ECRE COUNTRY REPORT 2005

This report is based on the country reports submitted by member agencies to the ECRE Secretariat between June and August 2005. The reports have been edited to facilitate comparisons between countries, but no substantial changes have been made to their content as reported by the agencies involved.

The reports are preceded by a synthesis that is intended to provide a summary of the major points raised by the member agencies, and to indicate some of the common themes that emerge from them. It also includes statistical tables illustrating trends across Europe.

ECRE would like to thank all the member agencies involved for their assistance in producing this report.

The ECRE country report 2005 was compiled by Jess Bowring and edited by Carolyn Baker.

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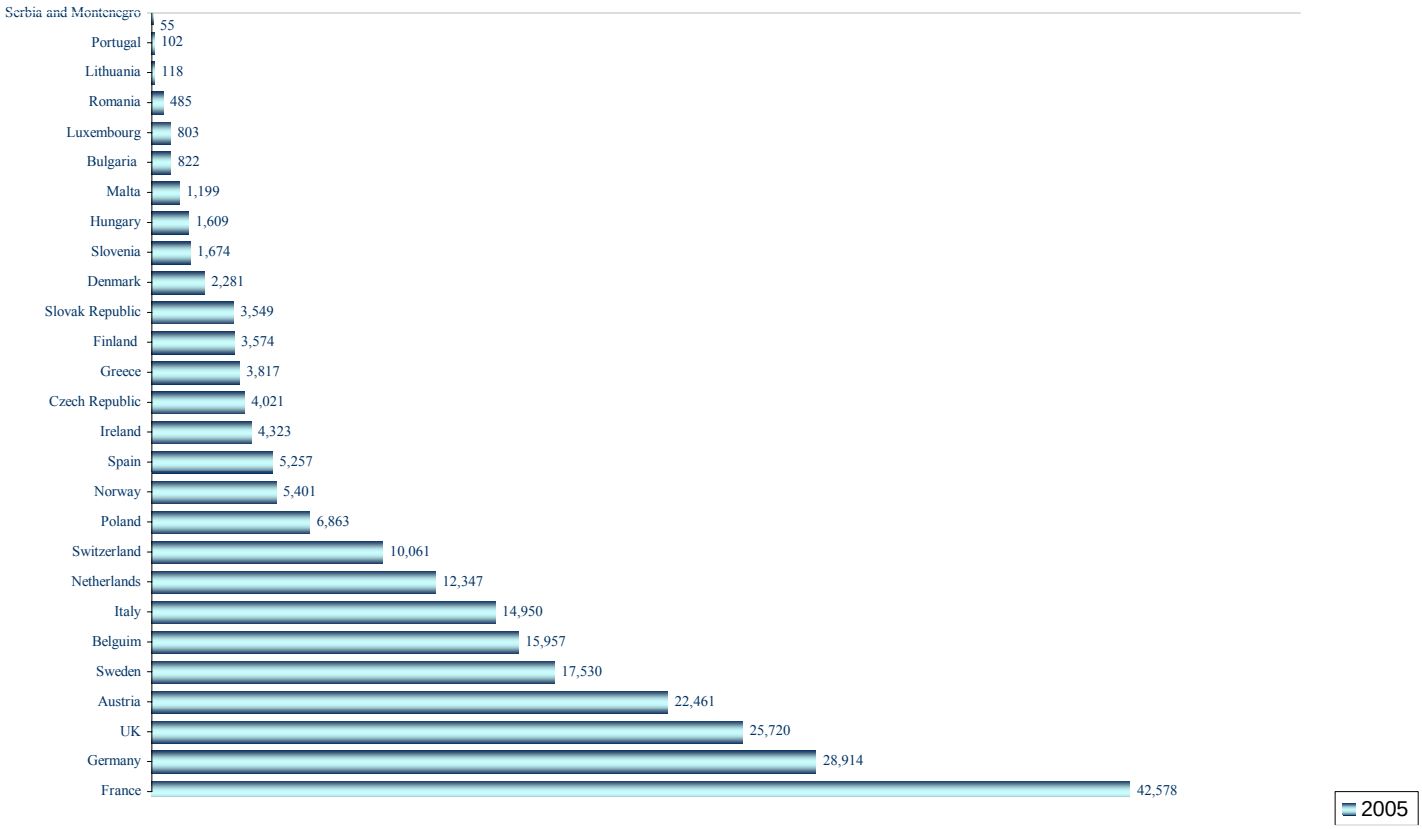
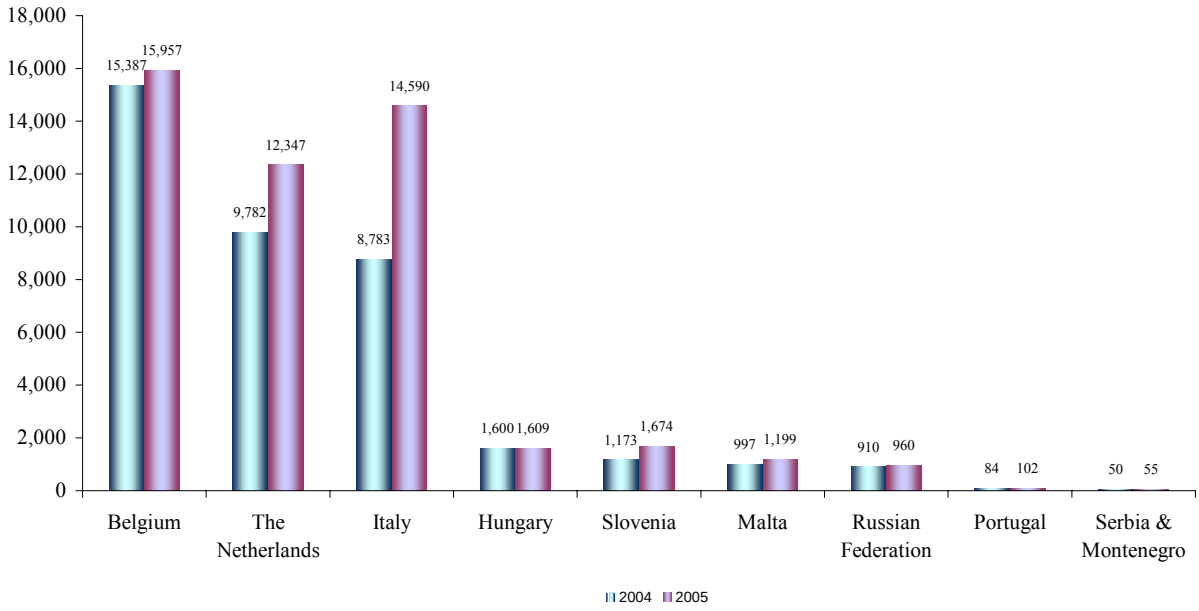


Chart 2: *European countries with increasing numbers of asylum applications*



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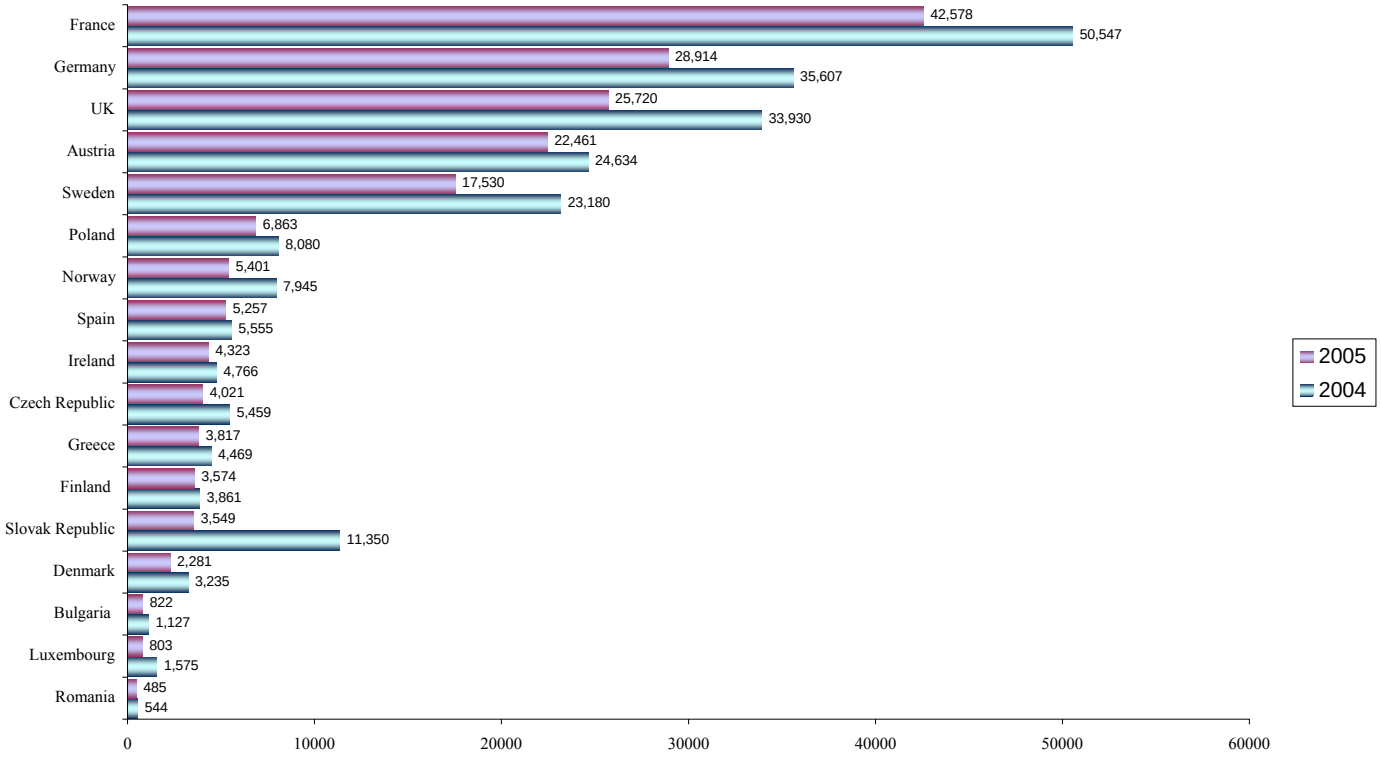

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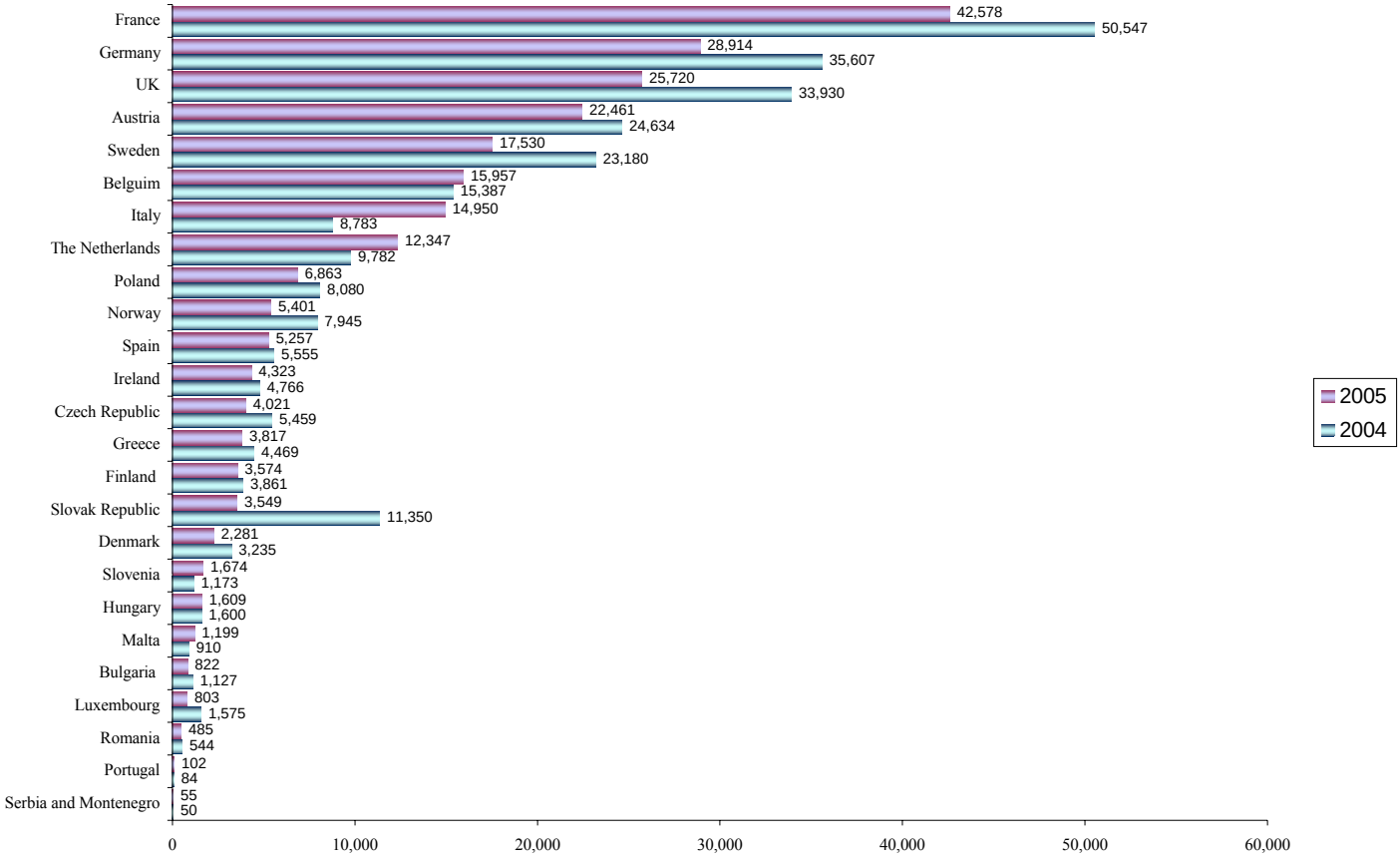
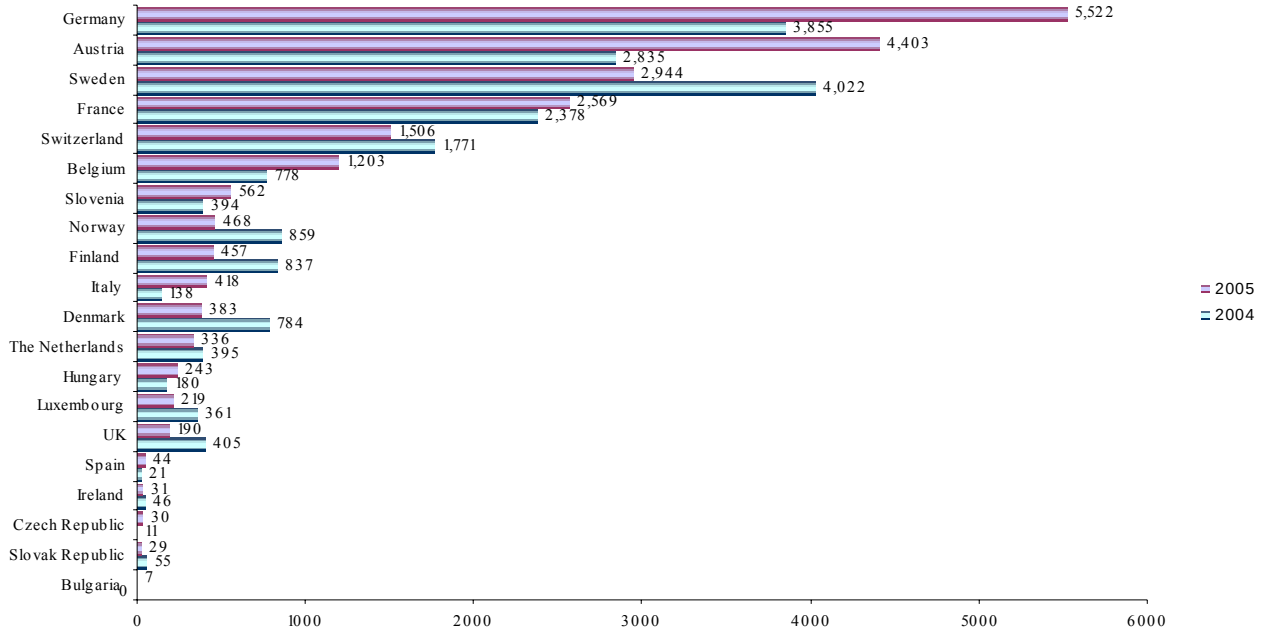


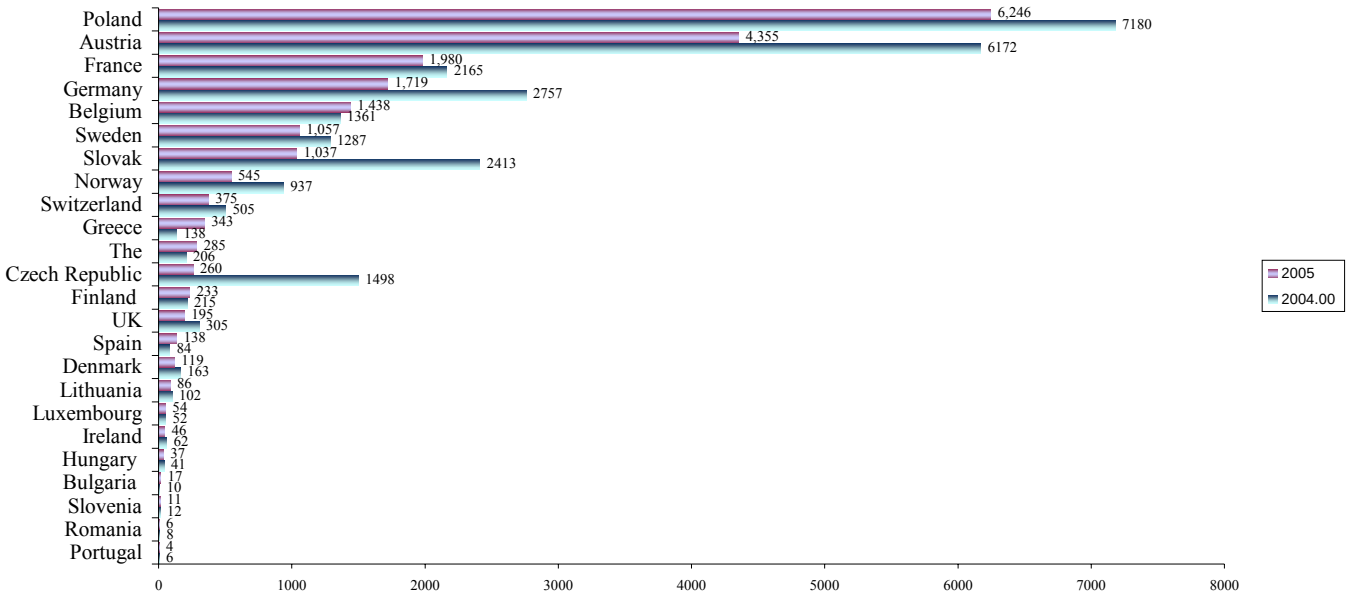
Chart 5: *Asylum applications submitted by persons from Serbia & Montenegro*



Total	2004	2005	Variation
28 Synthesis countries*	20,139	21,564	+7.1
25 EU Member States*	19,273	21,089	+9.4

*Countries with more than five applications

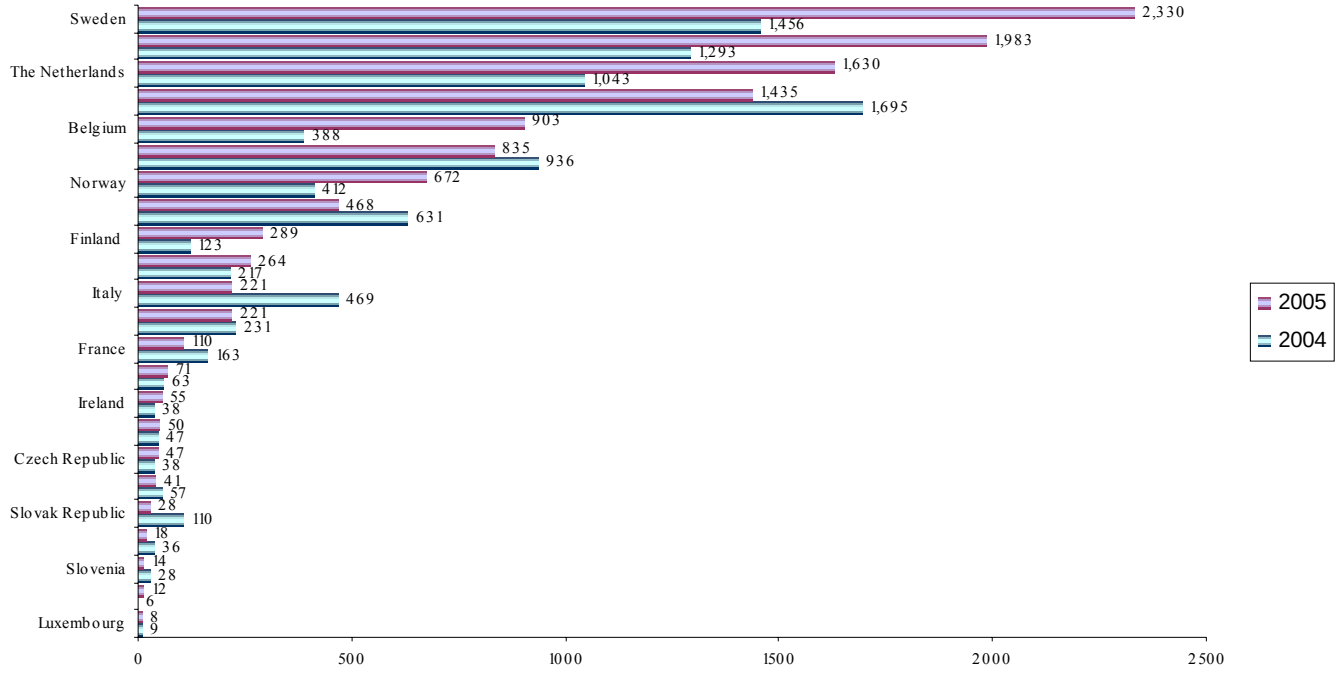
Chart 6: *Asylum applications submitted by persons from the Russian Federation*



Total	2004	2005	Variation
28 Synthesis countries*	27,713	20,586	-25.7
25 EU Member States*	26,758	20,018	-25.19

*Countries with more than five applications

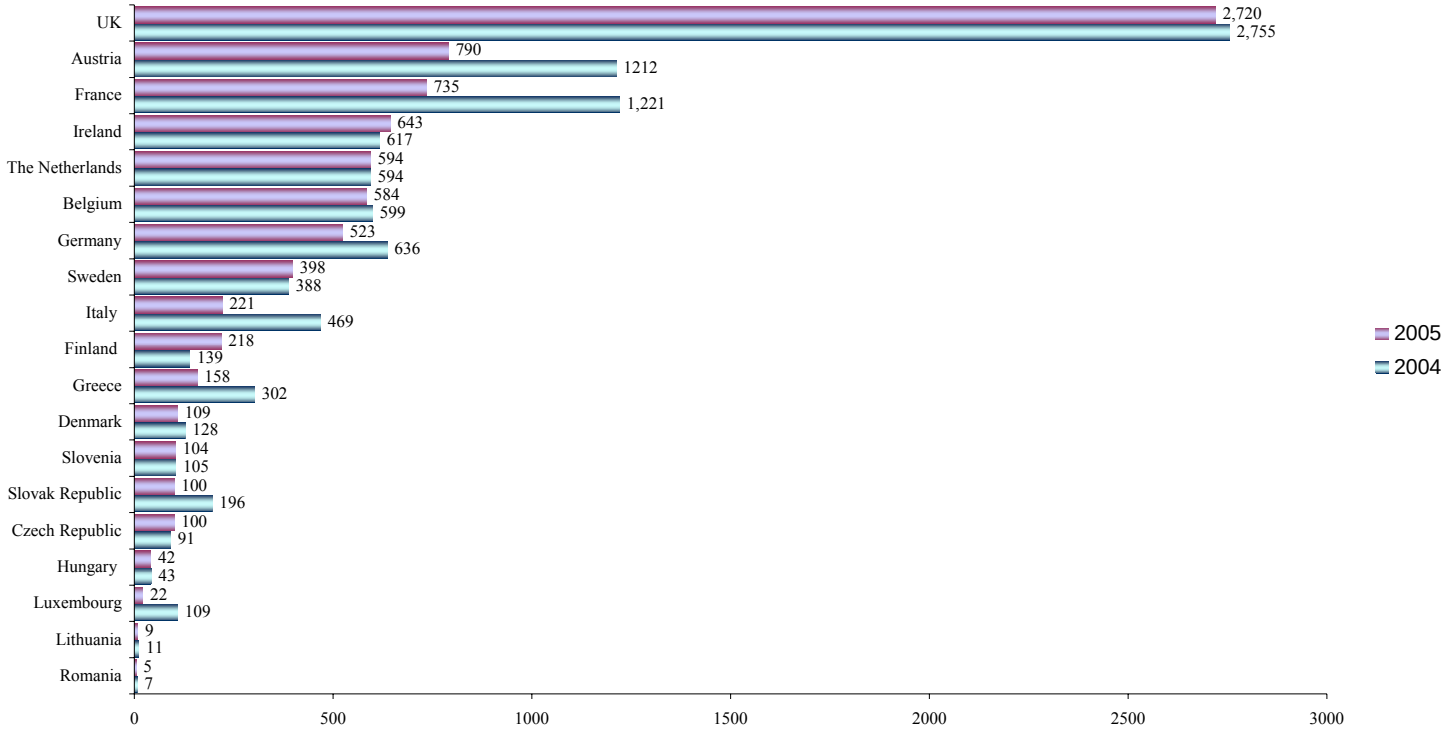
Chart 7: *Asylum applications submitted by persons from Iraq*



Total	2004	2005	Variation
28 Synthesis countries*	9,489	11,708	+23.4
25 EU Member States*	8,967	10,915	+ 21.7

*Countries with more than five applications

Chart 8: *Asylum applications submitted by unaccompanied minors*



4 Table 1: *recognition rates (%) Subsidiary Protection in European countries*

Country	2004	2005
Austria	2.9	7.5
Bulgaria	15	6.1
Czech Republic	0.4	1.5
Denmark	4.4	9.1
Finland	4.3	4.1
France	7	8.5
Germany	1.6	1.4
Greece	0.6	1.05
Hungary	16*	7.5
Italy	N/A	29.5
Lithuania	83.3	84.6
Luxembourg	12	14
Norway	10.3*	7.7*
Portugal	8.3	8.8
Slovenia	4.9	1.07
Spain	2.6	1.9
Sweden	2.3*	3.2*
The Netherlands	N/A	3.2

*Appeal number not available

Table 2: *Recognition rates (%) Convention Status in European Countries*

Country	2004	2005
Austria	44.5	44.3
Belgium	22.6	26.4
Bulgaria	1.6	0.6
Czech Republic	1.6	4.9
Denmark	5.4	7.6
Finland	0.6	0.3
France	8.1	6.7
Germany	3.3	5.2
Greece	0.3	0.8
Hungary	14*	7.5
Ireland	8.5	9.7
Italy	8.9	6
Lithuania	2.4	3.8
Luxembourg	4	7
Malta	5.6	5.1
Norway	3.6	7.7
Portugal	2.3	6.8
Slovak Republic	0.9	2.2
Slovenia	4.6	2.0
Spain	2.5	3.2
Sweden	1.7*	1.7*
Switzerland	9.2	13.6
The Netherlands	N/A	5.1

*Appeal number not available

2 Specific Refugee groups

2.1 Russian Federation-Chechens

Widespread human rights abuses continue to occur in Chechnya with reports from the **Russian Federation** suggesting that intolerance remains rife throughout the country. It is often extremely difficult for Chechens living elsewhere in the Russian Federation to register with the authorities, which in turn creates many problems accessing health care and other benefits and services. They are often 'encouraged' to return to Chechnya, although conditions there are far from safe. Nonetheless, some European states are again raising the internal flight alternative (IFA) assumption. Since early 2005 the Federal Asylum Agency in **Austria** has claimed that asylum seekers from Chechnya had an IFA, though this often did not reflect the actual situation of the individual concerned. In several cases this assumption was denied at first instance. In other cases, the IFA was upheld at the first instance, but denied at second instance. However, the majority of Chechen asylum seekers continued to receive a status in Austria. While the **Swiss** Asylum Appeals commission (AAC) decided in a ruling that there was a reasonable IFA within the Russian Federation under certain individually determined circumstances, although forced return remained unreasonable.

Chechen asylum seekers in **Austria** were previously recognised implicitly as a particularly vulnerable group who in many, if not most, cases were likely to have been traumatised by their experiences. A clause of the Asylum Law stipulated that traumatised refugees should have their cases processed in Austria, as a result requests were not made under Dublin II in the case of Chechen asylum seekers. However, the new Asylum Law that came into effect on January 1 2006 cancelled this provision. It had already been noted that the Federal Asylum Agency had begun to pay less attention to the psychological status of Chechen applicants. The Austrian authorities also started to make Dublin requests to other states during 2005. However in a Dublin-case with **Slovakia** the **Austrian** Asylum Review Board expressed serious doubts as to the standard of treatment received by Chechens in the **Slovakian** asylum procedure. It is believed to be common practise for Slovak boarder guards to return asylum seekers without any expulsion order. Furthermore it has been documented in several asylum-files that the Slovakian Minister of external affairs recommended that Chechens should not be granted asylum due to state security reasons.

The protection needs of Chechen asylum seekers were still recognised in the majority of countries covered by this report. Chechens were granted the highest number of refugee statuses in **Belgium** in 2005. The majority of Chechen asylum seekers whose case came before the Permanent Appeals Board for Refugees were also granted refugee status. In **Austria**, as in 2004, over 90 percent of asylum applicants from the Russian Federation were granted a status. The high overall number of subsidiary statuses granted in **Lithuania** (approximately 90 percent of total decisions resulted in a subsidiary status) was a result of the high proportion of Chechen asylum seekers among applicants in this country. In **Poland**, the country with the highest number of applications from the Russian Federation, a Subsidiary status was granted in only 19.8 percent of cases, and a Convention status in a further 3.2 percent. In 2005 132 Chechens and an additional 95 persons of 'Russian origin' were returned by **Poland** to the **Russian Federation** and only 42 in 2004. A high number of Chechens did not make it through the admissibility procedure, as they were often sent back to other EU

countries (mainly **Poland**) under the Dublin II Regulation. Since the beginning of 2005 Chechens were also being detained more systematically in order to facilitate their transfer to another Dublin state. Chechens applying for asylum in **Finland** were less likely to have been granted a Convention status in 2005 (4 percent in 2004, and 0.1 percent in 2005) conversely, more are being granted a subsidiary status (1.22 percent in 2004, 12.7 percent in 2005). A similar trend was also observable in the **Czech Republic**.

2.2 Iraq

There are clear indications that the security situation in Iraq continued to deteriorate in 2005, reflected in the nearly 24 percent rise in applications from Iraqi nationals in the 28 synthesis countries. Despite this the authorities in many states remained reluctant to review their policy of rejecting asylum applications, or postponing decision making. Although there was some public debate in **Denmark** as to whether refused Iraqi asylum seekers should be granted a temporary stay permit until the situation in Iraq stabilized, this discussion has yet to bear any conclusive fruit. Hoping that the situation in Iraq would stabilize sufficiently to permit large-scale returns, some countries simply chose to defer any final decisions indefinitely. In the **Czech Republic** the policy towards Iraqi applications (as noted by NGO workers) was to prolong the duration of the asylum procedure. As a result no decisions on their applications were reached, many having had the status of asylum seeker since the beginning of the crisis in Iraq. The examination of asylum applications submitted by Iraqis in **Greece**, "frozen" at second instance since March 2003, has not resumed while the Ministry of Public Order waits to see how the situation in Iraq will develop.

In 2005 and at the beginning of 2006, most Iraqi asylum claims in **Belgium** were declared admissible. In cases where the application was nevertheless declared inadmissible, a non-removal clause was inserted in the decision suspending the expulsion order. In the case of Iraqis, the Commissioner General also provides a non-removal clause in negative decisions on the substance of the case. However, the Office des Etrangers does not automatically grant a prolongation of the expulsion order in these cases, as it does at the admissibility stage. Throughout 2005, **Hungary** continued its policy to ensure protection to all Iraqi and Afghani asylum seekers (either refugee status or subsidiary protection). In line with this policy, no Iraqi or Afghan asylum seeker was expelled or forcibly returned to their country of origin. Iraqi nationals were being granted temporary protection in **Serbia and Montenegro**, under the care of UNHCR. Although they have entered the UNHCR procedure, UNHCR does not examine their claims for international protection as long as the security situation in Iraq remains in doubt. UNHCR also prevented the repatriation of an Iraqi citizen who would have been deported because his travel documents had expired in Serbia and Montenegro.

During 2005 the **Finnish** Directorate of Immigration increasingly made it a policy to issue temporary residence permits to applicants from Iraq (as well as those from Somalia and Afghanistan). These permits would previously only have been given to applicants when removal was not possible due to temporary, technical reasons, which is not applicable to the country in question. In **Sweden** and **Denmark** Iraqi applications were generally rejected. In **Denmark**, the number of refused asylum seekers living in the country rose during 2005 to approximately 600. Those who had

been refused but could not be removed ended up virtually destitute, though a contentious decision made by the **Norwegian** government in 2004 to deny housing and other benefits to rejected asylum seekers, many of whom were Iraqis, was repealed in October 2005 when a new centre-left coalition government took office. In the **UK**, the opening up of air routes into Iraq in August 2005 had implications for Iraqis receiving support under Section 4 'hard cases' concession. They now have to demonstrate that they are taking all reasonable steps to leave the UK. In most cases, it was clear that they had to make a choice between agreeing to leave voluntarily and losing support as provided under Section 4.

2.3 Afghanistan

Even though the situation in Afghanistan is far from stable, return was being actively encouraged or even enforced by some states. Migration authorities throughout the **Russian Federation** have stopped extending the temporary asylum statuses of Afghans. According to UNHCR, there are at least 100,000 Afghans who have been living on the territory of the Russian Federation for many years who have still not been granted refugee status. The authorities were constantly trying to expel them on the grounds that the situation in Afghanistan had stabilised.

The governments of the **UK** and the **Netherlands** continued to forcibly return Afghanis. The monthly maximum of 50, agreed informally between the **British** and the Afghan government continued throughout 2005. However the stated intention to remove families with children has not yet been put into practice. The **Swiss** Asylum Appeals commission (AAC) also reached the conclusion that under certain conditions, the removal of refused Afghan asylum seekers to Kabul, some Northern provinces and to Herat could be considered reasonable (in particular if there are family members or relations who are able to provide support and if accommodation is ensured). However, removal to the Pashtun provinces in the South and East of the country was still considered unreasonable. In February 2005 the **Danish** Immigration Service examined a limited number of cases at the Appeal Board in order to ascertain if Denmark could withdraw temporary stay permits from Afghan refugees as a consequence of the fall of the Taliban regime. The Appeal Board concluded that it was still too early, as the situation in Afghanistan had not improved sufficiently.

2.4 Kosovo

The **Swiss** AAC reached the conclusion that the forced removal of Albanian-speaking Roma, Ashkaeli and Egyptian minorities to Kosovo is in principle reasonable if reintegration of the returnee is possible (criteria: professional training, health status, age, sufficient means for living and family structures). The individual case has to be analysed thoroughly, in particular through research in the region. In general it is not reasonable to expect minorities from Kosovo to reside in other parts of Serbia-Montenegro other than Kosovo. The **Danish** government has been in continuous contact with UNMIK in Kosovo concerning forced returns of certain groups (persons with post traumatic stress disorder etc.). 18 persons were forcibly returned to Kosovo during 2005. Minorities from Kosovo (Serbs, Gorani and Bosnians and Albanians from North Mitrovica) were of special concern to NGOs in **Luxembourg**. Caritas for instance demanded that the Ministry of Foreign Affairs and Immigration give a

tolerated status to this group. This was granted and has been prolonged several times, currently until 30 November 2006.

2.5 Haitians

The asylum procedure for **Haitians,** who are the single largest group of asylum applicants in **France**, is in theory the same as for other groups. However, in practice the obstacles for asylum seekers are huge, as the majority lodge their applications in France's overseas territories particularly in Guadeloupe (92% of the 3,799 overseas applications)**.** Here they have no right to stay during the procedure, and enjoy no social support. Asylum seekers who want to lodge an appeal against a negative decision at first instance have to come to Paris to do so. Since 2004, OFPRA (first instance determination body) has sent temporary missions to Guadeloupe in order to assess these claims. This system was not satisfactory given the large number of claims. In January 2006, OFPRA opened an office in Basse-Terre Guadeloupe to assess the claims lodged there.

3 Legal and Procedural Developments

Table 3: *New Legislation*

Country	Title of Legislation	Date enforced	Main provisions
Austria	Asylum Law, including: Asylum Act 2005 Alien Police Act 2005 The Residence and Sejour Law 2005 Federal basic care Law 2005 Law concerning the independent Federal Asylum Review Board	January 2006	 Implements Council Directive 2004/83/EC, COI system, traumatised asylum seekers no longer excluded from Dublin procedure Detention, restricting movement, penalisation of those abetting unauthorised habitation, Asylum seekers who are married to an Austrian citizen must apply for their residence permit at the Austrian embassy in the region of origin Reduction in support for first 4 months after recognition Decisions of this body given precedent setting value.
Belgium	Amendment of the Aliens Act	May 2005	Expulsion of non-nationals
Bulgaria	Amendment Law on Asylum and Refugees	April 2005	Exclusion clauses, guardianship of minors, family reunification
Czech Republic	Reception Directive Family reunification Directive Dublin II Regulation Amendment Czech Asylum Act Amendment: Aliens Act	February 2005 October 2005	Reception of asylum seekers Reunification Return to safe third countries Judicial Review Detention of unaccompanied minors
Finland		July 2005	New powers granted to Border Guard
France	Law n° 2005-32 for "social cohesion" Code for the entry and stay of non-nationals and the right to asylum Decree n° 2005-616 Decree n° 2005-1051	January 2005 March 2005 May 2005 August 2005	Created the National Agency for the Reception of Foreigners and Migration, integration contract Compilation of existing legislation regarding asylum and migration Monitoring commission for detention centres and holding zones. Transposing parts of the reception directive
Greece	Aliens Act Presidential Decree 80/2006	January 2006	Deportation. Detention of illegal entrants Temporary protection in the event of a mass influx of displaced aliens
Hungary	Family Reunification directive	June 2005	
Ireland	Irish Nationality and Citizenship Act	January 2005	Amended the former *jus soli* entitlement to citizenship
Italy	Decree of the President of the Republic 303/04 EU Reception Directive	April 2005 October 2005	 Determination procedure Reception of asylum seekers
Lithuania	Order on Accommodation of Unaccompanied Minors	February 2005	Reception Centres given guardianship of minors

	Amendment of the law on Health insurance	April 2005	Health Insurance
Luxembourg	Law on asylum and complementary protection Receptions Directive Qualification Directive Procedures Directive Temporary Protection Directive	May 2006	Subsidiary and temporary protection and tolerated status, detention
Poland	Amendment: 2003 Aliens Act	June /October	Additional rights for those granted Subsidiary protection
Serbia and Montenegro	Law on Asylum	March 2005	Guarantees the right to seek asylum
Slovak Republic	3 amendments to the 2002 Act on the Residence of Foreigners Amendment of Asylum Act transposing Temporary Protection and Reception Directives	December 2005 January 2005	Status of third country nationals, carrier responsibilities, family reunification Reception and temporary protection in the event of a mass influx
Slovenia	Amendment to Asylum Act transposing Qualification, Reception and Procedures directives	February 2006	
Sweden	Temporary legislation Bill enforcing separated children's right to protection	November 2005-March 2006 July 2005	Government Amnesty for some categories of rejected asylum seekers Guardianship of separated children
The Netherlands	EU Directive on Temporary Protection	2004/2005	Temporary Protection
The UK	Immigration, Asylum and Nationality Act 2006	March 2006	Appeals, border controls, counter terrorism

3.2 Refugee Determination process

3.2.1 New administrative bodies

On 1 January 2005, the **Swiss** Ministry of Justice merged the Federal Office for Refugees and the Federal Office of Immigration, Integration and Emigration (IMES) into the new Federal Office for Migration. The new office covers all aspects of migration. It is argued that this will prevent any inconsistencies in the policies of both offices, streamline the administration, and reduce expenses.

3.2.2 Changes to the appeal system

Major changes have been made to the **Belgium** asylum procedure during 2006. Among the most significant is the creation of a new appeal organ that replaces the Permanent Refugee Appeals Commission. The new body will have broader competences to judge both the facts and the legal and procedural aspects of a case (not only on asylum matters, but also on other issues concerning non-nationals). Although its investigative powers will be vastly restricted, if it reaches the conclusion that essential elements have been omitted from the dossier, it can return the case to first instance. A negative decision reached by this body can also now be appealed to the Council of State. Strict filtration policies will however be applied, and only a limited number of cases will be accepted. In the **UK** the New Immigration, Asylum and Nationality Act 2006 introduced the possibility of appeal against a decision to remove, or a refusal to extend, the right to remain in the UK**.** The competent member of the Asylum Review Board in **Austria** may now, in cases or questions of fundamental importance, especially if a significant number of similar cases are pending or expected to occur, bring the case before a grand Board of 9 members. If similar cases are subsequently brought, a hearing will not be considered necessary if the precedent setting decision covers all relevant questions.

As in previous years, states have continued to put in place measures to speed up the decision making process as well as further limitations to the appeals system. Following a trend noted in the 2004 Country Report the **Slovak Republic** has removed the suspensive effect of appeal in the event that a case is dismissed or declared to be inadmissible or manifestly unfounded. The new law on asylum and complementary protection passed on 5 May 2006 in **Luxembourg** differentiates between a normal and an accelerated procedure. In cases where the accelerated procedure is applied, as well as in case of inadmissibility, only one appeal is possible, while in the normal procedure it is still possible to appeal at both stages of the procedure. Changes in the judicial review procedure in the **Czech Republic** that came into force in October 2005 means that the possibility of appealing to the highest Administrative Court has been substantially limited. Only appeals that claim that the court has wrongly applied the law can be accepted. During the first half of 2006 the Highest Administrative Court started to reject appeals as unfounded on the grounds stated in the amendment, which does not have to be justified by the court. In addition all the administrative decisions in asylum cases made by the Ministry of interior are reviewed at the regional courts by a judge and not by the senate, as had previously been the case.

On the contrary, in **Greece,** second instance decisions not awarding refugee status are now more reasoned, and better substantiate the grounds for refusal. Also when the decision is not in line with the recommendation of the Appeal's Board, a detailed account for such dissent is given (previously only standard wording was used). After receiving a final negative decision, or final decision granting a tolerated stay permit, asylum seekers in **Poland** are able to appeal to the Voivodship Administrative Court (provincial court) as well as to the Supreme Administrative Court, which reduces the time spent waiting for an appeal decision. The Legal Aid Board in **Ireland** may now provide legal aid for those bringing cases to the Refugee Appeals Tribunal.

3.2.3 Other developments

A number of countries that did not previously have a complementary protection status as defined in the qualifications directive have discussed or implemented legislation to this effect. In **Luxembourg**, the new law on asylum and complementary protection passed in May 2006 introduced subsidiary protection, tolerated status and temporary protection. In July 2006 the **Belgium** Parliament approved a proposed reform of the asylum procedure, which also included the introduction of a new subsidiary status into Belgium legislation. There is no real form of subsidiary protection in the **Slovak Republic** as yet. It shall however be introduced by the transposition of the qualification directive into Slovak law by October 2006. In April 2005 the Department of Justice, Equality and Law Reform in **Ireland** published a discussion document outlining the proposals for the upcoming Immigration and Residency Bill. Also included is a proposal for a single protection procedure to be implemented in Ireland with a view to transposing the Qualifications Directive. If implemented this will be the first time Ireland will consider complementary/subsidiary protection issues outside of the current Ministerial discretionary process at deportation stage.

The Asylum Act 2005 approved by the **Austrian** parliament in July, which came into effect in January 2006, has made a number of changes to the determination procedure. The grounds for declaring an application unfounded have been extended to include: the filing of an application more than three months after entry, after a residence ban has been executable, or if the asylum-seeker is believed to have deceived the authorities with regard to his/her identity, nationality or submits false documents. In addition subsidiary protection may not now be granted to asylum-seekers whose country of origin cannot be established.

The changes made to the **Belgium** asylum system are in part intended to ensure that the asylum procedure should not exceed one year. Other states also continue to develop legislation intended to facilitate a more rapid decision making process. Applications made by asylum seekers in custody in **Austria** are to be decided within three months, instead of six months in the normal procedure. The **Norwegian** authorities have introduced a differentiated processing procedure in addition to the 48-hour procedure mentioned in last years report. Cases will be assessed according to whether it is considered likely that they can be processed in three weeks or in seven. As part of the realisation of the New Asylum Model (NAM) in the **UK** the Home Office is establishing 25 NAM Teams, 12 people per team who will receive 5 new cases per head per month or 18,000 per annum. All decisions will be made within one month except where otherwise specified as "fast track" either because the claim is

certified as "clearly unfounded"[1] or "late and opportunistic"[2]. Fast track decisions are made within eleven days. There is concern about the speed of the new process in light of fears about the quality of initial decision-making.

In **Italy** the reform of the Immigration and Asylum Law that came into force in 2002 has finally been implemented. The reforms make a distinction between the simplified and the ordinary asylum procedure. The main difference between the two is that in the former the asylum seeker is detained in a Temporary Identification Centre (TIC), and the duration of the procedure varies: 15 days for the simplified procedure, and 30 days for the ordinary procedure. In theory the simplified procedure should apply to all asylum seekers arriving without documents, holding false documents, or for the evaluation of the grounds of their application. However, in practice, many applicants undergo the ordinary procedure, as there are insufficient TIC's (in for example Milan and Rome). This means that the application will be examined within 30 days, and that their movement is not restricted. **Italy** has introduced an ad hoc Eligibility Commission in order to examine a backlog of approximately 20,000 pending asylum requests lodged before April 2005.

3.3 Restrictions on access to the asylum system

There are serious concerns that the emphasis on external border controls is making it ever more difficult for asylum seekers to access protection in Europe. Though this is not a new phenomenon the expansion of the EU eastwards is putting pressure on accession states to protect the EU's external borders. In **Bulgaria** for example, concerted efforts to control migration are increasingly coordinated at both the local and regional level, in line with the process of Bulgarian accession to the EU. This is believed to have contributed to the drop in numbers applying for asylum in this country.

