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Refugee Admissions and Resettlement Policy: Facts and Issues

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Summary

The refugee admissions ceiling for fiscal year 2000 is 90,000, with Europe accounting for more than half the numbers. P.L. 106-104 reauthorized the Department of Health and Human Service's Office of Refugee Resettlement (HHS/ORR) program through FY2002. P.L. 106-113, the Consolidated Appropriations Act, appropriated \$426.5 million for for (HHS/ORR) for FY2000. P.L. 106-113 also extended the so-called Lautenberg amendment for an additional year; and reenacted a version of the McCain amendment, relating to Vietnamese refugees, for 2 years. The principal refugee issue in 1999 was the emergency admission of Kosovar refugees, in what was probably the most significant test of the flexibility of the refugee provisions since their enactment in 1980. The United States has admitted 15,825 Kosovar Albanians from the refugee camps in Macedonia who had close family ties here or were particularly vulnerable. The State Department reports that 2,750 refugees have returned to Kosovo. P.L. 106-31, the Emergency Supplemental Appropriations Act, included \$100 million for resettling Kosovar refugees in the United States, plus additional funds for transporting them here. This report will be updated to reflect legislative and other action.

Background and Definitions

The admission of refugees to the United States and their resettlement here are authorized by the Immigration and Nationality Act (INA), as amended by the Refugee Act of 1980. There have been very few changes in these procedures in the 19 years since their enactment. The 1980 Act had two basic purposes: (1) to provide a uniform procedure for refugee admissions; and (2) to authorize federal assistance to resettle refugees and promote their self-sufficiency. The intent of the legislation was to end an ad hoc approach to refugee admissions and resettlement that had characterized U.S. refugee policy since World War II.

The term "refugee" is defined by the INA to conform with the definition used in the United Nations Protocol and Convention Relating to the Status of Refugees, to which the United States is a party. A "refugee" is a person who is fleeing because of persecution or

a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, and who is “of special humanitarian concern” to the United States. *Refugees* are processed and admitted to the United States from abroad. Separate provision is made in the INA for the granting of *asylum* on a case-by-case basis to aliens who are physically present in the United States or at a land border or port of entry and who meet the definition of “refugee.” Asylees are not included in the refugee allocations shown below.

Refugee Admissions

Refugee admissions are governed by different criteria and numerical limits than immigrant admissions. The annual number of refugee admissions and the allocation of these numbers among refugee groups are determined at the start of each fiscal year by the President after consultation with the Congress (see **Table 1**). As discussed below, provision is also made for consultations in the event of unforeseen emergency refugee situations.

Table 1. Refugee Admission Ceilings, FY1996 - FY2000

Region	FY1996	FY1997	FY1998	FY1999	FY2000
Africa	7,000	7,000	7,000	12,000	18,000
East Asia	25,000	10,000	14,000	9,000	8,000
Europe Former Yugoslavia NIS/Baltics ^a Kosovar Albanians	45,000	48,000 (18,000) (30,000)	51,000 (25,000) (26,000) ^b	61,000 (25,000) (23,000) ^d (13,000)	47,000 (17,000) (20,000) (10,000)
Latin America/ Caribbean	6,000	4,000	4,000	3,000	3,000
Near East/S.Asia	4,000	4,000	4,000	4,000	8,000
Unallocated	3,000	5,000	3,000 ^c	2,000	6,000
Total Ceilings	90,000	78,000	83,000^b	91,000^d	90,000
Actual Admissions	75,682	70,085	77,056	85,006	NA

Source: Proposed Refugee Admissions for Fiscal Years 1997-2000. Report to Congress, Departments of State, Justice, and HHS; PD 99-33, August 12, 1999; PD 99-45, September 30, 1999

^aNewly Independent States and the Baltic Nations, previously known as the Former Soviet Union (FSU).

^bIncludes an unfunded reserve of 5,000 to be used if necessary and if funding becomes available. FY1998 estimated admission figure assumes authorization of the use of 1,000 of these numbers.

