

SWITZERLAND

1 Arrivals

1 Total number of applications for asylum lodged, with monthly breakdown and percentage variation between years

Table 1:

Month	2003	2004	Variation +/- (%)
January	2,196	1,608	-26.8
February	1,648	1,398	-15.2
March	1,662	1,720	3.4
April	1,538	1,378	-10.5
May	1,551	1,103	-23.2
June	1,563	1,201	-23.2
July	1,791	1,148	-36.0
August	1,899	1,012	-46.8
Sept.	1,902	1,001	-47.4
October	1,908	980	-48.7
November	1,690	883	-47.8
December	1,500	816	-56.0
Total	21,037	14,248	-36.3

Source: Federal Office of Migration – Asylum statistics, Jan. 2005

Comments

Asylum applications dropped dramatically. According to the Federal Office of Migration, this could be the result of the introduction of new measures such as the exclusion from social welfare for persons whose asylum claims were rejected as inadmissible or dealt with in the accelerated asylum procedure.

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

Table 2:

Country	2003	2004	Variation +/- (%)
Serbia and Montenegro	2,953	1,771	-39.8
Turkey	1,674	1,154	-31.1
Georgia	762	731	-4.1
Iraq	1,458	631	-56.7
Bulgaria	282	624	121.3
State unknown	1,244	601	-51.7
Somalia	474	592	24.9
Russia	511	505	-1.2
Algeria	830	480	-42.2
Nigeria	502	418	-16.7
Others	10,347	6,735	-34.9
Total	21,037	14,248	-32.3

Source: Federal Office of Migration – Asylum statistics, Jan. 2005

3 Persons arriving under family reunification procedure

1,059 (2003: 1,153).

These figures are included under paragraphs 1 and 2 above.

4 Refugees arriving as part of a resettlement programme

Switzerland did not operate any resettlement programmes in 2004.

5 Unaccompanied minors

No figures available.

2 Recognition Rates

6 The statuses accorded at first instance and appeal stages as an absolute number and percentage of overall decisions

Table 3:

Statuses	2003		2004					
	First instance Number	Appeal %	Number	%	First instance Number	Appeal %	Number	%
No status awarded	14,823	61.0			10,080	59.9		
Convention status *	1,638	6.7			1,555	9.2		
Provisional admissions	3,250	12.0			4,198	24.9		
Applications deemed inadmissible	7,832	32.2			5,193	30.8		
Retreat and write-off	3,023	--			2,329	--		
Total	27,314	100			19,157	100		

Source: Federal Office of Migration – Asylum statistics, Jan. 2005

*Includes family reunifications

Comments

It is not possible to indicate whether a status is accorded at first instance or on appeal.

7 Refugee recognition rates (1951 Convention: as an absolute number and as a percentage of

total decisions) according to country of origin, at first instance and appeal stages

Table 4:

Country of origin	2003		2004			
	First instance Number	Appeal %	First instance Number	Appeal %	First instance Number	Appeal %
Turkey	571	25.9	496	31.6		
Iraq	176	40.4	175	29.3		
Bosnia & Herzegovina	112	7.5	97	21.4		
Serbia & Montenegro	112	3.4	85	4.3		
Tunisia	85	45.5	73	60.8		
Togo	21	10.7	68	33.5		
Afghanistan	78	11.1	60	33.3		
Others	483	-	501	-		
Total	1,638	6.7	1,555	9.2		

Source: Federal Office of Migration – Asylum statistics, Jan. 2005

Comments

It is not possible to indicate whether a status was accorded at first instance or on appeal.

8 Subsidiary and other status granted (as an absolute number and as a percentage of total decisions) according to country of origin, at first instance and appeal stages

No figures available.

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

658 (797 in 2003).

10 Persons returned on safe country of origin grounds

No figures available.

11 Number of applications determined inadmissible

5,193 (7,818 in 2003).

12 Number of asylum seekers denied entry to the territory

199 (310) out of 399 (537) persons were denied entry when asking for asylum at the border (incl. International airports). One decision was pending at the end of December 2004.

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

No figures available.

14 Deportations of rejected asylum seekers

2,330 (2,858 in 2003).

15 Details of assisted return programmes, and numbers of those returned

New programmes have been implemented for the return of persons from Armenia (04/05) and Congo (04/07). In 2005, new programmes were implemented for the return of persons from Mali, Burkina Faso, Sierra Leone and Guinea (05/06) as well as to Nigeria (05/01). Persons with permission to remain in Switzerland and rejected asylum seekers are in principle entitled to participate in these programs.

16 Number of asylum seekers sent back to the Member State responsible for examining the asylum application under the Dublin II Regulation

Switzerland is not yet party to the Dublin Convention.

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

Iraq

On 30 January 2004, the Federal Office for Refugees announced the lifting of the moratorium on decisions regarding asylum seekers from Iraq. Consequently, asylum requests are again being examined on their individual merits.