A new pre-procedure to be carried out by the police authorities has been introduced into **Slovenia's** asylum procedure, though at the present time the article (Article 6 of the Act Amending the Asylum Act) concerned is under temporary injunction whilst it is reviewed by the Constitutional Court. If it is put into practice, those applying for asylum will have to make a statement to the police authorities giving the reasons for the asylum application. If the police find the reasons to be unsatisfactory they will deny access to the asylum procedure and the applicant will be deported. There are no procedural guarantees for the applicant, and no right to an effective legal remedy. Furthermore, the Act does not contain any provisions on the procedure that the police will follow while examining the asylum application.

State border security in the **Slovak Republic** was enhanced in line with requirements arising from the Schengen Convention, particularly at the state borders with **Ukraine**, **Poland** and **Austria**. The stringent application of the readmission agreement between **Slovakia** and the **Ukraine** has resulted in the return of 72 percent of third-country nationals apprehended at the Slovakia/Ukraine state border in 2005, compared to 32 percent in 2004. In October 2005 the **Hungarian** Helsinki Committee (HHC), with

[1] Currently a list of 17 countries from which applications are generally considered "clearly unfounded" although claims can be certified from other countries.
[2] Generally where people have claimed asylum only after refusal of other leave or who are identified as illegally working.

support from UNHCR, carried out a fact-finding mission to several reception and detention facilities along both sides of the Hungarian-Ukrainian border. The HHC found that asylum-seekers faced difficulties to access the territory and the asylum procedure in **Slovakia** in particular, and were often returned to Ukraine in breach of national and international law. In Ukraine both the refugee status determination procedure and the capacities of migration & asylum authorities as well as NGOs were insufficient to provide effective protection against (chain-) refoulement. NGO's are still unable to monitor the activities of the **Slovenian** authorities in the border regions, (although UNHCR have conducted a monitoring project). The State Agency for Refugees in **Bulgaria** continued to refuse to transport asylum applicants from the border to existing asylum centers in Banya and Sofia, leaving it to the budget and logistics of the Border Police. This has led to a situation in which border officials prefer to return all irregular entrants, disregarding submitted asylum claims if not monitored. The absence of a comprehensive agreement between the border police and the state refugee agency resulted in five registered cases of refoulement.

There has been unease amongst **Italian** NGO's about the government's attempts to get EU support in facilitating the relationship with Libya with the intent of better controlling access to Italy's coastal borders, and addressing irregular immigration originating from North Africa. In 2005 25,000 people arrived at Lampedusa in Italy, a fifty per cent increase on 2004. However, as of the end of March 2006, there have been no incidents of refoulement to Libya or forced repatriation to other countries. In order to further improve the "effectiveness" of irregular immigration control in **Spain**, especially in light of the numbers attempting to access Europe via the Canary Islands, the Spanish Homeland Office have invested 28.8 million in the SIVE (Integrated System of External Surveillance) during the course of 2006. The number of persons arriving on the Spanish coast in small overcrowded boats (known as "pateras") in 2005, was the lowest since 1999. The decrease was mainly in the Canary Islands with a reduction of a 43.43 percent. This is attributed principally to the SIVE system and increased collaboration with Morocco. However, as this route has become less accessible, migrants are increasingly making the longer and more hazardous journey from Senegal.

Several measures intended to reduce the numbers of non-nationals admitted to **French** territory adopted in 2004 were continued in 2005. For instance, the number of nationalities subject to visa requirements increased, a special visa for transit between airports and ports was created, and a network of French immigration liaison officers were installed in the airports of other countries (to check foreigners' documents on board the plane, after the control of the local authorities). The French authorities refuse to divulge the countries in which these liaison officers have been installed (though it has been unofficially disclosed that some are stationed in China). A new transit visa requirement was also introduced for Cubans. **Belgium** and the **Czech Republic** have transposed EU Directive 2001/51 on the obligations of carriers transporting foreign nationals into the territory of the member states. It introduces a more stringent responsibility for those who facilitate the entrance of foreigners without the appropriate documents. They are now obliged to take the person concerned back to where they came from. And in case an immediate return is not possible, they will be liable for the costs of the stay in the territory (housing, healthcare etc). In the **UK** the New Immigration, Asylum and Nationality Act 2006 introduced measures to further strengthen border controls by fingerprinting all visa

applications and carrying out electronic checks on people entering and leaving the country.

A new act regarding the responsibilities of the Border Guard in **Finland** came into force in July 2005. The Border Guard now have more authority towards non-nationals. They can for example decide to detain non-nationals and hold them in their facilities for a short period of time (up to 48 hours). The Border Guard can also interview asylum seekers in order to try and ascertain their identity, means of entry and travel route. In the past, these actions could only be carried out by the police.

The figures provided by the authorities of most states do not differentiate between non-nationals and those who make an asylum claim that are refused entry at the border. However a few countries do, in **Ireland** 460 asylum seekers were refused entry, out of a total number of 4,893 that were refused entry overall. In **Belgium** 202 asylum seekers were denied entry to the territory. In **Austria**, 187 applications from abroad were terminated as of no relevance, most of them from Afghan, Georgian, Turkish or Iraqi nationals. In 2005, 6,280 foreigners were denied entry to the territory of the **Czech Republic**, including 724 individuals from the Russian Federation. However in 2005 22.2 percent of those applying for asylum at the border were admitted to **French** territory compared to 7.8 percent in 2004 and 4 percent in 2003, although this still means nearly 80 percent were not admitted. Given the current disarray of procedures safeguarding access to protection there is still a significant possibility of refoulement in **Serbia and Montenegro**. According to unofficial estimates, 27,000 foreign citizens were not permitted to enter in 2005. Grupa 484 believes that potential asylum seekers were certainly among them.

Many countries are also under pressure to prevent onward migration. In **Spain** the numbers illegally crossing at the Pyrenean Border were reduced as a result of enhanced security measures and the increased "effectiveness" of cross border cooperation, demonstrated by a 37.5 percent decrease in the number of readmission requests presented to **France**. The agreement between the **Slovak Republic** and **Austria** on Police Cooperation providing for the operation of combined patrols at the state border came into effect on 1st July 2005. An agreement between the **Slovak Republic** and the **Czech Republic** on the cooperation in Criminal Activity Combat, Public Order Protection and State Border Protection was signed on 27th January 2004 and came into effect on 24th February 2005. 18 common patrols were undertaken during the period from October to December 2005.

Resettlement

Few European countries have established resettlement programmes, although a small number accept cases on an ad hoc basis. In 2005 a number of countries offered assistance to small groups of Uzbeks fleeing the massacre in Andijon and the subsequent crackdown by the authorities on any perceived dissent. Ten refugees from Uzbekistan were resettled in **Switzerland** in 2005. An additional 15 Uzbeks were resettled in the **Czech Republic**, and 400 people of Uzbek origin were temporarily accommodated in a centre in Timioara as a result of an agreement between the **Romanian** government and UNHCR. They are part of an ongoing resettlement programme for Uzbeks and are waiting for transfer to other destinations.

Countries that had voiced intentions to further explore their capacity for hosting resettlement cases have done little to put this into practice in 2005, and instead continued to offer ad hoc resettlement places. The **Spanish** Government continues to accept a small number of cases referred by UNHCR, and the feasibility study carried out by **Italy** has not yet resulted in any concrete actions. The **Portuguese** Ministry of the Interior has however accepted Portugal's first ever collective resettlement of 12 refugees, referred by the UNHCR delegation in Morocco, in response to the crisis in Ceuta and Melilla during 2005.

There are indications again that governments want to become more involved in the selection process, as in the case of **Denmark** and **Norway** who select resettlement candidates on the basis of "integration potential". The Home Office in the **UK** is still committed to individual selection of refugees for resettlement via missions, rather than the dossier-based approach recommended by UNHCR. The **Dutch** government sent selection missions to Africa in order to monitor the selection process directly, in previous years over half of those nominated by UNHCR were turned down. As a result, for the first time in many years the **Netherlands** resettled their agreed quota of 500 refugees. In **Finland** there were cases in 2005 in which resettled refugees had their refugee status cancelled after officials discovered that they gave misleading information prior to selection as a quota refugee to Finland. **Finland** continued to fill 10 percent of its annual quota with emergency cases, put forward by UNHCR on serious protection or health grounds and selected using documentation as opposed to a personal interview.

From 1 July 2005, the **Danish** resettlement quota, previously set at 500, will be applied more flexibly. This means that within a three-year period, the immigration authorities can choose to utilise less or more placements (cases will still be referred by UNHCR) at their own discretion. Denmark has continued to implement the criteria of "integration potential" in the selection of refugees for resettlement. The Danish government also contends that support to regions of origin is much more effective than receiving fixed quotas of refugees in Denmark.

In 2005, 136 refugees arrived under the **UK** resettlement programme. The Home Office (HO) refugee resettlement programme is known as the Gateway Protection Programme. The target is to bring in up to 500 refugees per year. The **Irish** government announced in early 2006 that it would increase its intake of resettlement refugees to 200 in 2006, a significant portion of whom will be Iraqi Kurds

3. 4 Dublin Practice

As in previous years, it remains difficult to obtain complete figures for Dublin II practice in member states. Often, only partial figures are available, which makes it difficult to compare practice between countries, or evaluate the system as a whole. In particular, information regarding actual transfers has been somewhat inconsistent. This was in part because few transfers were realised, although this differs between countries. In **Austria** for example only 627 claims to other states were transferred, out of 4,802 accepted, conversely, out of 2,395 cases in which **Poland** accepted responsibility, half were transferred.

In order to execute more transfers, states have increasingly resorted to detention, as it can take months to arrange a transfer, this is often for extended periods. Asylum-seekers in **Austria** who fall under the Dublin Regulation are detained during the admission procedure. Public security agents may now order detention if the first interview indicates that another state could be responsible for processing the application. Frequently families are separated because small children and their mothers are usually not detained.

Although there are no exact figures on the number of individuals concerned, applicants in **Belgium** have been detained more systematically in order to facilitate transfer. In 2005 this applied particularly to Chechen asylum seekers, who were principally returned to Poland. The authorities in **Spain** have also set up a procedure to organise the transfer of Dublin II cases. However, in practice if the asylum seeker does not report to the police station, they won't be transferred and the police will not look for them. The **German** authorities in Dublin procedures also increasingly impose detention as a means of enforcing transfer.

Claims by (outgoing)	Requested	Accepted	Transferred	Main countries to which requests are addressed	Main nationalities
Austria	7,251	4,802	627	Poland 1,915, Slovakia 2117, Hungary 946, Germany 625	
Belgium	1,689				
Czech republic	472	354		Poland 227, Slovakia 54, Austria 36, Hungary 23	
Denmark	739	678			
Finland	1,355		776	*Sweden 293, Germany 167,Norway 82	Serbia and Montenegro, Bulgaria, Somalia, Iraq
France	No figures				
Germany	5,380	4,297	2,516	Austria 732, Poland 706, France 673, Sweden 603,	
Greece	37	14	6	UK 3, Germany 9	
Hungary	37	18	8	Austria 5	
Ireland	529			UK 282, Italy 37, France 34, Malta 33, Sweden 24	
Italy	241	107	47	Germany 50, Greece 30, Spain 25, Austria 41	
Luxembourg	257				
Norway	1,272			Germany 287, Serbia and Montenegro 277, Sweden 224, Italy 167, Romania 141.	
Poland	199	87	72	Austria 74, France 42	Chechens
Portugal	27		5		
Slovak republic	604	203	36	Poland 455, Hungary 39, Austria 44	
Slovenia	48	15	3		
Spain					
Sweden	2,801				
The Netherlands	2,500	1,600			

*Transferred

Claims to (incoming)	Requested	Accepted	Transferred	Main countries from which requests are addressed	Main nationalities
Austria	3,250	1,821	806	Germany 1,116, France 558, Sweden 286, Poland 243	
Belgium	No figures				
Czech republic				Austria 36, Germany 157, France 35,	

Denmark	509	290			
Finland	No figures				
France	No figures				
Germany	6,069	4,463	2,713	France 1,296, Belgium 1,092 Sweden 1,029.	
Greece	1,118	992	350	UK 301, Germany 175, France 102, Sweden 91, Netherlands 83	
Hungary	1,107	775	159		Serbia &Montenegro, Georgia, Ukraine
Ireland	118			UK 78, France 8, Netherlands 8	
Italy	867				
Luxembourg	No figures				
Norway	No figures				
Poland	2,851	2,395	1,196	Austria 957, Germany 458, France 387, Slovakia 361	
Portugal	63		16		
Slovak Republic	2,715	1,769	454	Austria 1,902, Germany 275, France 143	
Slovenia	361	263	87		
Spain	624	589	318	France 179, Austria 99, Germany 91	
Sweden					
The Netherlands	2,729	1,501			

There are concerns that the Dublin II places an undue burden on countries on the EU's Eastern border. Based on the figures provided, Western European countries tended to have more outgoing than incoming requests, and Eastern European countries tended to have the reverse. **Poland**, which received 2,851 requests from other states only made 199 requests of its own, all of those transferred were Chechens being sent to other states on family reunification grounds. The **Slovak Republic** also had 2,715 incoming requests made by other countries, while only making 604 requests to others. Although **Germany** and **Austria** had the highest total number of requests (10,501 and 11,449 respectively), most of the requests made were outgoing, and some of the highest numbers were addressed to **Poland** (1,915), **Slovakia** (2,117) and **Hungary** (946). In both cases, most incoming requests were addressed from other Western states, 1,296 from **France**, 1,092 from **Belgium** and 1,029 from **Sweden** in the cases of **Germany**.

In the 2004 country report concern was expressed about the 'interruption' of the examination of asylum seekers returned to **Greece** under Dublin. There were also fears that in some instances this practice may have led to refoulement. However, there is reason to believe, although this has not yet been officially confirmed, that the Greek authorities have decided to end teh issuing interruption decisions, and moreover, that decisions already issued on asylum seekers who have not yet been transferred back to Greece will be cancelled. This means that the asylum procedure will resume normally after their return to Greece.

3. 5 Returns and Repatriation

Considerable effort is still being invested in encouraging return, and states have increasingly applied more stringent measures to ensure return. The perceived inability

to enforce significant numbers of returns of refused asylum seekers is often interpreted as a failure to properly control the asylum, and consequently the wider immigration system. In an effort to counter this perception the **UK** announced a new monthly target to remove more refused asylum seekers than there were new applications. This became known as the "tipping target" which the Home Office sought to achieve by the end of 2005. Though the deadline was not met, the target was reached for the months of February and March 2006. In total, 15,850 asylum seekers were removed from the **UK** in 2005, including forced returns and those who were assisted to return voluntarily. The number of expulsions almost equalled the number of voluntary returns in **Luxembourg** for the first time in 2005. Voluntary returns used to be several times more frequent than expulsions in this country. The pressure the government put on people in 2003 and 2004 to apply for voluntary return can in part explain this. There has also been a continued focus on returning refused asylum seekers in **Denmark**; during 2005 this was a substantial topic in public debate. In **France** the implementation of existing expulsion orders has also been used by politicians to illustrate that the asylum system is becoming less lenient.

The rules determining the expulsion of refugees have been relaxed in **Denmark**. In the future it will be easier for the Danish State to expel foreigners and refugees who have committed less serious criminal offences. If a refugee cannot be expelled to his/her country of origin because of risk of persecution, the refugee will have to live on a tolerated stay permit in Denmark with no access to public welfare. A special department was also set up within the **Belgium** Aliens Office in order to identify criminally convicted undocumented migrants in order to return them.

Joint return flights were organised by a number of countries in 2005. **Finland** used charter flights three times in order to deport refused asylum seekers: twice to Bulgaria and once to Romania. 16,865 refused asylum seekers were deported by air from **Germany.** There were 41 flights organised in 2005, which repatriated 2,831 foreigners illegally staying in **Spain**. Three of these were joint operations organised with the participation of **France**, **Italy** and **Portugal**. Furthermore, Spain was also involved in a joint flight organised by **France** destined for Romania. During 2003 and 2004 the government of **Luxembourg** organised charter flights for returnees to Montenegro. However, due to the lack of a clear and consistent return policy in Luxembourg pressure upon refused asylum seekers seemed to have lowered in 2005 and no more charter flights were organised to Montenegro. The government however continued to expel detained single men, primarily to Kosovo (except minorities), and to Montenegro.

Under the auspices of the "project return" a second return centre with a capacity of 350 was opened in May 2005 in Vught in the **Netherlands**. Initially this project aimed to facilitate the return of 26,000 asylum seekers who applied for asylum before April 1st 2001 who were expected to receive a negative decision on their application within three years. This number has subsequently grown due to the inclusion of other groups including Iraqis, and unaccompanied minors (who have since turned 18) and submitted their application before 2001. As of 1st January 2006, a total of 16,851 non-nationals have departed, or had their cases otherwise resolved, under this project. Of these 3,556 left the Netherlands in a 'controlled' way, 2,790 with assistance from IOM, 462 were forcibly returned and 313 had monitored departures. A further 5,754 are no longer registered with the authorities and it is not clear whether they are still in

the country. Many of those who are still waiting to have their case resolved have been in the Netherlands for five years or more, and have children who were born there.

Even though current developments in Iraq suggest that the country is slipping into sectarian violence bordering on civil war, many European governments continued to insist that return is an option. At the end of November, the **UK** Immigration Service forcibly returned 15 Iraqis to northern Iraq via Cyprus, despite the fact that the main Kurdish political parties had voiced concern over the policy. In early September, the Kurdistan Regional Government High Representative, Bayan Sami Abdul Rahman, had met the UK Immigration Minister to seek a rethink by the British government of its decision to forcibly return failed asylum seekers to Kurdistan. Although there were no further attempts to deport refused Iraqi asylum seekers by force in 2005, pressure to return voluntarily by, for example, withdrawing access to benefits, continues. The **Danish** government has also had contact with the government in Iraq, but no agreement on forced returns (readmission cooperation) has been reached. Despite this many Iraqis who have had their asylum application refused were motivated to return to Iraq "voluntarily" through the use of various disincentives to discourage stay in Denmark. The **Danish** government has also been in continuous contact with UNMIK in Kosovo concerning forced returns of certain groups (persons with PTSD etc.). 18 persons were forcibly returned to Kosovo from Denmark during 2005.

There have been reports that families and other asylum seekers have been removed from the premises of the asylum accommodation centre and deported from **Slovenia**, without any prior notice on the time of the deportation and often at uncongenial times of day (e.g. six am). The persons concerned are given half an hour to prepare before being removed by the police authorities. Social workers in the Asylum accommodation centre have complained at this treatment to the responsible authorities in the asylum sector; however the authorities response was that the families would be notified half an hour before being deported, while single men would have no notice at all. The **UK** Government's return programme for unaccompanied minors, announced in February 2005, is still being developed. Conditions under which return is considered have however been extended. The government is currently negotiating with governments and NGO's in Vietnam and Angola to realise conditions under which it would be feasible to return minors, with possibilities also being explored in the Democratic Republic of Congo and Albania. There are concerns that the Home Office has not fully addressed the international protection needs of this vulnerable group, as well as failing to address the lack of independent best interest determination as part of this process. From June 2003 to the end of 2005, at least 38 **Irish** children were de facto deported with their parents despite their rights as afforded by citizenship. The exact number of Irish children deported has not been made available by the Department of Justice, nor does it keep in any contact with Irish children removed from the State in this manner.

On 25 July 2005 the **Slovenian** Government and the IOM Ljubljana signed a Memorandum of Cooperation on the Programme of Voluntary Return of Migrants. The **Polish** authorities also signed an agreement with the IOM, under which the latter has assumed responsibility for assisted return programmes. A number of countries have extended the scope of their assisted return programmes. Amendments in the Asylum Regulation that entered into force on 1 April 2006 enlarged the scope of beneficiaries of return assistance in **Switzerland**. Persons whose deadline for

departure has expired and persons whose claim was refused at the admissibility stage are now able to benefit from repatriation grants and assistance. Since 19 September 2005 the ANAEM (National Agency for the Reception of Foreigners) in **France** offers aid for repatriation to all persons whose application for a residence permit or its renewal has been refused, including when this was the result of a final decision made by OFPRA or by the appeal commission to reject their status as a refugee. Families with no residence permit but who have at least one child attending school in France and speak French fluently can apply either for voluntary return (in which case, they will receive double the amount of assistance usually provided), or for regularisation (once they have explicitly refused voluntary return). This is a temporary mechanism for which people have to apply before 14 June 2006. Moreover the ANAEM is implementing a new reintegration assistance programme for refused asylum seekers returning voluntarily to certain countries. Nationals of the new EU Member States will be allowed to make use of the Return and Emigration of Asylum Seekers ex **Belgium**-programme (REAB) until 30 December 2006 (extended from June 2006), but without a return grant. IOM normally arranges the departure and provides both financial and material assistance.

The **Greek** Council for Refugees (GRC) is currently implementing a voluntary repatriation programme for Afghans. This programme, which receives partial funding from GCR and the Greek Ministry of Foreign Affairs – International Development and Cooperation Department (Hellenic Aid), started in December 2005 and provides for the repatriation of 10 Afghans after they have completed six months training. IOM started a new project on voluntary return to Moldova in December 2005, which will last until December 2007. The ERF, the Ministry of Interior and the **Austrian** Development Cooperation jointly fund it. Its target groups are asylum seekers, persons with refugee or subsidiary protection status. In 2005, the IOM assisted the return of a total of 212 people from **Hungary**. 159 were assisted under the Hungarian assisted return programme (HARP) and 53 under the ERF-funded programme. 116 persons out of the overall 212 were returnees to Kosovo. The **Flemish** Refugee Council co-ordinated a pilot project of assisted voluntary returns to the Russian Federation. The aim of the programme was to better prepare people for their return and to monitor the situation of these returnees following their return, in order to make it sustainable. Vluchtelingenwerk set up and implemented the project in close co-operation with organisations of the Russian speaking community in Belgium and local partner organisations in Russia. The project was aimed at individually assisting 20 persons returning from Belgium to Russia who were in need of extra support. People who applied for the project received € 400 per person after their return to the Russian Federation. The involvement of the Russian community in Belgium has proven to be very valuable. By organising information sessions about opportunities at the end of the asylum procedure and return possibilities the target group could be reached. The programme will be continued in 2006 due to its success.

In general, countries of Western Europe do not return third country nationals to **Serbia and Montenegro**, since there is neither legislation nor capacity for the reception of asylum seekers, or procedures that would guarantee that they would be protected from expulsion if returned. However, the UNHCR has initiated asylum procedures in the case of nationals from Moldavia, returned to **Serbia and Montenegro** from the territory of Croatia. However the return of a large number of Serbia and Montenegro nationals who were refused asylum in Western Europe, or

who have had their temporary protection for humanitarian reasons, granted during the conflicts in the former Yugoslavia, withdrawn, is underway. The return of these people is being carried out in accordance with the obligations Serbia and Montenegro has undertaken by signing readmission agreements. The Council of Europe estimated that between 50,000 and 100,000 citizens of Serbia and Montenegro are to be returned from Western Europe, the majority from **Germany**. Some estimates envisage 150,000 potential returnees. The majority of these are Roma, followed by Muslim-Bosnians and Serbs. Certain minorities are being returned directly to Kosovo, or to central Serbia proper as a safe part of the country, under the controversial concept of internal flight alternative in spite of the request from the Parliamentary Assembly of the Council of Europe and UNHCR that such practices be suspended. This is an especially problematic and difficult issue as people may find themselves internally displaced; as a result they may face undue hardship, and be unable to exercise their basic human rights**.** Since December 2005 there has been an office, staffed by a lawyer and a social worker from the Ministry of Human and Minority Rights, for the reception of returnees at Belgrade Airport in **Serbia**. They are to provide free legal guidance and assistance for returnees, as well as maintaining a data system. The current lack of data poses a serious difficulty for any attempt to analyse the problem, suggest measures, and plan actions on behalf of those people affected. The lack of information is an obstacle for any impartial assessment of the needs of returnees and for the identification of the most vulnerable among them.

3. 6 Readmission agreements

Readmission agreements between **Austria** and the **Czech Republic** and **Poland** came into effect in 2005. Working agreements between **Austria** and the **Slovak Republic**, **Hungary**, the **Czech Republic** and **Slovenia** for the processing of Dublin II requests entered into force in 2005 and 2006. A bilateral readmission agreement signed by **Austria** and Albania in October 2003 came into force in July 2005. In December 2005, the UK signed a readmission agreement with **Switzerland**, and in July 2006 with Algeria, neither of which had entered into force at the time of writing. Negotiations were finalised for a readmission agreement with **Serbia & Montenegro** but the agreement was never signed and its status is unclear following the referendum in favour of Montenegrin independence.

In 2005 the **UK** signed Memoranda of understanding (MoUs) with Georgia, Libya and Lebanon with the aim of facilitating the deportation of individuals suspected of activities associated with terrorism. The UK is also seeking to conclude such agreements with other states including Algeria, Morocco and Egypt. The government claims that these MoUs will ensure that the human rights of deported terror suspects are fully protected. The Memoranda signed to date are framework documents that will form the basis for individual diplomatic assurances as to the safety of individual detainees. NGOs and Human Rights Organisations have widely condemned the MoUs for their inability to guarantee the safety of those returned with such 'diplomatic assurances'.

The implementation of the readmission agreement between **Greece** and Turkey remained dormant in 2005. However, it seems that in a limited number of occasions readmission of non-Turkish nationals, mainly Iranians, was accepted by the Turkish

authorities. The question of whether aliens have effective access to the asylum procedure before being returned to Turkey remains.

3. 7 Minors

The number of unaccompanied minors applying for asylum in Europe has continued to fall in 2005. There was concern among **Swedish** NGOs that unaccompanied minor's claims for asylum were not examined with sufficient care in the investigation and determination procedure. The need for better staff training was brought to the authorities' attention. In **Austria**, the way in which age is assessed in the admission procedure gave rise to unease, as in a number of cases unaccompanied minors without documents have been declared to be adults. A decision made by the asylum appeals commission in **Switzerland** specifies the requirement with which a medical specialist must comply when determining the age of an asylum seeker who claims to be a minor. If an asylum seeker alleges he or she is under-age, the credibility of this statement has to be examined before the detailed hearing into their asylum claim, in order to determine if a guardian has to be assigned.

In the past year the **Slovenian** authorities have begun to process unaccompanied minors in the accelerated procedure. Before the present government took office it was an informal rule that all unaccompanied minors should be examined in the normal procedure. In **Spain** the Asylum Office has also made additional efforts to speed up the resolution of cases belonging to unaccompanied minors, although allegedly without compromising the quality of the decision making process.

The right of unaccompanied minors in **Bulgaria** to have an appointed guardian was largely undermined by a new provision, introduced by the May 2005 amendments to the Law on Asylum and Refugees, stipulating that they will be replaced by specialist child services representatives. On 2 February 2005 the Minister of Internal Affairs and the Minister of Social Security and Labour in **Lithuania** issued the Order on Accommodation of Unaccompanied Minor Asylum Seekers in the Refugee Reception Centre which authorises the Refugee Reception Centre to not only accommodate unaccompanied minors, but also to act as their guardian. Employees of NGO's have been appointed by the **Czech** foreign police to act as guardians for unaccompanied minors during the administrative procedure. A ruling of the Higher Administrative Court in **Austria** decided that the legal adviser of an unaccompanied minor would be responsible at the appeals stage of the admissions procedure. Previously it was unclear whether the legal adviser or social worker was responsible.

A new circular in **Belgium** explains the procedure for establishing a 'durable solution' for unaccompanied minors in Belgium. Although it is not applicable to unaccompanied minors who apply for asylum, it has important consequences for other unaccompanied minors, and those who have been refused refugee status. A "durable solution" for the minor should be found either in the country of origin, or in Belgium. In the mean time the minor receives a three month permit (called a "declaration of arrival") or a postponement of the order to leave the country. After six months the minor can receive a more stable permit (valid for 1 year), on condition of presenting a national passport.

There have been changes in the way in which unaccompanied minors are accommodated in various countries. In **Hungary,** a home for unaccompanied minors was opened in the town of Nagykanizsa. The home is run by the local branch of the Hungarian Red Cross and funded by the European Refugee Fund administered by the Office of Immigration and Nationality (OIN). The OIN provides technical assistance for running the home and sends unaccompanied minors there as their designated place of residence. A new Act on the social and legal protection of children was passed in the **Slovak Republic**. It established Slovakia's first orphanage for unaccompanied minors. Since the creation of the orphanage unaccompanied minors can choose whether or not to apply for asylum. If they choose not to do so they are entitled to stay in the orphanage, and are automatically granted 'tolerated' stay, irrespective of their motivation for leaving their country of origin. Tolerated stay is granted for 180 days and is automatically prolonged until the minor reaches the age of 18. During their stay at the orphanage the minor can at anytime decide to apply for asylum, in which case they are transferred to an asylum facility. In the **Czech Republic** separated children are placed in special facilities run by the Ministry of Education, based on the judicial decision of institutional care. After reaching 18, persons placed in institutional care can apply within 30 days for permanent residency on humanitarian or other specified grounds. This clause enables separated children who reach 18 and have not been granted another asylum status to legally stay and work in the Czech Republic. However, there were only two cases of permanent residence permits being issued according to this clause, and these were only granted after pressure was put on the Foreign Police by involved state authorities and NGOs.

3. 8 Detention

There has been a perturbing and widespread increase in the use of detention, often for extended periods. In the **UK**, 30 asylum seekers where detained for more than one year, and in **Norway** a number of asylum seekers where detained for more than two years despite the fact that detention should not exceed a total of 12 weeks unless the police consider the case to be exceptional. Changes in legislation have extended the maximum length of detention for asylum seekers in **Austria** and **Luxembourg**. In **Austria** this has gone from six to ten months**,** this applies to those whose application has been ruled, or is considered likely to be ruled, inadmissible, if the first reception centre is left without good reason, or if a further asylum application is filed, and if an appeal is lodged. As of May 2006 when the new law on asylum and complementary protection came into effect, the maximum period of detention for refused asylum seekers awaiting return in **Luxembourg** will be increased from 3 to 12 months. Asylum seekers lodging an asylum request at the **Swiss** borders can be held in registration centres for up to 60 days (from30 days previously). According to the Swiss authorities, the aim is to enable more asylum cases to be dealt with at registration centres thereby reducing the number of asylum seekers in the Cantons, thus reducing costs.

Protracted periods of detention prior to removal have continued in 2005 in many of the countries covered by this report. The deportation procedure in **Bulgaria** was held to be in breach of international standards as it leaves asylum seekers whose asylum applications have been refused in a situation of protracted detention. In **Slovenia,** an asylum seeker whose application has been refused is expected to leave the country within three days. If they do not do so the authorities transfer them to the Centre for

Foreigners (detention centre) where they are detained until the State authorities organise their transfer back to their country of origin. Although detention should not exceed six months, difficulties in organising transfers mean that detention often lasts longer. In March 2005, the Supreme Administrative Court in **Lithuania** stated that non-nationals could be detained on the grounds of deportation even if the execution of this deportation is suspended. This is despite the fact that Article 119 of the Law on the Legal Status of Aliens provides that once the grounds for the detention of non-nationals are no longer valid, the individual should be immediately released. During the first months of 2006 several traumatised asylum seekers have been placed in detention pending transfer under Dublin II in **Austria**.
After an initial application was refused in **Bulgaria**, a subsequent application without new grounds often resulted in the detention of the applicant, irrespective of whether appeal procedures were taking place. This is in breach of Bulgarian asylum law. During 2005, 43 asylum seekers were detained under these conditions. The length of detention extended in some cases to 12 months or more. In **Malta** all irregular migrants are detained, pending decision of status, for anything up to 18 months (after which, according to the law, an individual should be released), or in some cases longer.

The capacity of detention centres in **Belgium** was increased with 90 additional places, especially intended for families with children. Secondary legislation in **Ireland** enabled every Police Station in the Republic to be used as a place of detention, and possible subsequent removal. In an effort to improve the living conditions in detention centres and to strengthen the legal safeguards of detainees, all administrative detention centres in the **Czech Republic** were transferred from the Police to the Ministry of Interior represented by the Refugee Facilities Administration. According to the Federal Office of Migration in **Switzerland**, the continuing reduction of asylum applications is a result of restrictive measures, including detention, deterring persons from filing abusive claims. However a report issued by the Review Commission of the Swiss Parliament compared the practices of rather restrictive Cantons, where refused asylum seekers are often detained, with more liberal Cantons who use detention only as a last resort, and concluded that the quota of successful removals differs only very slightly, whereas the costs differ significantly.

The way in which detention is used by states has not gone unchallenged. In **Bulgaria,** where many refused asylum seekers were held in detention for over 15 months awaiting deportation, appeals launched on Art.5 ECHR grounds were successful and quashed detention orders. On 6 May 2005, the Supreme Administrative Court of **Lithuania** stated that non-nationals granted temporary territorial asylum should not be detained on the ground of irregular stay in Lithuania. On 13 July 2005, the same court ruled that families with children should not be detained if their identities were established and they did not constitute a threat to national security and public order.

The Aliens Act amendment in the **Czech Republic** stipulates that unaccompanied minors under the age of fifteen should not be placed in detention centres. This was one of the few pieces of legislation to benefit minors in detention. Although the time period that separated children (between the ages of fifteen and eighteen) can spend in administrative detention in the **Czech Republic** was shortened to 90 days, in the majority of cases the Aliens police does not release separated children earlier. This practice was criticized by the Ministry of Education and NGO's. During 2004 and

2005, there was a sustained campaign targeting the detention of children and families in Dungavel house Removal Centre in South Lanarkshire, **Scotland**. The campaign disputed the detention of children per se, as well as criticising the removal process as being unnecessarily harsh and potentially traumatic.

3. 9 Family reunification

The EU directive on Family reunification 2003/86/ES has been transposed into **Czech, Slovakian** and **Finnish** law. In Finland the amendments to the Aliens Act will come into force on the 1st of July 2006, though no major changes to existing legislation has occurred. Although the directive has also been transposed into **Greek** legislation this concerns only the part pertaining to non-nationals who have not been recognised as refugees and does not affect the national legislation on the family reunification of refugees which in some respects remains less favourable than the provisions of the directive. By transposing the provisions of the Family Reunification Directive **Hungary** fulfilled its obligation to harmonise its legislation with the mandatory provisions of the directive**.** However, it failed to transpose any of the more favourable provisions, adopting the most restrictive approach possible. Family reunification therefore remains highly difficult, if not impossible in the legislation of these countries.

In the **Netherlands** a new requirement was proposed in the case of family reunion or family formation. Family members older than 16 years need to pass an examination in basic Dutch at the Dutch embassy in the country of origin before they are allowed to join their family members in the Netherlands. Although Parliament delayed the implementation of the law, as its scientific value was doubted, it came into force in March 2006. Family members of refugees are exempted from this requirement. However family members of asylum seekers with a regular status (such as medical or some humanitarian statuses) are not exempted.

For the first time, those granted Humanitarian Protection in the **UK** were entitled to apply for immediate family reunion. There is still no specific Home Office policy on family reunification for resettled refugees in the UK. The Asylum Appeals Commission in **Switzerland** ruled in a decision of principle of 7 March 2006, that the family of a refugee with convention status could join him/her without delay and benefit from the same status, if family life could not reasonably be realised in a third country. Previously, convention refugees had to wait for three years to apply for family reunification. The ACC ruled further that family reunion was also possible if the family had not been separated by the flight. In **Austria**, the families of recognised refugees and those granted subsidiary protection are entitled to apply for asylum and an entry visa at Austrian embassies one year after the status has been granted. Applications from family members are processed together and all family members receive the same status. In **France,** the spouse and children of a beneficiary can obtain subsidiary protection if the marriage is anterior to the asylum claim of the spouse and if they have the same nationality. The right of refugee family members to receive a status in **Bulgaria**, confirmed by the court in numerous cases was abolished, as was the derivative status for spouses of those who have been granted a status. Another amendment of the same text excluded elderly parents (previously included) from the circle of family members that a recognised refugee has the right to reunify with.

4 Social Dimension

4. 1 Reception

The Reception Directive, which should have been transposed by EU member states by 6 February 2005, has still not been transposed by **Greece, Belgium** and **Portugal.** Two countries **Denmark** and **Ireland** opted out of the Directive.

In **Luxembourg** the new law on asylum and complementary protection passed in May 2006 will enable the transposition of the EU Reception Directive. Legislation is being prepared that will enable the implementation of the EU Directive into the 2003 **Polish** Alien Act on Granting Protection to Non-Nationals on the Territory of Poland. The Reception Directive was still under discussion in the **Portuguese** Parliament as of April 2006. A proposition of law to implement the EU directive on reception standards was prepared by the **Belgian** government and administration during 2005 and adopted in December. The proposal still has to be discussed and approved in parliament, nominally before 21 July 2006.

Following the transposition of the Reception Directive, asylum seekers in **Spain** have been given the right to access reception centres immediately after the submission of their asylum claim. In **Italy** since 20th October 2005 the right to housing (or alternative economic support) has to be granted to each asylum seeker for the duration of the procedure. Asylum seekers can be hosted in different locations: firstly in Accommodation Centres of the "Protection System for Asylum Seekers and Refugees" (SPRAR), if there is no vacancy in these centres, they are accommodated either in Identification Centres or in First Accommodation Centres. The right to these reception measures ends with the status determination

In line with the development of 'prioritised' procedures (fast tracking) for dealing with asylum applicants from designated 'safe countries' and Nigeria in early 2005, the Reception and Integration Agency (RIA) in **Ireland** appointed reception centres designed to accommodate applicants from these countries while their application is being considered. Residents of these centres must sign in daily, otherwise their cases are considered to have been withdrawn, and they are liable to deportation

The centre in which migrants are received on Lampedusa in **Italy** has been renamed a "first aid and assistance centre". Asylum applicants are detained here for a maximum of 48 hours before being transferred to other centres in Calabria, Puglia and Sicily. The camp has been reorganised in order to separate the lodgings of men and unaccompanied minors and women. As of the end of 2005, UNHCR, IOM and the IRC have been permitted to station representatives on Lampedusa (though they did not officially start work until the beginning of 2006). Since November 2005 the social work services in the Refugee Reception Centre at Békéscsaba has been provided by Menedék – the **Hungarian** Association for Migrants. The service was transferred to the NGO in the framework of a co-operation agreement with the Reception Centre; the costs are co-financed by the Centre and the European Refugee Fund (ERF) as part

of a two year ERF project. Outsourcing core services related to reception started in early 2005 with the aim of saving Government money. ERF has been used as a means of financing the operational costs of refugee reception centres, besides the already mentioned social work, it also subsidises health care, meals, and the protection of vulnerable groups (single women, unaccompanied minors, and families).

In the absence of a national asylum system in **Serbia and Montenegro**, UNHCR provided accommodation to asylum seekers at motel "Hiljadu ruža" (10 kilometres southeast from Belgrade) until December 2005. Since then, UNHCR has been accommodating asylum seekers in the workers' barracks in a part of New Belgrade called "Savski nasip", based on an agreement with a construction company. The asylum seekers there have regular meals, but the living conditions are generally worse than at motel "Hiljadu ruža". There was a major overhaul of three reception centres owned by the Ministry of Internal Affairs and Administration in **Poland**. Three additional reception facilities were built (from 13 to 16 reception centres). There used to be two reception centres in the western part of **Slovakia**, one of which was specialized in the reception of vulnerable groups. In February 2005, the reception centre in Adamov was closed, leaving only one reception centre for all groups of refugees in Rohovce. The accommodation and procedural facilities throughout **Romania** were enlarged with new centers in Radauti and Somcuta Mare at the northern border

In 2005, resettled refugees in the **Netherlands** were accommodated in ordinary reception centres for the first few months after their arrival. This gave rise to tensions between resettled refugees and asylum seekers. At the end of 2005 the decision was made to house all resettled refugees from January 2006 in one specialised centre with an improved integration program.
In 2005 the **Norwegian** government decided to establish "removal centres" (or waiting centre, as these centres are not closed) for asylum seekers whose applications had been rejected and who for various reasons could not be returned to their country of origin. They had lost many privileges ordinarily granted to asylum seekers in 2004, such as housing and social benefits. In 2005 this applied particularly to Ethiopian, Iraqi and Somali asylum seekers

4. 2 Support arrangements for Asylum Seekers

4. 2. 1 Accommodation

In February 2006 the National Asylum Support Service in the **UK** secured more tightly specified and cheaper contracts with private and public sector accommodation providers. Interim arrangements have been made in most cases, allowing asylum seekers to remain in their current accommodation with the new provider accepting responsibility for future management. However, this has not always been possible. Some asylum seekers have had to leave their accommodation, with some having to move to temporary accommodation while an appropriate alternative is sourced. The combination of this transition with a new process for agreeing dispersals with accommodation providers has resulted in a significant drop in dispersals and a significant increase in the number of people in temporary accommodation. Concerns remain that inadequate action is being taken to ensure that families are not disrupted, and that their welfare is not jeopardised through forced relocation, and that normal

dispersal continues. The authorities in **Poland** have started to tackle the housing problem refugees are facing. A programme has been introduced that should grant municipal flats to refugees on preferential terms. So far five flats have been made available.

4. 2. 2 Employment – the right to work

Article 11 of the Reception Directive guarantees asylum seekers access to employment after a maximum of 12 months, though, as with other aspects of the Directive, states are free to introduce or retain more favourable provisions. The right to work is of fundamental importance to asylum seekers, allowing them to be more self-sufficient and facilitating eventual integration. **Ireland** did not change its position in relation to the Reception Directive, which it had already chosen to opt-out of, and therefore continues with the complete ban on asylum seekers working in the Republic. Asylum seekers previously had a right to work for eight hours a week in **Slovenia**, this has now been revoked, and they can only start working a year after their application is lodged if their asylum procedure is still running. According to the Government, this change was necessary in order to prevent further abuses of the asylum procedure pertaining to the right to work. In order to start work, the identity of the asylum seeker needs to be established and they have to obtain a work permit for three months from the Employment office of Slovenia.

Asylum seekers in **Slovakia** can seek employment if a final decision on their case has not been reached within one year after applying for asylum. In practice, if the applicant decides to live outside a camp and work, no further financial assistance will be provided by the Migration Office. In **France,** as a result of transposing parts of the Reception Directive, asylum seekers who have been in the procedure for over a year are given the right to work (or rather the right to request an authorisation to work). In **Italy,** the right to work is granted after six months and in **Luxembourg** after nine, if a decision has not yet been made on their application. The coming grand-ducal regulation will provide for vocational trainings for asylum seekers. Asylum seekers are subject to a one year labour ban in **Germany**. After this has expired, asylum seekers access to the labour market is still given low priority: they may only be employed if the vacancy cannot be filled by a German national, EU citizen or another employee entitled to take priority. The labour market test is decidedly bureaucratic and takes several weeks.

Those with subsidiary protection get improved access to the labour market in **Switzerland**. They are now entitled to access the labour market on the same basis as foreigners with a residence permit. Previously a person with a provisional admission status could only work in certain branches, and could only apply for a job if there were no Swiss citizens or EU/EFTA citizen, or a foreigner with a settlement or residence permit. Those in the first four categories are still, however, given privileged treatment.

4. 2. 3 Social welfare and financial provisions

In 2005, the respective authorities of the **Austrian** federal states developed criteria for a reduction of benefits, or reimbursement, if an asylum seeker earns money, receives benefits from other sources or is otherwise not regarded as needy. While employed,

asylum-seekers may only spend €435 (1.5 x €290 monthly support); any additional income has to be saved for the following months and after a certain period of employment (often 3 months) basic care is terminated. Asylum seekers are obligated to inform the responsible authorities of every change in their financial situation. All legal employment is registered, and relevant data is passed to the authorities. In addition, NGO's who run accommodation centres are expected to report any changes in the lifestyles of asylum seekers that could indicate regular work. Asylum seekers in **Austria** can also be excluded from basic care if they entered the country with a visa, regardless of whether there was a sponsor for this visa.

The **UK** government continues to struggle with the administration of the system of Section 4 'hard case' support (allows refused asylum seekers to apply for food and housing, as an alternative to the full NASS support to which they were previously entitled), as demand has increased significantly with the acceleration of initial and appeal stage decision making. Throughout 2005 applicants not considered to be immediately vulnerable have had to wait an average eight weeks – during which time they are destitute. The government has also decided on the extension and consolidation of vouchers as a form of support for refused asylum seekers who are unable to return to their country of origin. In April 2004 it was decided to exclude refused asylum seekers from social assistance in **Switzerland**. However, the Federal Tribunal ruled in a decision of 18 March 2005 (Decision 2P.318/2005) that Cantonal authorities were not permitted to cut or deny minimum assistance even if the person was not cooperating with the removal procedure. The Swiss constitution stipulates in Article 12 that no one on Swiss territory should become destitute and that the canton/community where the person is residing has to provide emergency assistance.

In **France** asylum seekers in fast track procedures are not granted a residence permit and therefore cannot benefit from the welfare policy applicable to other refugees. Nor can they benefit from the CMU (couverture maladie universelle). However, they have access to the AME (Aide médicale d'état) if they can prove that they have stayed in France without interruption for three months. As a result, with the exception of medical emergencies, people have to wait three months before gaining access to basic healthcare. However, in September 2005 a new circular introduced plans to make AME more flexible (especially concerning the time requirement) in the future.

Financial aid for asylum seekers in **France** is to be modified. It will continue to be given only to those asylum seekers who have a residence permit but who are not in an accommodation centre. The amount will remain the same but it will be given to asylum seekers for the duration of the procedure (support used to be limited to 1 year). These changes were adopted in the 2005 financial law but have not yet come into force, the implementing decree not yet having been adopted.

Up to very recently asylum seekers considered particularly vulnerable by the Social Emergency Service of Santa Casa da Mesiricórdia, a private charitable institution in **Portugal**, were granted financial support immediately after having applied for asylum, irrespective of the decision taken at the admissibility stage of their claim. Such financial support, granted to minors, elderly, isolated women or women with infants, covered accommodation expenses, food and other day-to-day expenses, transportation, education and health related expenses. This policy was changed in late 2005, to benefit only those vulnerable cases that were declared admissible. As of

March 2006 all asylum seekers in the **Czech Republic** who have been in the asylum procedure for more than one year, and are not living in refugee facilities, are entitled to social benefits. This is an important change, as until recently they were not entitled to any benefits.

In **Austria,** the withdrawal of material reception conditions may now be appealed against, at the Independent Administrative Senate of the federal state, but only in those federal states where a legal basis for the basic care provision has been established. However two federal states have failed to ratify the necessary law; two years after the basic care agreement came into effect. Furthermore, it is not yet clear whether the Independent Administrative Senate has the competence (according to constitutional law) to decide in basic care matters.