^cFY1998 admission figure includes reprogramming of the 3,000 unallocated numbers and numbers unused by Latin America and East Asia to Europe/Formal Yugoslavia for a total of 54,000 European refugees.

^dIncludes 3,000 unfunded reserve available if necessary and funded, plus 13,000 for the Kosovar refugees.

FY2000 refugee allocations. Following consultation with Congress, President Clinton authorized a FY2000 ceiling of 90,000 admissions on September 30, 1999. The

European allocation of 47,000 makes up more than half of the total, and consists of two subgroups. The first is the former Yugoslavia, probably the refugee group of greatest concern to the Clinton Administration, at least as measured by numbers. Quoting from the *Proposed Refugee Admissions for Fiscal Year 2000: Report to Congress*, “As a measure of the importance the U.S. continues to attach to the humanitarian needs of this population..., we propose an allocation of 17,000 admissions from the former Yugoslavia during FY2000. In addition, we propose to admit up to an additional 10,000 refugees from the Kosovo conflict, providing that existing resources from the 1999 Kosovo Emergency Supplemental are available to fund the cost of their admission.”¹ The second European subgroup is the Newly Independent States (NIS) and Baltic Nations (previously known as the former Soviet Union). The allocation for this subgroup is 20,000.

The allocation of 18,000 for Africa is the highest to date for that region. The FY2000 consultation document notes that, as in previous years, the population will be “diverse and scattered over the continent,” with the Sudanese victims of religious persecution in Egypt, Ethiopia and Kenya singled out for special mention (p. 8). The East Asian allocation of 8,000, down from 40,000 in FY1995, is the lowest for that region since the Vietnam War ended in 1975. Resettlement from camps in Hong Kong and Southeast Asia is not expected to exceed 500. Most of the East Asian numbers are expected to be used for in-country processing of a final group of former reeducation camp detainees and Amerasians entering under the Orderly Departure Program (ODP), residual Resettlement Opportunity for Vietnamese Returnees (ROVR) applicants, and former U.S. government employees. The Near East/South Asia number will continue to be used for Iraqis and Iranians, and is being increased to accommodate an anticipated increase in referrals, including Afghan women in vulnerable circumstances. As in the past, the 3,000 Latin America/Caribbean numbers will be used primarily for Cubans.

Kosovar Albanians.² As of November 30, 1999, the United States had admitted 15,825 Kosovar Albanians from the refugee camps in Macedonia who, in the Vice President’s words, had “close family ties in America” or were particularly “vulnerable.” Refugee processing is now limited to emergency referrals by the UNHCR. The State Department reports that 2,748 refugees had returned to Kosovo as of December 3, 1999.

While the Vice President referred to the refugees’ admission to the United States as temporary, in fact they were admitted under the refugee provisions of the INA, which provide for permanent admission after a year in refugee status. However, from the beginning the State Department indicated that it would “provide maximum opportunities for people to return,” including transportation. On July 12, the State Department announced that it had contracted with International Organization for Migration (IOM) to assist refugees who wished to return to Kosovo. Quoting from the statement, “Refugees will make the decision whether to return or to permanently resettle in the U.S. While the Department is not encouraging Kosovar refugees to return precipitously, it is responding to growing interest among them to return sooner rather than later.” The State Department

¹ Departments of State, Justice, and Health and Human Services, *Proposed Refugee Admissions for Fiscal Year 2000: Report to Congress*, July 1999, p. 17. (Henceforth cited as the FY2000 consultation document.)

² For additional background, see CRS Report RS20154, *Kosovo: Refugee Assistance and Temporary Resettlement*, by Lois B. McHugh and Joyce Vialet.

will fund the return travel of Kosovar refugees evacuated from Macedonia under the U.S. special assistance program who arrived here by July 31, 1999, provided they leave prior to May 1, 2000.³ Additionally, the IOM travel loan these refugees agreed to before they arrived here will be canceled.

