of men),

(ii) Mauritius,

(jj) Montenegro,

(kk) Peru,

(ll) Serbia,

(mm) Sierra Leone (in respect of men)."

Designated States – amendment

3. The list of States in section 94(4) of the Nationality, Immigration and Asylum Act 2002 shall be amended by omitting "(m) Serbia and Montenegro,".

Home Office
Date

Name
Minister of State

EXPLANATORY NOTE

(This note is not part of the Order)

Section 94 of the Nationality, Immigration and Asylum Act 2002 (appeal from within the United Kingdom: unfounded human rights or asylum claim) concerns appeal rights for unfounded human rights and asylum claims.

Under section 94(2), a person may not bring an appeal under section 82(1) while in the United Kingdom where he has made a human rights or asylum claim, or both, and the Secretary of State certifies that the claim is, or the claims are, clearly unfounded. The Secretary of State shall issue a certificate under section 94(2) if he is satisfied that the claimant is entitled to reside in a State listed in section 94(4), unless he is satisfied that the claim is not clearly unfounded.

Section 94(5) allows the Secretary of State to add a State, or part of a State, to the list in section 94(4) if he is satisfied that; (a) there is in general in that State or part no serious risk of persecution of persons entitled to reside in that State or part, and (b) removal to that State or part of persons entitled to reside there will not in general contravene the United Kingdom's obligations under the Human Rights Convention. Section 94(5A) states that if the Secretary of State is satisfied that the statements in section 94(5)(a) and (b) are true of a State or part of a State in relation to a description of person, he may add the State or part to the list in section 94(4) in respect of that description of person.

This Order adds Bosnia-Herzegovina, Mauritius, Montenegro, Peru and Serbia to the list in section 94(4). This Order also adds Gambia, Kenya, Liberia, Malawi, Mali and Sierra Leone, in respect of men, to that list.

Section 94(6) allows the Secretary of State to amend the list in section 94(4) so as to omit a State or part added under subsection (5).

This Order amends the list in section 94(4) by omitting the reference to Serbia and Montenegro. This follows on from the dissolution of the old State union between Serbia and Montenegro in 2006. Serbia, as the successor State to the old State union, has remained designated since the dissolution of the old State union (albeit that it has continued to be referred to in section 94(4) as "Serbia and Montenegro"). However, given that Montenegro is now being added to the list, to avoid confusion the reference to "Serbia and Montenegro" is being omitted and replaced with a reference to "Serbia".

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