The new Immigration Act that entered into force in January 2005 in **Germany** further increased the number of persons receiving reduced benefits (at least thirty percent less than the benefits given by the Federal Social Assistance Act). This now includes those with a temporary residence permit on temporary protection or humanitarian grounds, asylum seekers subject to Dublin procedures, individuals who have sought entry via an airport and have not yet been allowed entry (airport procedure), individuals under an obligation to leave the country even if the deportation threat is not yet enforceable or is no longer enforceable. This is also applicable to spouses, partners and minors. In addition this will also apply to those submitting a follow-up application or a second application. In the **UK** refugee integration loans introduced in the Immigration, Asylum and Nationality Act 2006 will come into force in October. Current rules that those granted refugee or complementary protection status are entitled to claim the difference between the National Asylum Support Service (NASS) payments and mainstream benefit levels from the date of the original asylum claim will no longer apply. Refugee and asylum seeker representatives and NGOs are concerned that integration loans undermine refugees' rights as UK residents, which should entitle them to recieve support from the time of making a claim.

5. 2 Integration programmes

As of 1st of September 2005 all those with refugee or subsidiary status in **Norway** are entitled to access a two-year introduction programme previously this was one year. In **Bulgaria** the Council of Ministers adopted a National Programme for the Integration of Refugees. The programme outlines state policy for the period 2005-2007 and sets up concrete measures to facilitate integration of newly recognised refugees. According to this programme refugees who have been granted humanitarian status or refugee status will have access to six months language training, social orientation and financial assistance for covering housing and subsistence needs for a period of one year after recognition. The benefits provided under the programme are dependant on refugees' participation in language classes. In the **Czech Republic,** the integration programme provided by the Refugee Facilities Administration has been revised. The new programme is based on an individual integration plan drawn up by the client and a social worker, including, for example, language courses, retraining, and computer literacy. Based on their participation, points can be earned which entitle them to lower rents and other services in the integration facilities. This programme is supposed to encourage people to start taking responsibility for their lives.

A new school of **Polish** language (Lingua Mundi) provided Polish courses for newly recognised refugees and some persons granted tolerated stay permits as a part of a government run integration programme (for refugees). Those who are granted an asylum status in the **Slovak Republic** are obliged to attend a Slovak language course in an integration centre. A pilot project offering intensive courses in Luxembourgish and introducing foreigners to social life in Luxembourg was set up to promote integration. The courses target residents of **Luxembourg** (including recognised refugees and beneficiaries of subsidiary protection) and commuters from neighbouring countries but asylum seekers are excluded.

In May 2005, the **Slovene** NGOs active in the asylum area stressed that there were major problems with the integration policy in Slovenia. According to their statement the integration policy in Slovenia lacks transparency as well as coordination between different Ministries responsible for integration (principally employment, health and social care).

In summer 2005, a Phare Twinning Project started in **Hungary** with the aim of drafting a policy paper (White Paper) on refugee integration. The project was also responsible for setting up a training scheme and curriculum with the aim of preparing personnel who – in the long run – will be responsible for implementing integration policies in **Hungary**. The Ministry of Interior, the Office of Immigration and Nationality, and a Greek twinning partner, the Centre of International and European Economic Law, are implementing the project.

5. 3 Regularisation and citizenship

It has been made more difficult to obtain **Danish** citizenship as the required level of language qualification has been increased. In future applicants will also have to pass a test in Danish culture, history and Danish society in general. A seven-year integration contract has also been implemented. Compliance with the contract is necessary in order to obtain a permanent stay permit. In **Austria,** changes in the naturalisation law, which came into effect on 23 March 2006, have extended the period of legal residence required before naturalisation can be applied for. Instead of four years, recognised refugees have to legally reside in Austria for six years. A second regulation is the requirement that individuals must have their own means of subsistence. Refugees who receive social benefits in the last three years prior to making an application for naturalisation will no longer be eligible. Persons with subsidiary protection status will have to wait 15 years. On 7 September 2005, the Federal Council of **Switzerland** decided on changes in several Regulations regarding Asylum, Aliens and Integration. The changes entered into force on 1 April 2006. The degree of integration can now be taken into account when deciding whether to grant a settlement permit (the most durable permission to reside in Switzerland). The grant of a residence permit is subject to an obligation to participate in a Language/ Integration course, if the person concerned is intending to take up responsibilities in public life (as an Imam, for example). From January 2007, persons who are admitted to the **Netherlands** under the asylum procedure and old comers are given five years to pass an integration examination. If an individual does not pass the examination within the given period, without a valid reason, a penalty can be imposed, and social security may be curtailed for those receiving social benefits. Passing the examination is also a condition for

obtaining a permanent residence permit. As long as the examination is not passed, residence permits remain revocable.

There are indications that some countries are introducing legislation that makes it harder for those recognised as in need of protection to regularise their position in the host country. The Immigration, Asylum and Nationality Act 2006 in the **UK,** includes a provision to stop granting indefinite leave to remain (ILR) to recognised refugees**,** instead refugees will be granted five years limited leave, after which their situation will be reassessed. The act also amended the rules relating to those granted Humanitarian Protection (HP), which will now also be assessed after five years as opposed to three. In **Finland,** the Directorate of Immigration has altered its policy with regard to asylum applicants from Somalia, Afghanistan and Iraq. While previously they would have been issued with permanent residence permits, they are now issued with temporary permits instead, severely restricting the support to which they are entitled.

At the beginning of 2005, an operation to regularise old asylum cases started in **Belgium** (see also report 2004). Asylum seekers who have not received a final decision in the asylum procedure within a period of four years (or three years for those families with school-attending children) and who are not considered a threat to public security will obtain a permanent residence permit. Integration is not a condition, at least for those asylum seekers whose asylum application is still pending. Asylum seekers who had a long asylum procedure in the past can also obtain regularisation, but they have to present proof of integration in Belgian society and the residence permit will initially be valid for only one year.

In **Sweden,** the opposition requested a general amnesty for all asylum seekers staying in the country ahead of the reforms entering into force in 2006. A compromise led to the implementation of temporary legislation in November 2005, under which many previously refused asylum seekers could be granted residence permits on humanitarian grounds. The legislation was aimed primarily at those whose deportation order could not be carried out after their application was refused. Factors taken into consideration included length of stay, health problems, families with children and those who cannot be returned to their country of origin. The Swedish migration board received over 30,000 applications before the March 2006 deadline.

Spain started a regularisation process for *undocumented immigrants* on 7 February 2005 for a period of three months. An estimated 800,000 foreigners were able to apply for the regularisation. Immigrants with a job contract and proof of residence for the past six months (i.e. prior to 8 August) will be eligible for a one-year work permit and residency. The measures are directly intended to mitigate the increased workload immigration and social security offices are due to face as a result of new immigration legislation. In **Greece,** Act 3386/2005 introduced the opportunity for undocumented migrants to legalise their stay if they could prove that they were present in Greece before December 2004, and provided that they fulfilled a number of conditions and pay 1,023 € for social insurance contributions. The non-nationals entering this procedure receive a one year residence permit, which can be renewed for one of the reasons mentioned in Act 3386/2005 (employment, studies etc). Many refused asylum seekers who have remained in Greece after their final refusal without legal status for years and who cannot be forcibly removed for different reasons can benefit from this

legalisation process. In the same context asylum seekers holding a first instance refusal dated prior to December 2004 but still in the asylum procedure after appealing the decision had the choice to withdraw their asylum application and switch to the legalisation procedure. It should be noted that asylum seekers who were refused at second instance were expressly exempted from the obligation of holding a valid passport as a prerequisite to entering the legalisation procedure, but still had to present an original national ID, a birth certificate or a family certificate, officially translated, in order to prove their identity. These conditions were often quite difficult to meet but as the procedure remained open from October 2005 to May 2006, most of the refused asylum seekers who wished to enter it managed to fulfil the criteria.

Following the initial concern regarding the uncertain status of those asylum applicants still in the asylum process whose children were born in **Ireland** before 1 January 2005, the government decided to allow these people to apply for leave to remain on the basis of an Irish-born child (set up to address the uncertain status of people with Irish children denied automatic residency on that basis following a 2003 Supreme Court decision). The closing date for applications under this scheme was 31 March 2005. The leave to remain granted was similar to that granted to refused asylum applicants on humanitarian grounds. The applicant was required to sign a statutory declaration that they would not apply for family reunification; must prove themselves economically viable within two years; and must be of good character with no criminal record. In total 17,917 applications for leave to remain based on this ground were made, and 16,693 were granted, 10,032 of whom had been in the asylum procedure at some stage. Support for voluntary return in **France** will, as an exception, be offered to families with no residence permit from 14 June to 14 August 2006. This applies only to those who have had at least one child attending school in France since September 2005, and speak French fluently. They can apply either for voluntary return (in which case, the amount they receive for repatriation is doubled) or for regularisation (once they have explicitly refused voluntary return). This is a temporary mechanism for which people have to apply before 14 June 2006.

AUSTRIA

1 Arrivals

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

Table 1:

Month	2004	2005	Variation +/-(%)
January	1,531	1,354	-11.6
February	1,834	1,235	-32.7
March	2,553	1,610	- 36.9
April	3,132	1,694	-45.9
May	1,289	1,606	24.6
June	2,107	1,669	-20.8
July	1,851	1,774	-4.2
August	2,040	2,230	-9.3
Sept.	2,352	2,260	-3.9
October	2,167	2,268	-4.7
November	1,889	2,436	29
December	1,889	2,325	28.1
Total	**24,634**	**22,461**	**-8.8**

Source: Ministry of Interior

Comments
The increase in arrivals noted in the last months of the year is probably due to the impeding introduction of more restrictive asylum legislation introduced in Austria from 2006.
Figures include applications abroad at Austrian embassies.

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

Table 2:

Country	2004	2005	Variation +/-(%)
Serbia Montenegro	2,835	4,403	55.3
Russian Fed	6,172	4,355	-29.4
India	1,839	1,530	-16.8
Nigeria	1,346	1,210	-10.1
Georgia	1,114	1,064	-4.9
Moldova	1,731	954	-44.9
Turkey	757	923	21.9
Afghanistan	1,828	880	-51.9
Mongolia	511	640	25.2
Bangladesh	330	548	66.1
Armenia	414	516	24.6
Pakistan	575	498	-13.4

China	571	468	-18
Macedonia	323	452	39.9
Stateless	197	377	91.4
Others	4,091	3,643	-5.1

Source: Ministry of Interior http://www.bmi.gv.at/publikationen/

Comments
The increased number of applications from Serbia and Montenegro are predominantly from Kosovo Albanians who had (been) returned a few years previously.

3 Persons arriving under family reunification procedure

No figures available.

4 Refugees arriving as part of a resettlement programme

Austria does not operate any resettlement programmes.

5 Unaccompanied minors

790 (2004:1,212)

Country of origin (2005)	Total
Afghanistan	93
Russian Federation	77
Nigeria	74
Moldova	70
India	64
Serbia Montenegro	60
Mongolia	39
Algeria	30
Georgia	30
Gambia	27
Belarus	27
Bangladesh	21
Turkey	15
Mali	14
Guinea-Bissau	12
Pakistan	10
Sudan	10
Other	120
Total	790

Source: http://www.bmi.gv.at

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	**2004**				**2005**			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	3,939		792		3,550		1,122	
Convention status	3,157	43	1,979	69	2,972	41	1,556	65
Subsidiary status	238	7.6	100	9.6	673	18,2	99	8.9
No status awarded*					12,106**			
Humanitarian residence permits	1,327				254			
Total								

Source: Ministry of Interior

Comments
*including discontinuation, no longer relevant applications, withdrawal.
** first instance and appeal.
There is a single procedure for convention status. If convention status is not granted, non-refoulement-status is taken into consideration. The percentage for convention status is not calculated from total asylum decisions but from the total of negative decisions, including decisions on the merits and inadmissible applications. Not considered are closed procedures e.g. discontinuation due to absence of the applicant or withdrawal of application or applications regarded as no longer relevant. Furthermore, non-refoulement decisions are not included. Humanitarian status falls outside the asylum system. This is granted by the Minister of the Interior not by the asylum office. Information on rejected applications is not available.

There is no procedure that has a legal remedy of granting a humanitarian residence permit, this permit is not granted by the asylum office, but by the Minister of Interior. There is no official information concerning the reasons for granting a humanitarian residence permit, but according to the experience of refugee assisting NGOs only a few refused asylum-seekers receive this status.

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:

	2004	**2005**
	First instance and appeal	First instance and Appeal

	Number	%	No.	%	Number	%	Number	%
Country of origin								
Russian Federation	2,905	94			2,427	90.60		
Afghanistan	744	87			517	78.80		
Serbia Montenegro	419	31			462	31.30		
Iran	414	78			247	86.10		
Iraq	128	62			130	72.60		
Turkey	94	13			70	10.60		
Congo DR	46	75			69	80.20		
Georgia	53	12			58	10.90		
Somalia	12	80			58	92.10		
Syria	21	60			53	77.90		
Armenia	35	30			39	85		
Bosnia-Herzegovina	10	15			34	30.6		
Ukraine	18	19			32	18.8		
Stateless	8	23			32	38.1		
Sudan	21	53			29	58		
Kyrgystan	5	56			27	81.8		
Azerbaijan	23	64			26	57.8		
Cameroon	9	38			24	60		
Total	**5,136**	**50.3**			**4,528**	**45.5**		

Source: Ministry of Interior

Comments
Otherwise terminated procedures are not counted in percentages.

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

Table 5:

	2004				**2005**			
	First instance and Appeal				First instance and Appeal			
	Number	%	Number	%	Number	%	Number	%
Country of origin								
Russian Fed	348				216			
Iraq	251				56			
Afghanistan	158				164			
Serbia Montenegro	60				91			
Turkey	24				14			
Armenia	5				36			
Georgia	18				33			
Iran	9				24			
Stateless	4				19			
Total	**994**	**17.4**			**772**	**16**		

Source: Ministry of Interior

Comments: Due to the statistical collection methodology, percentages according to country of origin are not available. The percentage of those granted subsidiary protection is calculated on the basis of overall decisions on subsidiary protection.

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

Not known. Only 14 asylum applications have been rejected on safe third country grounds. After the admission of the new member states the safe third country clause is mainly applied to Switzerland.

10 Persons returned on safe country of origin grounds

No figures available.

11 Number of applications determined inadmissible

1,178 (2004: 963)

12 Number of asylum seekers denied entry to the territory

No information available with regard to refugees trying to cross the border.
From 1 May 2004 only family members of recognised refugees were permitted to apply for an entry visa at an Austrian embassy.
In 2005, 187 applications from abroad were terminated as of no relevance, most of them from Afghani, Georgian, Turkish or Iraqi nationals.

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

A total of 7,463 non-nationals were in detention in 2005. This was generally the result of not possessing a valid residence permit, or of having received an expulsion order. 285 foreigners were allowed alternative accommodation as a "more lenient measure" instead of being detained (http://www.bmi.gv.at/publikationen/)

Asylum-seekers may be detained after their application is ruled inadmissible, if they leave the first reception centre without good reason or if they file a further asylum-application. 662 asylum-seekers were detained on these grounds.

The maximum length of detention is 2 months: previously this could be exceeded on several grounds for up to 6 months. As of 2006 it is possible to prolong detention for up to 10 months.

14 Deportations of rejected asylum seekers

No figures available for asylum seekers. 4,277 non-nationals were deported in 2005; information on nationality is not available.

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

In 2005, IOM (International Organization for Migration Austria) assisted the return of 1,406 refused asylum seekers or immigrants who had instructions to leave the country. In particular to Serbia & Montenegro (306), Georgia (131) and Turkey (99), Belarus and Moldova (92 respectively), Romania (85), and Ukraine (81). For more details see http://www.iomvienna.at

The voluntary return project of Caritas Austria provided advice on return to 1,140 persons, 701 decided to return in 2005. For Afghani refugees the IOM offers a special assisted return programme, which started in April 2003 and lasts until August 2006. It comprises information about general socio-economic factors in different regions, including measures for re-integration. Single adults can receive €500; couples €800 and each child €100, up to a maximum family allowance of €1200. IOM Kabul receives the returnee and arranges training and qualification programmes, or guarantees to subsidise the new enterprise, up to a maximum of €1700. These activities are mainly financed by the European Commission "Return, Reception and Reintegration of Afghan Nationals to Afghanistan" (RANA) fund.

IOM started a new project on voluntary return to Moldova in December 2005, which will last until December 2007. The ERF, the Ministry of Interior and the Austrian Development Cooperation jointly fund it. Its target group are asylum-seekers, persons with refugee or subsidiary protection status. IOM provides a newsletter with country of origin information, tools for advice on return, the organisation of travel and financial assistance amounting to € 300. Reintegration is assisted by local partners and includes language and computer courses, bursaries for students, vocational training, and assistance to get a job or to build up ones own small business.

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

Number of requests from Austria to other states.

Table 6:

Dublin State	Requests	Accepted	Transferred
Belgium	83	54	25
Czech Republic	370	241	27
Germany	625	443	151
Greece	119	58	9
Spain	99	87	68
France	204	121	32
Ireland	7	3	1
Italy	325	124	30
Cyprus	24	22	1
Lithuania	8	0	0
Luxemburg	17	7	8
Hungary	946	645	63
Malta	1	1	1
Netherlands	63	29	13
Poland	1915	1424	39
Portugal	6	6	4
Slovenia	120	57	7
Slovakia	2117	1367	117
Finland	10	6	3
Sweden	142	88	15
UK	13	2	4
Norway	37	17	9
Total	**7251**	**4802**	**627**

Number of requests to Austria from other MS: 3,250, in 1,821 cases Austria agreed to accept the case and 806 cases were actually transferred to other member states.

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

Chechnya
Although refugees from Chechnya are still recognised at first-instance, a change in practise has taken place since spring 2005. In some cases the Federal Asylum Agency claimed that asylum seekers had an internal flight alternative (IFA), though this often did not reflect the individual situation of the refugee.
In several cases this assumption could be refuted at first instance. In other cases, the IFA assumption was sustained at first instance, while at second instance it was argued that the IFA was not available.
Under article 24b (a clause providing for traumatised refugees to have their cases processed in Austria) of the Asylum Law, Austria refrained from transferring Chechen asylum seekers to other EU member states under Dublin II. However, the new Asylum Law that came into effect on January 1 2006 cancelled this provision for traumatised asylum-seekers. The Federal Asylum Agency has already begun to pay less attention to the psychological status of applicants, and started making Dublin requests to other states in 2005. Several decisions have been revoked at second instance due to the likelihood of trauma.

Unaccompanied asylum-seeking children
Following the Asylum amendment of 2003, the legal adviser of an unaccompanied minor has become their representative during the course of the admissions procedure. After the admissions procedure this responsibility falls to the Youth welfare agency. Previously there had been uncertainty as to which of these two parties were responsible if a negative decision was appealed. A ruling of the Higher Administrative Court (VfGH - 09.03.2005 - B 1290/04) decided that the legal adviser would be responsible at the appeals stage of the admissions procedure. The way in which age is assessed in the admission procedure gave rise to concern. The assessment is made by an administrator of the federal asylum agency, who are not required to have any special qualifications for the processing of applications from unaccompanied minors. Doctors who are present in the detention facility assess the age of detained unaccompanied minors. In several cases unaccompanied minor asylum-seekers without documents have been declared to be already adult.

Traumatised asylum-seekers and victims of torture
As already stated above, Austria used to accept responsibility for this vulnerable group, processing asylum-applications according to Art. 24b of the Asylum Law (2003). This provision was cancelled in the new Asylum Law 2005. During the first months of 2006 several traumatised asylum-seekers have been placed in detention pending deportation, which becomes legal once the asylum authorities assume that Austria will not be responsible for processing the application (Dublin-II). The examination by a doctor with psychological competence is supposed to clarify whether there is a risk in the sense of Art. 3 ECHR. Traumatised asylum seekers and victims of torture are excluded from negative decisions on the merits of their case during the admissibility procedure only. A higher standard of proof for traumatised refugees and victims of torture is established in the new law (art.30): the asylum-seeker has to prove that they suffer from a psychological disorder that is aggravated by stress ("belastungsabhängige krankheitswertige psychische Störung"), hindering them from representing their interests in the asylum-procedure, or that they risk permanent injury to their (mental) health (Dauerschaden).

5 Legal and Procedural Developments

18 New legislation passed

Asylum Law 2005
On July 7 2005, the so-called Alien Law package was approved by parliament (Legal Gazette I no. 100/2005). This package included the Asylum Act 2005, the Alien Police Act 2005, the Residence and Sejour Law 2005, the Federal Basic Care Law 2005 and the Border Control Law. In addition the Asylum Act implemented the Country Records Advisory Board Regulation, and the Law Concerning the Independent Federal Asylum Review Board. The new laws and regulations came into effect on 1.1.2006.

The new Asylum law builds on the last amendment of 2003. It implements the EU Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who are otherwise in need of international protection and the content of the protection granted. The purpose of the new asylum law is to speed up decision making due to the granting of permitted or tolerated stay during the procedure, which a non-national who has not lodged an asylum application is not entitled to, the granting of social benefits during the procedure and the disappearance of asylum seekers during the process. Furthermore, the Higher Constitutional Court found that certain regulations of the 2003 amendment of the Asylum Act were violating constitutional rights (for example the general exclusion of suspensive effect of appeal and pre-expulsion custody in the case of a subsequent application).

The new law will:

- establish a country of origin information system
- entitle the Independent Asylum Review Board to come to precedent setting decisions which make individual hearings in similar cases dispensable
- define exceptions to the ban on putting new facts before the appeal procedure according to the ruling of the Higher Constitutional Court from November 2004 (G 237, 238/03-35 et al)
- implement legal instruments (like detention) to effectively carry out Dublin cases
- no longer exclude traumatised refugees and victims of torture from the Dublin system with a new definition of trauma, allowing their transfer to the responsible Member State and preventing a rejection of the application on the merits of the case during the admissions procedure
- to reduce special procedures, instead of which the suspensive effect of an appeal against an expulsion order that is connected with the rejection of an application may be denied
- to change airport procedures
- to accelerate procedures for asylum-seekers who are deprived of their liberty or who have committed a criminal offence
- to define the obligations of the asylum-seeker in the procedure and establish instruments for enforcement (including a warrant and detention during the appeal procedure)
- to define the duties and extend the role of public security agents in the asylum-procedure

The Alien Police Act includes several articles that target asylum-seekers:
The provision for detaining asylum-seekers (mainly if the application is likely to be declared inadmissible) – Art 72 para 2; the prolongation of the maximum length of detention for up to 10 months (Art 80); a new instrument to restrict the freedom of movement for asylum-seekers if they fulfil the criteria for a residence ban (Art 62) – if the residence of these asylum-seekers

is tolerated, a restriction of movement may be imposed. A provision has also been introduced penalising people who "abet" "unauthorised habitation" this could result in harassment of those who represent asylum-seekers.

The last amendment of the Federal Care Law (BGBI Nr. 32/2004 as of 27.04.2004) has not been changed very much, but has been given a new title "Basic Care Law – State". The state is responsible for the care of asylum seekers during the admissions procedure only. Asylum-seekers may get basic care for 14 days after the termination of the admissions procedure if the Ministry of Interior is not able to transfer the asylum-seeker to one of the federal states' accommodation facilities. This leads to a gap in the reception system. The regulations concerning state-provided care and accommodation restrict access to these facilities, and entrance to and use thereof by ineligible persons is punishable. A ministerial decree (care centre entrance decree 2005) defines who is entitled to enter the five reception facilities under the responsibility of the state.

19 Changes in refugee determination procedure, appeal or deportation procedures

The system introduced under the last amendment of the Asylum Law remained more or less unchanged. Applications for asylum must be filed in the First Reception Centre and asylum seekers are obliged to remain within the FRC until their registration. During the admissions procedure their freedom of movement is restricted to the district. The outcome of the admissions procedure must be decided within twenty days, if a Dublin-consultation has taken place, this time limit for submitting a decision starts after the consultation is finished.

Appeals have no suspensive effect in the case of rejection due to inadmissibility (Dublin II and safe third countries). In the case of an obviously unjustified expulsion order, which is submitted together with the decision on the asylum-application, the suspensive effect can be applied. The second instance body has to decide on the suspensive effect within 7 days after the appeal is submitted, after these 7 days the tolerated stay ends and the expulsion order is executable. The first interrogation in the admissions procedure falls under the responsibility of the public security agents. They have to establish the basic facts for police records. This involves searching the person and their luggage, asking for travel route information and their main reasons for flight. They are not however entitled to further interrogate the applicant. This first part of the admissions procedure can also take place outside the first reception centre, if the asylum-seeker applies for asylum in front of the public security authority. If after this interrogation it is likely that the application will be declared inadmissible, the alien police may put the asylum-seeker into pre-expulsion custody unless the Federal Asylum Agency decides that the asylum-seeker shall be brought to the first reception centre. On the same grounds, detention may be ordered for asylum-seekers who filed their application at the first reception centre.

Manifestly unfounded applications The special procedure that shortened the time for appeal to 7 days was restricted to airport cases. In manifestly unfounded applications the suspensive effect of an appeal is denied. Besides the existing reasons for declaring an application unfounded, such as safe country of origin, the following grounds have been added: the filing of an application more than three months after entry into Austria, or after a residence ban has been executable, or the asylum-seeker deceives the authority with regard to his/her identity or nationality or submits false documents.

Accelerated procedure Applications of asylum seekers in custody are to be decided within 3 months in each instance (in general 6 months).

Notifications In the case of final decisions or first instance decisions without suspensive effect of appeal, the immigration police shall personally notify the asylum seeker concerned. The

legal representative of an asylum-seeker shall get a copy immediately. In this way the authorities hope to prevent asylum seekers from going into hiding.
Exclusion clause An asylum-application may be rejected without investigation if the applicant falls under Art.1 D or Art 1 F of the refugee convention or constitutes a danger to the security of the republic or society.

Subsidiary protection may not be granted to asylum-seekers whose country of origin cannot be established.

Internal flight alternative Although this concept was previously applied in practise, it has now been implemented into law.

The ban on the introduction of new facts During the appeal procedures, was modified according to the High Constitutional Court ruling on 15.10.2004. In order to be exempt from this ban, an asylum seeker has to prove that they have been unable to present their case fully at first instance (communication problems, post-travel exhaustion, PTSD, etc.).

Discontinuation The continuation of the procedure was reduced from three years to two if the decision cannot be filed without a further interrogation of the asylum-seeker. After the discontinuation, while an appeal is pending, the expulsion procedure starts if the granting of asylum or subsidiary protection is considered unlikely or the asylum-seeker has committed a criminal offence. Pre-expulsion custody may be ordered. The expulsion detention procedure will be cancelled if the asylum-seeker notifies the Asylum Review Board of his place of residence himself.

Family procedures Family members of recognised refugees and people with subsidiary protection (who have had a status for at least one year) are entitled to apply for asylum and an entry visa at Austrian embassies. If family members apply at Austrian embassies for international protection, an entry visa will be issued if the granting of asylum or subsidiary protection is considered likely. The visa may only be issued if the Ministry of Interior has no objection due to interests of public security. The applications from family members are processed together and all family members receive the same status.

Precedent setting decisions The competent member of the Asylum Review Board may in cases or questions of fundamental importance, especially if a significant number of similar cases are pending or expected to occur, bring the case before a grand Board of 9 members. A hearing will not consequently be considered necessary in similar cases if the precedent setting decision covers all relevant questions.

Dublin cases Asylum-seekers falling under the Dublin Regulation are detained during the admission procedure. Public security agents may now order detention if the first interview indicates that another state could be responsible for processing the application. Often families are separated because small children and their mothers are usually not detained.

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

Judgements:
The Higher Administrative Court found a Dublin decision of the Independent Asylum Review Board to be unlawful. The undocumented unaccompanied minor asylum-seeker from Gambia had already registered in Spain giving 1983 as his year of birth, as he thought that it would be easier for him to find employment as an adult. The Asylum Agency did not believe that he was born in 1988 and rejected the application as inadmissible, due to his habits and appearance. The legal representative did not agree to this arbitrary assessment of age. The Higher Administrative Court decided that the second instance did not give adequate reasons

for processing the claim as though he was an adult, although the Asylum Review Board found the method of age assessment to be insufficient. (VwGH - 22.11.2005 - 2005/01/0415)
A Kurd from Turkey entered Austria with a visa issued by the German embassy and applied for asylum in 2001. He lived in Austria from 1991 to 1997 and married in 1996. He was expelled in 1997 when his son was 3 months old. After his expulsion he got divorced in 1998.

The Independent Asylum Review Board decided that in this case Austria has to make use of the sovereignty clause (Art 3 part 4 of the Dublin regulation) because his minor son lives in Austria and has the right to live with his father. The ministry of interior contested this decision arguing that public order reasons, in the sense of Art 8 part 2 ECHR, are applicable. In earlier decisions the Higher Administrative Court already found that the public interest in an orderly managed migration policy is not relevant to the implementation of the Dublin regulation. The ministry further argued that the application for asylum was submitted to circumvent the foreigners law and that the application is unfounded. The Higher Constitutional Court stated that the criteria for responsibility under the Dublin regulation are tied to an asylum-application only. The Dublin regulation and § 5 Asylum Law do not allow for a judgement on the merits of a case during the examination of the responsible state. The ministry of interior could not provide evidence that would surpass the interest of the asylum-seeker living with his minor child. VwGH - 24.11.2005 - 2002/20/0377 from 24.11.2005.

In a Dublin-case with Poland the Asylum Review Board returned the case to the first instance. The pregnant woman from Chechnya had applied for asylum in Poland. She told the officer in charge that she did not want to go back to Poland because in the Lubin centre the ambulance was not called in two cases, and her daughter who is suffering from a heart-complaint did not get treatment. When she was asked to say a few sentences about her reasons for applying for asylum, the officer in charge asked further in-depth questions about her flight motive. The Asylum Review Board found that it was not necessary to start the investigations on the merits of the case. It ruled that the federal Asylum Agency started its interrogation in the regular procedure at this point; therefore the application was admitted to the procedure and Poland was no longer considered responsible. In this case the Federal Asylum Agency also failed to submit the sources of its information or explain it's finding that the medical care in Poland is sufficient. (UBAS 301.335-C1/E1-XIII/66/06 from 11. June 06).

In a Dublin-case with Slovakia the Asylum Review Board returned the case to the first instance. The asylum-seeker from Chechnya has appealed the first instance decision, because he will not have a fair procedure in the Slovak Republic. The Asylum Review Board expresses serious doubts as to standards in the asylum procedures of Chechens. It is common practise for Slovak border guards to return asylum-seekers without any expulsion order. The asylum-seeker in this case was himself returned in this way. Furthermore the Minister of external affairs recommended Chechens should not be granted asylum due to state security reasons. This has been documented in several asylum-files. This leads to serious concerns whether the applicant may count on a fair procedure. The denial of a fair procedure is a matter for Art 18, 19 EU Charter on Fundamental Rights due to political reasons, it also constitutes a violation of Art 3 ECHR because the asylum-seeker will be treated in an inhuman fashion and will suffer psychological stress. UBAS - 262.359/3-II/04/05 from 28.10.2005.

Subsidiary protection for woman from Nigeria
The Independent Asylum Review Board found that a single woman with a child and no family ties would have great difficulties surviving. Maintenance, access to resources and work are dealt with within the family. Persons without such family networks have to face exceptionally harsh consequences. Prostitution is often the only way to survive for single women. If the asylum-seeker were to be returned to Nigeria, she would be faced with an unacceptable situation with no hope for the future.
UBAS - 17.03.2005 - 228.831/10-III/07/04

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

A working-agreement with the Slovak Republic for the processing of Dublin requests entered into force on 1 June 2005.

A working-agreement with Hungary for the processing of Dublin requests entered into force on 21st July 2005 (Legal gazette III 2005/150).

A working-agreement with the Czech Republic for the processing of Dublin requests came into effect on 31 March 2006 (Legal gazette III 2006/84).

A working-agreement with Slovenia for the processing of Dublin requests came into effect on 3 August 2005.

Readmission agreement between Austria and Poland entered into force on 30 May 2005 (Legal gazette III 2005/56)

Readmission agreement between Austria and the Czech Republic (Legal gazette III 2005/187) entered into effect on 9 October 2005.

6 The Social Dimension

23 Changes in the reception system

Fundamental changes have taken place within the reception system since 1 May 2005. The new system intends to provide all asylum-seekers with basic care. The basic care agreement is a constitutional law only binding on the state and the federal states, third parties or persons cannot claim rights deriving from this agreement. It provides basic care for all asylum-seekers, for non-nationals whose deportation is suspended or who have subsidiary protection status. Furthermore, refugees who are granted asylum receive basic care instead of social care for the first four months after recognition. Basic care benefits are considerably lower than social care benefits (given to nationals and non-nationals with social rights). Recognised refugees who continue to live in an accommodation centre with full board receive 150 euros a month under the basic care system, and 380 to 450 euros a month under the social care system. Those who are already housed in private accommodation receive 180 euros per adult, per month and 80 euros for children for the first four months. The UN committee for Economic Social and Cultural Rights expressed concern (25. November 2005 E/C. 12/AUT/CO/3) that social assistance to asylum seekers are considerably lower than those received by Austrian citizens.

Every federal state must provide accommodation according to its number of inhabitants. During 2004 most of the federal states were not able or willing to provide sufficient places. This situation remained unchanged in 2005, but the disputes about this among the federal states calmed down. The federal state Vienna, as one of the few federal states that hosts far more than its quota of persons under the basic care agreement stopped accepting new asylum seekers. Asylum seekers are allocated in the FRC to a federal state. Asylum seekers, whose applications are refused in the admission procedure, are not sent to a federal state but stay in one of the reception centres of the state or are placed in detention. The withdrawal of material

reception conditions may now be appealed against, at the Independent Administrative Senate of the federal state, but only in those federal states where a legal basis for the basic care provision has been established. The basic care agreement has not yet been fully implemented in federal state law. Two federal states have failed to ratify the necessary law, two years after the basic care agreement came into effect. Furthermore it is not yet clear whether the Independent Administrative Senate has the competence (according to constitutional law) to decide in basic care matters. Therefore appeals are still pending. Appeals do not have suspensive effect.

In 2005 the respective authorities of the federal states developed criteria for a reduction of benefits, or reimbursement, if the asylum-seeker earns money, receives benefits from other sources or is otherwise not regarded as needy. All income over €100 has to be given as contribution to the costs, and after a certain period of employment (often 3 months) basic care is terminated. Asylum seekers do not receive basic-care after their employment is finished as long as the federal state authorities regard them as not in need of benefits. Whilst employed, asylum-seekers may only spend €435 (1.5 x €290 monthly support); any additional income has to be saved for the following months. Asylum seekers are obligated to inform the responsible authorities of every change in their financial situation. All legal employment is registered, and relevant data is passed to the authorities. In addition NGO's who run accommodation centres are expected to report any changes in the lifestyles of asylum seekers that could indicate regular work. This is unrealistic and often leads to financial problems and even to the loss of a private flat when the employment has ended. Another criteria to exclude asylum-seekers from basic care is the possession of a visa, regardless of whether there is a sponsor or not. The federal states stated that the criteria for assessing neediness would be tested for 4 months, after which an evaluation would be presented. However after the trial period had expired the criteria are still being applied, without the results of the analysis having been made public. NGOs claim that the daily rate for the hosting of asylum-seekers does not cover their costs. The basic care agreement allows for €17 per day as a maximum, depending on the standards in the accommodation centres usually €15 to €17 are paid.
Asylum-seekers may get a work permit or have their own business or be self-employed after 3 months. In practise this hardly ever happens. They may also work voluntarily in the accommodation centre or in the community. This work is not regarded as regular employment and no work permit is needed. Asylum seekers should receive €3 to €5 an hour for this type of work.

24 Changes in the social welfare policy relevant to refugees

The basic care agreement diminished the rights of recognised refugees. During the first four months after recognition they are not entitled to social care but receive basic care, which is less than social care.

A change in the law annulled the right to receive family allowance for the period as an asylum seeker (this allowance was paid before 15.12.2004 after the recognition of refugee status for the whole period of legal residence as an asylum seeker).

25 Changes in policy relating to refugee integration

Changes in the naturalisation law, which came into effect on 23 March 2006, have extended the period of legal residence required before naturalisation can be applied for. Instead of four years recognised refugees have to legally reside in Austria for six years. The second deterrent regulation is the requirement of own means of subsistence. Refugees who received social benefits during the last three years of their residence are not entitled to naturalisation. Persons with subsidiary protection status will have to wait fifteen years.

26 Changes in family reunion policy

No developments.

7 Other Policy Developments

27 Developments in resettlement policy

No developments.

28 Developments in return policy

No developments.

29 Developments in border control measures

No developments.

30 Other developments in refugee policy

The New Law on residence demands that asylum-seekers who are married to an Austrian citizen apply for their residence permit at the Austrian embassy in the region of origin. For many asylum-seekers it is impossible to return to their home country. This new regulation is intended to combat fictitious marriages, but has harsh repercussions for those in a genuine relationship. A lot of couples are waiting for a solution such as exceptional permission to apply for humanitarian status that would allow them to apply for a residence permit in Austria. A permit may only be issued if the couple has a sufficiently high income (€1,056 for two persons).

8 Political Context

31 Government in power during 2004

Coalition of Conservatives (ÖVP – Austrian People Party) and Right Wing Conservatives (BZÖ – Alliance New Austria "Bündnis Neues Österreich").

32 Governmental policy vis-à-vis EU developments

No developments.

33 Asylum in the national political agenda

Asylum was one of the main political questions in Austria during 2005. The most important issues in 2005 were the combating of misuse of the asylum system and the need to shorten asylum procedures. Politicians and the media described the main problems as being misuse of the asylum-system by criminal individuals and the prohibition of deportation (before a final decision has been made). A more restrictive asylum-regulation was demanded and at the end of 2004 the new Minister of Interior Affairs, Ms. Liese Prokop, presented a draft for a new asylum law.

Since the presentation of the new proposal and the consultations that followed, the conformity with Constitutional rights has been the source of lively debate. Despite many objections, the

asylum law 2005 (also the new foreigner police law and new residence law) were adopted by parliament on 7th July 2005.

Biography

Anny Knapp

ASYLKOORDINATION ÖSTERREICH

Asylum Coordination Austria is a non-profit organisation. It aims to secure human rights and the rights of Refugees and Migrants. The main target is co-ordinating organisations working with refugees and migrants in Austria.

WWW.ASYL.AT

BELGIUM

1 Arrivals

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

Table 1:

Month	2004	2005	Variation +/-(%)
January	1,310	1,285	-1.9%
February	1,159	1,286	+11.0%
March	1,447	1,466	+1.3%
April	1,295	1,255	-3.1%
May	1,032	1,206	+16.9%
June	1,155	1,234	+6.8%
July	1,175	1,311	+11.6%
August	1,220	1,370	+12.3%
Sept.	1,277	1,423	+11.4%
October	1,304	1,368	+4.9%
November	1,398	1,358	-2.9%
December	1,585	1,395	-12%
Total	**15,387**	**15,957**	**+3.7%**

Source: Office des Etrangers, Ministry of Interior, Statistics 2005, http://www.fgov.dofi.be

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

Table 2:

Country	2004	2005	Variation +/-(%)
Russian Federation	1,361	1,438	+5.7
DRC	1,471	1,272	-13.5
Serbia-Montenegro	778	1,203	+54.6
Iraq	388	903	+132.7
Slovak Rep.	730	773	+5.9
Armenia	477	706	+48
Guinea	565	643	+13.8
Rwanda	427	565	+32.3
Nepal	373	557	+49.3

Source: Office des Etrangers, Ministry of Interior, Statistics 2005, http://www.fgov.dofi.be

3 Persons arriving under family reunification procedure

Figures not available.

4 Refugees arriving as part of a resettlement programme

Belgium does not operate any resettlement programmes.

5 Unaccompanied minors

In 2005 there were 655 applications from those claiming to be unaccompanied minors. 584 of them were recognised as such (2004:599)

Table: 3

Nationality	
DR Congo	75
Guinea	70
Afghanistan	52
Iraq	39
Rwanda	37
Cameroon	32
Russia	25
Romania	20
India	19
Somalia	16
Other	199

Source: Commissariat-general for Refugees and Stateless Persons, Annual Report 2005 (www.belgium.be/cgvs)

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	**2004**				**2005**			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	6,096	72.8	2,041	95	7,790	71.81	2,608	79.5
Convention status	2,277	27.2	99	5	3,059	28.19	671	20.5
Subsidiary status								
Other								
Total	**8,373**		**2,140**		**10,849**		**3,279**	

Source: Commissariat-general for Refugees and Stateless Persons, Annual Report 2005 (www.belgium.be/cgvs) ; Permanent Appeals Board for Refugees (www.vbvcprr.fgov.be)

Comments
There are two stages in the Belgian asylum procedure; the first stage considers the admissibility of the application and the second stage examines the substance of the asylum claim. Refugee status can only be granted at the second stage, to which the numbers cited above refer.
The number of negative decisions taken by the Permanent Appeals Board is the overall number, including inadmissible appeals, appeals that were withdrawn or appeals that were rejected for technical reasons. No subsidiary status exists in Belgian legislation. No temporary statuses were granted in 2005.

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:

	2004				2005			
	First instance		Appeal		First instance		Appeal	
Country of origin	Number	%	Number	%	Number	%	Number	%
Russian Federation	774	34	14	14.1	1259	41.2		
Rwanda	510	22.4	13	13.1	445	14.5		
DRC	98	4.3	5	5	204	6.7		
Serbia-Montenegro	187	8.2	2	2	166	5.4		
Iran	57	2.5	2	2	112	3.7		
Burundi					96	3.1		
China					66	2.2		
Iraq	67	2.9			63	2.1		
Togo					63	2.1		
Other Countries					537	17.5		
Total	**2277**	**99**			**3059**		**671**	

Source: Commissariat-general for Refugees and Stateless Persons, Annual Report 2005.

Comments
No statistics on the recognition rates according to country of origin for the Permanent Appeals Board are available for 2005. For 2004 nationality breakdown is only partially available.
The increase in the number of Convention Statuses granted to Russians (mainly Chechens) is not as spectacular as it seems, since in 2005 more decisions were taken by the Commissioner General on the substance of cases.
If you compare the number of statuses accorded in 2004 (774) with the total number of decisions taken (8,135), it accounts for 9.5%.
In 2005 1,259 decisions to grant refugee status were taken. Compared to a total of 10,849 decisions, this represents 11.6%.

Subsidiary status does not (yet) exist in Belgian legislation (see Q.33). There is a procedure to obtain a residence permit on humanitarian grounds (procedure according to art. 9.3 of the Belgian Aliens Act), but unfortunately there are no figures available for this.

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

No figures available.

10 Persons returned on safe country of origin grounds

The concept of 'safe country of origin' does not exist in Belgian legislation.

11 Number of applications determined inadmissible

15,084 applications (2004: 12, 458) were declared inadmissible at first instance by the Office des Etrangers. 3,994 (2004: 5,135) of these decisions were declared admissible on appeal by the Commissariat-general for Refugees and Stateless Persons.

An additional 814 (2004:688) applications (mainly second and third applications) were not considered.

12 Number of asylum seekers denied entry to the territory

202 asylum seekers were denied entry to the territory in 2005 (nationality breakdown not available) (source Immigration Office, Ministry of Interior) (2004:232)

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

No figures available

14 Deportations of rejected asylum seekers

In 2005, a total number of 1,868 refused asylum seekers were forcibly returned (nationality breakdown not available). (Source Immigration Office, Ministry of Interior) (2004: 1,066)

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

There are no specific assisted return programmes for third country nationals residing *legitimately* in Belgium (e.g. refugees).
The International Organization for Migration (IOM) is the main organisation assisting undocumented migrants to return. Some NGOs also assist returnees by preparing them for reintegration upon return.
In 2005, a total number of 3,755 departures were registered. The main countries of destination were: Brazil (714), Slovakia (679), Ukraine (346), Russian Federation (210), Armenia (193), Bulgaria (151), Mongolia (134), Kosovo (Yugoslavia) (105) and Ecuador (91).
1,504 cases concerned refused asylum seekers, 1,893 were persons illegally residing in Belgium who had not applied for asylum and 358 concerned asylum seekers who withdrew their asylum application.
(In 2004, a total number of 3,275 departures were registered. The main countries to which returns were made were: Brazil (637), Ukraine (232), Russian Federation (205), Armenia (188), Slovakia (166), Ecuador (154), Kosovo (136), Moldova (123) and Bulgaria (107).
Out of 3,275 voluntary returns, 1,303 cases concerned refused asylum seekers, 1,716 concerned those persons irregularly residing who had not applied for asylum and 256 concerned asylum seekers who had withdrawn their asylum applications).

Nationals of the new EU Member States will be allowed to make use of the Return and Emigration of Asylum Seekers ex Belgium-programme (REAB) until 30 December 2006 (extended from June 2006), but without a return grant. IOM normally arranges the departure and provides both financial and material assistance.

The NGO Caritas International had to suspend its reintegration project (country report 2004) due to a lack of funding. From January 2006 reintegration assistance (medical help, information, vocational training, housing) has again been offered in Ukraine, Bulgaria, Serbia-Montenegro, Armenia and Georgia.

Vluchtelingenwerk Vlaanderen (Flemish Refugee Council) co-ordinated a pilot project of assisted voluntary returns to the Russian Federation. The aim of the programme was to better prepare people for their return and to monitor the situation of these returnees following their return, in order to make it sustainable. Vluchtelingenwerk set up and implemented the project in close co-operation with organisations of the Russian speaking community in Belgium and local partner organisations in Russia: the Human Rights Centre ' Memorial' and the network of the Civic Assistance Committee. The project was aimed at individually assisting 20

persons returning from Belgium to Russia who were in need of extra support. People who applied for the project would receive 400 Euros per person after their return to the Russian Federation. The involvement of the Russian community in Belgium has proven to be very valuable. By organising information sessions about opportunities at the end of the asylum procedure and return possibilities the target group could be reached. The co-operation with local partners in Russia who specialise in migrant issues has been essential for the project. Due to these contacts it was possible to assist each person individually and prepare their returns in detail. The programme will be continued in 2006 due to its success.

IOM undertook reintegration programmes for undocumented migrants from Albania, Kosovo and FYROM, returnees to Afghanistan, asylum seekers from the Democratic Republic of the Congo and unaccompanied minors. The programme in Albania, Kosovo and FYROM offered employment and business counselling and vocational training. It targeted 200 Albanian, Kosovar and Macedonian undocumented migrants in Belgium, Germany, Italy and the UK. 60 persons returned from Belgium (between 1 November 2003 and 30 April 2005).

The programme for asylum seekers from the Democratic Republic of the Congo (additional return grant, vocational training and micro-business support) targeted 50 persons in Belgium, the UK, Ireland, the Netherlands and Switzerland. It ran from January 2004 until the end of December 2005. 22 persons returned from Belgium to start up their own business.
The reintegration programme in Afghanistan (extra return grant, information upon arrival, reception, transit, vocational training, micro-business support) is a European project called RANA - Return, Reception and Reintegration of Afghan Nationals to Afghanistan: 4 Afghans staying in Belgium returned on this programme in 2005.
No unaccompanied minor applied for reintegration assistance in 2005.
(source: IOM, Caritas International, Vluchtelingenwerk Vlaanderen).