The INA includes a provision for refugee emergencies that has been used only four times since the refugee provisions were adopted in 1980.⁴ If the President determines after appropriate consultation with Congress that an unforeseen emergency refugee situation exists and that the admission of the refugees is justified by grave humanitarian concerns or is otherwise in the national interest, he may specify an additional number of refugees to be admitted during the succeeding 12-month period. The Administration consulted with Congress regarding the addition of what turned out to be 13,000 numbers for the Kosovar Albanians to the previous FY1999 refugee admissions ceiling of 78,000.

Legislation and Issues. The State Department's FY1999 expenses of \$40 million for the transportation and initial resettlement of the Kosovar Albanians is being funded from the U.S. Emergency Refugee and Migration Assistance Fund (ERMA). On April 29, the President authorized the use of \$20 million from ERMA.⁵ **P.L. 106-31**, the Emergency Supplemental Appropriations Act, includes an additional \$165 million for ERMA, which is expected to be the source of the other \$20 million.

Lautenberg amendment. P.L. 106-113, the Consolidated Appropriations Act, FY2000, included a provision extending the "Lautenberg amendment" through FY2000. The "Lautenberg amendment" is a provision of P.L. 101-167, the FY1990 Foreign Operations Appropriations Act, that requires the Attorney General to designate categories of former Soviet and Indochinese nationals for whom less evidence is needed to prove refugee status (section 599D of P.L. 101-167); and provides for adjustment to permanent resident status for certain Soviet and Indochinese nationals granted parole after being denied refugee status (section 599E). Applicants for refugee status under the special provision are only required to prove that they are members of a protected category with a credible but not necessarily individual fear of persecution. Normal refugee procedures require individuals to establish a well-founded fear of persecution on a case-by-case basis.

Vietnamese refugees. P.L. 106-113 also extends through FY2001 a revised version of an expired provision previously referred to as the McCain amendment. Quoting from the conference report, the provision "restores eligibility for U.S. refugee resettlement to certain sons and daughters of Vietnamese re-education camp survivors, and also provides such eligibility for sons and daughters who were denied the right to resettle in the United States [solely] because their government-issued residency documents did not prove

³ Of the 15,825 Kosovars admitted, 11,200 arrived here by July 31, 1999 and are eligible for the return home program. Almost 25% (2,748) of the refugees eligible to return have done so.

⁴ In addition to the Kosovar Albanians, the emergency consultation provision (INA, §207(b)) was used in the spring of 1980 by President Carter, for 3,500 Cubans who had sought refuge in the Peruvian Embassy in Havana; by President Reagan, for an additional 15,000 refugees from Eastern Europe and the Soviet Union during FY1988; and by President Bush for an additional 22,500 refugees during FY1989, primarily from the Soviet Union.

⁵ Presidential Determination No. 99-22; *Federal Register*, May 7, 1999, p. 24501.

‘continuous coresidency’ with their parents” (H.Rept. 106-479; *Congressional Record*, Nov. 17, 1999, Part II, p. H12575).

Refugee Resettlement Assistance

The Department of Health and Human Service’s Office of Refugee Resettlement (HHS/ORR), within the Administration for Children and Families, administers an initial transitional assistance program for temporarily dependent refugees and Cuban/Haitian entrants. Since its establishment in 1980, the refugee resettlement program has been justified on the grounds that the admission of refugees is a federal decision, entailing some federal responsibility. Unlike immigrants, who usually enter through family or employment ties, refugees are admitted on humanitarian grounds and there is no requirement that they demonstrate economic self-sufficiency.

P.L. 106-113, the Consolidated Appropriations Act, FY2000, appropriated \$426.5 million for HHS/ORR. The HHS/ORR FY2000 appropriation also includes funds to implement P.L. 105-320, the Torture Victims Relief Act of 1998, which authorizes \$7.5 million for HHS grants for domestic treatment programs. HHS/ORR played a key role in the resettlement of the Kosovar Albanian refugees. In addition to the FY1999 appropriation shown in **Table 2**, \$100 million was appropriated for HHS/ORR in P.L. 106-31 “to assist in the temporary resettlement of displaced Kosovar Albanians,” to remain available through September 30, 2001.