5 Legal and Procedural Developments

18 New legislation passed

The Asylum Law and the Law on Aliens are being revised. On 1 April 2004, some regulations of the Asylum Act came into force due to a fast-track legislative process in the framework of a package of “Measures of economisation in the field of asylum”. The regulations include the following:

A new inadmissibility clause for persons who have already received a negative decision in a EU- or EEA-country;

A deadline for the appeal in the accelerated procedure of five working days;

A new pre-removal detention clause in certain circumstances in the accelerated procedure; and

Exclusion from social aid of persons whose claims have been determined inadmissible.

According to the Federal Office for Migration (FOM), asylum seekers whose applications have been rejected generally remain in Switzerland as long as they receive social welfare assistance and they will leave as soon as such assistance is ended. It is expected, therefore, that the new regulation will lead to shorter duration of stay after asylum applications have been rejected. It is estimated that the new regulation will make savings of approx. 130 million CHF (approx. €85 million) for the period 2004-2006.

19 Changes in refugee determination procedure, appeal or deportation procedures

New legislation in force as of 1 April 2004:

Change of the appeal deadline in the accelerated procedure

As part of a package of new legislation, the deadline for appeal after an inadmissible decision (effect: no entry into merits) has been shortened to five working-days with suspensive effect (previously: 30 days, no suspensive effect).

New reason for inadmissibility: Negative decision from an EU- or EEA-country:

Asylum claims will be regarded as inadmissible if the person has already received a negative decision by the asylum authorities of a EU-member state or a EEA-country, except where a person claims to have been persecuted subsequently and the alleged persecution is such that it would fall under the 1951 Geneva Convention or the rules on subsidiary protection.

No social welfare aid to asylum-seekers whose claims are declared inadmissible:

Asylum-seekers whose claims are determined inadmissible are excluded from social welfare as soon as this decision enters into force, i.e. after the deadline of five working days for an appeal has expired unused or after the rejection of an appeal. They are regarded as illegal aliens and will be put on the street with a one-day train ticket and are expected to leave the country. Cantons, who are responsible for the removal of illegal non-nationals, are however, under the constitutional obligation to provide help to those who remain in Switzerland and become destitute. The Federal Government will reimburse the cantons for such expenses. There are transitory rules for those whose claims were declared inadmissible before the entry into force of the new legislation. These people will continue to benefit from social welfare until the end of 2004 at the latest.

New “objective” reasons for detention:

Asylum seekers whose applications have been rejected whose claim has been judged inadmissible due to an “abusive element” (persons hiding their identity or not providing id-documents without reasonable excuse, persons filing the asylum claim to prevent immediate removal, persons grossly violating their obligations in the procedure) can be placed in pre-removal detention after the decision – without any additional cause (previously, detention was possible only where individual behaviour indicated that the person might disappear). They can be placed in pre-removal detention for a three month period, which can be extended by up to another six months. They can therefore be placed in pre-removal detention after their decision for a maximum period of nine months.

Use of force during deportations:

In November, the government presented a draft federal law regulating the use of force by police during deportations and during the transport of detainees ordered by a federal authority. The draft authorises the use of electro-shock instruments, including tasers, during forced deportations.

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

The decisions of the Swiss Asylum Appeals Commission (SAAC) can be downloaded at <http://www.ark-cra.ch/>

Turkey (EMARK 2004/8)

In contrast to earlier reports of the situation in the south-eastern provinces of Turkey, the Swiss Asylum Appeals Commission considers the removal of rejected asylum seekers to the south-eastern provinces of Turkey to be reasonable in general.

Eritrea (EMARK 2004/26)

The removal to Eritrea, in particular to the Eritrea-Ethiopian borderland of the Senafe/Debub region, which is affected by war, is considered unreasonable due to the humanitarian situation there, particularly where infants are concerned.

Angola (EMARK 2004/32)

On the basis of a new estimation of the situation, the Swiss Asylum Appeals Commission considers in general the removal of rejected asylum seekers to the provinces of Cabinda, Uige, Malanje, Lunda Norte, Lunda Sul, Bié, Moxico and Cuando-Cubango not to be reasonable. In the absence of specific risks due to affiliation to the liberation movement of Cabinda, the removal to Luanda and easily accessible cities in the provinces of Cunene, Huila, Namibe, Benguela, Huambo, Cuanza Sul, Cuanza Norte, Bengo et Zaïre is considered to be reasonable under certain circumstances (i.e. single men or couples, without young children, no serious medical problems, family or social network).

Democratic Republic of Congo (EMARK 2004/33)

Removal is reasonable under certain circumstances, namely if the last residence of the person concerned was within the capital Kinshasa or another town having an airport in the west of the country, or if the person has a firm social network in place in the region.

However, removal is generally considered unreasonable if the person is responsible for young children, several children, has already attained a certain age, has serious medical problems or if the person is a single woman without a social or family network.

Female genital mutilation (EMARK 2004/14)

Unless it is decided that a woman or girl alleging that she would be subject to female genital mutilation upon return is eligible for refugee status, the execution of the removal is contrary to Article 3 of the European Convention on Human Rights and therefore inadmissible.