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

In 1,689 cases (2004:1,425) it was decided that not Belgium but another EU country was responsible for examining the asylum claim.
Since the beginning of 2005, applicants have been detained more systematically in order to facilitate transfer. There are no figures concerning the number of individuals detained in the context of Dublin II, or on whether the transfer did eventually take place (voluntarily or forced).
We have no figures on claims made on Belgium.

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

Afghan refugees:
The measure adopted by the Belgium government in August 2003 suspending expulsion orders against Afghan asylum seekers who applied for asylum before 1 January is still in force. This measure was extended to February 2004, August 2004, February 2005, and August 2005 and again in February 2006. Most of these have now been granted permanent residence permits, so it is unlikely that this measure will be prolonged in the future.
Afghan asylum seekers arriving in Belgium after 1 January 2003 (and other nationalities who can't be expelled for reasons of security) do not benefit from this measure. The Minister of the Interior has never justified this discrepancy.

Chechen refugees:
Chechens were granted the highest number of refugee statuses in Belgium in 2005. 1,256 Chechens were granted refugee status by the Commissioner General out of a total of 3,059 statuses granted, almost three times more than Rwanda, the second nationality on the list (445 recognitions). At the appeals level the majority of Chechens are granted refugee status by the Permanent Appeals Board for Refugees. However, a high number of Chechens do not make it to this stage of the procedure, as they are often sent back to other EU countries (mainly Poland) under the Dublin II Regulation. Since the beginning of 2005 they have also been detained more systematically in order to facilitate the transfer to the EU country taking back or taking charge of their case.

Iraqi refugees:
In 2005 and at the beginning of 2006, most Iraqi asylum claims were declared admissible. In cases where the application was declared inadmissible, a non-removal clause was nevertheless inserted in the decision. This clause suspends quasi-automatically the expulsion order and thus prevents the Office des Etrangers from expelling the person.
In Iraqi cases the Commissioner General also provides a non-removal clause in negative decisions on the substance of the case. However, the Office des Étrangers does not automatically grant a prolongation of the expulsion order in these cases, while it does so for non-removal clauses attached to negative decisions at the admissibility stage.
In 2005 the Commissioner General granted 63 Iraqis refugee status. Figures from the Permanent Appeals Board are not available.

Somali Refugees:
It used to be common that the expulsion order for asylum seekers from certain countries, after being refused refugee status, was suspended for security reasons. At the end of 2005 a decision was taken by the Office des Etrangers to no longer suspend these expulsion orders on the basis of nationality. Only those asylum seekers who have a "non-removal clause" in their decision from the Commissioner General will now receive a suspension of their expulsion order.
It seems that Somali asylum seekers are most affected by this measure.

Women:
In 2005 a third of all asylum applications were made by women. They originated mainly from the DR Congo, Russian Federation, Serbia-Montenegro, Slovakia, Rwanda and Armenia. In addition 45 % of those recognised as refugees were also women, mainly originating from the Russian Federation, Rwanda, DR Congo, Serbia-Montenegro, Burundi, Iran, Iraq and Guinea. The main grounds for applying for asylum were genital mutilation, forced marriages, sexual violence, honour-related vengeance, sexual inclination, and political and ethnic motives.

5 Legal and Procedural Developments

18 New legislation passed

A new Law of 26 May 2005 (Moniteur Belge 10 June 2005) amended the Aliens Act of 15 December 1980. This law specifies the different categories of non-nationals that cannot, or can only under specific conditions, be expelled. Those who have been granted refugee status cannot under any circumstances be expelled from Belgian territory.

Circular of 7 April 2005 (Moniteur Belge 3 May 2005) introduces a presumption of irregular stay for non-EU nationals if their passport doesn't contain an entry stamp according to EU Regulation 2133/2004.

Circular of 15 September 2005 (Moniteur Belge 7 October 20005) concerning the stay of unaccompanied minors who don't apply for asylum. This circular explains the procedure that has to be followed by unaccompanied minors in order to obtain a temporary permit, and eventually a definitive permit. It is not applicable to unaccompanied minors who apply for asylum. However, it remains an important circular for other unaccompanied minors, and those who have been refused refugee status.

The main objective of this circular is to find a "durable solution" for the minor, which is a task assigned to the tutor as well as to the ministry of the interior (Office des Etrangers). This "durable solution" could be found in the country of origin, or in Belgium. In the mean time the minor receives a 3 month permit (called a "declaration of arrival") or a postponement of his order to leave the country. After 6 months the minor can receive a more stable permit (valid for 1 year), on condition of presenting a national passport.

19 Changes in refugee determination procedure, appeal or deportation procedures

A Royal Decree of 3 February 2005 abolished an asylum seekers obligation to make their asylum request within 8 days upon arrival in Belgium in order to obtain a document certifying their status as an asylum seeker. However this does not change the fact that under the Aliens Act an application for asylum may still be declared inadmissible if introduced after 8 days, if there is no justification for this "late" request.

At the time of writing, this Royal Decree is the only concrete measure taken to implement the EU Directive on minimum standard for the reception of asylum seekers (Directive 2003/9/EC – article 6).

A Royal Decree of 10 November 2005 amended the Royal Decree of 19 May 1993 concerning the functioning and procedures of the Permanent Refugee Appeals Commission (Moniteur Belge 14 December 2005).
Noteworthy is that from now on the appeal must be introduced in the language that has been determined at the beginning of the procedure. Previously there was the choice of Dutch or French. Furthermore it amends the royal decree of 19 May 1993, to bring it into line with the law of 16 March 2005, which introduced the examination of the appeal by one judge as a rule (see country report 2004).

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

Decision VB 04-0680/E528, 18 November 2004 of the Permanent Refugee Appeals Commission:
Applicant, a Columbian national, was threatened and maltreated by the Columbian army, paramilitaries and criminal gangs. After experiencing serious problems for 8 years (during which time he also moved from one region to another) he fled to Belgium.
Contrary to the opinion of the Commissioner General, the Permanent Appeals Board stated that the Geneva Convention does not necessarily exclude persecution by a criminal organisation. It is not necessary that the persecution be related to action by the authorities of a country. The Permanent Appeals Commission investigated whether there was an internal flight alternative, and came to the conclusion that in the Columbian context it would be extremely difficult for the authorities to provide sufficient protection, especially against *arbitrary terrorist attacks*.

The Commissioner General came to the conclusion that there was no *systematic* persecution as the persecution was carried out by more than one party. The Permanent Appeals Board,

however, did not follow this reasoning and found that according to the Geneva Convention systematic persecution does not necessitate persecution by one actor.
Decision VB 03-3310/F1756 , 4 March 2005 of the Permanent Refugee Appeals Commission, and Decision VB/04- 0535/E548, 1 March 2005 of the Permanent Refugee Appeals Commission:
Both cases concern Chechen refugees who concealed an earlier asylum claim in another country (Poland and Germany) this was considered to affect their credibility and led to their subsequent rejection.
On appeal the Permanent Refugee Appeals Commission stated that the fact of concealing information should be balanced against other facts. In both cases the objective situation in Chechnya is considered to be so serious that it is given more weight than the fact that the persons concerned didn't inform the Commissioner General of previous asylum claims. Not providing all relevant information does not exclude the possibility that there is a well-founded fear of persecution.

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

Decision CPRR 02-2607/F2192, 12 November 2002 of the Permanent Refugee Appeals Commission.

The applicant in this case, a Turkish national of Kurdish origin, was a member of a group affiliated to the PKK. During her stay in Belgium she worked as a journalist for a Kurdish television channel and gave lectures at a Kurdish "youth camp" in the Netherlands. At that time the Turkish authorities sent an extradition request to the Dutch authorities.
The Permanent Refugee Appeals Commission investigated whether there were serious reasons to believe that she had committed a crime under art. 1 F of the Geneva Convention. According to the Commission there were no indications that the person concerned was the author, co-author or an accomplice in any of the crimes enumerated in art. 1Fa). Since the crimes of which the applicant was suspected in the extradition request caused no victims, the Commission was of the opinion that there was no use of disproportionate violence and therefore the acts didn't qualify as "serious non political crimes" (art 1F(b)).
In answer to the question whether the acts committed by the applicant were contrary to the purpose and principles of the UN, the Commission refers to UNHCR's point of view concerning Recital 22 of the EU Directive 2004/83 of 29 April 2004. This states that only those acts that fall within the scope of United Nations Resolutions relating to measures combating terrorism which are of international significance in terms of their gravity, international impact, and implications for international peace and security, should give rise to exclusion under this provision. The acts of the person concerned were considered not to be serious enough to fall within the scope of art. 1F c).

22 Developments regarding readmission and cooperation agreements

Law 9 February 2006 (Moniteur Belge 19 April 2006) approving the conclusion of a readmission agreement between BENELUX and the Suisse Confederation on 12 December 2003.

6 The Social Dimension

23 Changes in the reception system

There were no major changes in the way the reception system was organised in 2005. A proposal to adapt the reception system, in line with EU guideline 2003/9/ EG from 27 January 2003 on reception standards, was prepared by the government and administration during 2005

and has been discussed with the various reception partners. The proposal was adopted by the government in December 2005. In 2006 the judicial advice of the Council of State was asked and given. The proposal still has to be discussed and approved in the parliament, nominally before 21 July 2006, but more realistically the discussions in parliament will start in October 2006. In the meantime the reception system for asylum seekers continued as it did in 2004. Read more on the reception system (www.fedasil.be).

In contrast, a legal initiative was approved in December 2005, which concerned the reception (material aid) of families who have no residence permit and who have asked for financial aid. In December 2003 the government decided that these families would obtain material aid in federal reception centres. The court of Arbitrage (arrest 19 July 2005) adapted this legislation by stating that it should be guaranteed in law that parents would not be separated from their children in reception centres. The government adopted the legislation and it is now guaranteed that parents will stay with their children in federal reception centres if they ask for material aid.

24 Changes in the social welfare policy relevant to refugees

No developments.
There is however new and constant jurisprudence on the right to social welfare for a Belgian child of parents who have no residence permit as well as jurisprudence on the right to social welfare for families irregularly staying, if there's no help offered in a federal reception centre.

25 Changes in policy relating to refugee integration

Circular of 30 January 2006 concerning the right to vote at local elections for non-EU citizens: According to this circular non-EU nationals who have been living legally on Belgian territory for at least 5 years, and have a permanent residence card at the moment of registration, have the right to vote at the local council elections. For persons who have been granted refugee status the 5-year period is calculated from the moment that they applied for asylum.

26 Changes in family reunion policy

No developments.

7 Other policy developments

26 Developments in resettlement policy

Belgium does not have a resettlement programme and there are no concrete plans to initiate one in the near future.

28 Developments in return policy

A special department was set up within the Aliens' Office in order to identify (undocumented) migrants with a criminal conviction (in order to return them).
The capacity of the detention centres was increased by 90 additional places, especially intended for families with children.

29 Developments in border control measures

Law of 22 December 2004 concerning the responsibility of those transporting foreigners into Belgium. (Moniteur Belge 18 January 2005).

This law, which is a transposition of the EU Directive 2001/51 of 28 June 2001, introduces a more stringent responsibility for those who facilitate the entrance of foreigners into Belgium without the appropriate documents. They are now obliged to take the person concerned back to where they came from. And in case an immediate return is not possible, they will be liable for the costs of the stay in Belgium (housing, healthcare etc).

30 Other developments in refugee policy

See point 33.

8 Political Context

31 Government in power during 2005

A coalition of Liberals and Socialists is in power in Belgium. The Prime Minister is Guy Verhofstadt.

32 Governmental policy vis-à-vis EU developments

In general the Belgian authorities are favouring a continuing and far-reaching process of European integration and harmonisation. Interesting in this respect is the point of view of the Prime Minister, Guy Verhofstadt, in his book "The United States of Europe".

33 Asylum in the national political agenda

The political debate concerning asylum issues was dominated in 2005 by the planned reforms to the asylum procedure and the introduction of a subsidiary status into Belgian legislation.
The most important changes in the procedure are firstly the abolition of the admissibility phase. Secondly, the creation of a new appeal organ, with broader competences than the now existing Permanent Refugee Appeals Commission (not only on asylum matters, but also on other issues concerning aliens) but with restricted investigative powers. And thirdly the creation of a "leave to appeal" system at the Conseil d'Etat.
The proposal was approved by the Parliament (Chamber and Senate) at the beginning of July 2006.

In addition, at the beginning of 2005 an operation to regularise old asylum cases started (see also report 2004). Asylum seekers who have not received a final decision in the asylum procedure within a period of four years (or three years for those families with school-attending children) and who are not considered a threat to public security will obtain a permanent residence permit. Integration is not a condition, at least for those asylum seekers whose asylum application is still pending.

Biography

VLUCHTELINGENWERK VLAANDEREN

The mission of Vluchtelingenwerk includes:
- enlarging public support for a generous asylum policy
- advocacy towards policymakers
- stimulating consultation and coordination
- supporting organisations active in the field

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BULGARIA

1 Arrivals

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

Table 1:

Month	2004	2005	Variation +/-(%)
January	67	81	+17.8%
February	86	40	- 46.5%
March	114	89	- 21.9%
April	56	47	- 16.07%
May	106	79	- 25.4%
June	88	70	- 20.4%
July	54	82	+ 34.1%
August	74	69	- 6.75%
Sept.	120	76	-36.6%
October	119	55	- 53.7%
November	141	42	- 70.2%
December	102	92	-9.8%
TOTAL	**1127**	**822**	**- 27 %**

Source: The State Agency for Refugees, Exh.N 03.04.102/18.01.2006

Comments
The number of individuals seeking asylum in Bulgaria continued to decrease in 2005. Over the course of the year, asylum applications were filed on behalf of 822 individuals from 38 countries. This is a 27% decrease in comparison to the 1,127 people from 42 countries who applied in 2004, and a decline of over 53% in comparison with the 1,549 people from 38 countries who applied in 2003. It is believed that this is a result of the government's growing emphasis on border control with respect to both legal and illegal immigration. Efforts to control migration have increasingly been coordinated at both the local and regional level, in line with the process of Bulgarian accession to the EU.

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

Table 2:

Country	2004	2005	Variation +/- (%)
Afghanistan	426	385	-10%
India	69	54	-22%
Iraq	47	50	+6.38%
Pakistan	16	45	+181.25%
Iran	45	19	-57.8%
Others	524	269	-50.37%
Total	1127	822	-27%

Source: The State Agency for Refugees, Exh.N 03.04.102/18.01.2006

Comments
Following the discontinuation of temporary protection for Afghans in 2003, the number of new applicants from this country again started to increase, although quite moderately in comparison with previous years. Afghan asylum seekers have been the largest group of asylum seekers/refugees in Bulgaria. Reasons for this can be found in the close links that developed between Afghanistan and Bulgaria whilst the latter was still a communist regime. As a consequence of this many Afghan officials were educated in Bulgaria. For many new arrivals, Bulgaria is seen as a transit state. The rate of disappearance among those applying for asylum was almost 48.1% in total (452 cases of discontinued procedure due to the applicant's absence out of 952 cases on which a decision was made for 2005).

3 Persons arriving under family reunification procedure

In 2005, 8 refugees applied for family reunification in Bulgaria, all of them were granted permission. 3 families were reunited, other cases are still pending.

Table: 3

Country	Gender, age and relationship	Number	
		Reunified	Pending
Afghanistan	Female, adult, spouse	1	1
Turkey	Male& female, minor, children	2	-
Iran	Female, adult, spouse	1	-
Iraq	Female, adult, spouse	-	2
Syria	Female, adult, spouse	-	1

Source: State Agency for Refugees, Information Unit.

4 Refugees arriving as part of a resettlement programme

Bulgaria does not operate any resettlement programmes.

5 Unaccompanied minors

159 separated children applied for asylum in 2005. Of these, 1 was granted refugee status and 13 were granted a subsidiary form of protection (humanitarian status). 13 were rejected and 111 had their procedure terminated due to their disappearance. All those granted a status were Afghans.

Table 4:

Country	Number
Afghanistan	142
Pakistan	4
India	8
Bangladesh	1
Iran	1
Somalia	1
Stateless	1

2 Recognition Rates

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

Table 5:

Statuses	2004				2005			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	335	29.6	521	90.7	407	49.5	230	50.8
Convention status	17	1.5	10	1.7	1	0.1	7	1.5
Other	520	46.0	-	-	348	42.3	203	44.9
Total	**1,128**	**100**	**574**	**100**	**822**	**100**	**452**	**100**

Source: Bulgarian Helsinki Committee / The State Agency for Refugees, Exh.N 03.04.102/18.01.2005

Comments
'Other' refers to asylum applicants who have disappeared or those who withdrew their asylum claim for a variety of reasons, including voluntary return. The statistics provided by the State Agency for refugees do not however differentiate between these categories.

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 6:

		2004				2005			
Country of origin		First instance		Appeal		First instance		Appeal	
2004	**2005**	Number	%	Number	%	Number	%	Number	%
Albania	Armenia	5	29.4	13	21.6	-	-	7	100
Syria	Stateless	5	29.4	9	15.0	1	100	-	-
Afghanistan	-	2	11.7	5	8.3	-	-	-	-
Iran	-	2	11.7	3	5.0	-	-	-	-
Palestine	-	1	5.8	3	5.0	-	-	-	-
Sudan	-	1	5.8	3	5.0	-	-	-	-
Turkey	-	1	5.8	2	3.3	-	-	-	-
Others	-	-	-	5	8.3	-	-	-	-
Total		**17**	**28.3**	**43**	**71.6**	**1**	**100**	**7**	**100**

Source: Bulgarian Helsinki Committee /State Agency for Refugees, Exh.N 03.04.102/18.01.2006

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

Table 7:

	2004				2005				
Country of origin	First instance		Appeal		First instance			Appeal	
(List here)	Number	%	No.	%	Number		%	Number	%
Iraq	85	33.2	-	-	Afghanistan	18	27.2	4	33.3
Afghanistan	77	30.0	-	-	Nigeria	0	-	2	16.6
Somalia	37	14.4	-	-	Syria	2	3.0	2	16.6
Iran	10	3.9	-	-	Algeria	0	-	1	8.4
Palestine	9	3.5	-	-	Armenia	0	-	1	8.4

Nigeria	8	3.1	-	-	Stateless	0	-	1	8.4
-	-	-	-	-	Iraq	23	34.8	1	8.4
Others	30	11.7	-	-	Others	23	34.8	-	-
Total	**256**	**100**	-	-	**Total**	**66**	**100**	**12**	**100**

Source: Bulgarian Helsinki Committee / The State Agency for Refugees, Exh.N 03.04.14/05.01.2005

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

Does not apply.

10 Persons returned on safe country of origin grounds

No figures available.

11 Number of applications determined inadmissible

570 (822 applicants minus 159 separated children dealt with in the normal RSD procedure) entered the admissibility procedure and 314 were determined inadmissible during 2005. This represents 55% of all applications.

12 Number of asylum seekers denied entry to the territory

Figures not available.

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

Multiple applicants (those whose initial application was rejected, but who applied again without having new grounds) were rejected and often detained after the submission of their subsequent application irrespective of whether appeal procedures were taking place or not. This is in breach of Bulgarian asylum law. During 2005, 43 asylum seekers were detained under these conditions. The length of detention extended in some cases to 12 months or more.

14 Deportations of rejected asylum seekers

Figures not available.

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

No return programmes existed in the country in 2005.

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

Bulgaria is not a party to the Dublin Convention.

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

No developments

5 Legal and Procedural Developments

18 New legislation passed

In April 2005 the Law on Asylum and Refugees (enacted in 2002) was subject to restrictive amendments that were first proposed within the context of the obligations undertaken under Chapter 24 JOHAN of the EU accession negotiations. The Bulgarian Government decided to use the amendments as an instrument for quashing the progress made in favour of asylum seekers and refugees, especially those developments based on judicial interpretation. Despite the lobbying of legal NGOs during the parliamentary discussions, many of the drafted restrictions remain in the final text of the law.

The right of separated asylum-seeking children to have an appointed guardian, implemented in 2004, was largely undermined by the newly introduced provision enabling the replacement of guardians with specialized child services' representation[3]. The *ex lege* right of status for refugee family members confirmed by the court in numerous precedent setting cases was abolished[4] as was the derivative status for spouses of those who have been granted a status. Another amendment of the same text excluded elderly parents (previously included) from the circle of family members that a recognised refugee has the right to reunify with. Amendment of Art.17, Para 2 LAR introduced additional (to the 1951 Convention) exclusion clauses allowing revocation of refugee or humanitarian status in cases where the refugee has used a false identity or has concealed material information related to his/her case.

19 Changes in refugee determination procedure, appeal or deportation procedures

No developments

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

*Decision issued on 28.03.2005 / Case N 3229/2004-Budali, Sofia City Court, 3-B department / Legal ruling: < *women as a social group / right to education as a basic human right*> The claimant stated that she left her country of origin on account of her desire to continue her education which contradicted her parents intention to marry her off. Marriage (owing to the clearly declared position of her future husband) would most probably either make her future education very difficult or impossible. According to country of origin information women in Algeria could be married against their will. In this respect, women's right to family life and personal freedom relating to the right to access education (being a basic human right) were found to be violated. It constituted a ground to assume that the applicant had an asylum claim which was not manifestly unfounded.
*Decision issued on 16.02.2005 / Case N 3387/2004 – Djalti, Sofia City Court, 3-A department / Legal ruling: <*protracted detention during deportation violates the right of freedom of movement*> The appellant was initially lawfully detained to ensure his deportation on the basis of illegal residence. Deprivation of the right of freedom can be considered legal, only if it is clearly restricted in time, either by sentence or by a legal condition (which in this case was the implementation of deportation). The conditions for detention were not implemented, i.e. the deportation was not carried out for a period longer than 6 months. The

[3] Art.25, Para 5 of the LAR.
[4] Art.8, Para 3 LAR.

delay was due to police inefficiency. These facts reflected on the legality of the detention the prolongation of which was found to be excessive and in breach of Art.5 of the ECHR. Although the court does not control the implementation of administrative acts, a violation of the right to freedom, obligates the court to revoke the detention as in violation of Art.5 ECHR.
*Decision N 4695/26.05.2005 / Case N 4605/2005 – Alizada, Supreme administrative court, 1st instance / Legal ruling: < *nemo jus auditur in turpitudinem suam principle / no right can originate from illegal behavior*> Applicant, a refused asylum seeker detained pending deportation has appealed the detention claiming he was never served the detention order. Appeal was dismissed at first instance on account of the failure of the appellant to produce the number of the detention order he contested. The dismissal violated the appellant's right to a defense. If the court as a principle apprehended him it would constitute a denial of justice and would validate the illegal behavior of the immigration police for not serving a detention order on the detainee as the law explicitly prescribed. Thus, the police would avoid judicial authority on the basis of its own malpractice, which cannot be legally upheld.

21 Development s 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

No developments.

6 The Social Dimension

23 Changes in the reception system

There were no major changes in the Bulgarian reception system during 2005. The State Agency for Refugees – the government body responsible for adjudicating asylum claims as well as for the reception of asylum seekers, runs two reception facilities where asylum seekers are accommodated during status determination. Refugees living in the reception facilities have access to financial support for food or catering in a canteen. The financial support for food is calculated on the basis of the state guaranteed minimum income (income used to determine welfare payments to Bulgarian citizens). Asylum seekers are also allowed to live in private premises, outside the reception facilities but at their own expense.

24 Changes in the social welfare policy relevant to refugees

There were no changes in the welfare policy applicable to refugees. Refugees who have been granted refugee status or humanitarian status are entitled to welfare support under the same conditions and terms as Bulgarian citizens.

25 Changes in policy relating to refugee integration

In 2005 the Council of Ministers adopted a National Programme for the Integration of Refugees. The programme outlines state policy for the period 2005-2007 and sets up concrete measures to facilitate the integration of newly recognised refugees. According to this programme refugees who have been granted humanitarian status or refugee status will have access to 6 months' language training, social orientation and financial assistance for covering housing and subsistence needs for a period of 1 year after recognition. The benefits provided under the programme are dependant on refugees' participation in language classes. The State Agency for Refugees is assigned as the main agency responsible for implementation and

coordination of programme activities. There are also provisions that allow refugee-assisting NGOs to be involved as well.

The programme, which was due to commence on the 1st of January, was delayed due to administrative constraints. The State Agency for Refugees started to provide language training for newly recognised refugees in February but financial assistance was not implemented; in the interim the Bulgarian Red Cross with UNHCR funds continued to offer financial assistance to recognised refugees.

26 Changes in family reunion policy

No developments.

27 Developments in resettlement policy

No developments.

28 Developments in return policy

No developments.

29 Developments in border control measures

Lawyers' access to border detention centers, discontinued in 2003, was re-established in 2005 by an agreement between the Bulgarian Helsinki Committee (legal NGO) and the National Service Border Police (MOI). Officially, the Border Police were acting only as intermediaries between asylum applicants and the asylum authority, and did not have the right to register and/or process claims itself. The State Agency for Refugees has not yet opened any of the asylum centres (so called 'transit centers' for accelerated procedure for manifestly unfounded applications) planned to be built at the borders - in Busmantzi, close to Sofia Airport and in Pastrogor, next to the Bulgarian/Turkish border. The implementation of this project had already been postponed in 2004 (partly due to complaints by local residents, particularly in Busmantzi).

The state agency for refugees continued to refuse to transport asylum applicants from the border to existing asylum centers in Banya and Sofia, leaving it to the budget and logistical organisation of the Border Police. This has led to a situation in which border officials preferred to return all illegal entrants, disregarding submitted asylum claims, if not monitored. NGOs carried out border monitoring on the most important points of entry: the Bulgarian-Turkish border (GKPP-Kapitan Andreevo, GKPP-Malko Tarnovo, Liubimetz Detention Center) and Sofia Airport (GKPP Aerogara). Border Police did not officially register all irregular entrants, e.g. GKPP-Malko Tarnovo reported zero irregular entries for 2005, but according to NGO monitoring at least 5 non-nationals were prosecuted in local courts for illegal entry. 63 asylum seekers were given access to Bulgarian territory from the borders, which was just 7.6 % of all asylum applications registered in 2005. The absence of a comprehensive agreement between the border police and the state refugee agency resulted in 5 registered cases of refoulement (1 Turk, 2 Afghans and 2 Palestinians).

30 Other developments in refugee policy

The Bulgarian Government failed to introduce any policy relating to the treatment of asylum seekers whose applications have been rejected, including the failure to guarantee return to their country of origin in safety and dignity. Deportation procedures were held to be in breach of international standards leaving asylum seekers whose applications have been rejected in a

situation of protracted detention. In many cases the detention exceeded 15 months. Appeals launched on Art.5 ECHR grounds were successful and quashed detention orders in several precedent setting cases.

8 Political Context

31 Government in power during 2005

Regular parliamentary elections were held in Bulgaria on June 25, 2005. They were recognized as free and fair by international observers; however, some allegations were made of cases of double voting and vote-buying. The majority of votes in this election were won by the Bulgarian Socialist Party (BSP), which had up to then been in opposition, but not enough of a majority to allow the BSP to form a government on its own. Following long drawn-out negotiations, the two parties that had governed the country up until the election, the National Movement of Simeon the Second (NMSS) and the Movement for Rights and Freedoms (MRF), were persuaded to join in forming the new government. The main priority of this three-member coalition is Bulgaria's accession into the European Union. In turn, throughout the year various EU institutions and groups of officials were quite active in observing and evaluating the country's preparedness for membership.

32 Governmental policy vis-à-vis EU developments

In October 2005, the European Commission published its *Monitoring Report on Bulgaria's Progress Towards Accession to the European Union*.[5] As in earlier reports the Commission expressed serious concerns regarding the human rights situation in a number of spheres, such as the excessive use of force and firearms by law enforcement officials, inhuman conditions in national prisons and detention facilities, and the integration of minority groups and people with mental disabilities. However, the report's conclusion was that Bulgaria fulfilled the criteria established by the European Council at Copenhagen in 1993, particularly in the area of migration and asylum. Bulgaria started to transpose the EU acquis on asylum and adopted measures for migration control without any reservations or considerations. This was characterised by the transformation of previously liberal legislation into legislation that is restrictive and orientated towards minimum standards (see above, 5.18). At the end of 2005 a newly amended draft of the Law on Asylum and Refugees started to incorporate the Dublin II Regulations into domestic legislation. Amendments are expected to enter into force sometime in 2006.

33 Asylum in the national political agenda

The initially positive influence of EU accession on the development of the national asylum system was reversed during the past year. The Government adopted a restrictive (minimum standard) approach when dealing with asylum issues, reflecting Western European concerns over numbers and the cost of asylum. Good standards of refugee protection that had been achieved were lowered through legal or practical measures. Border control was intensified. A series of immigration and visa measures were introduced, which were aimed at preventing access to Bulgarian territory of aliens from less developed countries, especially those that habitually produce significant numbers of refugees. As a result Bulgaria continued to register relatively small numbers of new arrivals in 2005. In addition, the short time period allowed for the fast-track admissibility procedure, fingerprinting, as part of the incorporation of the Dublin II Regulation, the EURODAC database that commenced operation at the beginning of 2005 and the concept that saw Bulgaria adopted as a safe third country probably motivated

[5] European Commission, *Bulgaria: 2005 Comprehensive Monitoring Report*, Brussels, 25 October 2005, available at: http://www.europa.eu.int/comm/enlargement/report_2005.

asylum seekers to avoid applying here. In this respect Bulgaria remained an unattractive country of destination. However, the prospect of EU accession in 2007-2008, the Dublin II Regulation that will come into effect in 2006 and the fact that Bulgaria will become an external border of the EU are expected to cause an increase in asylum applications.

Biography

Iliana Savova

BULGARIAN HELSINKI COMMITTEE

Meet the basic protection needs of refugees, asylum seekers and other individuals with human rights at stake, achieved through the provision of legal and integration-related counselling, representation and advice to beneficiaries as well as monitoring, influencing and interacting with all relevant institutions and organizations aimed at the overall goal of promoting the consolidation and development of the structure and capacity of the asylum system in Bulgaria.

WWW.BGHELSINKI.ORG

Vera Rangelova

BULGARIAN RED CROSS

The BRC is a voluntary organisation, which is a part of the International Red Cross and Red Crescent Movement and is guided by its fundamental principles: humanity, impartiality, neutrality, independence, voluntary service, unity and universality. Through its network of volunteers, the BRC provides assistance to vulnerable people in disaster and crisis situations. Through training programmes and activities for benefit of the society, the BRC contributes to alleviate and prevent suffering in all its forms, protects health and life and ensures respect for the human being.

The RMS of BRC is committed to facilitating refugee integration, to prevent the isolation of migrants, and to promote tolerance towards both groups in Bulgarian society.

WWW.REDCROSS.BG

CZECH REPUBLIC

1 Arrivals

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

Table 1:

Month	2004	2005	Variation +/-(%)
January	552	346	-37.32
February	588	297	-49.49
March	988	307	-68.93
April	603	280	-53.57
May	420	261	-37.86
June	317	312	-1.58
July	354	330	-6.78
August	300	489	+63
Sept.	282	432	+53.19
October	378	348	-7.94
November	370	348	-5.95
December	307	271	-11.73
TOTAL	**5,459**	**4,021**	**-26.34**

Source: Ministry of the Interior (Home Office)

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

Table 2:

Country	2004	2005	Variation +/-(%)
Ukraine	1600	987	-38.31
Slovak Republic.	137	711	+418.98
India	47	342	+627.66
China	324	287	-11.42
Russian Federation	1498	260	-82.64
Belarus	226	216	-4.42
Vietnam	385	208	-45.97
Mongolia	123	119	-3.25
Others	*1119*	*891*	*-20.37*

Source: Czech Statistical Office

Comments

Applicants from the Slovak Republic are mainly Slovak Roma, they are not considered to be at risk in Slovakia, and are perceived to be seeking asylum as a result of reforms in the Slovakian Social benefits system. They are denied asylum on safe country of origin grounds. There are no known reasons for the decline in applicants from the Russian Federation.

3 Persons arriving under family reunification procedure

No figures available (2004:40).

4 Refugees arriving as part of a resettlement programme

15 people were resettled from Uzbekistan, 12 men and 3 women; this was the only resettlement that took place in 2005.

Source: Ministry of Interior

5 Unaccompanied minors

Table 3:

Unaccompanied minors 2005 (2004)					
Age	**0-14**		**15-17**		**Total**
Gender	**Male**	**Female**	**Male**	**Female**	
Armenia	- (-)	- (1)	- (-)	1 (-)	1 (1)
Bangladesh	- (-)	- (-)	1 (1)	- (-)	1 (1)
Belarus	- (-)	- (1)	2 (1)	- (-)	2 (2)
China	- (-)	- (-)	19 (20)	9 (13)	28 (33)
India	- (-)	- (-)	32 (5)	- (-)	32 (-)
Iraq	- (1)	- (-)	3 (-)	- (-)	3 (1)
Kyrgystan	- (-)	- (-)	-(1)	1 (-)	1 (1)
Moldova	- (-)	1 (2)	- (1)	-(-)	1 (3)
Mongolia	1 (-)	- (-)	1 (3)	- (1)	2 (4)
Russia	1 (1)	1 (-)	1 (7)	1 (1)	4 (9)
Somalia	2 (-)	- (-)	- (2)	1 (-)	3 (2)
Sudan	- (-)	- (-)	1 (1)	- (-)	1 (1)
Ukraine	- (-)	1 (1)	1 (2)	2 (-)	4 (3)
Vietnam	- (-)	- (-)	3 (12)	1 (3)	4 (15)
Others	- (-)	- (-)	7 (10)	6 (-)	13 (10)
Total	**4 (2)**	**3 (5)**	**71 (66)**	**22 (18)**	**100 (91)**

2 Recognition Rates

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

Table 4:

Statuses	**2004**				**2005**			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	4,635	53.4			2,636	51.3	0	0
Convention status	140	1.6			251	4.9	0	0
Subsidiary status	36	0.4			79	1.5	0	0
Other								
Total	**8,677**				**5,142**			

Source: Ministry of the Interior (Home Office), Czech statistical office

As of 1.1.2005, 1,121 persons were still in the procedure; 4,021 additional applications were filed in 2005.

Comments
It is possible to appeal the decision of the Ministry of Interior to the Administrative Court, however the Administrative Court can only return the decision to the Ministry suggesting that they reconsider their initial decision. There were 139 cases returned to the Ministry in 2005, out of 3,021 appeals made at the Administrative Court. There are no statistics available for Convention or Subsidiary status cases returned to the Administrative Court.

7 Subsidiary and other status recognition rates (by percentage and total number) according to nationality/country of origin.

Table 5:

	2004				2005			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
Country of origin								
Russia	45	32.1	0		69	27.5	0	
Belarus	29	20.7	0		47	18.7	0	
Armenia	9	6.4	0		19	7.6	0	
Kazakhstan	10	14	0		18	7.2	0	
Uzbekistan	1	0,7	0		17	6.8	0	
Yugoslavia	1	0.7	0		5	2	0	
Guinea	0	0	0		4	1.6	0	
Etiopia	0	0	0		2	0.8	0	
Sierra Leone	0	0	0		2	0.8	0	
Stateless	2	1.4	0		1	0.4	0	
Other	1	0.7	0		5	2	0	
Total	**140**				**251**		**0**	

Source: Ministry of the Interior (Home Office)

Comments: Appeals see section 6.

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

Table 6:

	2004				2005			
	First instance		Appeal		First instance		Appeal	
Country of origin	Number	%	Number	%	Number	%	Number	%
Russian Fed.	1	2.8	0		50	63.3		
Ukraine	2	5.6	0		3	3.8		
Belarus	4	11.1	0		1	1.3		
Moldova	0	0	0		1	1.3		
Uzbekistan	0	0	0		8	10.1		
Kyrgyiztan	0	0	0		3	3.8		
Cuba	6	16.7	0		5	6.3		
Liberia	0	0	0		1	1.3		
Somalia	1	2.8	0		1	1.3		
Sudan	0	0	0		1	1.3		
Unknown	1	2.8	0		0	0		

Stateless	3	8.3	0	0	0	
Total	**36**		**6**	**79**		**0**

Source: Ministry of Interior

Comments
The Judicial review of the decisions made by the Ministry of Interior about granting subsidiary protection can only state that the Ministry made an erroneous decision and demand that it reconsider the case. Therefore it is not possible to provide statistics concerning appeals.

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

See section 10 below.

10 Persons returned on safe country of origin grounds

According to Czech asylum law an application is inadmissible if an individual comes from a safe third country or safe country of origin. The data for these two categories is not separately available.

In 2005 there were 61 cases based on safe third country or safe country of origin, these people were not returned but given a visa for up to sixty days, during which period they were expected to leave the country.

11 Number of applications determined inadmissible

In 2005, 896 applications were determined inadmissible (2004: 32). The increase is probably attributable to Dublin II, and the increase in Slovak Roma asylum seekers who are being rejected on safe country of origin grounds.

12 Number of asylum seekers denied entry to the territory

There is no information available on denials of entry to asylum seekers specifically, however figures are available for foreigners as a whole.

6,280 foreigners were denied entry to the territory in 2005, including:

Table: 7

Nationality breakdown	
Ukraine	761
Russian Federation	724
Turkey	693
Germany	499
Serbia and Montenegro	485
Bosnia and Herzegovina	225
Romania	223
Belarus	163
Bulgaria	153
China	135
South Africa	116

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

505 asylum seekers were detained in 2005.
132 asylum seekers were in prison in 2005.

The maximum length of detention is 180 days for adults and 90 days for unaccompanied minors from the age of 15 to 18 (minors under the age of 15 are not detained). In order to detain a person in the Czech Republic there has to be an administrative procedure followed by an administrative decision on the reasons for detention. An amendment of the Aliens Act 428/2005 has made it compulsory for minors to be appointed a guardian during this procedure (see Q.17).
The Police can detain a foreigner if he/she could endanger state security, public order, or obstruct a decision of expulsion.

14 Deportations of rejected asylum seekers

In the Czech Republic asylum seekers who have had their application rejected after a substantive examination are not subject to forced deportation. If they don't opt for voluntary repatriation, they are expected to leave the country before the expiration of their exit visa, which is granted at the end of the asylum procedure for a period of up to two months.

Some of these persons (it is not possible to estimate the percentage) leave the country and return to their country of origin, others try to move to another EU country. The remainder continue to stay on the territory irregularly. If caught by the police, they are put in a detention facility for a period of up to 6 months. Once they have been given an expulsion order they are deported to their country of origin.

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

Figures not available

There is only one assisted return programme provided by the IOM to Georgia, which enables the participants to obtain vocational training and further assistance on arrival.

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

Total number of cases	1,168
Arrivals	397
Transferred out	472 – applications filed by the Czech Republic
	354 – cases realized

Countries to which the Czech Republic applied most often:

Poland	227
Slovakia	54
Austria	36
Hungary	23

Countries that addressed the Czech Republic:

Austria	339
Germany	157
France	35

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

Considerable attention has again been paid to Chechen refugees during 2005, although the number of applications for asylum from this group continued to decrease significantly. Another group of refugees of particular concern to NGO's is Belarussians. The current trend is that a large number of asylum seekers from Belarus either get asylum or subsidiary protection.

Unaccompanied minors/separated children
There were two major changes in the Aliens Act concerning Separated children:
The time period that unaccompanied minors can spend in administrative detention was shortened to 90 days. Although the Alien Act sets a 90-day limit, in the majority of cases the Aliens police do not release unaccompanied minors earlier. This practice was criticized by the Ministry of Education and NGO's.

Under the Aliens Act unaccompanied minors are placed in special facilities run by the Ministry of Education, based on the judicial decision of institutional care, which stipulates that children should obtain Permanent Residency up to the age of 18. In art. 87, letter a) no.4 Alien Act states that after reaching 18, persons placed in institutional care can apply within 30 days for permanent residency on humanitarian or other specified grounds. This clause enables unaccompanied minors who reach 18 and have not been granted a status to legally stay and work in the Czech Republic. However, there were only two cases of Permanent Residence permits being issued according to this clause. These statuses were only granted after pressure was put on the Foreign Police by involved state authorities and NGOs.

There are difficulties in realising long-term solutions for unaccompanied minors due to the legal requirements that these children do not and cannot usually fulfil. In order to acquire permanent residency, a valid passport and a statement of criminal record is required from the country of origin, in addition the decision to issue permanent residence is at the discretion of the Foreign Police, and very few permits are actually issued. However, there were no forced returns of separated children reported.
A new practice was introduced for separated children who turn 18 in institutional care and want to stay on in the facilities of the Ministry of Education. Young adults who are studying or in training for future professions can make a contract with the facility to stay in the facility until they graduate. The contract is in the form of their consent to stay in the facility and the facility in return provides them with accommodation and living expenses.

The Ministry of Education is currently discussing the need to increase the capacity of its facilities. There is a need to differentiate between the kinds of care that are provided to separated children. Children have different needs and are in different situations, i.e. asylum seekers, foreigners who are not asylum seekers, foreign children who have committed a crime etc. The problem of capacity is considered mainly in connection with the Aliens Act amendment that stipulates that separated children should not be placed in detention centres.

From the 1st of January 2006 the detention facilities in the Czech Republic, previously managed by the Aliens Police, are being administered by the Refugee Facilities Administration (RFA) of the Ministry of Interior, pursuant to the new amendment to the Aliens Act no. 428/2005 Coll. Under the RFA, the conditions in detention centres are becoming more child-friendly and social workers and education specialists are present in the detention centres to meet the specific needs of minors. However, only some of the new measures are in place, due to the complicated transition process.

The amendment of the Aliens Act 428/2005 introduced a guardian for the administrative procedure for the detention of minors. The guardians appointed by the foreign police for the detention procedure are employees of NGOs. Different guardians are appointed to a separated child during different stages of the asylum procedure. The Steering Committee organized by the CCR in which all involved organizations are represented, is currently seeking to reduce the number of guardians.

According to the Ministry of Education who run the special care/diagnostic centres for separated children in the Czech Republic, there were a total of 63 disappearances in 2005. 36 were asylum seekers. The asylum seeking separated children who absconded were mostly minors from India, 17 of whom had a tolerated stay or asylum status, another 6 originated from China. The rest came from Vietnam, 4; Iraq: 2; Belarus: 2; Algeria: 1; Sudan: 1; Syria: 1; Ukraine: 1; and Zimbabwe:1.

5 Legal and Procedural Developments

18 New legislation passed

During 2005 there were several amendments made to Czech asylum law as a result of the transposition of EU legislation. Amendment 57/2005 Coll. of 4.2.2005 implements EU Directive 2003/9/EC laying down the minimum standards for the reception of asylum seekers, and family reunification directive 2003/86/EC were transposed into national law.

There have been two amendments to the Czech Asylum Act – the first entitled 'The Euro amendment' that implements Directive 343/2003 concerning the Dublin II Regulation. The second amendment has implemented changes regarding judicial review.

On 26.6.2006 a further amendment to the Alien Act came into force implementing EU Directive 109/2003 on long-term residents. As a result of this amendment those whose asylum claim has been denied after having spent four years in the procedure can apply for a permanent residency permit (previously 5 years).

19 Changes in refugee determination procedure, appeal or deportation procedures

The amendment that came into force on 13.10.2005 introduced changes in the judicial review procedure. All the administrative decisions in asylum cases made by the Ministry of Interior are reviewed at the regional courts by a judge and not by the senate, as was previously the case. The possibility of appealing to the highest Administrative Court was substantially limited as only appeals that claim that the court has wrongly applied the law can be accepted. The decision declaring an appeal unfounded does not have to be justified. During the first half of 2006 the Highest Administrative Court started to reject appeals as unfounded on the grounds stated in the amendment.

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

The Czech legal system is not based on precedents, therefore there were no important decisions concerning asylum procedure.

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

No developments.

6 The Social Dimension

23 Changes in the reception system

There was a major change concerning detention centres. In an effort to improve the living conditions in administrative detention centres and to strengthen the legal safeguards of detainees, all administrative detention centres in the Czech Republic were transferred from the Police to the Ministry of Interior represented by the Refugee Facilities Administration (RFA) on 1st January 2006.

24 Changes in the social welfare policy relevant to refugees

As of March 2006 all asylum seekers who have been in the asylum procedure for more than one year, and are not living in refugee facilities, are entitled to social benefits. This is an important change, as until recently they were not entitled to any benefits.

Health care
During the third quarter of 2005 major changes in the health insurance system for asylum seekers took place. Under a new initiative, the Ministry of Interior delegated responsibility for providing health care to asylum seekers to private health insurance companies. However, the new legislation was poorly prepared and these companies did not honour their obligation to enter into contracts between themselves and asylum seekers. Serious problems arose, and at the end of 2005 the Ministry of Interior was forced to resume responsibility.

Access to the labour market
Asylum seekers who have an appeal pending at the Highest Administrative Court are permitted to stay in the Czech Republic on tolerated stay permits. People with this type of permit have limited access to the labour market. They can be legally employed only when there are no Czech or EU applicants for a vacancy. This situation should be improved by the September amendment of the Asylum Act which will change the employment act so that those with a tolerated stay visa can be employed in the same manner as those with a status.

25 Changes in policy relating to refugee integration

The integration programme provided by the Refugee Facilities Administration has been revised. The new programme is based on an individual integration plan drawn up by the client and a social worker, including for example language courses, retraining, and computer literacy. Based on their participation, points can be earned which entitle them to lower rents and other services in the integration facilities. This programme helps to enable people to take responsibility for their lives.

26 Changes in family reunion policy

No developments.

7 Other Policy Developments

27 Developments in resettlement policy

No developments.

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 2005

The Czech social democratic party was in power during 2005.

32 Governmental policy vis-à-vis EU developments

The government is transposing and implementing most EU legislation concerning asylum on time. There are no substantial problems.

33 Asylum in the national political agenda

In July 2006 there were national elections in the Czech Republic, these have been the main focus of political debate for some time. Asylum was not an issue of importance for any of the major political parties.

Biography

Magda Faltová
Lenka Mikolášová

COUNSELLING CENTRE FOR REFUGEES

The Counselling Centre for Refugees is a human rights organization, focusing on protection of the rights of foreign nationals and refugees. It recognises the right of every human being to access independent and free assistance.