Table 2. Refugee Resettlement Funding for FY1996- FY2000
(\$ in millions)

Program Component	FY1996 Approp	FY1997 Approp	FY1998 Approp	FY1999 Approp	FY2000 Approp
Transitional/Cash and Medical Services	\$263.3	\$254.1	\$234.0	\$220.7	\$220.7
Social Services	80.8	110.9	130.0	160.3 ^a	144.0
Victims of Torture ^a	—	—	—	—	7.5
Preventive Health	2.7	4.8	4.8	4.8	4.8
Targeted Assistance	60.4	54.9	54.5	49.5	49.5
Carryover Balance	—	—	—	(20.3)	—
Total	\$407.2	\$424.7	\$423.3	\$435.3	\$426.5

Source: HHS Administration for Children and Families, Fiscal Years 1999 and FY2000 Justifications of Estimates for Appropriations Committees; H.Rept.106-479 (*Congressional Record*, Nov. 17, 1999, Part II, p. H12458).

^a Includes \$20.3 million in reappropriated unobligated FY1997 funds.

Activities funded by HHS/ORR include cash and medical assistance and social services intended to assist refugees in becoming socially and economically self-sufficient, preventive health services, and targeted assistance for impacted areas. Special refugee cash assistance (RCA) and refugee medical assistance (RMA) have been the heart of the

refugee program, accounting for over half of the HHS/ORR annual budget (see **Table 2** above). This is state-administered assistance to help needy refugees who are categorically ineligible to access the mainstream federal assistance programs. RCA and RMA have been available for 8 months after entry since October 1, 1991. RMA benefits are based on the state's Medicaid program. Similarly, RCA payments have been based on the state's Aid to Families with Dependent Children (AFDC) payment to a family unit of the same size. For example, an able-bodied couple below age 65 would receive an RCA benefit equal to that of a two-person AFDC family. HHS/ORR has published a proposed rule amending its regulations to reflect changes resulting from the replacement of AFDC by Temporary Assistance for Needy Families (see below).

HHS/ORR was reauthorized through FY2002 by **P.L. 106-104**. The agency is proposing a significant reform of RCA and other services to refugees who do not qualify for TANF. The proposed "public/private partnership" would transfer a major part of the cash assistance function from State welfare departments to private voluntary agencies. This plan is being put in place by regulation; the proposed rule was published on January 8, 1999 (*Federal Register*, pp. 1159-1175). The HHS/ORR program was significantly affected by the welfare reform legislation enacted on August 22, 1996 and subsequent amendments.⁶ Prior to this legislation, refugees who met the requirements of the mainstream welfare programs were immediately and indefinitely eligible to participate in them. This is no longer the case. The rules governing refugee eligibility for Supplemental Security Income (SSI) for the Aged, Blind and Disabled; Medicaid; TANF; and Food Stamps are summarized below.

Table 3. Refugee Eligibility for Federal Public Assistance Programs

Program	Refugees Admitted by 8/22/96	Refugees Admitted after 8/22/96
SSI	Eligible if receiving benefits on 8/26/96, or if subsequently disabled; otherwise eligible for 7 years after entry	Eligible for 7 years after entry
Medicaid	Eligible if receiving SSI; otherwise eligible for 7 years after entry, then state option	Eligible for 7 years after entry, then state option
TANF	Eligible for 5 years after entry, then state option	Eligible 5 years after entry, then state option
Food Stamps^a	Eligible if over 65 by 8/22/96, while under 18, or if subsequently disabled; otherwise eligible for 7 years after entry	Eligible for 7 years after entry

^aHmong and their immediate family who belonged to tribes that provided assistance to the United States in the Vietnam War are permanently eligible if they meet program requirements.

⁶ The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), as amended. See CRS Report 96-617, *Alien Eligibility for Public Assistance*.