AIDS (EMARK 2004/ 6 and EMARK 2004/7)

According to the jurisprudence of the European Court of Human Rights, the removal of an end-stage AIDS patient may lead to a breach of Article 3 of the European Convention on Human Rights. However, the removal of patients who are not in the end-stage is admissible. The illness has to be looked at under the criteria of whether the execution of removal can be considered reasonable.

This evaluation depends not only on the stage (A - C) of the HIV-infection, but also on the situation in the country of origin or homeland of the patient, particularly with regard to medical supply, the security situation and the personal environment.

Exclusion from asylum status (EMARK 2004/21)

Turkish prisoners who have been on hunger strike are not considered to be unworthy of being granted asylum.

Nationality of exile Tibetans in India or Nepal (EMARK 2005/1)

It is to be noted that a person of Tibetan origin has to be considered as of Chinese nationality. This applies even if there are hints of the fact that the person lived as an exiled-Tibetan in Nepal or India, because it usually cannot be assumed that exiled Tibetans in these countries would acquire the respective nationalities. Without substantial clues, a nationality other than the Chinese nationality can neither be considered proven nor considered likely.

21 Developments in the use of the exclusion clauses of the Refugee Convention in the context of the national security debate

No developments.

22 Developments regarding readmission and cooperation agreements

On 16 December 2004, a readmission agreement was signed with Lebanon. A readmission agreement with Norway was signed on June 16th 2005. Both agreements include clauses on transit.

6 The Social Dimension

23 Changes in the reception system

Asylum-seekers whose claims are declared inadmissible are excluded from social welfare as soon as their decision enters into force, i.e. after the deadline for an appeal of five working days has expired and unused. They are considered illegal aliens and will be put on the street with a one-day train ticket and expected to leave the country. Cantons, who are responsible for the removal of illegal aliens, are, however, under a constitutional obligation to provide help to those who remain in Switzerland and become destitute.

24 Changes in the social welfare policy relevant to refugees

No developments.

25 Changes in policy relating to refugee integration

No developments, the Asylum Act as well as the alien law are being revised. The ongoing revision of the alien law will enable persons provisionally admitted on humanitarian grounds (subsidiary protection) to benefit from integration programmes.

26 Changes in family reunion policy

No developments. The ongoing revision of the alien law will enable persons provisionally admitted on humanitarian grounds to benefit from better regulations regarding family reunion.

7 Other Policy Developments

27 Developments in resettlement policy

Switzerland does not operate any resettlement programmes. A refugee residing outside of Switzerland can no longer be resettled to Switzerland.

28 Developments in return policy

No developments.

29 Developments in border control measures

No developments.

30 Other developments in refugee policy

No developments.

8 Political Context

31 Government in power during 2004

The political landscape in Switzerland changed dramatically in the second half of 2003. The anti-immigration Swiss Peoples Party (SVP/ UDC) emerged as the biggest party after the General Election held on October 19th, 2003. As a result of the outcome of the election, Christoph Blocher, leader of the Swiss Peoples Party (SVP/ UDC) gained the position of Minister of Justice and Police. He has been in

charge of asylum and immigration matters since 1st January 2004. Subsequently, on January 1st, 2005 the Federal Office for Refugees was merged with the Federal Office of Immigration, Integration and Emigration (IMES).

32 Governmental policy vis-à-vis EU developments

With their vote of June 5th, 2005 the Swiss people accepted the accession to Schengen/Dublin with 1,474,704 votes to 1,226,449 (54,6%).

33 Asylum in the national political agenda

The Asylum Law is constantly being revised (see Section 18). The Commission of the National Council decided to restrict the Asylum Law as follows:

Admission on humanitarian grounds is not to be introduced, although the Federal Council and the National Council approved it;

Refugees without travel documents are to be excluded to a large extent from the asylum procedure. This would lead to a breach of the refugee convention;

All rejected asylum-seekers are to be excluded from social welfare. There is no exception planned for vulnerable persons; and

With regard to expulsion, detention for up to two years shall be permitted. Furthermore, a coercive detention shall be feasible.

The National Council will deliberate on the proposals for the revision of the Asylum Act in autumn 2005. The new legislation will enter into force at the earliest in mid 2007.

Biography

Kathrin Buchmann, Carole Altindal

SWISS REFUGEE COUNCIL

The Swiss Refugee Council is committed to respect, openness and tolerance towards people, who seek protection in Switzerland. In a world, in which many suffer from war and distress, displacement and flight, xenophobia and discrimination, the Swiss Refugee Council makes an important contribution to solidarity and a fair society.

The Swiss Refugee Council supports the protection of refugees, asylum-seekers and those with subsidiary protection and is engaged at all levels of political and social life, to advocate that:

Persons seeking refuge have access to a fair asylum procedure in accordance with the rule of law. Refugees can participate actively in the social life in Switzerland and that their integration is promoted from the first day on.

Rejected asylum-seekers can return in security and dignity to their homeland.

The Swiss Refugee Council monitors the compliance with the Geneva Refugee Convention and the implementation of human rights.

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