WWW.UPRCHLICI.CZ, WWW.REFUG.CZ

DENMARK

1 Arrivals

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

Table 1:

Month	2004	2005	% Variation
January	324	192	-9.8
February	300	265	-11.6
March	296	253	-14.5
April	235	216	-8.1
May	304	213	-29.9
June	288	191	-33.7
July	246	156	-36.6
August	302	161	-46.7
September	292	190	-34.9
October	221	149	-32.6
November	205	151	-26.3
December	222	144	-35.1
Total	**3,235**	**2,281**	**- 29.5**

Source: Danish Immigration Service

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

Table 2:

Country	2004	2005	Variation +/-(%)
Afghanistan	285	182	-36.1
India	39	72	+45.8
Iraq	217	264	+21.7
Iran	140	123	-12.1
China	64	71	+9.9
Russia	163	119	-27
- of these Chechens	93	79	-15
Serbia Montenegro	784	383	-51.1
- of these Kosovo	229	140	-38.9
Somalia	154	81	-47.4
Palestinians	148	80	-45.9

Source: Danish Immigration Service

3 Number of arrivals within the framework of family-reunification

3,522 (2004: 3,832)

Table 3:

Country of origin	
Vietnam	811
China	95
Philippines	125
Somalia	125
USA	138
Russian Federation	152
Afghanistan	170
Iraq	187
Turkey	285
Thailand	464

4 Number of refugees who arrived during 2004 as part of a resettlement programme and the main national groups of these refugees

Table 4:

Country of origin	
Afghanistan	7
Burma	133
Burundi	4
Congo Brazzaville	4
Congo DRC	75
Eritrea	1
Ethiopia	2
Indonesia	72
Iraq	3
Iran	116
Ivory Coast	1
Liberia	2
Pakistan	5
Sudan	48
Chad	6
Uganda	3
Others	1

Source: Danish Immigration Service

Comments
From 1 July 2005, the Danish resettlement quota, previously set at 500, can be applied more flexibly. This means that within a three-year period, the immigration authorities can choose to utilise less or more placements (cases will still be referred by UNHCR).

5 Unaccompanied minors

Table 5:

Country of Origin	
China	30
Afghanistan	11
Sri Lanka	8

India	7
Iraq	7
Somalia	7
Lithuania	6
Iran	5
Belarus	4
Algeria	3
Macedonia (FYROM)	3
Vietnam	3
Albania	2
Syria	2
Azerbaijan	1
Others	34
Total 2005	109

2 Recognition Rates

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

Table 6:

Statuses	**2004**				**2005**			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	1,945	47	1,660	40	1,098	49	784	35
Convention status	105	3	173	4	93	4	74	3
Subsidiary status	105	3	124	3	136	6	66	3
Humanitarian protection	351	8			186			
Exceptional reasons	60	1			58	3		
Temporary protection Balkans	136	3			50	2		
Total	**3200**		**1957**		**2104**		**924**	

Source: Danish Immigration Service

Total applications decided 2005 : 2251 (2004, 4112)

Comments
The de facto status has been cancelled and the B status introduced in 1 July 2002. The de facto status may still be granted to applicants who lodged application before 1 July 2002 irrespective of when the Refugee Board (appeal instance) examines the applications.

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

Total decisions first instance 2005: 1,327
Total decisions appeal 2005: 924

Total decisions first instance 2004: 2,155
Total decisions appeal 2004: 1,957

Table 7:

	2004				2005			
Country of origin	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
Country of origin								
Afghanistan	33	1	45	2	6	4	18	12
Russia	14	1	18	1	6	7	4	12
Palestinian	8	0.4	47	2	8	12	12	23
Iran	6	0.3	21	1	14	16	19	26
Sudan	5	0.2	2	0.1	1	6	2	33
Total	**105**	**5**	**173**	**9**	**93**	**7**	**74**	**8**

Source: Danish Immigration Service

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

Table: 8

	2004				2005			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
Country of origin								
Afghanistan	4	0.2	15	0.8	24	1.8	14	1.5
Iran	11	0.5	19	1.0	14	1	19	2.1
Iraq	7	0.3	37	1.9	7	0.5	16	1.7
Russia	50	2.3	5	0.3	64	4.8	4	0.4
Somalia	11	0.5	6	0.3	2	0.2	6	0.6
Sudan	1	0.05			7	0.5		
Congo					5	0.4		
Total	**105**	**4.9**	**124**	**6.3**	**136**	**10.2**	**66**	**7.1**

Source: Danish Immigration Service

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

2005: 2 persons (2004:2)

Source: Danish Immigration Service

10 Persons returned on safe country of origin grounds

None. The asylum application will instead be processed under the accelerated 'manifestly unfounded' procedure.

11 Number of applications determined inadmissible

Under Danish law an application for asylum may be deemed to be inadmissible either on safe third country grounds or on the basis of the Dublin Regulation.

12 Number of asylum seekers denied entry to the territory

Entry to the territory of Denmark can only be denied to an asylum seeker if it is possible to return him/her to a safe third country. In 2005 739 asylum seekers were denied access to the Danish asylum procedure on Dublin grounds. A further two were denied access to the Danish asylum procedure and referred to a safe third country.

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

There are no official statistics as to the number of asylum seekers detained. In practice, short-term detention of asylum seekers in Denmark is widely used at all stages of the procedure.

14 Deportations of rejected asylum seekers

Table 9:

	2004	2005
Deportation with police officers:	259	167
Deportation believed to have happened:	3,024	848
Deportation observed by the police:	1,591	427
Voluntary deportation:	93	38
Total number of deportations:	4,967	1,480

Main countries of return are Iraq (no forced returns to Iraq), Serbia & Montenegro, Afghanistan and Kosovo

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

Afghanistan

In October 2004 Denmark, Afghanistan and UNHCR concluded a tripartite agreement concerning return of refused afghan asylum seekers from Denmark. Following this agreement the Danish government initiated a special programme that commenced in February 2005. Under this programme returnees had the opportunity to return voluntarily with financial support (approx Euros 2,000 per adult) and reintegration assistance in Afghanistan within a limited period. Otherwise they would face deportation. 56 Afghan citizens chose to return voluntarily.

Iraq

The Danish government arranged a special programme for rejected asylum seekers, giving them the opportunity to return voluntarily with financial support (approx Euros 2,300 per adult). 79 Iraqi citizens applied to be included in this programme. 38 of who subsequently withdrew their applications. As of June 3 2006, 41 Iraqi citizens have returned to Iraq and the programme is now closed.

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

Table 10:

	2005
	Number
Accepted to be taken back by other member states	678
Refused to be taken back by other member states	50
Pending cases as of 31 December 2005	11
Total	**739**

Table 11:

	2005
	Numberr
Accepted to be taken back by Denmark	290
Refused to be taken back by Denmark	94
Pending cases as of 31 December 2005	125
Total	**509**

Source: Danish Immigration Service.

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

Afghanistan
In February 2005 the Danish Immigration Service tried a limited number of cases at the Appeal Board in order to ascertain if Denmark could withdraw temporary stay permits from Afghan refugees as a consequence of the fall of the Taliban regime. The Appeal Board concluded that it was still too early, as the situation in Afghanistan had not improved sufficiently.

Iraq
See also question 15.
No real developments except that Denmark generally continued to deny asylum seekers from Iraq any status. The number of refused asylum seekers rose during 2005 to approx 600. Many of these were motivated to return to Iraq through various disincentives to staying on in Denmark; very limited pocket money, they need to report regularly to the police etc. The Danish government also initiated a repatriation programme including financial support to motivate Iraqis to return "voluntarily". No Iraqis were deported during 2005.

Minors
There has been a fall in the number of minors seeking asylum in Denmark from 128 persons in 2004 to 109 in 2005. In 2005, eight children got a special stay permit, as they were not considered old enough to go through the normal procedure. In 2004 the number was 15. In 2005, ten children received convention status, B status or de facto status, as they were considered old enough to go through the normal procedure. In 2004 this number was 2.

5 Legal and Procedural Developments

18 New legislation passed

No developments.

19 Changes in refugee determination procedure, appeal or deportation procedures

No developments.

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

During 2005 there were two interesting cases involving Iranian asylum seekers. After rejection and a subsequent public debate regarding the risk of persecution in Iran (one person had already experienced torture in Iran) they received asylum due to their visibility in the media. Due to lack of analysis it is not clear to what extent this has lead to changes towards qualification for refugee status or other status. In at least one case (with a final decision in 2006) one Iranian citizen received subsidiary protection as a result of media coverage in Denmark (and not because of their original flight motive).

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

The national security debate goes on, but it is not clear as to whether it has made any impact on the actual use of the exclusion clauses.

22 Developments regarding readmission and cooperation agreements

For developments regarding Afghanistan see section 15.

The Danish government has been in continuous contact with UNMIK in Kosovo concerning forced returns of certain groups (persons with PTSD etc.). 18 persons were forcibly returned to Kosovo in 2005.

The Danish government has also had contact with the government in Iraq, but no agreement on forcible returns has been reached.

6 The Social Dimension

23 Changes in the reception system

No developments.

24 Changes in the social welfare policy relevant to refugees

The Danish government presented and the parliament passed a number of laws:

- It has been made more difficult to obtain Danish citizenship as the required level of language qualifications have been increased. In future, applicants will also have to pass a test in Danish culture, history and Danish society in general.
- A seven-year integration contract has been implemented. Compliance with the contract is necessary in order to obtain a permanent stay permit.
- As a condition for receiving money from the state, individuals will have to prove that they have been employed for at least 300 hours within the last two years. In the case of married couples if both partners have not complied with this demand, only one of them will receive money. Critics believe that this will have a big influence on refugees who often have difficulties meeting the demands of the labour market in Denmark.

- The rules of expulsion of refugees have been loosened. In the future it will be easier for the Danish State to expel foreigners and refugees who have committed less serious criminal offences. If a refugee cannot be expelled to his/her country of origin because of risk of persecution, the refugee will have to live on a tolerated stay permit in Denmark with no access to public welfare.

25 Changes in policy relating to refugee integration

See section 24.

26 Changes in family reunion policy

No developments.

7 Other Policy Developments

27 Developments in resettlement policy

Continued implementation of the rules of "integration potential" in the selection of refugees for resettlement (see 2004).

28 Developments in return policy

There has been a continued focus on deporting rejected asylum seekers – also in public debate. The government has implemented programmes with the purpose of creating incentives for voluntary return for Afghan and Iraqi citizens (economic support, reintegration assistance etc.).

29 Developments in border control measures

No developments.

30 Other developments in refugee policy

No developments.

8 Political Context

31 Government in power during 2005

A liberal, conservative government (prime minister: Anders Fogh Rasmussen, Liberal Party) has been in power during 2005. The government holds a majority in Parliament together with the Danish Peoples party (right-wing party with a highly critical focus on foreigners and migrants).

32 Governmental policy vis-à-vis EU developments

Denmark has reservations with regard to EU policy on asylum. In spite of this Denmark continues to participate in the debate, particularly with regards to the region of origin-debate, where Denmark also has its own initiatives. Denmark actively supports developments that allow refugees to uphold a sustainable way of life in regions of origin, for example in Somaliland, Kenya, Kosovo, until such time as they are able to return to their countries of

origin. The Danish government argues that support to regions of origin is much more effective than receiving fixed quotas of refugees in Denmark.

33 Asylum in the national political agenda

The government and Danish Peoples Party and to some extent the opposition parties stand by the restrictive Danish asylum policy. They focus on integration policy.
The focus of the political agenda has occasionally concerned:

- The situation for rejected Iraqi asylum seekers in the reception centres. Should they be granted a temporary stay permit until the situation in Iraq has stabilised?
- Decline of numbers of asylum seekers in Denmark and Europe
- (Lack of) difference between refugees and migrants following discussions and initiatives towards developing a stronger integration policy.

Biography

Ole Larsen

DANISH REFUGEE COUNCIL

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FINLAND

1 Arrivals

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

Table 1:

Month	2004	2005	Variation +/-(%)
January	181	321	+77
February	314	284	-10
March	602	311	-48
April	200	330	+65
May	231	289	+25
June	266	264	-1
July	281	367	+31
August	373	309	-17
Sept.	296	369	+25
October	265	281	+6
November	391	207	-47
December	461	242	-48
Total	**3,861**	**3,574**	**-7**

Source: Directorate of Immigration

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

Table 2:

Country	2004	2005	Variation +/-(%)
Bulgaria	238	570	+139
Serbia and Montenegro	837	457	-45
Somalia	253	321	+27
Iraq	123	289	+135
Afghanistan	166	237	+43
Russian Federation	215	233	+8
Macedonia	279	191	-32
Turkey	140	97	-31
Others	*1392*	*2 395*	*+72*

Source: Directorate of Immigration

Comment
Since 2002 Bulgarian nationals (many of Roma origin) have been one of the biggest groups of asylum applicants in Finland.

3 Persons arriving under family reunification procedure

Total: 368 (147 in 2004).

4 Refugees arriving as part of a resettlement programme

Table 3:

Nationality	
Sudan	246
Iran	147
Afghanistan	131
Myanmar	72
Vietnam	71
Cambodia	13
Pakistan	2
Emergency cases	84
Total:	**766**

Source: The Ministry of Labour

Comments
'Emergency cases' are selected by UNHCR on serious protection or health grounds. They then send an application to the Ministry of Labour and the Finnish embassy in Geneva on behalf of these individuals. A decision is made quickly using the documentation provided, and not a personal interview as is normally the case. A maximum of 10 % of the annual quota is filled in this way.
In 2005 emergency cases came from: Afghanistan 15, Sierra Leone 11 Russia (Chechens) 8, Rwanda 7, Uzbekistan 6, others (1-5): Kenya, Ethiopia, Guinea, Congo-Brazzaville, DRC, Nigeria, Uganda, Burundi, Iran, Macedonia, Liberia and China

5 Unaccompanied minors

Table 4:

Nationality	**Number**
Somalia	68
Afghanistan	62
Iraq	21
Bulgaria	13
Angola	8
China	8
Cameroon	7
DRC	5
Serbia/Montenegroo	4
Nigeria	3
Algeria	2
Guinea	2
India	2
Libya	2
Russia	2
Ethiopia	1
Gambia	1
Macedonia	1
Myanmar	1
Sudan	1
Stateless	1

Total	218
Russia	2
Estonia	1
Stateless	1
Total	**139**

2 Recognition Rates

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

Table 5:

Statuses	**2004**				**2005**			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	3422	71.9			2472	71.9		
Convention status	29	0.6			12	0.3		
Subsidiary status	206	4.3			141	4.1		
Residence permit, individual humanitarian reasons	460	9.7			159	4.6		
Residence permit, family member	74	1.6			26	0.8		
Residence permit, temporarily unable to return	27	0.6			259	7.5		
Annulment	546	11.5			370	10.8		
Total	**4758**	**100**			**3439**	**100**		

Source: Directorate of Immigration

Comments
Dublin decisions are included in the negative decisions (no status awarded).
First instance decisions include decisions returned by the appeal Courts. In 2005 under the normal procedure, the Helsinki Administrative Court overruled the Directorate's decision in 11% of cases and returned 25% of cases to the Directorate of Immigration. In the accelerated procedure the Administrative Court overruled 2% of cases and returned 10% of cases to the Directorate of Immigration. The Supreme Administrative Court overruled 2% of cases (which were granted leave to appeal) and 4% were returned.

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 6:

Country of origin	**2004**				**2005**			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
Country of origin								
Somalia	-				4	0.1		

Russian Federation	10	4.0	3	0.1
Bangladesh	-		1	0.3
Eritrea	-		1	25
Iran	-		1	1.0
Pakistan	-		1	20
Turkey	1	0.4	1	0.7
Total	**29**	**0.6**	**12**	**0.3**

Source: Directorate of Immigration

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

Table 7:

Country of origin	**2004**				**2005**			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
Russian Fed.	3	1.2			28	12.7		
Somalia	77	45.8			22	8.2		
Angola	25	37.3			20	43.5		
Turkey	3	1.1			13	9.0		
Iran	14	11.6			11	10.9		
Serbia and M.	11	1.4			9	0.2		
Total	**206**	**4.3**			**141**	**4.1**		

Source: Directorate of Immigration

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

None

10 Persons returned on safe country of origin grounds

70 in total: Slovakia: 58, Serbia and Montenegro: 5, Latvia: 4, Czech republic: 3. (2004:322, in 2004 there were 341 asylum applications from Slovakians who were returned on safe country of origin grounds).

11 Number of applications determined inadmissible

An application for international protection can be left unprocessed if

- the applicant has arrived from a safe third country where he or she could have been granted asylum or a residence permit based on a need for protection, and where he or she can be returned; or
- the applicant can be sent on to another country that is responsible for the processing of the asylum application (based on the Dublin II Regulation).

All applicants are however interviewed by the police or the Directorate of Immigration, and the decision to leave an application unprocessed is always made by the Directorate of Immigration.

There are no so-called border procedures in Finland. Applicants are allowed to enter the country.

12 Number of asylum seekers denied entry to the territory

An alien who does not meet Finnish requirements for entry to the territory, but who applies for asylum at a border point, should not be rejected until a decision has been made on his/her application. According to the Aliens Act, the decision on entry regarding asylum seekers shall not be made by the passport control or police authority, as is the case for other aliens, but by the Directorate of Immigration.

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

There are no reliable statistics available on overall detention.

In 2005, Helsinki detention centre (only one in Finland with 40 places) held a total of 640 detainees. 109 were women and 531 men. 15 unaccompanied minors were detained in 2005. The average length of detention in the centre was 17 days. The longest was 103 days.

There is no maximum length of detention. The first instance court processes the detention case within four days. After that, every two weeks the first instance court considers the legality of the detention. Asylum seekers whose identity and travel route cannot be verified are often detained upon arrival in Finland. Detention is also used in order to prepare for the expulsion of rejected asylum seekers.

14 Deportations of rejected asylum seekers

883 rejected asylum seekers were deported to countries of origin. 804 were returned to another EU country (or Norway) on Dublin grounds (total, 1,687)
(2004:1473).

Source: Aliens Police of Helsinki

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

Those who intend to leave the country voluntarily before the final decision on their asylum application can sometimes arrange their own travel though they have to pay travel costs themselves. Usually this means that they still have a valid return ticket.

The International Organization for Migration (IOM) has an office in Helsinki. The office also arranges returns for those willing to return after a final negative decision. The police however decide if the person can return with the help of IOM or not (whether they consider a police escort to be necessary or not). In 2005, 41 people were returned by IOM.
(In 2004, according to the ministry of labour, 9 were returned)

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

1,355 persons were given a negative decision on Dublin II Regulation grounds. (2004: 1611)
Of these, the biggest groups by country of origin were:
Serbia and Montenegro 228
Bulgaria 217
Somalia 103

Iraq 86
Azerbaijan 78
Macedonia 61
Afghanistan 60

Dublin transfers in 2005, from Finland to:
Sweden 293
Germany 167
Norway 82
Italy 40
Greece 27
France 24
Holland 23
Denmark 22
Austria 21
UK 14
Other 63
Total 776

Source: Directorate of Immigration (in question 14, the Finnish Police stated that 804 individuals were transferred under Dublin, the reason for the anomaly is unknown).

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

Iraq, Afghanistan and Somalia
In 2005 the Directorate of Immigration has made it policy to issue temporary residence permits (based on article 51 of the Aliens Act) to applicants from Somalia (also from southern Somalia), Afghanistan and Iraq. The same permits can be given to other nationalities as well, but the majority of temporary residence permits are issued to applicants from the above three countries. The Refugee Advice Centre has challenged these decisions in court, arguing that temporary residence permits should only be given to applicants when removal is not possible due to temporary, technical reasons and that the situation in these three countries is neither temporary nor technical. The Helsinki Administrative Court has however, with the exception of some Somali cases, upheld most of the decisions. The Supreme Administrative Court has upheld all.
The impact of this policy is clear. Whereas all applicants from these three countries previously would have been given residence permits with a permanent character, most of them now get temporary residence permits. It has also affected the granting of international protection. For example in 2004 over 45 percent of Somali applicants were granted protection status, in 2005 this fell to only 8 percent. Difficulties arise as the rights connected to this temporary residence permit are intended for individuals who are staying in the country only for a short while, which is not the case for Somalis, Iraqi's and Afghans. A number of harsh consequences result form this change in policy. People with a temporary permit do not have the right to work during the first year, and there is no right to council accommodation, which makes integration more difficult. The right to medical care and social welfare is also restricted. Family reunification is not permitted for these people, which is particularly distressing for unaccompanied minors. They may experience difficulties registering (which is required in Finland) in their municipality, in getting aliens passports and even in getting their children into school. These people are generally forced by circumstance into staying at reception centres, where there is little for them to do, and limited prospects for the future.

5 Legal and Procedural Developments

18 New legislation passed

A new act regarding the responsibilities of the Border Guard came into force on 15.7.2005. The Border Guards now have more authority towards aliens. They can for example decide to detain aliens and hold detainees in their facilities for short period of time (maximum 48 hours). The Border Guards can also interview asylum seekers in order to try and ascertain their identity, means of entry and travel route. In the past, these actions could only be carried out by the police.

With regard to the transposition of EU directives:
The long-term residents directive is currently at the Ministry of interior, which has drafted a Governmental proposal for parliament, which should be considered in the autumn of 2006.

The family reunification directive has been transposed; the amendments to the aliens act will come into force on the 1st of July 2006, though no major changes to existing legislation has occurred.

The Qualifications directive is also at the Ministry of Interior, which has set up a working group for drafting the amendments.

19 Changes in refugee determination procedure, appeal or deportation procedures

See section 17.

Report on the accelerated asylum procedure:
The Ombudsman for Minorities prepared a report on the practical implementation of legal protection safeguards in the accelerated asylum procedure. It was determined that the accelerated asylum procedure in general does guarantee sufficient legal protection. There were however indications that the safeguards of legal protection are not always implemented in an appropriate fashion. Deficiencies were found in the application of the right to receive assistance and legal advice. The importance of implementing these elements of legal protection was emphasized, as an asylum seeker is rarely in a position to safeguard his or her interests in the asylum process without support and guidance.
Canceling refugee status:
There have been cases where refugee status has been cancelled on the basis of Section 108 in the Aliens Act: “if the applicant has, when applying for asylum deliberately or knowingly given false information which has affected the outcome of the decision, or concealed a fact that would have affected the outcome of the decision.” There have for example been cases of resettlement in which officials have discovered that the person had given misleading information prior to selection as a quota refugee to Finland.

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

Case of N. v. Finland

COUNCIL OF EUROPE, EUROPEAN COURT OF HUMAN RIGHTS (Application no. 38885/02)
JUDGMENT, STRASBOURG, 26 July 2005

I. THE CIRCUMSTANCES OF THE CASE

The applicant, born in 1972, originates from the former Zaire (currently the DRC). He arrived in Finland on 20 July 1998 and immediately applied for asylum. This cases revolves around the credibility of the applicant.

THE COURT
1. Holds by six votes to one that the applicant's expulsion to the Democratic Republic of Congo would amount to a violation of Article 3 of the Convention;
2. Holds unanimously that no separate issue arises under Article 8 of the Convention;
3. Holds unanimously that the finding that the applicant's expulsion to the Democratic Republic of Congo at this moment in time would amount to a violation of Article 3 constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicant.

The Case has been published in the Journal of Refugee Law No. 4 December 2005.

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

There have been a couple of cases in which exclusion clauses have been applied. For example, in the case of an Afghan asylum seeker who reported names to the Taliban regime before fleeing to Finland. The Directorate of Immigration considers that as some of those named by the asylum seeker may have been murdered by the Taliban, he is guilty of the serious non-political crime of aiding and abetting murder, and that he is therefore excluded from protection under the Refugee Convention.

22 Developments regarding readmission and cooperation agreements

No developments.

6 The Social Dimension

23 Changes in the reception system

The Ministry of Interior proposed that the administration of the reception of asylum seekers should be transferred from the Ministry of Labour to the Ministry of Interior. The Ministry of Labour and other critics did not see this as a good idea as the police, border guards and those responsible for examining asylum applications are also under the Ministry of Interior. However, no official proposal was made.

24 Changes in the social welfare policy relevant to refugees

No developments.

25 Changes in policy relating to refugee integration

Recognised refugees (resettled refugees or asylum seekers who have got residence permits) have experienced greater difficulty in acquiring placement in a municipality, a prerequisite to integration. Until a placement is found they remain in accommodation for asylum seekers.

26 Changes in family reunion policy

No developments.

7 Other Policy Developments

27 Developments in resettlement policy

Project on resettlement: The MORE project was a EU-funded project, which developed comprehensive models for the resettlement process, which can be utilised by European Member States and other countries. The Project Partners were the Ministry of Labour, Finland and the Reception and Integration Agency, Ireland. Website: http://www.more.fi.

28 Developments in return policy

Finland used charter flights three times in order to deport refused asylum seekers: twice to Bulgaria and once to Romania.

29 Developments in border control measures

See section 18.

30 Other developments in refugee policy

No developments.

8 Political Context

31 Government in power during 2005

Prime Minister Mr Matti Vanhanen (the Centre Party).
The Centre Party and the Social Democratic party had eight ministerial posts each and the Swedish People's Party had two posts.

32 Governmental policy vis-à-vis EU developments

The Governmental EU group continued to hold regular meetings with NGOs (including the Refugee Advice Centre and the Finnish Red Cross) where NGOs were able to discuss EU issues on asylum and immigration with Government officials.

33 Asylum in the national political agenda

The preparation of the Government's immigration policy programme by a group of civil servants appointed by the Ministry of Labour continued in 2005.

Biography

Reetta Helander

FINNISH REFUGEE ADVICE CENTRE

The Finnish Refugee Advice Centre is a non-governmental organisation, which provides legal aid and advice to asylum seekers, refugees and other immigrants in Finland. The Refugee Advice Centre also works in promoting the rights of asylum seekers, refugees and immigrants.

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FRANCE

1 Arrivals

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

Table 1:

Month	2004	2005	Variation +/- (%)
January	3,848	4,142	+7.6%
February	4,696	3,810	-18.9%
March	5,262	4,121	-21.7%
April	4,419	3,990	-9.7%
May	3,667	3,728	+1.6%
June	4,237	4,171	-1.5%
July	4,240	3,351	-21%
August	3,785	2,993	-20.9%
Sept.	4,041	3,224	-20.2%
October	4,006	3,314	-17.3%
November	3,790	2,742	-27.6%
December	4,556	2,992	-34.3%
Total	**50,547**	**42,578**	**-15.8%**

Source: OFPRA (French Office for Refugees and Stateless persons) – annual report 2005

Comments
These figures represent the total number of first requests for asylum; however they do not include 7,155 minors accompanying adults (7,998 in 2004). This means that a total of 49,733 asylum seekers (minors and adults) lodged a first asylum application in France in 2005. In addition 9,488 requests for re-examination were presented in 2005, following final negative decisions at appeal (+ 34.2% compared to 7,069 requests in 2004).

In total, requests for convention asylum (first requests + re-examination) have decreased by 9.7% between 2004 and 2005 (from 65,614 in 2004 to 59,221 in 2005) though this decrease is significantly lower than the figures in table 1 suggest, due to the increase of requests for re-examination.

Whilst asylum applications have decreased in 2005, France has remained the first country of destination for asylum seekers in Europe.

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

Table 2:

Country	2004	2005	Variation +/- (%)
Haiti	3,067	4,953	+61.5%
Turkey	4,409	3,612	-18.1%
China	4,188	2,579	-38.4%
Serbia and Montenegro	2,378	2,569	+8.0%
DR Congo	3,353	2,563	-23.6%

Russian Federation	2,165	1,980	-8.5%
Moldova	2,058	1,964	-4.6%
Sri Lanka	2,090	1,894	-9.4%
Algeria	3,702	1,777	-52.0%
Others	*23,137*	*18,687*	*-19.2%*

Source: OFPRA – Annual report 2005

Comments
In 2005 Haiti was the first country of origin for asylum applicants. Numbers had already increased by 118.6% in 2004, with an additional increase of 61.5 % in 2005. The Haitian requests were principally lodged in the DOM-TOM (overseas territories), particularly in Guadeloupe (92% of the 3799 overseas applications). The asylum procedure is in theory the same as in France, however the obstacles for asylum seekers are huge:
- There is no right to stay during the procedure and no social support.
- Asylum seekers who want to lodge an appeal against a negative decision at first instance have to come to Paris to do so.
Since 2004, OFPRA (first instance determination body) has sent temporary missions to Guadeloupe in order to assess these claims. This system was not satisfactory given the large number of claims. In January 2006, OFPRA opened an office in Basse-Terre Guadeloupe to assess the claims lodged there.
The increase in the number of requests from Haiti is probably due to the general climate of insecurity, following on from the forced resignation of President Aristide on the 29th February 2004. Most of the Haitians seeking asylum feared or have suffered from kidnapping or racketeering, and from political militias (members of the Levadas party of Aristide).
For the second consecutive year, applications from Turkey have decreased. This could be attributed to the efforts made by Turkey to move towards greater integration with the EU. The majority of requests come from Turkey's Kurdish minority and are connected to the conflict in southeast Anatolia.
The high number of Algerian applications in 2004 was due to a change in national law (see Country Report 2004): Algerians who had previously asked for "territorial asylum" could start a new procedure before OFPRA. This year however a considerable decrease (-52%) in applicants was documented.

3 Persons arriving under family reunification procedure

No information available. (2004:564)

4 Refugees arriving as part of a resettlement programme

France does not operate any resettlement programmes.

5 Unaccompanied minors

Although the percentage of unaccompanied minor' asylum applications as a percentage of total asylum claims had increased for three consecutive years, in 2005 numbers fell by 40%. In 2005 only 735 applications from unaccompanied minors were registered, in comparison with 1,221 applications in 2004, and 949 in 2003. Concurrently, the recognition rate for unaccompanied minors, including decisions on appeal, has significantly increased in 2005 to 45.2%, up 18% from 2004, however 43 of these recognised minors were granted a subsidiary protection status. The nationality breakdown for minors is largely the same as in 2004, with 61% of them originating from Africa, and only 5.4% being under 16 years of age.

Table 3:

Nationalities	Number
DRC	168
Angola	76
Turkey	39
Sri Lanka	36
Guinea-Conakry	33
Moldova	33
Russian Federation	29

According to OFPRA's 2005 annual report, 167 unaccompanied minors applied for asylum from "holding areas" at the borders in 2005 (2004:231). Of these 16.8% claimed to be Palestinians. The rate of positive decisions allowing them to enter the country remains low in comparison with the total rate of admission: 12.6% for unaccompanied minors against 22.2% for the total rate.

2 Recognition Rates

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

Table 4:

Statuses	2004				2005			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	61,760	90.7	34,193	87.3	47,088	91.8	52,663	84.5
Convention status	5,528	8.1			3,418	6.7		
Subsidiary status	84	0.1	4,697	12.7	108	0.2	9,599	15.5
Other	746	1.1			658	1.3		
Total	**68,118**	**100**	**39,160**	**100**	**51,272**	**100**	**62,262**	**100**

Source: OFPRA and CRR (Commission des Recours des Réfugiés)

Comments

The number of statuses granted on appeal is all-inclusive. No statistics are available differentiating between convention status and subsidiary protection. The total number of decisions made by OFPRA and the Commission des Recours des Réfugiés (CRR) increased in 2005 (+12.3%): of these, the number of decisions made by OFPRA decreased by 24.7%, whilst the number of decisions made by the CCR increase by +59%. This important development is due to a large-scale recruitment by the CRR in October 2004 in order to deal with the backlog of appeal claims. In 2006, most of the temporary staff recruited in 2004 were let go as the accumulation of delayed decisions had been dealt with.

The total recognition rate in 2005 was 26.9% (16.6% in 2004) including 9,599 statuses granted by the CRR (69.6% of the total positive decisions).

OFPRA granted protection to a total of 4,184 asylum seekers, a recognition rate of 8.2% at first instance against 9.3% in 2004. This small decrease is partly due to the decrease by 65% of the recognition rate for Bosnians (in 2004 this group had the highest recognition rate) following an OFPRA mission to this country in May 2005 and the addition of Bosnia and Herzegovina to a list of safe countries of origin in June 2005.

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 5:

Country of origin	2003				2004			
	First instance		Appeal		First instance		Appeal	
	No.	%	Number	%	Number	%	Number	%
Bosnia-Herzegovina	981	64.2	50	67.4	588	23.5	80	13.8
Russian Federation	1,136	39.8	262	49.0	683	30.3	736	39.1
Serbia & Montenegro	563	21.4	157	27.3	333	12.4	547	30.0
Turkey	424	5.7	563	13.3	198	4.0	789	12.0
Congo	200	10.3	229	22.1	138	9.4	404	16.6
Ivory Coast	219	18.4	112	27.9	198	16.2	238	-
DRC	388	7.3	600	18.6	265	6.8	826	13.6
Rwanda	174	50.6	11	53.8	188	46.9	74	-
Haiti	215	7.1	59	9.0	208	5.7	209	8.2
Sri Lanka	320	9.9	391	22.1	131	4.9	899	24.9

Source: OFPRA and CRR

Please note that for the appeal stage we only know the recognition rate for the countries for which there are more than 250 requests.
The low recognition rate for Haitians can in part be attributed to the differences in the procedure (most applications made overseas) but also to the fact that most applicants invoke the situation of generalised violence in the country and not individual persecution. Although a new form of protection that can be applied to them has been instituted, it is still the early stages of its implementation.

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

Table 6:

Country of origin	2004				2005	
	First instance		Appeal		First instance And appeal	
	Number	%	Number	%	Number	%
Albania					52	-
Armenia					42	-
FRY					41	-
Russian Federation					47	-
Serbia & Montenegro					25	-
Algeria	32	38			43	-
Nigeria					32	-
DRC					27	-
Mongolia					29	-
Haiti					25	-
Total	**84**	**100**			**557**	**-**

Source: OFPRA

Comments
For 2004 no figures for countries of origin were available for subsidiary and other status granted on appeal.
For 2005 please note that the number of subsidiary statuses granted is an overall number including subsidiary protection granted at first instance and on appeal.

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

The concept of "safe third country" does not exist in French legislation.

10 Persons returned on safe country of origin grounds

The concept of "safe country of origin" was introduced into French legislation in December 2003. This enabled France to adopt a provisional national list until the EU approves and implements a common list. On 30 June 2005, OFPRA adopted a list of 12 safe countries of origin: Benin, Bosnia-Herzegovina, Croatia, Cap-Vert, Georgia, Ghana, India, Mali, Maurice, Mongolia, Senegal, and Ukraine. On 3 May 2006, 5 countries were added to this list: Albania, Macedonia, Madagascar, Niger and Tanzania. A new immigration and asylum law currently being discussed in Parliament will allow the French list to be added to the common European list of safe countries of origin once it is adopted.
The concept of "safe country of origin" is not considered as a ground for returning a person without examining their asylum claim. It is however seen as a justification for examining an asylum application in an "accelerated procedure" ("procédure prioritaire").

The "accelerated procedure" is applied to applications falling under the terms of Article 1(C) of the 1951 Geneva convention (the so-called "cessation clause"). In these cases, applications are processed by OFPRA under a faster procedure (OFPRA's decision has to be given within 15 days); asylum seekers are given no residence permit and no financial or social assistance, and the appeal before the CRR has no suspensive effect.

In 2005, 12,056 requests were processed under the accelerated procedure. This represents 23% of the total, compared with 16% in 2004. This rise can be explained by the increase in the number of re-examination claims, which accounted for 56% of accelerated procedures. The recognition rate in accelerated procedure is only 2.2%(4.4% for first requests and 0.7 for the re-examination cases).

At the end of 2005, OFPRA made an initial evaluation of the application of the principle of "safe country of origin". The Office noted a decline in the number of requests coming from these countries. In 2004 applications from what are now safe countries of origin represented 11.4% of total requests, in December 2005 this was only 3.8%. This decrease consisted largely of nationals from Bosnia-Herzegovina, Mongolia and Ukraine.

11 Number of applications determined inadmissible

The notion of applications determined inadmissible does not exist in French legislation.
According to French law, asylum seekers can be denied the right to enter the territory (see section 12), when the application for asylum is considered to be manifestly unfounded. In all other cases, applications are examined.

12 Number of asylum seekers denied entry to the territory

Asylum applications at the border in 2005
The procedure at the border determines whether or not an asylum seeker arriving by plane or boat without the required documents will be authorised to enter French territory. Asylum seekers are held in "holding areas" at the borders until the Ministry of Interior decides, in consultation with OFPRA, whether their asylum application is manifestly unfounded or not. The asylum seeker can be detained in a "holding area" at the border for a maximum of 20 days.
In 2005, the DAF ("division of asylum at the frontier"), made a total of 2,278 decisions (2004:2,513) 9.4% less than in 2004. 91% of asylum applications at the borders were lodged at Roissy airport, 8% at Orly airport, and 1% at other ports and airports.
In 2005 22.2% of those applying for asylum at the border were admitted to French territory (on the grounds that the application was not "manifestly unfounded") compared to 7.8% in 2004 and 4% in 2003. This substantial increase is linked to the number of requests from people of South American and Caribbean origin. The numbers of positive decisions are higher for applicants from these regions because of widespread conflict and political unrest.

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

There is no legislation in France concerning the detention of asylum seekers. They can only be detained in holding areas while they are awaiting authorization to enter the territory (see section 12), or placed in detention centres prior to their expulsion from the territory (see section 14).

14 Deportations of rejected asylum seekers

There are no statistics available on the deportation of refused asylum seekers. The Ministry of Interior does not supply official figures distinguishing between deportation of rejected asylum seekers and the removal of non-nationals in general.
Once an asylum seeker has received a final negative decision, they will be invited to leave the territory within 1 month. If they have not left the country after 1 month, they will receive a prefectural expulsion order ("Arrêté Préfectoral de Reconduite à la Frontière"). They will then be held in a detention centre, pending their expulsion for a maximum period of 32 days (26 November 2003 Law). If it is not possible to expel an individual during this time, they are released but granted no legal status.
Nicolas Sarkozy the Minister of Interior is constantly repeating that forced return is now implemented more rigorously. In a speech to the 'préfets' on 24 July 2006 he gave 2 important indicators: he reminded them that the Ministry of Economy had agreed to finance the development of new detention centres: (968 new "beds" in June 2002, 1,447 "beds" today, and 2,500 in June 2007). He said that the number of expulsion orders that had been implemented had doubled in 3 years: 10,000 expulsions in 2002, 20,000 in 2005; the objective for 2006 is 25,000.

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

Statistics on the number of people who benefited from return programmes in 2005 are not available yet.
On 18 January 2005, law n° 2005-32 for "social cohesion" created the ANAEM (National Agency for the Reception of Foreigners and Migration). Arising from the merger of OMI (Office of International Migration) and SSAE (Social Service Assistance for Emigrants), the Agency brings together the expertise of both institutions, to improve the integration of foreigners, in accordance with the laws and values of the French Republic. Since 19

September 2005 the ANAEM offers aid for repatriation to all persons whose application for a residence permit or its renewal has been refused, including when this decision was the result of a final decision made by OFPRA or by the appeal commission to reject their status as a refugee.

This aid consists of:
- Assistance with administrative steps to be taken prior to departure,
- Support in obtaining travel documents,
- Organising departure,
- Covering costs of airfare,
- Covering travel expenses from the town of residence in France to the return destination in the country of origin
- Covering excess baggage above 40kg per adult and 10 kg per child.
- Financial aid: €3,500 for a couple, €2,000 for an adult, €1,000 per child under 18 up to the 3rd child and €500 for each additional child. This aid will be paid in several instalments, firstly at departure and subsequently over a period of a year, in the country of origin.
-Help with settling in on arrival in the country of origin, if necessary

Moreover the ANAEM is implementing a new reintegration assistance programme for rejected asylum seekers returning voluntarily to certain countries. This programme, which is co-funded by the European Refugee Fund (ERF), involves asylum seekers from: Armenia, Cameroon, Congo RDC, Georgia, Guinea- Conakry, Moldavia, Mauritania, Turkey and Ukraine.

It consists of:
- A social follow up
- Specific social assistance for particularly vulnerable groups
- Professional training
- Financial support for the launching of a small enterprise (up to €3660 max.)
- Guidance in order to carry out the project
- 12-month follow- up to the project

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

The Ministry of Interior has not released any specific information on the application of the Dublin II regulation.
Asylum seekers under the Dublin II Regulation cannot make a request for asylum to OFPRA. They do not have access to the national accommodation system nor to any social rights (except access to healthcare).

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

The only development regarding refugee groups of particular concern is the creation of the concept of "safe country of origin" (see section 10) and the specific programme of aid repatriation co-funded by the ERF and ANAEM (see section 15).
The asylum requests from Russian nationals decreased by 3% but remained high at 1,980 of whom 683 were recognised as convention refugees (at first instance) and 47 were given a subsidiary status, many of these are Chechens fleeing a catastrophic humanitarian situation. Requests from Serbia-Montenegro continued to increase, the only nationality of particular concern to do so. Four out of five of these individuals originated from Kosovo.

5 Legal and Procedural Developments

18 New legislation passed

The « Code de l'entrée et du séjour des étrangers et du droit d'asile » entered into force on 1 March 2005. This new code compiles (under a new title) all the pieces of legislation relating to asylum and migration.
Law for social cohesion (18 January 2005): article 81: increases the capacity of reception centres for asylum seekers (+ 4000 rooms). Article 143: creation of ANAEM (see section 15). Article 146: "integration contract" (contrat d'accueil et d'intégration) every foreigner entering France for the first time must sign an integration contract with the state in order to facilitate sustainable integration.
- Decree n° 2005-381, 20 April 2005 on ANAEM
- Decree n° 2005-616, 30 May 2005 creating a national monitoring commission for detention centres and holding zones.
-Decree n° 2005-1051, 23 August 2005 transposing parts of the reception directive:
-Written information on reception conditions and refugee-assisting organisations is to be handed out to asylum seekers.
-Asylum seekers who have been in the procedure for over a year are given the right to work (or rather the right to request an authorisation to work).
- Circular, 23 August 2005 creating an « immigration police ». From now on the Minister of Interior gives instructions relating to the organisation, the mandate and the functioning of the different departments in charge of immigration police.
- Circular, DPM/ACI3/2005/423, 19 September 2005, on an experimental programme for voluntary return of irregular migrants (see Q.15).
- Circular, 31 Octobre 2005, on how to examine claims for resident permits lodged by non-nationals residing irregularly (« sur les Conditions d'examen des demandes d'admission au séjour déposées par des ressortissants étrangers en situation irrégulière »)**:** Amongst other things this requests that the prefecture do not systematically deny the right to remain in France to people asking for a re-examination of their asylum claim.
As well as OFPRA Decision, 30 June 2005 creating the list of "safe countries of origin" (see section 10)

19 Changes in refugee determination procedure, appeal or deportation procedures

No specific changes in refugee determination procedure, appeal or deportation procedures, with the exception of the adoption of a list of "safe countries of origin" and the placement of nationals from these countries in an accelerated procedure (section 10) and also the new return programme (section 15).

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

Concept of lack of protection

CRR 26/04/2005, 502080: Refugee status given to a woman opposed to human rights violations committed by the Revolutionary Armed Services of Colombia (FARC). According to the CRR, actions taken by the Colombian authorities against these human rights' violations are too weak to effectively protect the most vulnerable people.

CRR, Sections Réunies (SR, plenary session), **29/07/2005, 487336**: The existence of protection in the country of origin must be appreciable at the time that the CRR renders its decision. In this case, the transition government set up in Somalia on October 2004, and currently exiled in Kenya, is not able to effectively protect members of the *reer hamar* tribe.

Concept of social group

CRR 19/09/2005, 534159: recognition of persecution based on gender.
A Nigerian Woman from the Muslim state of Kano was granted refugee status because she refused a forced marriage and could not ask for the protection of the authorities, having acted against sharia law.

CRR 20/12/2005, 550032: recognition of persecution linked to MGF
A Guinean woman of Peuhl origin was granted refugee status because she was persecuted for her activism against MGF (female genital mutilation).

CRR 02/03/2005, 497003; CRR 10/01/2005, 513490: recognition of homosexuals as a social group.
A number of Iranians and one Malian were granted refugee status on the ground of their homosexuality.

CRR 15/02/2005, 496775: recognition of transsexuals as a social group.
The decision concerns an Algerian transsexual and states that in Algeria transsexuals constitute a social group, because their innate characteristics expose them to persecution that is tolerated by the authorities.

Subsidiary protection

CRR, SR, 27/05/2005, 487613: the benefit of "family unit" has been extended to beneficiaries of subsidiary protection.
The spouse and children of a beneficiary can obtain subsidiary protection if the marriage is anterior to the asylum claim of the spouse and if they have the same nationality.

CRR, 13/05/3005, 520273: extension of the concept of death-threat to non-political causes

Concept of family unit

CRR, SR, 27/05/2005, 454056: the double nationality of a spouse does not prevent them from benefiting from subsidiary protection under the "family unit" principle.

21 Development s 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

France signed no readmission or cooperation agreements in 2005.

6 The Social Dimension

23 Changes in the reception system

In 2005 2,170 new places were created in the accommodation system for asylum seekers making a total of 17,470 places in receptions centres (CADA) compared to 15,300 in 2004. In 2005, 10,400 persons were accommodated in a CADA ("Centre d'accuiel pour demandeur d'asile") while in the same period 49,700 new asylum seekers came to France.

The financial law for 2006 also intends to create 2,000 new places in reception centres in 2006, and the law of 18 January 2005 for a social cohesion programme plans the creation of 1,000 new places in 2007.

24 Changes in the social welfare policy relevant to refugees

Asylum seekers in fast track procedures are not granted a residence permit and therefore cannot benefit from the welfare policy applicable to other refugees. Nor can they benefit from the CMU (couverture maladie universelle). However, they have access to the AME (Aide médicale d'état) if they can prove that they have stayed in France without interruption for 3 months. As a result, with the exception of medical emergencies, people have to wait 3 months before gaining access to basic healthcare. However, a September 2005 circular (DGAS/DSS/DHOS n°2005-407, 27 September 2005) plans to make access to AME more flexible (especially in regards to the time requirement) in the future.

25 Changes in policy relating to refugee integration

The 'integration contract' (contrat d'accueil et d'intégration) which had been implemented on a trial basis in 2003, was made official by article 146 of the 18 January 2005 Law on social cohesion. This contract is put into practice by ANAEM and represents a 2-way commitment by the State and the newly arrived asylum seeker. These French classes are in theory included in the contract which must be signed by all recognised refugees.
Through the contract, the State offers every migrant wishing to settle in France:
- An individual interview with a social worker to establish a diagnosis of the migrant's situation and to evaluate their needs,
- A civic course,
- 200 to 500 hours of French classes,
-An interview with a social worker who can propose social assistance to the newly arrived migrant,
In return, the migrant is required to:
- respect the fundamental values of the French Republic (democracy, freedom, equality, solidarity, security and secularity),
- attend the classes to which he/she has been assigned,
- go to the follow up interviews to monitor the implementation of the contract.
The contract is signed for 1 year and can be renewed for 1 additional year.

26 Changes in family reunion policy

The only change in the family reunification procedure is the extension of the family unit principle with regard to subsidiary protection (see section 20). People entering the country through a family reunification procedure receive the same residence permit as the sponsor.

7 Other Policy Developments

27 Developments in resettlement policy

France does not operate any resettlement programmes.

28 Developments in return policy

Support for voluntary return (see Q.18) will, as an exception, be offered to families with no residence permit from 14 June to 14 August 2006. This applies only to those who have had at least one child attending school in France since September 2005, and speak French fluently.

During 2006, the Minister of Interior announced, under pressure from civil society, that children who were in school and their families would not be expelled before the end of the school year (end of June). At the beginning of the summer, the media gave a lot of attention to this question and NGOs started protesting against expulsions of families with children. As a result there was a campaign of "parrainages". French families and many deputies "adopted" children and said they would hide them if the police were to try and expel them. Under this pressure the Minister of interior drafted a new circular: families with no residence permit who have at least one child attending school in France since September 2005, and speaking French fluently can apply:
- either for voluntary return (in which case, the amount they receive is doubled)
- or for regularisation (once they have explicitly refused voluntary return).
This is a temporary mechanism. People have to apply before 14 June 2006.
The support for voluntary return consists of 4,000 euros for a single parent, 7,000 euros for a couple and 2,000 euros per child under 18 (up to 3), and 1,000 euros for subsequent children.

29 Developments in border control measures

Several measures intended to reduce the numbers of non-nationals admitted to French territory that were adopted in 2004 have been continued in 2005. For instance, the number of nationalities subject to visa requirements increased, a special visa for transit between airports and ports has been created, and a network of French immigration liaison officers have been installed in the airports of other countries (they control foreigners' documents on board the plane, after the control of the local authorities). The French authorities refuse to divulge the countries in which these liaison officers have been installed (though it has been unofficially disclosed that some are stationed in China).
A new transit visa requirement was introduced for Cubans.

30 Other developments in refugee policy

Financial aid for asylum seekers (« Allocation d'Insertion en Allocation Temporaire d'Attente") is to be modified. It will continue to be given only to those asylum seekers who have a residence permit but who are not in an accommodation centre. The amount will remain the same but it will be given to asylum seekers for the duration of the procedure (support used to be limited to 1 year). These changes were adopted in the 2005 financial law but have not yet come into force, the implementing decree not having been adopted yet.

8 Political Context

31 Government in power during 2005

The Government is still dominated by the right-wing party (UMP) who also have a majority in the French Parliament.

32 Governmental policy vis-à-vis EU developments

The rejection of the European Constitution by French voters in May 2005 caused a pause in French involvement in EU developments in general.
Opposition to resettlement programmes remains, as the French say they prefer to use protected entries (which are very rarely used).
The French government is pushing for the adoption of a European list of safe countries of origin.

33 Asylum in the national political agenda

Asylum and immigration are hot topics in the run up to the next presidential elections in 2007. Mainstream parties believe that restrictive policies will reassure voters. The French government repeatedly states that they do not want France to have the highest number of asylum seekers anymore. The tendency is to prevent entries and implement existing expulsion orders. No clear distinction is made in the political debate between asylum seekers and other migrants. On the contrary, the issues are often consciously confused.

Biography

Melanie Montbobier
France Charlet

FORUM RÉFUGIÉS

Forum réfugiés is a non-profit-making association created in 1982 in Lyons (France) specialised in the reception of asylum seekers and refugees and in the promotion of a fair and humane asylum policy. Forum réfugiés is today acknowledged as a recognized spokesperson by many public authorities (Ministries, European Commission, Council of Europe, Prefecture, UNHCR, local authorities…) and other associations and individuals. In 2004, the staff consisted of around 90 persons. Its activities range from legal and administrative advice to the management of several reception centres for hundreds of asylum seekers and statutory refugees.

WWW.FORUMREFUGIES.ORG

GERMANY

1 Arrivals

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

Table 1:

	2004	2005	Variation +/-(%)
Total	**35,607**	**28,914**	**-18.8**

Source: Federal Ministry of the Interior

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

Table 2

Country	2004	2005	Variation +/-(%)
Serbia and Montenegro	3,855	5,522	43.2
Turkey	4,148	2,958	-28.7
Iraq	1,293	1,983	53.4
Russian Federation	2,757	1,719	-37.6
Vietnam	1,668	1,222	-26.7
Syria	768	933	21.5
Iran	1,369	929	-32.1
Azerbaijan	1,363	848	-37.8
Afghanistan	918	711	-22.5
China	1,186	633	-46.6

Source: Federal Ministry of the Interior

3 Persons arriving under family reunification procedure

No information available.

4 Refugees arriving as part of a resettlement programme

No information available.

5 Unaccompanied minors (only children under 16)

Table 3

2004	2005	Variation +/- (%)
636	523	- 17.8

Source: Federal Office for Migration and Refugees

2 Recognition Rates

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

Table 4

Statuses	2004				2005			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	38, 599	62.3						
Recognition Art 16(a), German Constitutional Law	960	1.5			411	0.9		
Convention status Section 51(1), Aliens Law	1, 107	1.8			2,053	4.3		
Subsidiary status Section 53, Aliens Law	964	1.6			657	1.4		
Formal decisions	20, 331	32.8						
Total	**61,961**	**100**						

Source: Federal Office for Migration and refugees

Comments
Only partial figures available for 2005.
Please note that figures referring to recognitions under Article 16(a) of the German Constitution include cases of 'family asylum' and not only individual cases. Only asylum seekers who enter the country by air or sea can apply for this status. Figures for appeal stages are not available.
Formal decisions – this means that the Federal Office did not have to deal with the content of the asylum application as the procedure was terminated for other reasons. The most prominent of these being i) people who did not turn up to interview or absconded at a later date ii) another country is responsible for processing the asylum claim according to Dublin II iii) people withdrew their application to return home or to a third country or receive status for another reason (e.g marriage).

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 5

	2004			2005		
	First instance			First instance		
Country of origin	Number		%	Number		%
Serbia and Montenegro	5	(4+1)	0.1	16	(15+11)	0.1
Turkey	600	(389+211)	7.3	669	(122+547)	11.1
Iraq	40	(29+11)	1.0	63	(13+50)	2.9
Russian Federation	550	(38+512)	15.1	470	(31+439)	12.1
Vietnam	4	(1+3)	2.6	12	(0+12)	0.8
Syria	N/A		N/A	**213**	**(23+190)**	15.1

Iran	267	(138+129)	8.8	345	(78+26)	16
Azerbaijan	44	(25+19)	2.6	70	(2+68)	5.7
Afghanistan	N/A		N/A	72	(127)	5.8

Source: Federal Office for migration and refugees

Comments
Figures include recognition rates under Article 16(a) of the German Constitution and under Section 51 (1) Aliens Act.
Figures for appeal stages are not available.

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

Table 6

	2004		**2005**	
Country of origin	First instance		First instance	
	Number	%	Number	%
Turkey	66	0.8	47	0.8
Serbia and Montenegro	77	0.8	91	0.8
Russian Federation	114	3.1	94	2.4
Vietnam	32	1.5	7	0.4
Iran	22	0.7	36	1.7
Azerbaijan	14	0.8	18	1.5
Iraq	49	1.2	19	0.9
China	0	0.0	13	1.5
Afghanistan	-	-	93	7.5
Syria	-	-	10	0.7

Source: Federal Office for migration and refugees

Comments
Figures refer to decisions under Section 53 Aliens Act.
Figures for appeal stages are not available.

3 Returns, Removals, Detention and Dismissed Claims

16,865 rejected asylum seekers were deported by air in 2005 (21,970 in 2004) The main destination countries were Turkey, 2,769 persons, and Serbia and Montenegro, 2,651 persons.

Comments
Please note that figures refer to deportations of all non-nationals and not only asylum seekers whose applications have been refused.

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

No figures available.

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

Table 7

Requests addressed to Germany by other Dublin II States				
From	Requests addressed to Germany by other Dublin II states	Requests refused by the Federal Office for Migration and Refugees (BAMF)	Requests accepted by the Federal Office for Migration and Refugees	Transfers to Germany
Austria	697	250	432	175
Belgium	1,092	243	862	417
Cyprus	1	1		
Czech Republic	45	26	15	20
Spain	85	18	67	5
Finland	266	41	225	197
France	1,296	471	827	350
Greece	12	8	2	1
Hungary	10	8	2	1
Ireland	25	5	20	4
Iceland	12	3	9	9
Italy	77	46	32	6
Lithuania	1		1	1
Luxembourg	80	11	69	72
Netherlands	343	69	270	224
Norway	456	67	393	307
Poland	63	43	20	11
Portugal	4	1	1	
Sweden	1.029	166	871	600
Slovenia	28	20	7	1
Slovakia	20	15	4	1
United Kingdom	427	94	334	311
Total	**6,069**	**1,606**	**4,463**	**2,713**

Table 8

Requests presented by Germany to other Dublin II States				
To	Requests presented by Germany to other Dublin II states	Requests refused by the Dublin II member state	Requests accepted by the Dublin II member state	Transfers to the Dublin II member state
Austria	732	228	520	331
Belgium	373	68	333	198
Cyprus	1		1	
Czech Republic	179	43	133	51
Spain	110	28	109	72
Finland	83	48	35	21
France	673	166	537	289
Greece	206	22	174	102
Hungary	107	11	88	47
Ireland	5	2	3	3
Italy	309	75	271	138
Lithuania	2		4	2

Luxembourg	36	15	21	16
Malta	18	5	12	3
Netherlands	419	146	286	208
Norway	285	86	209	154
Poland	706	89	694	334
Portugal	3	1	3	3
Sweden	603	147	460	295
Slovenia	97	3	85	36
Slovakia	312	71	248	161
United Kingdom	121	30	71	52
Total	**5.380**	**1.284**	**4.297**	**2.516**

Source: Federal Office for Migration and Refugees

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

No information available.

5 Legal and Procedural Developments

18 New legislation passed

The new Immigration Act, which replaces the previous Aliens Act came into force on 1st of January 2005. (See CR 2004 for further details) The most important change under this act is the recognition of non-state and gender –related persecution as grounds for granting a refugee status.

19 Changes in refugee determination procedure, appeal or deportation procedures

As a general rule, refugees are not placed in custody during the asylum procedure. However, there are exceptions:

- Asylum seekers who file their asylum claim through the airport procedure are, in practice, held in some form of detention.
- Where the application for asylum is made in custody.
- It is possible to detain asylum seekers when filing a follow-up or second application.
- Detention is increasingly imposed in Dublin procedures.

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

No information available.

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

No information available.

6 The Social Dimension

23 Changes in the reception system

The Federal Interior Minister, Wolfgang Schäuble, who has been in office since late 2005, insists that there is no immediate need for implementation of the Reception Directive in Germany, in part because Germany could introduce more restrictive rules by implementing the Directive. During Council negotiations, Germany insisted on restricting certain passages of the Directive including:

1) Restrictive access to the labour market (Germany did not want any community regulations on access to the labour market);
2) Restrictions on the freedom of movement; and
3) The possibility of placing children aged 16 and over in accommodation centres with adults.

24 Changes in the social welfare policy relevant to refugees

The new Immigration Act that entered into force in January 2005 further increased the number of persons receiving reduced benefits (at least thirty percent less than the benefits given by the Federal Social assistance Act).

As of 1st January the following receive reduced benefits:

1. Individuals with a temporary residence permit (*Aufenthaltsgestattung*) under the Asylum Procedure Act (*AsylVfG*) are entitled to benefits. Asylum seekers subject to Dublin procedures receive the same benefits as asylum seekers whose asylum claim is examined in Germany.
2. Individuals who have sought entry via an airport and have not or not yet been allowed entry (airport procedure).
3. Refugees with a residence permit (*Aufenthaltserlaubnis*) under §23 I, §24 (temporary protection) or §25 (4 or 5) (stay on humanitarian grounds) of the Immigration Act (*AufenthG*).
4. Individuals with a tolerated status under §60a (*Duldung*) of the immigration Act (*AufenthG)*
5. An individual under obligation to leave the country even if the deportation threat is not yet enforceable or no longer enforceable. The same applies to spouses, partners and minor children of individuals mentioned in No. 1 - 5.
6. Individuals submitting a follow-up application under § 71 of the *AsylVfG* or a second application under § 71a of the *AsylVfG*.

25 Changes in policy relating to refugee integration

The Immigration Act has restructured access to the labour market. In the previous system, the residence permit (Aufenthaltsgenehmigung) and work permit were applied for separately. The residence permit (Aufenthaltstitel) now contains the decision on the possibility of employment. The decision on access to employment is not made solely by the aliens' authority but also requires the consent of the Federal Employment Agency (Bundesagentur für Arbeit).

Asylum seekers are subject to a one-year labour ban (§61(2) Asylum Procedure Act (AsylVfG)). After this has expired, asylum seekers access to the labour market is still given low priority: they may only be employed if the vacancy cannot be filled by a German national, EU citizen or another employee entitled to take priority. The labour market test is decidedly bureaucratic and takes several weeks.

8 Political Context

31 Government in power during 2004

During the first half of 2005 the Federal government of Germany continued to be a coalition formed by the Social Democrats (SPD) and the Green Party. Federal elections took place in September 2005 in which neither the previous coalition, nor the conservative opposition coalition consisting of the Christian democrats (CDU/CSU) and the Liberal Party (FDP) managed to gain a majority of seats in the Bundestag. Eventually, after tense negotiations, a Grand Coalition was formed between the SPD and the CDU/CSU with Angela Merkel (CDU) as Chancellor.

32 Governmental policy vis-à-vis EU developments

The Immigration Act has not yet transposed the majority of the EU Directives passed in the area of asylum and refugees. Only parts of the Qualification Directive have been transposed by §60 of the Immigration Act, including clarification that victims of non-state or gender-related persecution fall under the scope of protection of the Geneva Refugee Convention.

A second amendment to the Immigration Act has been proposed in order to implement the various EU Directives into national law.

Biography

This report was compiled from information supplied by Pro Asyl.

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GREECE

1 Arrivals

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

Table 1:

Month	2004	2005	Variation +/-(%)
January	225	212	- 5.78 %
February	410	328	- 20 %
March	374	520	+ 39.03 %
April	732	141	- 80.74 %
May	531	362	- 31.63 %
June	484	440	- 9.09 %
July	274	330	+ 20.44 %
August	192	268	+ 39.58 %
Sept.	228	275	+ 20.61 %
October	294	298	+ 1.36 %
November	392	325	- 17.09 %
December	333	318	- 4.5 %
TOTAL	**4469**	**3817**	**- 14.59 %**

Source: Ministry of Public Order

Comments

It appears that there was a slight decrease in the number of asylum applications lodged in Greece during 2005. However in 2005 the Ministry of Public Order did not include in their statistics those asylum seekers who lodged an asylum application, but did not present themselves at the Reception centre assigned to them within five days. The sanction for failure to comply with this obligation is the discontinuation of the examination of the asylum application. In 2005, the Greek police authorities have frequently assigned asylum seekers coming from countries of the former USSR and non – EU European countries such as Bulgaria and Romania, to the Reception Camp of Kokkinopilos in Larissa prefecture. This practice can be interpreted as an indirect way of dealing with the increasing number of asylum applications lodged by nationals of these countries that are perceived to be manifestly unfounded. As the Kokkinopilos Reception Camp is in a very isolated location on the slopes of Mount Olympos, many people preferred to stay in the bigger towns where they had already settled and found work. As the prerequisite for the start of the formal procedure for the asylum examination (including the interview of the asylum seeker) was the presence of the asylum seekers in Kokkinopilos Camp (or elsewhere in a limited number of cases), those who did not abide by the order to go to the camp were summarily issued with "discontinuation" decisions without any 'in substance' examination of their applications. This situation applied to thousands of asylum applications. The Ministry for Public Order recorded a total number of 5233 persons who had applied for asylum but "did not appear for the continuation of their examination procedure, which was subsequently interrupted". Consequently, it has to be kept in mind that the official figures mentioned above include only asylum seekers whose examination procedure has started and have had their first interview with the police authorities

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

Table 2:

Country	2004	2005	Variation +/-(%)
Iraq	936	835	- 10.79 %
Afghanistan	382	418	+ 9.42 %
Bangladesh	208	390	+ 87.5 %
Nigeria	325	298	- 8.31 %
Pakistan	247	292	+ 18.22 %
Undetermined/Palestinian	169	272	+ 60,95 %
Iran	228	174	- 23.68 %
Georgia	323	158	- 51.08 %
Others	*1576*	*980*	*- 37.82 %*

Source: Ministry of Public Order

Comments

The number of Iraqis, who until 2003 represented almost a third of all asylum applicants, is further reduced. Applications by Afghan nationals remained at roughly the same level as 2004. Many of those entering the country illegally (especially in the Eastern Aegean islands) do not apply to the Greek authorities for asylum.

After a substantial increase of applicants from Georgia in 2004, the official figures show a decrease of 50 % in 2005. However, it has to be stressed that Georgians were the principal nationality affected by the practice mentioned in section 1. The total number of "discontinuation" decisions issued in 2005 against Georgian asylum seekers reached 1743 (!). If these asylum applications had been taken into consideration, Georgians would have been on top of table 2. It appears however that this increase is related to the desire of Georgian nationals living in Greece to acquire or prolong their legal status, rather than to developments in their country of origin.

It seems that in the figures provided for 2005 all Palestinians were registered as "of undetermined nationality" by the MPO (Ministry of Public Order). According to their data, persons registered as Palestinians lodged no asylum applications. This is probably due to the fact that the Greek authorities are fairly haphazard in distinguishing between the two categories.

The significant increase in asylum applications from Bangladeshi nationals can only be explained by the fact that a growing number of them use the asylum procedure in order to acquire a temporary legal status in Greece.

3 Persons arriving under family reunification procedure

No figures available.

4 Refugees arriving as part of a resettlement programme

No refugees have arrived in Greece as part of a resettlement programme in 2005.

5 Unaccompanied minors

Table 3:

Country	2004	2005
Afghanistan	102	102

Iraq	30	18
Nigeria	67	13
Bangladesh	13	6
Egypt	9	5
Pakistan	16	3
China	-	3
Myanmar	3	2
Iran	4	2
Others	*58*	*4*
TOTAL	**302**	**158**

Source: Ministry of Public Order

2 Recognition Rates

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

Table 4:

Statuses	**2004**		**2005**	
	Overall decisions (1st & 2nd instance)		Overall (1st & 2nd instance)	
	Number	%	Number	%
No status awarded	3,744	99.1	4,585	98.1
Convention status	11	0.3	39	0.8
Subsidiary status	-	-	-	-
Other (*Humanitarian status for rejected asylum seekers*)	22	0.6	49	1.05
Total	**3,777**	**100**	**4,673**	**100**

Source: Ministry of Public Order

Comments

Greece has a refugee Convention status and a humanitarian status; the Minister for Public Order can award the latter to rejected asylum seekers if their return is impossible or particularly harmful. This status can be awarded not only for reasons related to subsidiary protection as defined in the qualifications directive, but also in cases of ill health, or where other humanitarian concerns arise (impossibility to return to the country of origin, widespread violations of human rights in the country of origin or risk to be subjected to torture or degrading treatment). In effect Greece does not differentiate between subsidiary and humanitarian protection, though the latter is interpreted in a broader fashion than subsidiary protection as defined in the qualifications directive.

Those awarded a humanitarian status are given a one year "leave to remain" (the Greek authorities insist on the fact that this particular residence document should not be considered as a "residence permit" but rather a document allowing them to stay in Greece in order to better prepare their return or departure) which may be extended every year by decision of the Secretary General of the Ministry for Public Order if the alien applies for the extension at least 15 days before the expiry date. They do not have family reunification rights but they have the same access to work as asylum seekers (which means that they can not have an

independent economic activity). They do not have the right to be provided with a travel document like refugees.
There has been a positive evolution during 2005 in Greece, namely the significant increase in both the absolute number and percentage of refugee recognitions. However, in all likelihood Greece will continue to be the EU member state with the lowest overall refugee recognition rate. It does seems that the Ministry for Public Order is abandoning its very restrictive interpretation of the Geneva Convention which had led to a record low number of refugee recognitions in 2003 (4 persons 0.08 %) and 2004 (11 persons – 0.3 %). It is not clear whether this is due to a change in the political and administrative personnel of the Ministry, or to a change in mentality. What is apparent however is that the Ministry seems to take into consideration the opinion of the Advisory Appeals' Board on a more regular basis.
No separate statistics are available for the statuses accorded after first instance and second instance decisions. Subsequently, the figure under "no status awarded" concern both first and second instance negative decisions within 2004 and 2005. This also applies to the decisions awarding Convention or Humanitarian Status. It should be noted that the number of first instance decisions awarding Convention or Humanitarian Status, although still extremely limited, has somewhat increased in 2005 according to statements of MPO officials– precise figures are not available.

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 5:

	2004		**2005**	
	Overall decisions (1st & 2nd instance)		Overall decisions (1st & 2nd instance)	
Country of origin	Number	%	Number	%
Uzbekistan	0	0	7	33.3
Burundi	0	0	2	16.7
Armenia	0	0	2	16.7
D.R. Congo	1	7.1	4	11.8
Ethiopia	1	3.8	4	6.3
Sudan	0	0	5	5.3
Rwanda	0	0	1	5.3
Turkey	0	0	2	2.1
Iran	4	1.7	3	1.4
Afghanistan	1	0.4	3	0.9
Pakistan	1	0.3	2	0.5
Nigeria	0	0	2	0.4
Bangladesh	0	0	1	0.4
Iraq	0	0	1	0.1
Total	**11**	**0.3**	**39**	**0.83**

Source: Ministry of Public Order

The figures mentioned above under the "%" column represent the percentage of persons to whom refugee status was awarded for each country of origin during 2004 and 2005. The total number represents the overall percentage of persons to whom refugee status was awarded as a proportion of all decisions. Figures refer to persons and not to cases.

Comments
The examination of asylum applications submitted by Iraqis, which had been "frozen" in second instance since March 2003, has not yet resumed (except for a few exceptional cases, such as asylum seekers with serious health problems), as the Ministry of Public Order waits to see how the situation in Iraq will develop. As was mentioned above, in Greece almost all first instance decisions are negative and most refugees (of the few who are granted a status) are awarded their status after a second instance decision. First instance negative decisions are issued for Iraqis, but after they appeal against these decisions they are not invited before the Appeal's Board for their second interview, which is a prerequisite before a second instance – and final – decision can be reached. This explains the apparently very low recognition percentage for Iraqis, which is actually very high if you take into consideration the fact that only 11 Iraqis were interviewed by the Appeals' Board during 2005. This is to some extent also valid for Afghanis, whose applications are also "frozen" because of the continued instability and lack of security in Afghanistan (only 49 Afghanis were interviewed by the Appeals' Board in 2005, whereas the number of pending cases is much higher).
It is quite significant that 2 asylum seekers from Turkey have been awarded refugee status in 2005. The last recognition of a Turkish national as refugee in Greece took place in 2002. This is probably a consequence of the less restrictive interpretation of the Geneva Convention applied by the Greek MPO, as the political situation in Turkey and the number and nature of claims of Turkish nationals (whether of Kurdish origin or not) remained largely the same between 2002 and 2005.

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

Table 6: Humanitarian status awarded to rejected asylum seekers

	2004		**2005**	
	Overall (1st & 2nd instance)*		Overall (1st & 2nd instance)	
Country of origin	Number	% **	Number	% **
Uzbekistan	0	0	4	19
Russian	0	0	8	18.2
Eritrea	0	0	2	12.5
Albania	0	0	2	10
Burundi	0	0	1	8.33
Sudan	0	0	5	5.26
Rwanda	0	0	1	0
Iran	0	0	7	3.3
Ivory Coast			1	3
D.R. Congo	1	7.1	1	2.94
Sri Lanka			1	2.13
Ethiopia	1	3.8	1	1.69
Afghanistan	7	3	5	1.54
Myanmar			3	1.16
Somalia			1	1.04
China			1	0.92
Nigeria			3	0.68
Iraq			2	0.15
Central African	9	100	0	-
Turkey	4	3.1	0	0
Total	**22**	**0.6***	**49**	**1.05***

Source: Ministry of Public Order

The percentage refers to the number of humanitarian statuses awarded compared to the total (1st and 2nd instance) decisions for each country of origin.

Comments
The application of the accelerated procedure for examining asylum applications has led to a situation in which it has become impossible for the Minister of Public Order to award humanitarian statuses, despite the fact that Greek legislation stipulates that he is the only individual competent to award such a status. When the accelerated procedure is followed, the Minister does not intervene at all in the decision making process. This is the consequence of a decision to no longer share this competence with the Ministry's Secretary General (who issues second instance decisions), and a restrictive interpretation of legislation that means that a humanitarian status can only be awarded by the Minister at the same time as he rejects an application for a refugee status. There is no procedure in Greek legislation that would allow an asylum seeker to apply directly to the Minister for humanitarian status, after their application is rejected on second instance by the Secretary General.
Decisions made by the Minister, refusing to award humanitarian status on these purely procedural grounds, have already been challenged before the Council of State (the supreme administrative court) but no decision has yet been reached.
The fact that a decision awarding humanitarian status can only be taken on second instance probably explains the very low number of humanitarian statuses awarded to Iraqis in 2005: as it was already mentioned, the examination of their asylum applications is "frozen" on second instance.
As mentioned previously, separate figures for 1st and 2nd instance decisions are not available, it would have been far more significant if we were able to give a percentage of humanitarian status awarding decisions compared only to second instance rejecting decisions.

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

There is no procedure for "return" of asylum seekers on safe third country grounds.
Once submitted, all asylum applications are examined by the Greek authorities on their merits, irrespective of whether an asylum seeker has transited through a third country which is considered as being safe. It also has to be noted that there is no official list of safe third countries in Greece. However, where an asylum seeker has transited through a third safe country, his application can be rejected on these grounds, and an accelerated procedure for the substantive examination of such an application can be followed. There is no information available on the exact number of applications rejected on third safe country grounds.

10 Persons returned on safe country of origin grounds

There is no procedure for "return" of asylum seekers on safe country of origin grounds.
Once submitted, all asylum applications are examined by the Greek authorities on their merits, whether the asylum seekers come from a country of origin which is considered to be safe or not. To give an example, the application submitted by a Danish national in June 2005 has been examined in substance on both first and second instance before eventually being rejected. It also has to be noted that there is no official list of safe countries of origin in Greece. However, in case the asylum seeker comes from a safe country of origin, his application can be rejected on these grounds, and an accelerated procedure for the substantive examination of such an application can be followed. There is no information available on the exact number of applications rejected on safe country of origin grounds.

11 Number of applications determined inadmissible

None.
All applications are examined on their merits. Greek asylum legislation does not have a provision for inadmissible applications or an inadmissibility procedure.

12 Number of asylum seekers denied entry to the territory

According to Greek legislation, asylum applications submitted upon arrival of asylum seekers at a seaport or an airport before they enter Greek territory, will be examined under the accelerated procedure, and pending the examination of their application asylum seekers will have to wait in the waiting zone (or transit zone) of the seaport or the airport. However, if the substantive examination of their application is not completed within 15 days, Greek legislation (Article 25 of act 1975/1991 as amended by act 2452/1996 and art. 4 of presidential decree 61/99) provides that leave to enter Greek territory must be accorded to the asylum seeker at the expiry of this deadline. This is the only possibility of refusal to enter the territory, and when the application is not rejected in final instance within 15 days this refusal is only temporary. There are no statistics available for the number of asylum seekers denied entry into Greek territory.

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

No figures are available.
When a foreign national is arrested after entering Greece illegally, and if the Public Prosecutor brings no charges for illegal entry, an administrative deportation order will immediately be issued against them by the police authorities that carried out the arrest. This deportation order, in most cases, results to an administrative detention order for a maximum period of three months (according to art. 83 of Law 3386/2005 - former art. 44 of act 2910/2001), in order to ensure that the deportation will take place. If the alien submits an asylum application while in detention, his deportation will be suspended until a final decision on his claim is reached. In most cases this decision will not be issued within the period of three months, at which point the asylum seeker would in any case have to be released. It has been noticed that during 2005 several police authorities issued deportation orders in the absence of detention orders for illegal entrants who in all likelihood would not be deported within the 3-month period (for instance Iraqis and Afghanis carrying no travel documents). Indeed, it appears pointless to detain these individuals for three months when it is virtually impossible that their enforced removal from Greece could be arranged within three months. However this practice is not coordinated on national level and the Greek Legislation allows a great margin of interpretation to each local Police Director who issues deportation and detention orders.
If an alien is detained after a court (and not the police authorities) ordered his deportation, which is possible if he is sentenced for illegal entry or any other penal offense (art. 74 and 99 of the Penal Code), there is still no precise time limit to his detention. If he submits an asylum application after he is sentenced, his deportation will be suspended pending examination of his claim and, if he is awarded a status, his deportation will of course be cancelled.
When the deportation ordered by a court is impossible or cannot take place in due time for reasons related to 1) international embargo, 2) violations of article 3 of the European Convention on Human Rights and/or of article 3 of the UN Convention Against Torture etc., or 3) other material obstacles to the deportation, an appeal ("objections") against the deportation order can be submitted before the competent judicial authority, which is the first instance criminal court of the district where the alien is detained. Furthermore, art. 99 par. 5 of the Penal Code and Ministerial Decision No. 137954/16-10-2000 provide that the initiative for the suspension of the deportation order and subsequent release of the detainee should be

taken by the Public Prosecutor in all cases where deportation ordered by a court cannot take place. If an illegal entrant is not arrested before he presents himself spontaneously to the authorities to apply for asylum, he will not be detained on the grounds of his previous illegal entry.

14 Deportations of rejected asylum seekers

No figures available.

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

The Greek Council for Refugees is currently implementing a voluntary repatriation programme for Afghanis. This programme, which receives partial funding from GCR and Greek Ministry of Foreign Affairs – International Development and Cooperation Department (Hellenic Aid), started on 1-12-2005 and provides for the repatriation of 10 Afghanis after they have completed a 6-month training in some professional fields (nursing, computer skills, English language, human rights/democracy/gender issues) that are expected to allow them to resume a normal professional and social life in Afghanistan. The return of the participants in the programme is expected to take place on 1st September 2006. The travel expenses will be covered by the programme and the programme manager will be present in Afghanistan from 15-7-2006 to 30-9-2006 in Afghanistan in order to monitor their (re)integration.

The International Organization for Migration (IOM) is implementing a voluntary repatriation programme, funded by the Ministry of Health and Social Solidarity, which commenced on 15-5-2006 and will be completed within 2006. This programme concerns 40 to 50 Afghanis willing to return to Afghanistan – the programme will cover the expenses for their repatriation.

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

Table 7:

2005	Total number of requests presented by Greece to other Dublin States	Total number of requests addressed to Greece by other Dublin States
Requests presented	37	1,118
% Of requests in total number of applications	0.97 %	29.29 %
Requests accepted	14	992
% Of requests accepted in requests presented	37.84 %	88.73 %
Requests refused	16	161
% Of requests refused in request presented	43.24 %	14.40 %
Total number of persons transferred	6	350
Requests pending		

Source: Ministry of Public Order

Table 8:

Country	Incoming Requests	Accepted	Refused	Outgoing Requests	Accepted	Refused
U. K.	301	276	9	3	2	1
Germany	175	159	23	9	2	4
Austria	106	61	38	0	0	0
France	102	85	22	5	2	2
Sweden	91	44	14	3	3	0
Netherlands	83	72	8	4	1	2
Belgium	75	54	9	2	1	0
Norway	67	32	8	1	0	0
Finland	50	55	3	0	0	0
Italy	31	16	18	9	2	7
Ireland	10	10	0	0	0	0
Luxembourg	10	8	2	1	1	0
Spain	5	6	0	0	0	0

Source: Ministry of Public Order

Since early 2004, the Greek authorities have been interrupting the examination of asylum applications for persons who return to Greece under the Dublin II Regulation on the grounds of Regulation 343/2003.

A specific provision of Greek legislation (article 2 paragraph 8 of Presidential Decree 61/1999) allows the authorities to interrupt the examination of an asylum claim when the applicant "arbitrarily leaves his stated place of residence". As a result, persons who leave Greece whilst their asylum application is being processed and are subsequently returned by other Member States risk not have their asylum claim examined in substance or fully processed in any EU Member State.

As the Ministry for Public order does not release figures on the numbers of 'interrupted' cases it is difficult to estimate accurately the numbers effected. However the Greek authorities do communicate all rejecting or interrupting decisions to UNHCR Athens, who in turn forward these decisions to the GCR. In 2005 127 interruption cases were recorded (though the actual number may be higher), with an additional 37 recorded between January and the beginning of May of 2006.

A possible cause for concern lies in the similarity between article 2 par 8 of Presidential Decree 61/1999 which is the source of the above practice of the Greek authorities and art. 20.1.b of the Procedures Directive. Consequently, if a EU member state decides to transpose art. 20 of the directive as it stands, it might be tempted to follow a similar treatment vis-à-vis Dublin returnees as Greece and assume that the Dublin returnee "has implicitly withdrawn or abandoned his/her application" (see art. 20.1).

In 2005 the Greek authorities have increasingly used article 2 par 8 of presidential decree 61/1999 in several contexts in addition to the interruption practice mentioned above:
1) As has already been mentioned, asylum application examinations are judged to 'interrupted' as a consequence of non-compliance with the order to move to a specific reception camp (in most cases the Kokkinopilos Camp).
2) Interruption decisions have also been issued when the police authorities are unable to locate asylum seekers at their stated address. This can happen at any moment during the asylum procedure, but most frequently when the police authorities seek to notify an asylum seeker of the date of the hearing of the Appeals' Board at which the second interview takes place. Those who are not located will most probably miss the interview and an interruption

decision will be issued against them (unless they are informed by somebody other than the police authorities and manage to attend the hearing).
3) Finally, in 2004 and 2005 the Greek authorities adopted another interruption practice in the broader context of Dublin II returns: aliens transferred to Greece under the Dublin II Regulation after the Greek authorities had taken charge of them (i.e. aliens who had not applied for asylum in Greece before they applied in another "Dublin" state) have to enter the asylum procedure the date they arrive in Athens International Airport. They are kept there for a couple of days "under surveillance" and when they are released they receive a special identity document (the "pink card") from the airport authorities that is valid for 6 months. They are also requested to report their place of residence to a specific aliens' police authority within 5 days after their arrival. Most of those in this situation fail to comply with this request, as it is difficult to find a place to stay within such a short period. In such a case of non compliance, the Secretary General of the Ministry for Public Order has often issued a decision of interruption two or three months later, applying art. 2 par. 8 of Presidential Decree 61/1999 and justifying his decision in the following terms: "although the asylum seeker has been requested to report his place of residence to the police authorities within 5 days after his arrival, he did not do so and he is of unknown abode". However, this reasoning does not seem in accordance with the legal provisions: according to the Greek legislation, the police authorities can assign a place of residence to an asylum seeker but there is no legal text asserting that the police authorities can order the asylum seeker to find a place of residence within 5 days (or any other period of time) and report it back to them. Moreover, the examination of an asylum application can be interrupted only for the reasons stated in art. 2 par. 8 P.D. 61/1999: when the asylum seeker leaves arbitrarily a place of residence, which has been assigned to him or that he had declared himself. In the situation examined, there is no place of residence at all and the asylum seeker is sanctioned only because he did not comply with an order of the police that has a dubious legal basis. This interruption decisions has been challenged in front of the Greek courts but no final decisions have been issued yet. However, it seems that the Greek authorities have abandoned this particular interruption practice since December 2005 – perhaps they have realized that there is no legal basis for such interruption decisions.
Figures published by the Ministry for Public Order are quite striking: In 2005, the total number of decisions rejecting asylum applications issued by the Greek authorities in first and second instance was 4585, whereas the total number of interruption decisions in 2005 was 5657. It regrettable that so many asylum applications in Greece are not examined in substance and that these applications end up in a way that is neither normal nor desired.
There is some reason to believe, although this has not yet been officially confirmed, that the Greek authorities have decided to stop issuing interruption decisions, and moreover, that decisions already issued on asylum seekers who have not yet been transferred back to Greece will be cancelled. This means that the asylum procedure will resume normally after their return in Greece.

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

As already mentioned, after the war in Iraq broke out in March 2003, the Ministry of Public Order announced that the examination in second instance of asylum application submitted by Iraqi nationals would be suspended until the situation in Iraq is somehow clarified. This position is still valid and has even been extended to Afghanis.

Also of note is the practice of Greek authorities regarding asylum seekers from former Soviet Union Republics (Georgia, Ukraine, Moldova etc) and non-EU European countries such as Bulgaria and Romania, which has already been mentioned above under point 1. This practice

started in 2004 but was extended further during the year 2005 as specified above. It should be remembered that because of the substantial increase of asylum applications of nationals from these countries since the end of 2003, the Greek Ministry for Public Order decided to direct most asylum seekers of these countries to the Kokkinopilos Reception Centre, were they were assigned residence during the asylum procedure. This Reception Centre, which is run by the Hellenic Red Cross, is not very attractive for asylum seekers because it is situated on mount Olympos in Thessalia quite far from the closest big town. The result of this practice was that many asylum seekers decided not to move to the Camp, as they preferred to stay in the Athens area. The result of their refusal to go to the Camp was the interruption of the examination of their asylum applications, according to the relevant provisions of the Greek legislation.

5 Legal and Procedural Developments

18 New legislation passed

The most significant legal development in Greece was the adoption of law 3386/2005 which entered into force on 1/1/2006 and replaced former act 2910/2001. Act 3386/2005 is the new comprehensive "Aliens Act". Its scope does not include asylum seekers, refugees or persons under subsidiary protection, but some of its provisions (i.e. administrative deportation and detention of illegal entrants) may concern asylum seekers. Moreover, act 3386/2005 introduced another possibility, the first time since 2001 that this has occurred, for illegal aliens to legalize their stay in Greece if they could prove that they were present in Greece before 31/12/2004, and provided they fulfilled a number of conditions and paid 1023 euros for social insurance contributions. The aliens entering this procedure would receive a one-year residence permit, which can be renewed for one of the reasons mentioned in act 3386/2005 (employment, studies etc). This legalisation procedure is of course not related to the asylum procedure or any form of international protection. The means to prove one's presence in Greece before 31/12/2004 were limited and involved former legal presence in most of the cases. As one of these ways was to hold a decision rejecting asylum application dated before 31/12/2004, many rejected asylum seekers who had remained in Greece after their final rejection without legal status for years and who could not be forcibly removed for different reasons could benefit from this legalization procedure. In the same context asylum seekers holding a first instance rejection dated before 31/12/2004 but still in the asylum procedure after they appealed against the decision had the choice to withdraw their asylum application and switch to the legalization procedure under the provisions of the said law. It should be noted that asylum seekers who were rejected on second instance were expressly exempted from the obligation of holding a valid passport as a prerequisite to entering the legalization procedure, but still had to present an original national ID, a birth certificate or a family certificate, officially translated, in order to prove their identity. These conditions were often quite difficult to meet but as the procedure remained open from 1/10/2005 to 2/5/2006 most of the rejected asylum seekers who wished to enter it managed to fulfil the criteria.

Act 3386/2005 also incorporated into Greek legislation the provisions of the Council directive 2003/109/EC of 25-11-2003 concerning the status of third-country nationals who are long-term residents, and the provisions of Council directive 2003/86/EC of 22-9-2003 on the right to family reunification, though this applied only to the section concerning aliens who have not been recognised as refugees

19 Changes in refugee determination procedure, appeal or deportation procedures

Changes mentioned in the 2004 country report (increase in the number of the Appeal's Board weekly sessions and possibility of deportation of Iraqi nationals) are still applicable. Another important development that occurred in the first months of 2006 is that second instance decisions not awarding refugee status are better reasoned, and better substantiate the grounds

of rejection. Also when the decision is not in line with the recommendation of the Appeal's Board, a detailed account for such dissent is given. It should be remembered that until the beginning of 2006 second instance rejecting decisions had a standard wording, used for most of the cases independently of the nationality, age, sex or content of the claim of the asylum seeker concerned. This development is quite important from a legal point of view and will probably influence the judicial review by the Council of State of the rejection of second instance decisions (see question 8). If it is perceived that there is adequate justification of the grounds of rejection in second instance decisions it will become more difficult to challenge them and, potentially secure their annulment.

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

No significant case-law known to us was recorded in 2005.

21 Development s 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

The implementation of the readmission agreement between Greece and Turkey remained inactive in 2005. However, it seems that in a limited number of occasions readmission of non-Turkish nationals, mainly Iranians, was accepted by the Turkish authorities. Although data on these cases is not provided, their number does not seem significant. Still, the question of whether aliens have effective access to the asylum procedure before being returned to Turkey remains.

6 The Social Dimension

23 Changes in the reception system

Greece has of yet not incorporated into its national legislation Council Directive 2003/9/EC on the minimum standards for reception of asylum seekers, despite the fact that the Directive set a deadline of February 2004 for transposition. The country is therefore in breach of the said community legislation. However Greece has finally incorporated Directive 2001/55 of the Council of the European Union (Council) on "minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof" by virtue of Presidential Decree 80/2006 on "giving temporary protection in the event of a mass influx of displaced aliens"
During the course of the past year the lack of services in Greece regarding the care and protection of Unaccompanied Minors (UAMs) became apparent. Even though the number of asylum applications from UAMs in 2005 was significantly lower than in 2004; there remained a lack of capacity in centers for UAMs. The Ministry of Health and Social Solidarity decided to expand the services provided to UAMs by increasing the capacity of special shelters from 25 to 100 persons in February 2006. The Ministry also took steps to organise the funding of Non Governmental Organizations who would assume responsibility for providing the relevant services.

24 Changes in the social welfare policy relevant to refugees

No developments.

25 Changes in policy relating to refugee integration

No developments.

26 Changes in family reunion policy

No changes have taken place. As previously mentioned the provisions of Council directive 2003/86/EC of 22-9-2003 have been incorporated into Greek legislation by virtue of Law 3386/2005 though this concerns only the part pertaining to aliens who have not been recognised as refugees – this incorporation did not affect the national legislation on refugee's family reunification which in some respects remains less favourable than the provisions of the directive.

7 Other Policy Developments

27 Developments in resettlement policy

No developments.

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 2005

The conservative Nea Dimokratia are still in power after they won an overall majority in the parliamentary elections of March 2004, replacing the former socialist PASOK government.

32 Governmental policy vis-à-vis EU developments

Both previous PASOK and present Nea Dimokratia governments are staunch supporters of closer EU integration. No significant changes in the Greek position vis-à-vis the EU have been noted.

33 Asylum in the national political agenda

Asylum as such is of small consequence in the general national political agenda. Immigration and aliens in general, however, continue to remain a major issue – among the public and, to a lesser extent, the political class.

Biography

Panayiotis Papadimitriou, Attorney At Law

GREEK COUNCIL FOR REFUGEES

To assist in the solution of problems faced by persons who have valid claims to be considered as refugees according to the 1951 Geneva Convention on the Status of Refugees and the supplementary 1967 New York Protocol.
To help people who have sought refuge in Greece fleeing war, civil strife or generalised violence.

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1 Arrivals

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

Table 1:

Month	2004	2005	Variation +/-(%)
January	108	96	-11%
February	130	109	-16%
March	129	198	+53%
April	162	91	-44%
May	104	110	+6%
June	112	161	+44%
July	90	165	+83%
August	199	135	-32%
Sept.	182	167	-8%
October	134	136	+1%
November	143	135	-6%
December	107	106	-1%
TOTAL	**1600**	**1609**	**+0.56%**

Source: Ministry of Interior, Office of Immigration and Nationality

Comments
Following the sharp decrease in previous years, the overall number of asylum-seekers remained low.

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

Table 2:

	2004	2005	%
Vietnam	105	319	+204%
Serbia-Montenegro	180	243	+35%
China	64	165	+158%
Georgia	288	114	-60%
Bangladesh	29	90	+210%
Nigeria	73	89	+22%
Turkey	125	65	-48%
Pakistan	54	40	-26%
India	34	40	+18%
Others	*648*	*444*	*-31%*

Source: Ministry of Interior, Office of Immigration and Nationality

Comments
The rise in Bangladeshi and Vietnamese asylum applicants is due to unknown factors, though it would be reasonable to assume that they result from a change in migration/trafficking routes. The authorities regard both Bangladeshi and Vietnamese applicants as economic

migrants, resulting in no successful asylum claims (a regular procedure is nonetheless conducted).

3 Persons arriving under family reunification procedure

The Office of Immigration and Nationality granted a residence visa on grounds of family reunification in a total of 1,341 cases in 2005. This number however includes visas granted to family members of Hungarian citizens and all other categories of migrant as well. No breakdown is available to specifically show the numbers for family reunification of refugees.

4 Refugees arriving as part of a resettlement programme

Hungary does not operate any resettlement programmes.

5 Unaccompanied minors

Table 3:

Country	2005
Nigeria	13
Moldova	7
Afghanistan	5
Georgia	4
Vietnam	4
Iran	2
Romania	2
Serbia-Montenegro	2
Iraq	1
Russia	1
Ukraine	1
Total 2005	*42*
Total 2004	*43*

2 Recognition Rates

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

Table 4:

Statuses	2004				2005			
	First instance		Appeal		First instance		Judicial review phase	
	No.	%	Number	%	Number	%	Number	%
No status awarded	754	69	-	-	757	79	361	93
Convention status	149	14	-	-	97	10	4	1
Subsidiary status	177	16	-	-	95	10	6	1.5
Status withdrawn	7	1	-	-	7	1	0	0
First-instance decision cancelled, new procedure ordered	-	-	-	-	-	-	18	4.5
Total in-merit	1087	100	-	-	956	100	389	100
Other	-	-	-	-	-	-	16	

Procedure terminated	527	-	-	609	87	87	-
Total (in-merit + terminated)	**1614**	-	-	**1565**		**492**	-

Source: Ministry of Interior Office of Immigration and Nationality, Metropolitan Court of Budapest

Comments
The percentage of each status accorded was calculated as a percentage of the in-merit decisions. 'Procedures terminated' refers to cases in which the individual concerned disappears before the first in-merit interview. No second-instance statistics are available for 2004.

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 5:

	2004			2005		
	First instance			First instance		
Country of origin	Number recognized	% of in-merit	% of total decisions	Number recognized	% of in-merit	% of total decisions
Azerbaijan	0	0%	0%	1	100%	50%
Kenya	0	0%	0%	1	100%	100%
Togo	1	100%	100%	2	100%	100%
Uganda	2	67%	67%	2	100%	100%
Unknown	11	100%	92%	11	92%	85%
Somalia	4	31%	22%	8	80%	73%
Zimbabwe	0	0%	0%	2	67%	67%
Ethiopia	2	22%	22%	1	50%	50%
Lebanon	0	0%	0%	1	50%	50%
Sudan	1	25%	11%	5	50%	42%
Iran	20	39%	32%	10	48%	33%
Iraq	13	24%	20%	5	42%	25%
Afghanistan	19	31%	26%	7	41%	41%
Stateless	5	63%	28%	1	33%	14%
Congo	1	9%	8%	1	33%	25%
Pakistan	6	21%	11%	12	30%	24%
Armenia	3	17%	11%	1	25%	17%
Turkey	8	10%	7%	5	19%	8%
Cameroon	0	0%	0%	1	13%	13%
Georgia	1	1%	0%	4	11%	3%
Liberia	0	0%	0%	1	10%	9%
Syria	1	10%	9%	1	10%	6%
Palestine	10	33%	18%	1	9%	4%
Nigeria	3	5%	4%	5	9%	7%
Serbia-Montenegro	23	23%	15%	7	7%	3%
India	0	0%	0%	1	6%	2%
Others	15	5%	4%	0	0%	0%
Total	**149**			**97**		

Source: Ministry of Interior Office of Immigration and Nationality

Table 6:

	2005		
	Judicial review phase		
Country of origin	Number recognized	% Of in-merit	% Of total decisions
Ethiopia	2	100%	100%
Somalia	1	20%	17%
Congo	1	14%	11%

Source: Metropolitan Court of Budapest

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

Table 7 :

	2004			2005		
	First instance			First instance		
Country of origin	Number granted	% of in-merit	% of total decisions	Number granted	% of in-merit	% of total decisions
Bosnia-Herzegovina	0	0%	0%	1	100%	100%
Nepal	0	0%	0%	3	100%	100%
Congo	2	18%	17%	2	67%	50%
Afghanistan	39	64%	53%	10	59%	59%
Iraq	33	61%	50%	7	58%	35%
Ethiopia	7	78%	78%	1	50%	50%
Cameroon	3	43%	38%	4	50%	50%
Ivory Coast	1	50%	33%	1	50%	50%
Sudan	1	25%	11%	4	40%	33%
Zimbabwe	0	0%	0%	1	33%	33%
Iran	4	8%	6%	6	29%	20%
Pakistan	1	4%	2%	11	28%	22%
Russia	3	12%	6%	5	26%	12%
Tunisia	0	0%	0%	1	25%	20%
Somalia	7	54%	39%	2	20%	18%
Syria	6	60%	55%	2	20%	12%
Georgia	8	9%	3%	6	17%	4%
Serbia-Montenegro	8	8%	5%	18	17%	8%
Turkey	8	10%	7%	3	11%	5%
Moldova	1	4%	2%	1	9%	4%
Nigeria	6	9%	7%	5	9%	7%
Unknown	0	0%	0%	1	8%	8%
Others	39	14%	11%	0	0%	0%
Total	**177**			**95**		

Source: Ministry of Interior Office of Immigration and Nationality

Table 8:

	2005		
	Judicial review phase		
Country of origin	Number recognized	% of in-merit	% of total decisions
Nepal	1	25%	25%
Syria	1	14%	12%
Serbia-Montenegro	3	11%	9%
Nigeria	1	3%	3%

Source: Metropolitan Court of Budapest

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

The Office of Immigration and Nationality (OIN) has an internal "safe third country list", which is not publicly available. There are no exact data available concerning the number of persons returned on this ground.
The fact that a safe third country is obliged to readmit the applicant is one of the reasons for considering an asylum claim manifestly unfounded and thus for dealing with it in an accelerated procedure (see section 11 on accelerated procedure).

10 Persons returned on safe country of origin grounds

The OIN does not have an official "safe country of origin list".

11 Number of applications determined inadmissible

No admissibility procedure is applied in Hungary.

Manifestly unfounded asylum claims can be dealt with in an accelerated procedure, usually resulting in rejection. However, accelerated procedures remain quite rare (41 in 2005, 73 in 2004). According to Section 43 (1) of the Asylum Act, "An application may be considered manifestly unfounded when an applicant is unable to establish one of the grounds for asylum stipulated in Section 3 (1) because:

a) it is obvious that the applicant has not established a well founded fear of persecution if returned to his/her country of origin;
b) the application is considered to be deliberately deceptive or to have abused the asylum procedure;
c) a safe third country is obliged to readmit the applicant;
d) the applicant is a citizen of a member state of the European Economic Area."

12 Number of asylum seekers denied entry to the territory

There is no special refugee status determination procedure in Hungarian legislation for conducting asylum procedures at the border, with the exception of the "accelerated airport procedure". Therefore, there is no procedure from which "rejection of asylum seekers at the border" could be determined, as there is only a general procedure and statistical data on "rejection of foreigners". Consequently, there is no way to measure or estimate the number of asylum seekers refused entry at the border.

Nevertheless, NGOs are concerned that strict border control systems employed on the eastern border of Hungary may make it impossible for genuine refugees to gain access to Hungarian territory. Local NGO's are working on initiatives to monitor border checkpoints in order to ensure better access to the territory and the asylum procedure for those in need of protection.

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

In 2005 a total of 145 asylum seekers were detained by the Border Guard (source: Office of Immigration and Nationality) in detention facilities for non-nationals. Under Hungarian law the maximum length of detention is 12 months, with an automatic court review after 6 months. There was a decrease in the number of detained asylum-seekers in 2005 compared to previous years.

Asylum-seekers in detention had access (in accordance with the "Cooperation agreement" concluded between the Hungarian Helsinki Committee (HHC) and the National Border Guard Headquarters in September 2002) to legal assistance through weekly visits paid by HHC's lawyers to the detention facilities.

14 Deportations of rejected asylum seekers

No information available.

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

The International Organization for Migration (IOM) runs two programmes in Hungary: the voluntary return programme (HARP) and a return program for rejected asylum seekers, funded by the European Refugee Fund (ERF).

In 2005, the IOM assisted the return of a total of 212 people from Hungary. 159 were assisted under HARP and 53 under the ERF-funded programme. 116 persons out of an overall 212 were returnees to Kosovo.

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

Under the auspices of the Dublin II Regulation, during 2005 1107 requests were made to Hungary by other EU member states. Hungary assumed the responsibility for carrying out the refugee status determination procedure in 775 cases, while in 227 cases, the Hungarian response to the Dublin request from another EU member state was negative. More than 45% of the positive replies (346 cases) were based on EURODAC hits. A positive reply was given on the basis of a visa in 213 cases, and on the grounds of illegal border crossing/family reunification in 196 cases. In addition, 283 requests for information arrived during the year.

The Dublin Coordination Division (at the Office of Immigration and Nationality) sent 37 requests for taking back/taking charge of refugees and 18 requests for information to other EU member states. The response was positive in 18 cases, and negative in 17 cases.

8 applicants were effectively transferred to other member states: 5 persons to Austria and one person each to France, Sweden and Slovakia.

159 asylum applicants were returned to Hungary by way of transfers from another member state. The majority of the asylum seekers transferred to Hungary were citizens of Serbia and Montenegro, Georgia and Ukraine.

(Source: Office of Immigration and Nationality)

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

Throughout 2005, Hungary continued its policy to ensure protection to all *Iraqi and Afghan asylum-seekers* (either by awarding refugee status or subsidiary protection). In line with this policy, no Iraqi or Afghan asylum-seeker was expelled or forcibly returned to his/her country of origin.

In 2005, Hungary improved its previously restrictive policy concerning *Nigerian asylum-seekers* (the general presumption being that Nigeria was a safe country of origin). The refugee recognition rate of nationals from this country –0% in 2003 – went up to 9% in 2005.

Concerns arising from the Hungarian governments attitude to the effect of tensions in the neighbouring Vojvodina region of Serbia-Montenegro on its substantial Hungarian minority, (mentioned in the 2004 Country Report), has seen no significant change in 2005.

5 Legal and Procedural Developments

18 New legislation passed

On 6 June 2005 the Parliament adopted Act XLVI of 2005 on the Amendment of Act LV of 1993 on citizenship and Act XXXIX of 2001 on the entry and stay of foreigners (entry into force: 1 January 2006). From the perspective of international protection, the main amendment touches upon Section 14 of the Aliens Act (the right to family reunification).
Section 16 of Act XLVI of 2005 introduces the following preferential provisions for refugees, thus transposing the relevant parts of the EU Family Reunification Directive[6]:

- In case of unaccompanied minor refugees, a first-degree relative in the direct ascending line or – where he/she does not have such relatives – his/her legal guardian can be considered as a family member eligible for family reunification.
- The family tie between a refugee and a family member eligible for family reunification can be proved in a "reliable" way (photographs etc); the lack of (formal) documentary evidence on its own cannot be a reason for rejection.
- Provided that an application for a residence visa with reference to family reunification is submitted within three months following the family member's recognition as a refugee, the authority will not observe the conditions usually applicable in such cases (livelihood, accommodation, health insurance).

See also section 26.

19 Changes in refugee determination procedure, appeal or deportation procedures

No changes.

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

There were no developments.

[6] Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification

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

There were no developments.

22 Developments regarding readmission and cooperation agreements

In 2005, the bilateral readmission agreement between Hungary and Portugal (signed in 2000 and in effect since February 2002) was promulgated into Hungarian law.

Hungary actively took part in the chiefly inter-governmental Cross-Border Cooperation Process (Söderköping Process) which is aimed at addressing the cross-border co-operation issues arising from the EU's enlargement eastwards and at promoting dialogue on asylum and irregular migration issues among the countries situated along the EU's Eastern border.

6 The Social Dimension

23 Changes in the reception system

In February 2005 a home for unaccompanied minors was opened in the town of Nagykanizsa. The home is run by the local branch of the Hungarian Red Cross and funded by the European Refugee Fund as administered by the Office of Immigration and Nationality (OIN). The OIN provides technical assistance for running the home and sends unaccompanied minors there as their designated place of residence.
Since November 2005 the social work service in the OIN Refugee Reception Centre at Békéscsaba has been provided by Menedék – the Hungarian Association for Migrants and lead NGO in the field of refugee integration. The service was transferred to the NGO in the framework of a co-operation agreement with the Reception Centre; the costs are co-financed by the Centre and the ERF as part of a two year ERF project.
Outsourcing core services related to reception started in early 2005 with the aim of saving Government money. ERF has been used as a means of financing the operational costs of refugee reception centres, besides the already mentioned social work, it also subsidises health care, meals, and the protection of vulnerable groups (single women, unaccompanied minors, families).

24 Changes in the social welfare policy relevant to refugees

No changes.

25 Changes in policy relating to refugee integration

In summer 2005 a Phare Twinning Project started with the aim of drafting a policy paper (White Paper) on refugee integration. The project was also responsible for setting up a training scheme and curriculum with the aim of preparing personnel who – in the long run – will be responsible for implementing integration policies in Hungary. The Ministry of Interior, the Office of Immigration and nationality, and a Greek twinning partner, the Centre of International and European Economic Law, are implementing the project.

26 Changes in family reunion policy

By transposing the provisions of the Family Reunification Directive (see Q.18.), Hungary fulfilled its obligation to harmonise its legislation with the mandatory provisions of the EU Family Reunification Directive relevant to refugees. However, it failed to transpose any of the

more favourable provisions, adopting the most restrictive approach possible under the provisions of the Directive. In this respect, family reunification of persons granted international protection remained highly difficult, often impossible, although, the OIN sometimes applied a more liberal approach in practice, mostly with respect to vulnerable refugees/family members.

7 Other Policy Developments

27 Developments in resettlement policy

No developments.

28 Developments in return policy

No developments.

29 Developments in border control measures

NGOs and UNHCR called on the government and migration and border guard agencies to ensure that the right of all asylum seekers to enter Hungary and access the asylum procedure through the EU eastern external border was fully respected.
In October 2005 the Hungarian Helsinki Committee, with support from UNHCR, carried out a fact-finding mission to several reception and detention facilities along both sides of the Hungarian-Ukrainian border. The HHC found that asylum-seekers faced difficulties in accessing the territory and the asylum procedure in Slovakia in particular, and were often returned to Ukraine in breach of national and international law. In Ukraine both the refugee status determination procedure and the capacities of migration & asylum authorities as well as NGOs were insufficient to provide effective protection against (chain-) refoulement.

30 Other developments in refugee policy

The issue of whether Hungary had the capacity to offer sustainable and effective integration prospects to refugees gained importance during the year. UNHCR and NGOs called on the government to develop and implement a coherent integration policy that would include refugees as well as other migrants. The Ministry of Interior Office of Immigration and Nationality took part in an EU-funded twinning project with a Greek partner to examine the existing legal and structural framework for the integration of refugees and persons enjoying subsidiary protection and to develop a draft integration policy paper and various training materials to improve refugee integration in Hungary. The project will conclude in late 2006.

8 Political Context

31 Government in power during 2005

Hungary's left-wing government consisted of Prime Minister Ferenc Gyurcsány's Hungarian Socialist Party (MSZP) and the Alliance of Free Democrats (SZDSZ), a smaller liberal-progressive party. Asylum and immigration issues were under the competence of the Ministry of the Interior (Minister: Ms Mónika Lamperth).

32 Governmental policy vis-à-vis EU developments

See also Section 18.

Up to 1 June 2006, Hungary had still not transposed the provisions of the EU Qualification Directive[7], nor the Procedures Directive[8]. Moreover, the provisions of the Reception Conditions Directive[9] had also not been fully transposed.
It is believed that Hungary wishes to transpose the Qualification and the Procedures Directive with a joint amendment of law in the near future, and regular preparatory meetings are held in order to draft the amendment (NGOs are not invited to participate). Since the new government has just been formed after the April elections, and there are various other extremely urgent and problematic issues in the forefront of the political agenda it seems unlikely that Hungary will complete this transposition procedure by October 2006 (transposition deadline of the Qualification Directive), but an in-depth amendment is expected in 2007 at the latest.

33 Asylum in the national political agenda

Asylum issues were not at the forefront of the public debate in Hungary during 2005.

[7] Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted
[8] Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status
[9] Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers

Biography
Gábor Gyulai

HUNGARIAN HELSINKI COMMITTEE

Mission Statement
The Hungarian Helsinki Committee monitors the enforcement in Hungary of human rights enshrined in international human rights instruments, provides legal defence to victims of human rights abuses by state authorities and informs the public about rights violations. The HHC strives to ensure that domestic legislation guarantee the consistent implementation of human rights norms. The HHC promotes legal education and training in fields relevant to its activities, both in Hungary and abroad. The HHC's main areas of activities are centred on protecting the rights of asylum seekers and foreigners in need of international protection, as well as monitoring the human rights performance of law enforcement agencies and the judicial system. It particularly focuses on the conditions of detention and the effective enforcement of the right to defence and equality before the law.

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Social section

Menedek

IRELAND

1 Arrivals

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

Table 1:

Month	2004	2005	Variation +/-(%)
January	392	393	0
February	363	377	+3.85
March	501	489	-2.39
April	377	320	-15.11
May	403	322	-21.48
June	324	315	-2.77
July	371	325	-13.20
August	401	348	-13.21
Sept.	466	372	-20.17
October	329	320	-2.73
November	409	346	-15.40
December	430	396	-7.90
TOTAL	**4,766**	**4,323**	**-9.29**

Source: Office of the Refugee Applications Commissioner (ORAC) Annual Report 2004, ORAC Monthly Statistics 2004 & 2005.

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

Table 2:

Country	2004	2005	Variation +/-(%)
Nigeria	1,776	1,278	-28.04
Romania	286	385	+34.61
Somalia	198	367	+85.35
Sudan	145	203	+40
Iran	72	202	+193.05
Georgia	130	151	+16.15
DR Congo	140	138	-1.42
Moldova	100	100	0
Others	1,919	1,499	-21.88

Source: Office of the Refugee Applications Commissioner

3 Persons arriving under family reunification procedure

There were 556 applications for family reunification, comprising 1338 dependents. The top six nationalities were: Somalia: 64, Nigeria: 58, DR Congo: 52, Zimbabwe: 43, Romania: 29, Cameroon: 29, other: 281.
(2004: 317 applications, comprising 567 dependents)

Source: Office of the Refugee Applications Commissioner

4 Refugees arriving as part of a resettlement programme

In 2005, 116 persons were accepted as part of a resettlement programme:
Chechens: 41.
Iranian Kurds: 46.
Somalis: 10.
Rwandans: 9.
Congolese: 7.
(Syrian) Palestinians: 3.

(2004: 10 cases, 63 persons).

Source: Reception and Integration Agency

Comments
See point 27.

5 Unaccompanied minors

643 arrived.
442 were reunited with family.
201 were placed in care
(2004: 174 placed in care).

Children placed in care according to their country of origin (top six countries):
Nigeria 40;
Somalia 34;
Romania 31;
Afghanistan 9;
Angola 9;
DR Congo 9.

Source: Health Service Executive Unaccompanied Minor's Unit – Monthly Reports

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	**2004**				**2005**			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	4,906	68.7	5,393	88	3,952	69.5	3,518	82.5
Convention status	430	6.02	702	12	455	8	511	12
Subsidiary status	-	-	-	-	-	-	-	-
Other	1,805	25.3	-	-	1,275	22.5	234	5.5
Total	**7,141**	**100**	**6,095**	**100**	**5,682**	**100**	**4,263**	**100**

Source: Office of the Refugee Applications Commissioner December 2005 Monthly Statistics, and the Refugee Appeals Tribunal 2005 Annual Report

Comments
'Other' at first instance and at appeal includes withdrawn applications, or determinations made under the Dublin II Regulation. Ireland does not offer subsidiary status within the asylum system; however, see Q.8 for details of other mechanisms for granting residency on humanitarian grounds.

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	**2004**		**Country of Origin**	**2004**	
	First Instance			Appeal	
	Number	%		Number	%
Somalia	82	1.15	Nigeria	87	2.34
Iraq	34	0.48	Croatia	62	1.02
Sudan	34	0.48	DR Congo	47	0.77
China	23	0.32	Romania	44	0.72
Iran	20	0.28	Moldova	34	0.56
Zimbabwe	18	0.25	Ukraine	34	0.56
Nigeria	18	0.25	Ghana	13	0.21
Afghanistan	16	0.22			
Ukraine	14	0.2			
Russia	14	0.2			
Others	*157*	*2.2*	*Others**	*381*	*6.25*
Total	**430**	**6.02**	**Total**	**702**	**11.52**

Table 5:

Country of origin	**2005**		**Country of Origin**	**2005**	
	First Instance			Appeal	
	Number	%		Number	%
Somalia	92	1.62	Nigeria	85	2
Sudan	78	1.40	Croatia	40	0.94
Rwanda	20	0.35	Georgia	32	0.75
Iran	20	0.35	Somalia	31	0.72
China	17	0.30	Angola	20	0.47
Guinea	16	0.28	DR Congo	17	0.40
Eritrea	14	0.25	Romania	11	0.26
Palestine	12	0.21			
Afghanistan	11	0.19			
Kenya	11	0.19			
Zimbabwe	16	0.28			
Others	166	2.92	Others**	275	6.45
Total	**473**	**8.32**	**Total**	**511**	**11**

Source: Office of the Refugee Applications Commissioner, and the Refugee Appeals Tribunal Annual Report 2005.

Comments
Others* (at appeal, 2004) covers 99 countries and includes Albania, Czech Republic, Angola, Russia and Georgia (Refugee Appeals Tribunal Annual Report 2004). Others** (at appeal, 2005) covers 88 countries and includes Cameroon, Albania, Moldova, Ukraine and Zimbabwe.

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

In 2005, 137 people were granted 'leave to remain' on humanitarian grounds (2004: 140). This status is discretionary, and not strictly part of the asylum system (see comments below). (See Q.18 for details of proposed changes to the Irish asylum system that will include complementary protection measures).

In addition, in 2005 temporary residency status was granted to 16,693 parents of Irish children under the so-called 'Irish Born Child' (IBC) scheme (set up to address the uncertain status of people with Irish children denied automatic residency on that basis following a 2003 Supreme Court decision). 10,032 of these people had been in the asylum system at some stage. However, only residency status was granted, and as such the scheme cannot be considered to have provided any type of subsidiary or complementary protection to those asylum seekers who were affected by it.

Source: Department of Justice, Equality and Law Reform Repatriation Unit.

Comments
Persons who have been refused refugee status (after both first instance and appeal) are entitled to apply to the Minister for Justice, Equality and Law Reform for 'leave to remain' on humanitarian or other grounds. This 'leave to remain' option is not part of the asylum system, and all people who wish to remain in the State can apply for it. Total discretion in 'leave to remain' decision-making lies with the Minister for Justice, Equality and Law Reform, and there is no transparency around the process. In deciding whether to grant permission to remain in Ireland, the Minister for Justice is obliged to consider 11 grounds as set out in Section 3 of the Immigration Act 1999, which include the age of the applicant, duration of residence in the State, character and conduct of applicant and humanitarian considerations among others.

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

No statistics available.
(2004: 0)

Comments
The Irish Refugee Council is concerned that the Department of Justice, Equality and Law Reform is preparing to begin deporting returned asylum seekers to third countries (see point 17).

10 Persons returned on safe country of origin grounds

There are no statistics available as to the number of people deported on the sole basis of being nationals of a designated safe country of origin. However, statistics are available for the numbers of people deported to these safe countries of origin in 2005 - Total: 297.
(2004: 288)

The countries of return (with numbers in brackets) were:
Nigeria (135);
Romania (122);
South Africa (17);
Croatia (17);
Bulgaria (6).

Source: Department of Justice, Equality and Law Reform Repatriation Unit.

11 Number of applications determined inadmissible

1 in 2005 (2004: 20).

Source: Office of the Refugee Applications Commissioner December 2005 Monthly Report

12 Number of asylum seekers denied entry to the territory

It is understood that 460 asylum seekers were denied entry into Ireland in 2005 out of a total of 4,893 people denied entry overall.

Source: Garda National Immigration Bureau.

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

There were 946 people detained in Irish prisons for immigration-related reasons **in 2004** (statistics are not available for 2005) ranging from 1 to over 51+ days. This figure represents a drop of 48% from the 1,852 people held in 2003. This figure seems to mirror the drop in the numbers of applications for asylum in Ireland during the same period. However, statistics as to how many asylum seekers specifically were detained are not available.

Source: "Immigration-related detention in Ireland", Irish Refugee Council, Irish Penal Reform Trust, Immigrant Council of Ireland, 2005.

14 Deportations of rejected asylum seekers

A total of 396 deportations were carried out in 2005 out of a total of 1,899 deportation orders signed by the Minister for Justice. Top countries of origin (deportation orders signed / number deported) were:
Nigeria: 977/135,
Romania: 412/122,
China: 119/18,
Croatia: 49/17,
South Africa: 49/17,
Moldova: 29/15.
(2004: 2,866 orders signed, 599 actually deported)

Source: Department of Justice, Equality and Law Reform Repatriation Unit.

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

The IOM assisted 219 people to return to their country of origin, of whom approximately 80% were asylum seekers. 2 of these were separated children who had sought asylum in Ireland. The total number of Voluntary Returns for 2005 was 335.

(2004: 611 voluntarily repatriated, of which 396 were assisted).

Source: The Department of Justice, Equality and Law Reform Repatriation Unit, and the International Organisation for Migration, Ireland

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

In 2005 there were 529 outgoing requests under Dublin II Regulation. Of these 79 percent were accepted, 10 percent were deemed accepted, 8 percent were rejected, 2 percent withdrawn and 1 percent were still awaiting a decision.
The top 7 accepting states were:
UK: 282;
Italy: 37;
France: 34;
Malta: 33;
Sweden: 24;
Germany: 21;
Austria: 20.

In relation to incoming requests Office of the Refugee Applications Commissioner (ORAC) processed 118 requests from other Member States. Of these 63 percent were accepted, 1percent were deemed accepted, 26 percent were rejected, 2 percent were withdrawn and 8 percent were still awaiting a decision.
The top 6 EU states are:
UK: 78;
France: 8;
Netherlands: 8;
Belgium: 6;
Germany: 3;
Spain 3.

A total of 61 transfers in, and 209 transfers out, were accomplished in 2005 (including some cases determined in 2004)

Source: Office of the Refugee Applications commissioner, Dublin Unit

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

Victims of Trafficking
Although the trafficking of human beings has been identified as a contemporary form of slavery, it is only recently that Ireland has begun to address the issue. At present the protection of victims is ad hoc, sometimes offered by NGOs. The Garda National Immigration Bureau also assists on a case-by-case basis. There is, however, no coordinated multi-agency response to assist victims of trafficking. Neither the Illegal Immigrants (Trafficking Act) 2000 nor the Child Trafficking and Pornography Act 1998 has ever resulted in a successful prosecution for the crime of trafficking, though individuals have been arrested and charged. There is evidence however that trafficking does take place with Ireland both as a country of transit and destination. Ireland's Joint Committee on European Affairs in 2005 was told by
Ruhama (an NGO working with women involved in prostitution) that they had come across their first victim of trafficking in Ireland in 2000. In 2005 the organisation worked with 32

victims of trafficking. They are aware of another 70 women who were also victims of trafficking in the past few years but who for a variety of reasons were not using Ruhama's service. The women's average age was between 18 and 25 though eight of the victims were minors.

In Ireland, victims of trafficking are subject to deportation. Currently the granting of 'humanitarian leave to remain' (Q.8) is at the discretion of the Minister for Justice, Equality and Law Reform. Few victims of trafficking enter the asylum process despite recent UNHCR guidelines of trafficking as a form of persecution.

Ireland has signed but has not ratified the UN Trafficking Protocol, which was opened for signature in 2000 and which urges states "to protect and assist victims of trafficking, with full respect for their human rights". Nor has it ratified the UN Optional Protocol to the Convention on the Rights of the Child. The IRC believes that Ireland should sign and ratify the Council of Europe Convention on Action against Trafficking, which was open for signature in May 2005. While Ireland has not even signed the Convention, ratifying it would ensure an obligation by the State to address the issues in relation to trafficking.

Separated Children Seeking Asylum (SCSA)
In 2005, 643 SCSA referrals were made to the Health Service Executive (HSE), of which 201 were put in care. 442 were reunited with family. There are child protection concerns in relation to SCSA who are reunited with family members. There is a concern that, in some instances, there is inadequate investigation to verify the identities of people who present as family members and with whom separated children are united. Where a separated child is united with a family member there is no follow-up by social services to that placement. A member of the Refugee Appeal Tribunal who resigned last year stated her concerns over family reunification as a reason for her decision. There is also concern about the growing number of SCSA who go missing while in the care of the State. Over the past four years more than 250 separated children have gone missing from HSE accommodation. It must be assumed that some of these children have been trafficked. There is little follow up of these cases, in comparison with the attention given to instances of Irish children going missing, in spite of article 2 of the Convention on the rights of the Child which speaks of non-discrimination.

From June 2003 to the end of 2005, at least thirty-eight Irish children were de facto deported with their parents despite their rights as afforded by citizenship. The exact number of Irish children de facto deported is not known, as the Department of Justice has not made available the statistics on the numbers of Irish children transported on deportation charters with their parents, nor does it keep in any contact with Irish children removed from the State in this manner.

For SCSA children in care, there are fewer resources made available to the HSE to care for them. For example, the proportional number of social workers allocated to SCSA is considerably lower than the number allocated to Irish children in care, even though both groups are protected by the same Childcare Act (1991). The accommodation centres the children stay in do not come under the same inspections and standards as accommodation centres for Irish children do. The Social Services Inspectorate's remit does not extend to these centres.

Ireland will have its plenary session in September in front of the UN committee on the rights of the child in which it must account for progress in children's rights since 1998. The shadow report written by the Children's Rights Alliance has issues pertaining to asylum seeking children and separated children in its key recommendations.

'Aged-out' Minors
'Aged-out' minors are separated children seeking asylum who have turned 18. Upon turning 18 they are considered adults, and are the responsibility of the adult asylum system under the aegis of the Department of Justice, Equality and Law Reform. In the last year a number of these 'aged-out' minors have been deported. Local support groups that have kept in contact with them have reported that some of them have come under pressure to become involved in criminal activity in order to survive. The Irish Refugee Council and other NGOs working in the asylum/refugee area are concerned that the government is not considering the particular protection needs of separated children who have 'aged-out'. Many of those who have received deportation orders have lived in the country for a number of their formative years. One case that the Irish Refugee Council is aware of concerns an 'aged-out' minor who might be deported to a third-country to which they have no link – a development the Irish Refugee Council would consider a negative step in terms of best practice when dealing with vulnerable groups with special international protection needs.

5 Legal and Procedural Developments

18 New legislation passed

On 25 January 2005 the Irish Nationality and Citizenship Act 2004 came into force, amending the Irish Nationality and Citizenship Act 1956. The Act followed a referendum in 2004, and amended the former *jus soli* entitlement to citizenship for children born in Ireland. Since January 1 2005, third country-national parents of children that are born after this date are required to prove that they have a genuine link to Ireland, e.g. at least one of the parents must have resided in Ireland for 3 of the last 4 years. On proof of a genuine link to Ireland, their child will be entitled to Irish citizenship. Time spent in Ireland as students or asylum seekers is not included when calculating the parents' period of residence in Ireland. The Act does provide that children born to parents living in Ireland without restriction - including people with refugee status and people with 'leave to remain' - continue to be entitled to Irish citizenship.

Following the initial concern regarding the uncertain status of those asylum applicants still in the asylum process whose children were born in Ireland before this date, the government decided to allow such people to apply for leave to remain on the basis of an Irish-born child. The closing date for applications under this scheme was 31 March 2005. The leave to remain granted was similar to that granted to refused asylum applicants on humanitarian grounds. The applicant was required to sign a statutory declaration that they would not apply for family reunification; must prove themselves economically viable within two years; and must be of good character with no criminal record. In total 17,917 applications for leave to remain based on this ground were made, and 16,693 were granted.

In April 2005, the Department of Justice, Equality and Law Reform published a discussion document outlining the proposals for the upcoming Immigration and Residency Bill (as of May 2006 is yet to be published). While the primary focus of the discussion document is reform of the immigration system, and not focussed on protection issues, also included is a proposal for a single protection procedure to be implemented in Ireland with a view to transposing the Qualifications Directive. If implemented this will be the first time Ireland will consider complementary/subsidiary protection issues outside of the current Ministerial discretionary process at deportation stage.

Ireland did not change its position in relation to the Reception Directive, which it had already chosen to opt-out of, and in turn continues with the complete ban on asylum seekers working in the Republic.

Secondary legislation (regulations) passed during 2005 include:

-Amendment of the deportation regulations: The Immigration Act 1999 (Deportation) Regulations 2005 state that Immigration Officers and members of the Garda Síochána are authorised to deport a person from the state. There is an onus on the Immigration Officer or the member of the Garda Síochána to inform either the Member in Charge, if detention is in a Garda Síochána Station, or the Governor, if detention is in any other prescribed place, of the arrest and direct that the person be detained until further notice. Immigration Act 1999 (Deportation) and Regulations 2002 (S.I. No. 103 of 2002) are revoked.

-Extended the removal places of detention: 2005 Regulations amended the list of prescribed places for the purpose of detention by removing the Central Mental Hospital while expanding the list to include every Garda Síochána Station (Police Station) in the State as a potential centre for detention

-Altered the visa waiver list for entry into Ireland (including changes relating to Geneva Convention travel documents); the list of countries not requiring a visa to enter the State has been amended to include El Salvador and Paraguay. Additionally non-nationals who are a holder of a Convention travel document issued by Belgium, Denmark, Czech Republic, Denmark, Finland, Germany, Iceland, Italy, Liechtenstein, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden or Switzerland are not required to be in possession of a valid Irish visa when landing in the State.

-Amended civil legal aid: The Refugee Appeals Tribunal was added as a body at whose proceedings legal aid may be provided by the Legal Aid Board.

19 Changes in refugee determination procedure, appeal or deportation procedures

Since January 2005, asylum claims from Nigeria have been prioritised and dealt with in a 'fast-track' procedure. The standard approach for fast-tracking cases has been a designation of a country as a 'safe country of origin' after an assessment by the Minister for Justice, in consultation with the Minister of Foreign Affairs, of the human rights obligations of the country under international law, the political and judicial systems and governance by the rule of law (see Section 4(a) Refugee Act 1996, as amended.) Designations of safe country of origin status were made, and continued in force in 2005 regarding Romania, Bulgaria, Croatia and South Africa; however Nigeria was not included in this safe country of origin list.

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

For the first time in the history of the appellate determination body, the Refugee Appeals Tribunal, a selection of 22 decisions held to be of legal importance (these decisions do not have precedent setting value) were published in booklet form. Tribunal members and personnel selected the decisions, 20 of which were denials of refugee status, while 2 were positive decisions, through an internal process.

Refugee Appeals Tribunal decisions:
Refugee Appeals Tribunal decision (Reference Number 1, 2006): *Afghanistan - fear of persecution for political opinion and membership of a particular social group - credibility in evidence - credibility at issue - no supporting objective country reports - appeal refused.*

Refugee Appeals Tribunal decision (Reference Number 2, 2006):
Albania - Family - Blood feud - risk of serious harm on return - nature of risk to women - effective state protection - assessment on a case-by-case basis - appeal refused.

Refugee Appeals Tribunal decision (Reference Number 3, 2006): *Algeria - State protection - homosexuality - Failure to mention sexual orientation to Appeal Application of Berber ethnicity - appeal refused.*

Refugee Appeals Tribunal decision (Reference Number 4, 2006):
Angola - Credibility - lack of knowledge of applicant - material change of circumstances in country of origin - appeal refused.

Refugee Appeals Tribunal decision (Reference Number 5, 2006):
Bangladesh - fears persecution because of religious beliefs, membership of a particular social group and political opinion - must have a subjective and objective basis - failure to support evidence with documentary proof - failure to avail of state protection - appeal refused.

Refugee Appeals Tribunal decision (Reference Number 6, 2006):
Congo Brazzaville - credibility of applicant - supporting objective country reports - benefit of the doubt - appeal granted.

Refugee Appeals Tribunal decision (Reference Number 7, 2006):
Croatia - Fears persecution because of ethnicity - failure to avail of State protection because he feared police not a valid reason for not doing so - low level of harassment does not amount to persecution - appeal refused.

Refugee Appeals Tribunal decision (Reference Number 8, 2006):
Croatia - fear of persecution because of ethnicity - left country in 1995 *and fears returning - improved situation - state protection available - applicant not at risk - appeal refused.*

Refugee Appeals Tribunal decision (Reference Number 9, 2006):
Georgia - Well founded fear - subjective and objective analysis - religious persecution - regime change since applicant left country of origin showing improvement in religious freedom and decrease in attacks on religious minorities - forward looking analysis - Jehovah Witnesses - appeal refused.

Refugee Appeals Tribunal decision (Reference Number 10, 2006):
Ghana - ritual killings - FGM - State protection - Account not consistent with Country of origin information - credibility - appeal refused.

Refugee Appeals Tribunal decision (Reference Number 11, 2006):
Iraq - Blood feud - Convention nexus - Whether enough evidence to support membership of a particular social group - appeal refused.

Refugee Appeals Tribunal decision (Reference Number 12, 2006):
Moldova - persecution on basis of political opinion - corruption - non-state actors of persecution - State protection not exhausted - appeal refused.

Refugee Appeals Tribunal decision (Reference Number 13, 2006):
Moldova - Applicant fled violent relationship - Failure to seek help from police, lawyer, or non-governmental organisation - Cannot be said that own State unwilling or unable to protect applicant - appeal refused.

Refugee Appeals Tribunal decision (Reference Number 14, 2006):
Nigeria - persecution for religious beliefs - evidence not supported by country reports - conflicts and vagueness in applicant's evidence - oral appeal withdrawn - appeal on papers - appeal refused.

Refugee Appeals Tribunal decision (Reference Number 15, 2006):

Nigeria - Ritual worship - human sacrifice - account not consistent with country of origin information - internal relocation - appeal refused.

Refugee Appeals Tribunal decision (Reference Number 16, 2006):
Nigeria - Adequacy of state protection measured against risk of persecution - State protection adequate - appeal refused.

Refugee Appeals Tribunal decision (Reference Number 17, 2006):
Nigeria - electoral corruption - comprehensive assessment of credibility that went to the kernel of the applicant's claim - appeal refused.

Refugee Appeals Tribunal decision (Reference Number 18, 2006):
Nigeria - state protection - analysis - level of protection by state not a guarantee but a practical standard -failure to seek protection where practical standard is available defeats asylum claim Horvath v Secretary of State (2000) 3 *AER* 577 *& Attorney General v Ward* (1999) 2 *SEJ* 689 *approved - appeal refused.*

Refugee Appeals Tribunal decision (Reference Number 19, 2006):
Nigeria - membership of a particular social group - female genital mutilation - risk assessment - country of origin information - internal relocation - appeal refused.

Refugee Appeals Tribunal decision (Reference Number 20, 2006):
Sierra Leone - changed circumstances in country of origin - burden of proof - standard of proof - appeal refused.

Refugee Appeals Tribunal decision (Reference Number 21, 2006):
Somalia - fears death at hands of other clans - applicant lacked knowledge of clan system, climate, geography and Somalia language - Account of travel implausible - appeal refused.

Refugee Appeals Tribunal decision (Reference Number 22, 2006):
Zimbabwe - credibility - applicant changed story at appeal stage - failure to tell the truth at Questionnaire and Interview stage does not preclude acceptance of account at Appeal Hearing Consistency with Country of Origin information - appeal granted.

Judicial Review decisions:

M.N.F. (Applicant) v the Refugee Appeals Tribunal and the Attorney General (respondents) and the Human Rights Commission (Notice Party)
Judgment of Mr. Justice MacMenamin, High Court, delivered on the 7th day of July 2005

There are three applicants involved in this JR all raising the same point - that it is the entitlement of applicants seeking asylum in this jurisdiction to obtain previous relevant determinations made by the Refugee Appeals Tribunal. A contends that they, and their legal representation, should have access to the previous decisions which have a bearing upon, or are relevant to their applications. R contends that there is no evidence of a lack of fair procedure and refuses to furnish A with these documents on the basis of: i) confidentiality and ii) that there is no such mandatory requirement under statute. A contests that access to previous judgments is a necessary requirement in the administration of fair procedure in these circumstances.

Conclusion
Section 19 of the Refugee Act as amended protects the identity of asylum applicants and 19 (2) specifies that no matter likely to lead members of the public to identify a person as an

applicant under the Act shall be published in a publication available to the public or to be broadcast without the consent of that person. Section 17 provides that decisions shall be communicated to the applicant and his/her solicitor, the Minister and the High Commissioner.

There is clear authority that in the case of applications to the High Court to challenge the validity of decisions of the Tribunal, a non-national is entitled to the same degree of natural justice and fairness of procedures as a citizen. There is also clear authority to show that the constitutional right to fair procedures in a decision-making process affecting a person's rights extends to a requirement that relevant information, documentation and matters of evidence should be disclosed (e.g. The State (Williams) v. Army Pensions Board [1983] I.R. 308). Natural justice is not observed if the scales of justice are tilted against one side all through the proceedings. Audi alteram partem means that both sides must be fairly heard.

Of fundamental importance in this case is that decisions made by R are held in private and are not reported. According to MacMenamin J. the existence of objective findings on relevant issues are of vital importance not only to the individual case in which the finding is made, but also to other cases that share a common background. MacMenamin J also noted Article 30.4 of the Constitution, Article 6 (1) of the ECHR, decisions of the European Court of Human Rights and Common Law Authorities all highlight the importance of public pronouncements of judgments. He also noted that the present position in Ireland regarding the absence of reporting in such cases is unique in the common law jurisdictions.

As regards the discretion of the chairman to publish decisions, MacMenamin J. states that it is clear from Section 19 (4) (a) that there is discretion not to publish unimportant decisions of the Tribunal and that there is a positive discretion to publish decisions of legal importance. While decisions made under conditions of discretion must be reached with respect for obligations of confidentiality, the terms of the Act do not impose a blanket ban on publicity.

In conclusion MacMenamin J. states that the position in Ireland cannot be regarded as fair in light of "the principles of natural and constitutional justice, fairness of procedure or equality of arms". R's refusal to make available to A the relevant tribunal decisions as requested constitutes an unlawful exercise of the statutory discretion afforded them under the 2003 Act, as properly interpreted.

ENM (applicants) v Minister for Justice, Equality and Law Reform (respondents) Judgment of Mr. Justice Gilligan, High Court, delivered on the 29th day of April 2005.

Application for leave to seek an order of *Certiorari* regarding R's decision not to grant applicant refugee status, and that provision 16 (11) (a) (i) of the Refugee Act 1996 is unconstitutional.

A submitted to ORAC and on appeal to RAT that she was persecuted as a member of the Roma community and that she was discriminated against in the area of housing, employment, health and also that a petrol bomb was thrown into her house. A contends that R did not take into account the subjective element of her fear of persecution. Section 16 (11) (a) (i) provides that the Appeal Board may direct any person to come before it and give evidence. A contends this provision is unconstitutional as it reserves the right of directing the attendance of witnesses to the decision maker.

Conclusion
Gilligan J referred to the UNHCR Handbook and previous judgements of the High Court to conclude that a subjective element must be accompanied by an objective one. Given the

tribunal member's consideration of her subjective fear along with country of origin information it could not be said his decision was irrational or unreasonable.

As regards Section 16 (11) (a) (i) he was not satisfied that A has sufficient locus standi as A was not adversely affected by the provision (a concerned person can voluntarily give evidence). Plus there exists no unqualified constitutional right to obtain the attendance and examination of witnesses.

Therefore, reliefs sought for were refused.

J.X. (applicant) v Minister for Justice, Equality and Law Reform, Refugee Appeals Tribunal (respondent).
Judgment of Ms. Justice Dunne delivered on the 2nd day of June, 2005

Application for declaration that R's negative decision in respect of A's asylum application was *ultra vires,* without efficacy and was reached in infringement of A's right to Constitutional and natural justice and fair procedures. Order of certiorari also sought quashing this decision.

R relied on a number of points to refuse the application - that A had been in Ireland 9 years before seeking asylum, that A had already sought asylum in the U.K. and left there before exhausting that system. Also that it was not credible that if A was wanted by the Chinese authorities since 1992 that he would have been able to apply for and obtain a passport from the police office of Fujian Province in 1993. A contended that the primary function of the adjudicator was to assess the risk of persecution having regard to all circumstances as they currently prevail. Also, A contended that the delay of A in claiming asylum is a factor which the Tribunal Member may have regard to but that it is not a deciding factor and does not obviate the requirement on the Tribunal Member to actually assess with reference to objective information conditions in the county of origin.

Conclusion
This is a case to which the provisions of s.1l (A) (1) (b) of the Refugee Act 1996 apply. Therefore the applicant had to rebut the presumption that he was not a refugee i.e. prove that he has a well-founded fear of persecution. The fact that he previously applied for asylum in England does not provide an explanation as to why an application for asylum was not made in Ireland prior to 2004. The decision of the Tribunal Member in this regard cannot be regarded as irrational. With regards to the matter relating to the lack of credibility in relation to the application for and obtaining of a passport from the police in Fuijan Province in 1993. As regards credibility according to Dunne J there are two factors to be taken into consideration i) could the applicant's story have happened, or could his/her apprehension come to pass, given what is known from available country of origin information? ii) is the applicant personally believable? There is a difference between a case in which there are some inconsistencies in a person's story and a case such as the present where there has been a clear finding on credibility. In this case Dunne J stated, *"The applicant simply was not personally believable".*

Therefore, the burden on the applicant is to show that there are substantial grounds before leave can be granted. A has not relieved this burden and reliefs sought refused.

MI (applicant) v Minister for Justice, Equality and Law Reform, Refugee Appeals Tribunal (respondent)
Judgment of Mr. Justice Clarke delivered on the 27th of May 2005

Application for leave to seek judicial review primarily to quash decision of R not to grant A a declaration of refugee status.

R made a negative decision in relation to A solely on the basis of lack of credibility. A alleges that R failed to take into account certain considerations in making the decision, specifically that R failed to consider the applicant's credibility in the context of relevant country of origin information. A also contended that R's negative decision was unreasonable and that R did not set forth any basis for it's decision that A had not made every effort to substantiate her case.

Conclusion
The application is one to which s. 5 of the Illegal Immigrants (Trafficking) Act, 2000, applies and therefore, it is necessary for A to establish substantial grounds for contending that the decision is invalid or ought to be quashed. There is no definitive ruling from either the High Court or the Supreme Court on the issue of "pure credibility" i.e. refusing an asylum application solely on the basis of a lack of credibility. There are, however, a number of propositions set down by the High Court in regards to credibility - i) assessment of credibility must be carried out in accordance with the principles of Constitutional Justice, ii) where the assessment of the credibility of an applicant places reliance upon a significant error of fact in a manner adverse to the applicant such error renders the decision invalid, iii)
it is not permissible to place reliance on a "gut feeling" and a specific adverse finding as A's credibility must be based upon reasons which bear a legitimate nexus to the adverse finding. A finding of lack of credibility must be based on a rational analysis which explains why, in the view of the deciding officer, the truth has not been told. However, the court must be careful not to supplement its own judgment in the assessment of the facts, as this would override the intention of the Oireachtas in setting up ORAC as an independent body.

According to Clarke 1., while it might be possible to criticize in a limited way the determination of the Refugee Appeals Tribunal (RAT) there was a sufficient basis for the basic determination by the Tribunal as to the applicant's credibility to justify the decision reached. As there is very little objective evidence to verify A's claims, he stated that the Tribunal had in the course of its determination, set out a rational and appropriate basis for a finding of lack of credibility.

Therefore, leave to seek JR refused by the court.

CES and another (applicant) v Minister for Justice, Equality and Law Reform (respondent).
Judgement of Mr. Justice Peart, High Court, delivered on the 7th day of April 2005

A sought an order quashing the decision of the respondent refusing to revoke the deportation order in respect of applicants and a number of other reliefs based on family and private rights. A had been issued with a deportation order under the Dublin Convention on the basis of having residency in Germany and had sought to have this order revoked on the basis of her marriage to a man with Irish residency. Subsequent to the refusal she was declared by her doctor unfit to travel due to anaemia and an injunction was granted restraining her deportation.

R contends that while A does have constitutionally protected family rights this protection

does not prevent the respondent from deporting one spouse in circumstances where the other spouse is permitted to remain. Also, it was known at the time of marriage that one spouse did not have a certain permission to remain in the State. Applicants contend they are not arguing a right to reside together in the State, but rather that the respondent's decision is a breach of a fundamental right, being a family right, and that there has been no justification of the decision which could demonstrate that it is a proportionate measure. Also that A had a legitimate expectation not to have been arrested for deportation given that the Garda National Immigration Bureau (GNIB) were aware of her medical condition and pending medical appointment.

Conclusion
It is at least arguable that the decision of the respondent infringes a right/rights protected by the Constitution and/or the 1951 Convention. While the respondent had stated that the deportation is in the interest of the state, it was not carried out in a manner which considered and balanced the competing interests and factors, in order to satisfy that the measure is necessary in a democratic society, and therefore proportionate to the objective to be achieved. Therefore the respondent's decision is defective. As regards the submission of legitimate expectation, A had been accustomed to being asked to return to the GNIB from time to time after they were notified of the medical condition so that her tests could be carried out. Therefore, she ought not, without notice of an intention so to do, have been arrested on one occasion for deportation the next day. It is at least arguable that the required level of legitimate expectation was not met and that such action by the GNIB was unfair.

Therefore, reliefs sought granted.

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

None.

22 Developments regarding readmission and cooperation agreements

No developments.

6 The Social Dimension

23 Changes in the reception system

In line with the development of ‘prioritised’ procedures (fast tracking) for dealing with asylum applicants from designated ‘safe countries’ and Nigeria in early 2005, the Reception and Integration Agency (RIA) appointed reception centres designed to accommodate applicants from these countries while their application is being considered. Residents of these centres must sign in daily, otherwise their cases are considered to have been withdrawn, and they are liable to be deported. Ireland opted out of the EU Directive on minimum standards for the reception of asylum seekers.

Due to a reduction in the annual amount of people applying for asylum in Ireland, a number of accommodation centres closed, or were designated to be closed, in early to mid 2006. Resources have not been redirected into the remaining centres, and NGOs working in the asylum/refugee area have continued to express concerns that asylum seekers in direct provision accommodation are being socially and economically marginalized in Irish society.

24 Changes in the social welfare policy relevant to refugees

There have been no changes in social welfare policies relevant to refugees and asylum seekers. It remains the case that asylum seekers are accommodated on a full-board basis and receive a weekly cash allowance of €19.10 per adult, and €9.60 per child. Refugees can access the same social welfare support as Irish citizens.

The introduction in May 2004 of the habitual residency condition ended the policy of universal child benefit payment to all children resident in Ireland. The condition stipulated that one must be resident in the state for two years to qualify for child benefit and other social welfare payments. The habitual residency condition was introduced before the 10 new accession countries joined the EU to alleviate fears that workers would come to Ireland to claim benefits. The European Commission stated that a restriction on child benefit for workers was an infringement on their rights. Ireland was notified by the Commission and in November 2005 Community Welfare Officers were informed that they could not include child benefit in the habitual residency condition. Child benefit is now payable to all EU workers. The habitual residency condition therefore is of most concern in relation to children of people seeking asylum because, asylum seekers are not allowed to work and are therefore dependent on state assistance under the system of direct provision. In their submission to the Department of Social and Family Affairs the Children's Rights Alliance highlighted that denial of child benefit to asylum seeker families with children arriving since May 2004 reduced the income of these families by at least 40 percent and possibly by as much as 70 percent, depending on the family structure. The system is clearly not in the best interests of the child; the payment of €9.60 per child cannot meet their needs.

25 Changes in policy relating to refugee integration

There have been no changes with regard to refugee integration since the beginning of 2005. It remains stated government policy not to provide any integration measures for asylum seekers. The Reception and Integration Agency, the body of the department of Justice, Equality and Law Reform charged with providing accommodation for asylum seekers and in charge of Ireland's Resettlement Programme, do provide limited integration measures for resettled refugees.

Source: The National Action Plan Against Racism – The Department of Justice, Equality and Law Reform; The Reception and Integration Agency.

26 Changes in family reunion policy

There have been no changes in family reunion policy. Asylum seekers, those with 'leave to remain' and those with temporary residency on the basis of an Irish child (see point 8) are not eligible to apply for family reunification.

7 Other Policy Developments

27 Developments in resettlement policy

There have been no significant changes in resettlement policy in Ireland. The government announced in early 2006 that it would increase its intake of resettlement refugees to 200 in 2006, a significant portion of whom will be Iraqi Kurds (previously 10 cases, about 40 persons).

28 Developments in return policy

There were no developments in return policy up to May 2006 (However, see point 17)

29 Developments in border control measures

There were no developments. (See point 12).

30 Other developments in refugee policy

No developments.

8 Political Context

31 Government in power during 2004

The Government is a coalition of two political parties of which the senior partner is Fianna Fáil, a centre-right party that tends to be conservative on economic and social policy issues. The junior partner, the Progressive Democrats, is also a centre-right party with more of an ideological attachment to the market and a conservative outlook on social issues. This is the coalition's second term in office after topping the June 2002 general election.

32 Governmental policy vis-à-vis EU developments

The forthcoming Immigration and Residence Bill (see point 18) is designed to lay the groundwork for transposing the EU Qualifications Directive.

33 Asylum in the national political agenda

Despite a significant downturn in the numbers of people applying for asylum in Ireland, asylum issues remain relatively high on the national agenda. In early 2005, an 'aged-out' separated child seeking asylum, Olukunle Elukanlo, was deported to Nigeria along with some 30 other failed asylum seekers. Kunle, as he became known, was in his final year of secondary school, and preparing to sit his final exams. The case of the schoolboy on the streets of Lagos caught the attention of the public, helped particularly by huge support from his classmates, neighbours and teachers. After high profile demonstrations and massive media coverage, the Minister for Justice decided to grant him a six-month visa to return to sit his exams. Following this, there was a mood change in the public's attitude towards deportations, and an increase in local and community groups specifically aimed at supporting the case for refused asylum seekers facing deportation to stay in the country legally.

On the other hand, the Minister for Justice, Equality and Law Reform has made many high profile statements on the Irish asylum system that have contributed to a negative public perception of asylum seekers. In particular, he has repeatedly classified up to 90% of all asylum seekers as 'bogus', and has at times blurred the distinction between economic migrants and asylum seekers. He has also repeatedly stressed that the Irish asylum system is amongst the best in the world and that UNHCR supports this view. However, the Minister has also gone on record to say that the UN 'insists' that he go through due procedure when dealing with asylum applications, rather than interviewing people at their point of entry. And with the development of a new immigration and residence bill, and of an Irish Naturalisation and Immigration Service (INIS), ultimate responsibility for the asylum system still remains with the Department of Justice, Equality and Law Reform. The Irish Refugee Council considers the security-oriented approach (when a rights based approach would be more

suitable) of the Department inappropriate in the context of dealing with people with international protection needs.

In May 2006, a group of Afghan asylum seekers went on hunger strike in a Dublin Cathedral, in protest at what they perceived as their unfair treatment by the asylum system. The Minister took a hard-line stance, refusing to deal with the strikers. The hunger strike ended peacefully, but the refusal of the government to acknowledge the issues of the strikers or to examine the brokering proposals put forward by the Church authorities exacerbated the situation to the extent that it became a crisis, with the strikers threatening suicide. The public reaction to the strike became more negative as it progressed, and the sentiments expressed in the national media evinced little sympathy, and at times serious antagonism, towards the hunger strikers, and often towards asylum seekers in general.

Ultimately, there was little serious or considered public or political debate on asylum issues throughout the year. Sympathy for asylum seekers and those with international protection needs has waned, often because asylum issues are confused by politicians, journalists and the public with overall immigration issues; another topic around which little debate has been had. The Irish Refugee Council remains concerned that asylum seekers and refugees continue to be misunderstood by the majority of Irish people, and that this is perpetuated by the government's unwillingness to deal with asylum and refugee issues other than as a problem that must be addressed rather than an obligation that should be fulfilled.

Biography

Fabia Bellio, Richard King, Greg O'Reilly.

THE IRISH REFUGEE COUNCIL (IRC)

The IRC's mission is to pursue fair, consistent and transparent policies and to promote informed public attitudes in relation to people seeking refuge.

WWW.IRISHREFUGEECOUNCIL.IE

ITALY

1 Arrivals

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

Table 1:

	2004	2005	Variation +/-(%)
TOTAL	**8,783**	**14,590**	**+66.1**

Source: Eligibility Commission

Comments
The Italian authorities do not provide a monthly breakdown**.** According to the Italian Council for Refugees, in 2005 about 13,000 asylum seekers lodged an asylum request in Italy (in 2004 the Italian Council for refugees believed the figure to be around 14,000). UNHCR estimated (Asylum levels and trends in Industrialised countries, 2005) that approximately 9,500 asylum applications were made in Italy in 2005. It is difficult to make an accurate estimation of application numbers due to the way in which the Italian authorities record statistical information.
According to data provided by the deputy director of public security, 25,000 people arrived in Lampedusa in 2005 (an increase of 50% on 2004, when 13,000 people arrived).

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

Table 2:

Country	2004	2005	Variation +/-(%)
Liberia	1,361	526	-61.4
Eritrea	838	511	-39.1
Sudan	632	214	-66.2
Former Federal Republic of Yugoslavia	536	300	-44.1
Iraq	469	221	-52.9
Pakistan	233	161	-31
Ivory Coast	174	136	-21.9
Serbia & Montenegro	138	418	+202.9
Palestine	136	150	+10.3

Source: Eligibility Commission

Comments
Please note that these figures refer to asylum applications lodged in previous years that have been examined by the Eligibility Commission in 2004 and 2005 respectively.

3 Persons arriving under family reunification procedure

No figures available.

4 Refugees arriving as part of a resettlement programme

Italy does not operate any resettlement programmes.

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	2004				2005 CC			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded					2,836	68.1		
Convention status	781	8.89			416	10		
Subsidiary status					850	20.4		
Other								
Total	**8,783**				**4,165**			

Table 4:

Statuses	2005 CS				2005 CT			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	2,783	74.6			3,213	44.1		
Convention status	179	4.8			288	3.9		
Subsidiary status	654	17.5			2,801	38.5		
Applications Pending					582	8	192 (re-examination)	
Total	**3,732**				**7,278**			

CC, Central Commission for the recognition of refugee status (the only body examining asylum applications until 20th April 2005)
CS, "Commissione Stralcio", which is still examining asylum applications lodged before 21st April 2005.
CT, "Commissioni Territoriali, or Territorial Commissions.
The three Commissions can confer the same statuses, either Convention or Subsidiary.
Source: Eligibility Commission

Comments
Considering that the figures refer to 2005, it must be noted that on April 21st DPR (Decree of the President of the Republic) 303/04 entered into force. The DPR introduces:

- The National Commission for the right of asylum (previously the Eligibility Commission)
- 7 Territorial Commissions for the Recognition of Refugees, active in the provinces of Rome, Milan, Siracusa, Crotone, Foggia, Trapani and Gorizia.

- A Commission on the right of Asylum called "*stralcio*", with the aim of evaluating asylum applications lodged before April 21st 2005.

The statistics provided by the National Commission do not distinguish between *tout court* negative decisions and decisions recognising subsidiary protection.

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:

	2004				2005 Commissione "stralcio"			
	First instance		Appeal		First instance		Appeal	
Country of origin	Number	%	Number	%	Number	%	Number	%
Eritrea	191	22.79			186	21.60		
Ethiopia	73	32.30			42	18.60		
Congo (Brazzaville)	45	29.22			28	43.07		
Iran	31	45.59			24	40.00		
Sudan	38	6.01			26	6.34		
Togo	48	29.63			24	26.96		
Somalia	53	8.29			16	5.90		
Nigeria	14	2.32			17	2.80		
Liberia	23	1.69			16	1.93		
Iraq	21	4.48			18	3.00		
F. Rep. of Yugoslavia	21	3.92			16	4.69		
Dem. Rep. of Congo	26	34.21			20	23.80		
TOTAL	**781**	**8.89**			**595**	**7.53**		

Source: Eligibility Commission

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

No figures available.

10 Persons returned on safe country of origin grounds

No figures available.
The "safe country of origin" concept is not embodied in Italian legislation.

11 Number of applications determined inadmissible

There is no inadmissible procedure in Italian asylum legislation.

12 Number of asylum seekers denied entry to the territory

No figures available.

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

According to article 1 of Law 39/90 amended by Law 189/2002 and its implementation rules, asylum seekers can be placed under "compulsory detention" or "optional detention".

Compulsory detention
- Those asylum seekers who have eluded or try to elude police controls or who are (irregularly) on Italian territory are kept in so called "identification centres" for a maximum of 20 days.
- Asylum seekers who have been previously served with expulsion or rejection (at the border) orders are held for a maximum of 60 days in CPT, *centri di permanenza temporanea*, a kind of detention centre for non-nationals awaiting deportation.

The so-called "simplified procedure" will apply to all asylum seekers kept under compulsory detention for the assessment of their asylum claims.

Optional detention
These asylum seekers may be kept under optional detention in so called "identification centres":
- Those who have no valid identification and/or travel documents or who have false documents;
- Those awaiting a decision on whether they will be admitted to Italian territory or not.

The ordinary procedure will apply to asylum seekers kept under "optional detention" and to those asylum applicants that enter or live regularly in Italy.

14 Deportations of rejected asylum seekers

In March 2005, 180 individuals were returned from Lampedusa to Libya. During the course of the year additional refoulements occurred, following agreements (dating back to 2004) between the Italian and Libyan governments.
As of the end of March 2006, there have not been any episodes of refoulement to Libya or forced repatriation to other countries.

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

At present, IOM runs the only two assisted voluntary return programmes in Italy. They apply to asylum seekers, persons holding a permit of stay for humanitarian reasons and refugees volunteering to repatriate. One of the two programmes is especially focused on Romanian asylum seekers.

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

In 2005 Italy accepted 867 asylum seekers from other Member States (2004:868); in the same year Italy "sent" 97 asylum seekers to other member states (2004:106).

Number of requests to other Member States

Table 6:

Submitted to	Requests	EURODAC	Accepted	Refused	Transferred
Belgium	6	1	4	1	1
Czech Republic	2	0	0	0	0
Germany	50	25	26	20	16
Greece	30	14	11	9	3

Spain	25	13	7	11	3
France	36	18	22	12	9
Ireland	1	0	1	0	1
Luxembourg	1	0	0	0	0
Hungary	13	7	6	6	1
Netherlands	3	3	1	1	1
Austria	41	13	16	18	7
Slovenia	16	5	8	5	4
Slovak Republic	2	0	0	0	0
Finland	2	0	0	0	0
Sweden	5	3	1	3	0
UK	5	4	2	2	1
Norway	3	1	2	0	0

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

No developments.

5 Legal and Procedural Developments

18 New legislation passed

Law n. 189/02 of July 30th, 2002 reforming the previous Immigration and Asylum Law entered into force in September 2002. However, the asylum norms have only been implemented since April 21st, 2005, date of entry into force of the Implementing Regulation 303/04. The regulation has established a new asylum procedure. It distinguishes between two asylum procedures, the simplified and the ordinary procedure. The main difference between the two is that in the former the asylum seeker is detained in Temporary Identification Centres, and the duration of the procedure itself: 15 days for the simplified procedure, and 30 days for the ordinary procedure. In theory the simplified procedure should apply to all asylum seekers arriving without documents, holding false documents, or to evaluate the grounds of their application. However in practice many applicants undergo the ordinary procedure, as there are insufficient reception centres (in for example Milan and Rome). This means that the application will be examined within 30 days, and that they are free to move around within Italy.

The Council Directive on minimum standards for the reception of asylum seekers entered into force on February 6th, 2003, has been transposed in the D.L. 140/05. This has established the norms relating to the reception of non-nationals who seek asylum in Italy (see point 23).

19 Changes in refugee determination procedure, appeal or deportation procedures

Under the previous legislation only the Eligibility Commission (Commissione Centrale per il riconoscimento dello status di rifugiato) in Rome could examine asylum requests lodged within Italian territory. This Commission is now called the "National Commission", and co-ordinates 7 Territorial Eligibility Commissions (Foggia, Milano, Roma, Crotone, Gorizia, Siracusa, Trapani). These bodies are authorised to take first instance decisions. Only the National Commission takes decisions to revoke refugee status already granted.

The so-called "Commissione Stralcio" an *ad hoc* Eligibility Commission was established last April to examine about 20,000 pending asylum requests lodged before April 21st 2005.
The 7 Territorial Eligibility Commissions examine all asylum claims in both the ordinary and simplified procedures.

Simplified procedure: the head of the local Police Headquarters sends documents to the Territorial Eligibility Commission within two days of receiving the asylum application, which interviews the asylum seeker within 15 days. The decision of the Territorial Commission is reached within the next three days.

Ordinary procedure: the head of the local Police Headquarters sends documents to the Territorial Eligibility Commission within two days of receiving the asylum application, which interviews the asylum seekers within 30 days. The decision of the Territorial Commission is reached within the next three days.

The Territorial Commission can take three different decisions in both procedures:

- Recognition of refugee status;
- Rejection of refugee status;
- Recognition of subsidiary protection;

In the case of a negative decision, asylum applicants may lodge an appeal within 5 days of notification of the decision before the "Integrated Commission" composed of the Territorial Commission joined by one member from the National Commission.

Judicial appeals can be lodged before the Civil tribunals and have no suspensive effect. Appeals can be also lodged abroad at Italian Embassies.

Recently the police authorities have started formally admitting small numbers (about 200) of asylum seekers to the asylum procedure on Lampedusa. The vast majority are admitted after they have been transferred to Identification Centres elsewhere in the country. It is not clear at present what proportion of those arriving on Lampedusa are applying for asylum; those that do not do so are transferred to detention centres in order to be expelled.

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

Sentence no. 25028/2005 adopted on November 25th, 2005, Court of Cassation.
The Supreme Court established that it is up to the Territorial Commission to decide firstly on recognition under the auspices of the Refugee Convention, and subsequently the right to asylum under the Italian constitution. This means that an asylum seeker must first follow the administrative procedure in order to be recognised as a refugee under the Geneva Convention or under the Italian Constitution before making an application to obtain constitutional asylum before the Civil Court.

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

There were no developments.

22 Developments regarding readmission and cooperation agreements

There were no developments.

6 The Social Dimension

23 Changes in the reception system

In accordance with Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers, since 20th of October 2005 the right to housing (or alternative economic support) has to be granted to each asylum seeker for the duration of the procedure. Asylum seekers, not detained according to the new legislation, can be hosted in different locations: firstly in Accommodation Centres of the "Protection System for Asylum Seekers and Refugees" (SPRAR), but if there is no vacancy in these centres, they are accommodated either in Identification Centres or in First Accommodation Centres. A monetary diary is established if none of these solutions is available. The right to these reception measures ends with the status determination.

Moreover, since October 2005 asylum seekers whose application is at least 6 months old are granted the right to work.
Both of these changes were introduced by the D.lgs 140/2005, which transposed Council Directive 2003/9/EC on minimum standards.

In 2005, as in previous years, the vast majority of asylum seekers who arrived by boat in Sicily, particularly in Lampedusa, were transferred to other towns and kept in closed camps for approximately 20 days to examine their asylum applications in accordance with the "simplified procedure". The centre in which migrants are received on Lampedusa has been changed to a "first aid and assistance centre". Asylum applicants are detained here for a maximum of 48 hours before being transferred to other centres in Calabria, Puglia and Sicily. The camp has been reorganised in order to separate the lodgings of men and unaccompanied minors and women. As of the end of 2005 UNHCR, IOM and the IRC have been permitted to station representatives on Lampedusa (though they did not officially start work until the beginning of 2006). UNHCR provide information about Italian and European asylum legislation. They also distribute brochures on the Italian asylum procedure in 8 languages. IOM provides information concerning the possibilities of voluntary return, and the IRC offer material assistance.

24 Changes in the social welfare policy relevant to refugees

The Law 189/02 lays down a legislative foundation to the already implemented National Asylum Programme which rules that accommodation be granted to all asylum seekers in Italy, even though availability is still insufficient.

25 Changes in policy relating to refugee integration

No developments.

26 Changes in family reunion policy

No developments.

7 Other Policy Developments

27 Developments in resettlement policy

No developments.

28 Developments in return policy

No developments.

29 Developments in border control measures

No developments.

30 Other developments in refugee policy

The debate on the Bill on asylum in plenary session at the Chamber of Deputies was interrupted in June 2004 and has not been continued. In January 2005 the Rapporteur, belonging to an opposition party, resigned due to the great number of amendments proposed, which, if adopted, would have totally changed the text of the Bill previously approved.

8 Political Context

31 Government in power during 2004

Centre-right government.

32 Governmental policy vis-à-vis EU developments

The concern about the implementation of the Dublin II Regulation has continued during 2005. The Government's concern is to get EU support in facilitating the relationship with Libya in order to better control sea borders and to address illegal immigration from North Africa.

33 Asylum in the national political agenda

The main concern of the Government in 2005, as in the years before, has been to counteract illegal immigration.

Biography

Maria De DONATO, Head Of Legal Division
Fiorella RATHAUS, Head Of Social Division

ITALIAN COUNCIL FOR REFUGEES (CIR)

The Italian Council for Refugees (CIR), Italian member of the European Council for Refugees and Exiles (ECRE), is a non-profit organisation founded in 1990 under the patronage of the United Nations High Commission for Refugees (UNHCR), its objective being to co-ordinate and develop the defence of the rights of refugees and asylum seekers in Italy.
CIR acts as an interlocutor for the Italian state and local organisations in the implementation of projects, which encourage the integration of refugees into Italian society. Furthermore, CIR spares no effort in the implementation of European Union schemes for the legal and social protection of refugees and asylum seekers, and runs projects funded by the UN and the EU which protect and assist the most vulnerable groups of refugees; unaccompanied minors, women and victims of torture.
In over fifteen years of commitment to defending the rights of refugees CIR has assisted about 50,000 refugees and asylum seekers.

WWW.CIR-ONLUS.ORG
WWW.ARIFONLINE.IT

LITHUANIA

1 Arrivals

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

Table 1:

Month	2004	2005	Variation +/-(%)
January	11	9	-18.19
February	3	1	-66.67
March	9	13	+44.44
April	6	7	+16.66
May	20	19	-5
June	7	7	0
July	18	7	-61.12
August	35	9	-74.29
Sept.	30	12	-60
October	11	7	-36.37
November	11	23	+109.09
December	6	4	-33.33
Total	**167**	**118**	**-29.35**

Source: Migration Department, Ministry of Internal Affairs

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

Table 2:

Country	2004	2005	Variation +/-(%)
Russian Federation	102	86	-25.69
Nigeria	2	10	+400
Georgia	2	4	+100
Belarus	4	3	-25
Iraq	0	3	+100
Afghanistan	9	2	-77.78
Kirghizia	1	2	+100
Liberia	0	2	+100
Algeria	0	1	+100
Azerbaijan	1	1	0
Somalia	0	1	+100
Sri Lanka	0	1	+100
Togo	0	1	+100
Stateless	14	1	-92.86
Pakistan	20	0	-100
Uzbekistan	1	0	-100
Ukraine	2	0	-100
Kazakhstan	2	0	-100
Israel	1	0	-100
Egypt	5	0	-100
Australia	1	0	-100

Total	**167**	**118**	**-29.35**

Source: Migration Department, Ministry of Internal Affairs

3 Persons arriving under family reunification procedure

None (2004: None).

4 Refugees arriving as part of a resettlement programme

Lithuania does not operate any resettlement programmes.

5 Unaccompanied minors

9: 5 from the Russian Federation, 2 Georgians, 1 Afghani, 1 Nigerian. (2004: 11)

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	**2004**				**2005**			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	50	10.7	20	90.9	30	8.1	15	88.2
Convention status	12	2.5	0	0	15	4.	0	0
Subsidiary status	407	86.8	2	9.1	327	87.9	2	11.8
Other								
Total	**469**	**100**	**22**	**100**	**372**	**100**	**17**	**100**

Source: Migration Department, Ministry of Internal Affairs

Comment
The high number of subsidiary statuses granted results from the high proportion of Chechen asylum seekers (approximately 90 percent) amongst applicants from the Russian Federation. The majority of Chechen asylum seekers in Lithuania are granted subsidiary protection.

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	**2004**				**2005**			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
Russian Federation (Chechens)	12	2.55	0	0	15	4.04	0	0
Total	**12**	**2.55**	**0**	**0**	**15**	**4.04**	**0**	**0**

Source: Migration Department, Ministry of Internal Affairs

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

Table 5:

Country of origin	2004				2005			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
Russian	348	85.5	2	9.	288	88.3	-	0.0
Afghanistan	26	6.4	-	0.	21	6.4	-	0.0
Stateless	5	1.2	2	9.	5	1.5	-	0.0
Sri Lanka	4	1.0	-	0.	5	1.5	-	0.0
Iraq	2	0.5	-	0.	2	0.6	-	0.0
Congo DR	1	0.2	-	0.	1	0.3	-	0.0
Somalia	1	0.2	1	4.	3	0.9	-	0.0
Pakistan	-	0.0	3	13	-	0.0	2	100
Togo	-	0.0	-	0.	1	0.3	-	0.0
Total	**407**	**100**	**22**	**10**	**326**	**100**	**2**	**100**

Source: Migration Department, Ministry of Internal Affairs

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

None in 2005 (2004:0).

10 Persons returned on safe country of origin grounds

None (2004: 27).

11 Number of applications determined inadmissible

9: 4 from Russian Federation, 2 Belorussians, 1 Kyrgyz, 1 Azerbaijani, 1 Georgian. (2004: 1)

12 Number of asylum seekers denied entry to the territory

None (2004: None).

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

24 (2004: 37).
24 asylum seekers were detained in 2005. The Aliens Law in Lithuania does not distinguish between asylum seekers and other non-nationals entering/residing in Lithuania illegally. All categories are detained until individual consideration in the courts determines whether they should be released or benefit from alternative measures to detention. Therefore the majority of asylum seekers who enter Lithuania irregularly are detained for up to two weeks before the commencement of their procedure.

14 Deportations of rejected asylum seekers

8 (2004: 40)

3 rejected asylum seekers were deported to Russian Federation, 2 to Kyrgystan, 1 to Egypt, 1 to Kazakhstan, 1 to Azerbaijan.

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

During 2005 the International Organization for Migration Vilnius office implemented a project "Assisted voluntary return and reintegration of unsuccessful asylum seekers from Lithuania". Those that showed an interest in voluntary return were given individual consultations, providing them with relevant information on the process and programme. Those who decided to return were supplied with 75 euro repatriation allowance. During the programme, 35 foreigners returned to their countries of origin: 22 persons to Chechnya, 6 to Pakistan, 3 to Afghanistan and Vietnam, and 1 to Nigeria. A further 46 persons have been consulted on potential return and assisted in the acquisition of identity documents (the majority of these are from the Russian Federation). 4,000 leaflets about voluntary return have been distributed in the Foreigners Registration Centre, the Refugee Reception Centre, state border crossing points, and in subdivisions of migration offices. Voluntary return questionnaires have been prepared in Russian, English and Lithuanian.

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

4 (2004:0).
Under Dublin II Lithuania sent back 4 asylum seekers (3 Iraqis and 1 stateless). Lithuania also made 4 requests to other Member States, however the Migration Department does not provide information on which other states were involved or how many individuals were refused or accepted.

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

On 2 February 2005 the Minister of Internal Affairs and the Minister of Social Security and Labour issued the Order on Accommodation of Unaccompanied Minor Asylum Seekers in the Refugee Reception Centre[10], which authorizes the Refugee Reception Centre to not only accommodate unaccompanied minors, but also to act as their guardian.
In 2005, for the first time, 3 unaccompanied minors were granted refugee status in Lithuania.
No deportations to Iraq or Chechnya were carried out in 2005.

5 Legal and Procedural Developments

18 New legislation passed

On 28 October 2005 the Minister of Health Security issued the Order on Hygiene Provisions and Rules in the Foreigners Registration Centre[11].

[10] 2005 02 02 LR vidaus reikalų ministro ir LR socialinės apsaugos ir darbo ministro įsakymas Nr. 1V-31/A1-28 "Nelydymų nepilnamečių prieglobsčio prašytojų apgyvendinimo Pabėgėlių priėmimo centre taisyklės" [2 February 2005 Minister of Internal Affairs and Minister of Social Security and Labour Order No. 1V-31/A1-28 on Accomodation of Unaccompanied Minors Asylum Seekers in the Refugee Reception Center] // Valstybės žinios, 2005, Nr. 20-641
[11] 2005 10 28 LR sveikatos apsaugos ministro įsakymas Nr. V-836 "Užsieniečių registracijos centras. Higienos normos ir taisyklės" [28 October 2005 Minister of Health Security Order No. V-836 on Hygiene Provisions and Rules in the Foreigners Registration Center] // Valstybės žinios, 2005, Nr. 135-4863

According to 2 February 2005 Minister of Internal Affairs and Minister of Social Security and Labour Order on Accommodation of Unaccompanied Minors Asylum Seekers in the Refugee Reception Centre[12], the Refugee Reception Centre is empowered to act as guardian. This entails the *de facto* compulsory accommodation of children in the Refugee Reception Centre till the age of majority and excludes them from access to the permanent guardianship system, including placement of children in foster families.

On 28 April 2005 the Amendment of Art. 6 of the Law on Health Insurance[13] was passed. According to Article 6 of the Law on Health Insurance, after the period of social integration health insurance paid by the State is provided to all refugees granted refugee status, and to those refugees granted subsidiary protection, or temporary protection - working in Lithuania, children, single parents, pregnant women, particularly ill persons, and persons at the age retirement. Providing health insurance at least for the most vulnerable groups of foreigners in practice filled the gap in social welfare system and should be regarded as a positive development.

28 October 2005 Minister of Health Security Order on Hygiene Provisions and Rules in the Foreigners Registration Centre[14] establishes detailed hygiene requirements for the premises concerned, the distribution of hygiene items to foreigners, the nutrition and the health assistance systems and improves the reception conditions in the Foreigners Registration Centre.

19 Changes in refugee determination procedure, appeal or deportation procedures

No developments.

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

On 15 July 2005 Vilnius District Administrative Court in its decision[15] balanced the defendant's family relations in Lithuania against his threat to national security and public order and concluded that the refusal to issue him with a residence permit was not necessary in a democratic society.

In 2005 there was some important case law relating to the detention of asylum seekers.

- On 18 March 2005 the Supreme Administrative Court in its decision[16] stated that non-nationals could be detained prior to deportation even if the execution of this deportation is suspended[17].
- On 6 May 2005 the Supreme Administrative Court in its decision[18] stated that non-nationals granted temporary territorial asylum should not be detained on the grounds of illegal stay in Lithuania.

[12] 2005 02 02 LR vidaus reikalų ministro ir LR socialinės apsaugos ir darbo ministro įsakymas Nr. 1V-31/A1-28 "Nelydymų nepilnamečių prieglobsčio prašytojų apgyvendinimo Pabėgėlių priėmimo centre taisyklės" [2 February 2005 Minister of Internal Affairs and Minister of Social Security and Labour Order No. 1V-31/A1-28 on Accomodation of Unaccompanied Minors Asylum Seekers in the Refugee Reception Center] // Valstybės žinios, 2005, Nr. 20-641

[13] 2005 04 28 LR sveikatos draudimo įstatymo 6 straipsnio pakeitimo įstatymas Nr. X-178 [28 April 2005 Amendment of Art. 6 of the Law on Health Insurance No. X-178] // Valstybės žinios, 2005, Nr. 61-2159

[14] 2005 10 28 LR sveikatos apsaugos ministro įsakymas Nr. V-836 "Užsieniečių registracijos centras. Higienos normos ir taisyklės" [28 October 2005 Minister of Health Security Order No. V-836 on Hygiene Provisions and Rules in the Foreigners Registration Center] // Valstybės žinios, 2005, Nr. 135-4863

[15] 2005 07 15 Vilniaus apygardos administracinio teismo sprendimas Nr. III-27-20/2005 [15 July 2005 Vilnius District Administrative Court Decision No. III-27-20/2005]

[16] 2005 03 18 Lietuvos Vyriausiojo administracinio teismo sprendimas Nr. N7-809-05 [18 March 2005 Lithuanian Supreme Administrative Court Decision No. N7-809-05]

[17] No maximum period of detention prior to removal is established in the Law on the legal status of aliens.

- On 13 July 2005 the Supreme Administrative Court in its decision[19] stated that families with children should not be detained if their identities were established and they did not constitute a threat to national security and public order in Lithuania.

21 Development s 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

No developments.

6 The Social Dimension

23 Changes in the reception system

On 28 October 2005, the Minister of Health Security issued the Order on Hygiene Provisions and Rules in the Foreigners Registration Centre[20], which establishes hygiene requirements for the premises and services of the Foreigners Registration Centre.
The extent to which the Lithuanian reception system complies with the Reception Directive still is questionable for the following reasons:

- The Foreigners Registration Centre definitely lacks the character of a social institution; neither social nor psychological trained staff have been employed in the Centre.
- Once accommodated in the Centre, asylum seekers with special needs, particularly women, children, the elderly, the traumatised and the disabled find themselves in a very poor environment surrounded by uniformed border guards in close proximity to detained irregular migrants.
- The nutrition system is centralised in the Foreigners Registration Centre, it does not always provide religious or cultural dietary requirements.
- The medical unit, located in the Foreigners Registration Centre, provides only minimal health care services, while access to hospitals and services of specialists are available only in emergency cases. Neither psychological, nor mental health services are available in the Centre.
- The allowance for minor expenses of 25 Litas (approx. 7 Euro) is exceptionally modest, leaving asylum seekers unable to satisfy their basic needs (e.g., proper food, health care, clothing, school necessities).

24 Changes in the social welfare policy relevant to refugees

On 28 April 2005 the Amendment of Art. 6 of the Law on Health Insurance[21] was passed. According to Article 6 of this law, after the period of social integration, State funded health insurance will be provided to all refugees granted refugee status. It will also be provided to those granted subsidiary and temporary protection, those working in Lithuania, children, single parents, pregnant women, particularly ill persons, and those of retirement age.

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[18] 2005 05 06 Lietuvos Vyriausiojo administracinio teismo sprendimas Nr. N62-962-05 [6 May 2005 Lithuanian Supreme Administrative Court Decision No. N62-962-05]
[19] 2005 07 13 Lietuvos Vyriausiojo administracinio teismo nutartis Nr. N6-1514-05 [13 July 2005 Lithuanian Supreme Administrative Court Decision No. N6-1514-05]
[20] 2005 10 28 LR sveikatos apsaugos ministro įsakymas Nr. V-836 "Užsieniečių registracijos centras. Higienos normos ir taisyklės" [28 October 2005 Minister of Health Security Order No. V-836 on Hygiene Provisions and Rules in the Foreigners Registration Center] // Valstybės žinios, 2005, Nr. 135-4863
[21] 2005 04 28 LR sveikatos draudimo įstatymo 6 straipsnio pakeitimo įstatymas Nr. X-178 [28 April 2005 Amendment of Art. 6 of the Law on Health Insurance No. X-178] // Valstybės žinios, 2005, Nr. 61-2159

25 Changes in policy relating to refugee integration

No developments.

26 Changes in family reunion policy

Family reunification provisions set out in the Legal Status of Aliens Law (29 April 2004) raise serious concerns with regard to their conformity with the EU Family Reunification Directive. According to Art. 30 of the Law on the Legal Status of Aliens, the children of refugees do not have a right to reunification with their parents. Asylum seekers granted refugee status have a right to family reunification only after two years of legal residence in Lithuania.

Art. 30 of the Law on the Legal Status of Aliens states that refugees granted subsidiary protection, or temporary protection do not have a right to family reunification. Conversely, Art. 43 of the Law on the Legal Status of Aliens states that the opposite is the case. This contradiction has not been resolved in practice, as in 2005 there were no cases of refugee family reunification.

7 Other Policy Developments

27 Developments in resettlement policy

Lithuania does not operate any resettlement programmes.

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 2005

A coalition Government consisting of the Lithuanian Social Democrats, Social Liberals, Labour Party and Party of Farmers was in power in 2005. The Prime Minister was a Social Democrat.

32 Governmental policy vis-à-vis EU developments

In spite of the provision in the Law on the Legal Status of Aliens stating that Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers has already been transposed into national law, problems in the practice are still observed. The implementation of this and other new directives still needs to be enforced by the Government.

Under the 29 April 2004 Law on the Legal Status of Aliens the Foreigners Registration Centre has become the only accommodation facility for all asylum seekers except for unaccompanied minors in Lithuania. The Refugee Reception Centre, which is considered to be a social institution and before the reform accommodated asylum seekers for most of asylum procedure, started to accommodate only refugees granted asylum in Lithuania and unaccompanied minors.

33 Asylum in the national political agenda

Asylum has not been widely discussed in the political agenda.

Biography

Ms. Migle Cirbaite, Mr. Laurynas Bieksa

LITHUANIAN RED CROSS

The main aim of the Lithuanian Red Cross is to alleviate human suffering, to preserve life and health and to ensure respect for the human being irrespective of his/her nationality, racial origin, faith or political views.

WWW.REDCROSS.IT

LUXEMBOURG

1 Arrivals

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

Table 1:

Month	2004	2005	Variation +/-(%)
January	131	60	- 54 %
February	193	84	- 56 %
March	188	94	- 50 %
April	141	75	- 47 %
May	136	67	- 51 %
June	127	70	- 45 %
July	127	75	- 41 %
August	112	59	- 47 %
September	117	74	- 37 %
October	98	57	- 42 %
November	95	39	- 59 %
December	110	49	- 55 %
Total	**1,575**	**803**	**-49 %**

Source: Ministry of Foreign Affairs and Immigration

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

Table 2:

Country	2004	2005	Variation +/-(%)
Kosovo	259	149	- 42 %
Serbia & Montenegro	102	70	- 31 %
Russia	52	54	+ 4 %
Nigeria	330	45	- 86 %
Iran	59	41	+ 31%
Algeria	69	39	- 43 %
Bosnia & Herzegovina	35	36	+ 3%
Albania	48	33	+ 31%
Others	*621*	*336*	*- 46%*

Source: Ministry of Foreign Affairs and Immigration

3 Persons arriving under family reunification procedure

No figures available.

4 Refugees arriving as part of a resettlement programme

Luxembourg does not operate any resettlement programmes.

5 Unaccompanied minors

22 unaccompanied minors (20 boys and 2 girls) arrived in 2005, mainly from West African countries (2004:109).

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	2004				2005			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	1,508	79			811	55		
Convention status	82	4			97	7		
Subsidiary status (humanitarian status)	219	12			206	14		
Tolerated stay	88	5			368	25		
Total	**1,897**				**1,482**			

Source: Ministry of Foreign Affairs and Immigration

Comments
There is no distinction in the statistics between first instance and 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

2005: 97 persons (40 cases) were granted Convention refugee status
2004: 82 persons (47 cases) were granted Convention refugee status

Source: Ministry of Foreign Affairs and Immigration

Comments
The statistics make no distinction between the first instance and the appeal stages, nor do they provide a breakdown of nationality/country of origin.

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

In 2005, 368 persons were granted a 'tolerated' status, which is granted when return is technically impossible (due to illness, lack of travel documents, etc.). The asylum seeker is permitted to stay until circumstances change sufficiently to enable return. Beneficiaries of this status are not allowed to work. No country breakdown is available but over half of the beneficiaries were minorities from Kosovo.

206 persons were granted residence permits on humanitarian grounds, which included the right to work for the duration of the residence permit. No country breakdown is available but the majority of beneficiaries were of ex-Yugoslavian origin.

Source: Ministry of Foreign Affairs and Immigration

Comment
There is no distinction in the statistics between first instance and appeal and there is no breakdown according to nationality/country of origin.

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

No figures available.

10 Persons returned on safe country of origin grounds

No figures available.

11 Number of applications determined inadmissible

2005: 21 applications = 37 persons (2004: 10 applications = 22 persons)

12 Number of asylum seekers denied entry to the territory

No figures available. (3 persons in 2004)

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

There are no official figures available on the number of detainees.
The detention centre where asylum seekers are detained is a part of Luxembourg prison and has a capacity of 35 beds. The maximum length of detention is 3 months. Detainees are first detained for 1 month but this can be prolonged twice if return to the country of origin is technically impossible, which is usually due to the lack of travel documents. After three months detainees are released if the return is not feasible and ordered to leave the country within 2 days. However, if they do not leave within two days, they can be detained again shortly after release as a result of having no official authorisation to remain in Luxembourg.

Detainees are usually Dublin II cases (either waiting to be transferred to the country responsible for their asylum claim, or awaiting removal), undocumented persons staying in Luxembourg or those passing through Luxembourg on the way to other EU countries as well as who have been refused asylum.

However as of May 2006 when the new law on asylum and complementary protection came into effect, the maximum period of detention for rejected asylum seekers awaiting return will be increased from 3 to 12 months.

14 Deportations of rejected asylum seekers

2005: 310 refused asylum seekers were returned – 166 returned voluntarily and 144 were expelled, mainly to Kosovo, Montenegro, Albania, Serbia, Macedonia, and Bosnia-Herzegovina.
(2004: 381 refused asylum seekers returned – 325 voluntary returnees and 56 expelled persons; main countries: Montenegro, Kosovo, Serbia, Bosnia and Herzegovina, Albania)

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

No figures available. Caritas is not aware of any existing repatriation programmes for persons with permission to stay in Luxembourg.

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

The official government statistics state that 257 persons were not admitted into the asylum procedure in Luxembourg due to the Dublin II Regulation. However there are no figures available on actual transfers and addressed requests (either to or from Luxembourg).

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

Minorities from Kosovo (Serbs, Gorani and Bosnians and Albanians from North Mitrovica) were of special concern to NGOs. Caritas demanded that the Ministry of Foreign Affairs and Immigration give a tolerated status to this group. This was granted and has been prolonged several times, currently until 30 November 2006.

Another group of special concern were refused asylum seekers who came to Luxembourg during 1998 and 1999. Caritas has done a lot of advocacy work in order to have the status of this group resolved – demanding that a residence permit should be given to them on the grounds of the duration of their stay in Luxembourg and their level of integration. This advocacy remains one of Caritas' main objectives for 2006.

Monitoring minors continued to be an important task in the context of Caritas' Passepartout project for young people. This project offers counselling regarding education, leisure activities, and vocational training, as well as providing guardianship for minors.

Refugees with mental health problems were of special concern in 2005. In close collaboration with psychologists and psychiatrists from the Mental Health Centre, we organised care for 8 persons with different statuses (asylum seekers, recognized refugees, refused asylum seekers).

5 Legal and Procedural Developments

18 New legislation passed

The draft of the new law on asylum and complementary protection was discussed in 2005, and was finally approved by parliament in early 2006. The law was passed on 5 May 2006 (Loi du 5 mai 2006 relative au droit d'asile et à des formes complémentaires de protection). This law changes the protection regime by introducing complementary forms of protection: subsidiary protection, tolerated status and temporary protection. If the demand for protection does not fall under the criteria defined by the Geneva Refugee Convention, other forms of protection will be considered.

The new law also transposes the following EU directives into the national asylum law: the Receptions Directive, the Qualification Directive, the Procedures Directive and the Temporary Protection Directive. It is too early to make a statement on the effects of transposing this legislation into national law.

19 Changes in refugee determination procedure, appeal or deportation procedures

The new law passed on 5 May 2006 differentiates between a normal and an accelerated procedure. In cases where the accelerated procedure is applied, as well as in the case of inadmissibility, only one appeal is possible, whilst in the normal procedure it is still possible to appeal at both stages of the procedure. The abolition of the second appeal was one of the main points in the new law contested by NGOs and the State Council.

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

Not available.

21 Development s 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

In March 2006 a bilateral agreement was signed between Nigeria and Luxembourg. This agreement permits the Luxembourg authorities to seek the support of the Nigerian embassy in Brussels in matters concerning the identification and repatriation of asylum seekers of Nigerian origin.

6 The Social Dimension

23 Changes in the reception system

No changes.
However, the new law on asylum and complementary protection that was passed in May 2006 provides a Grand ducal regulation, which will enable the transposition of the EU Reception Directive.

24 Changes in the social welfare policy relevant to refugees

As of April 2006 every asylum applicant (adults and children) receives 100 EUR in cash to buy clothes. If the asylum seeker requests this kind of support again, and the need is confirmed by the Ministry of Family, this financial support can be given every 6 months for people who are in the asylum procedure and those who have a tolerated status. After renewal this support will amount to 50 EUR per adult and 100 EUR per child under the age of 18. This support will be refused if the Ministry of Family becomes aware that the applicant is employed, if the applicant uses a car (even if they are not the legal owner), or if the applicant earns money under the auspices of the new law on asylum providing temporary occupation for asylum seekers (see Q.30). The Red Cross provides Vouchers for clothes twice a year.

25 Changes in policy relating to refugee integration

It is estimated that 39% of the total population of Luxembourg are foreign nationals, in communes where the foreign population exceeds 20% consultation commissions exist to liase between non-nationals and the state. In order to promote integration on the local community level, the Ministry of Family and Integration together with two NGOs undertook to enhance the work of existing, often badly run, commissions. The Ministry plans to offer training for members of foreigners' commissions, responsible politicians and commune employees. Flyers

giving details of training have been developed and will be sent to the communes shortly. The Ministry of Family and Integration also launched another project aimed at facilitating integration, in accordance with 11 common principles on integration adopted by the Justice and Home Affairs Council of the Council of the European Union on November 19, 2004. A pilot project offering intensive courses in Luxembourgish and introducing foreigners to social life in Luxembourg was set up to promote integration. The courses target residents of Luxembourg (including recognised refugees and beneficiaries of subsidiary protection) and commuters from neighbouring countries but asylum seekers are excluded.

26 Changes in family reunion policy

No developments.

7 Other Policy Developments

27 Developments in resettlement policy

Luxembourg does not operate a resettlement programme.

28 Developments in return policy

In 2005 the number of expulsions almost equalled the number of voluntary returns, which had never happened before in Luxembourg where voluntary returns used to be several times more frequent than expulsions. The pressure the government put on people in 2003 and 2004 to apply for voluntary return can in part explain this. At that time the government also organised charter flights for returnees to Montenegro and sent back a few families by force. However, due to a lack of a clear and consistent return policy in Luxembourg the pressure upon rejected asylum seekers seemed to have lowered in 2005 and no more charter flights were organised to Montenegro. The government however continued expelling detained single men, primarily to Kosovo (except minorities), and to Montenegro.

29 Developments in border control measures

No developments.

30 Other developments in refugee policy

The new law on asylum that came into force in 2006 brought about the following changes:

- Asylum seekers can work if they have been in the asylum procedure without a decision for at least 9 months.
- The coming grand-ducal regulation will provide for vocational training for asylum seekers.
- The maximum length of detention has been increased from 3 to 12 months.
- The second appeal in case of inadmissibility or in case of accelerated procedure has been abolished.

8 Political Context

31 Government in power during 2005

Coalition of socialists and Christian-socialists

32 Governmental policy vis-à-vis EU developments

Very much in favor of EU harmonization

33 Asylum in the national political agenda

During 2005 the new law on asylum and complementary protection was an important issue in the national political agenda. Two issues in particular created a lot of debate – the maximum length of detention (12 months) and the abolition of the second appeal in the asylum procedure (in inadmissibility and accelerated procedure cases). Even though the State council was opposed to these two articles, the law was nevertheless approved. The Refugee council, an umbrella organisation of all NGOs dealing with asylum seekers, also expressed their opposition towards the new law.
In early 2006 the issue of detention became particularly significant after a fire set by a group of detainees in the detention centre resulted in one death and two serious injuries. This tragic incident gave added impetus to the government's plan to build a new detention centre, as a result of which asylum seekers will no longer be housed in a prison block but in a separate building offering more dignified conditions. Several NGOs will consult with the Ministry of Foreign Affairs and Immigration regarding the construction plans and conditions in the detention centre.

Biography

Ana-Marija Soric

CARITAS LUXEMBOURG

- Through its assistance to refugees, caritas takes a stand for and with people forced to leave their country and seeking refuge in Luxembourg
- By offering a reception, a follow up, a mediation towards others and the defense of the elementary rights of the person
- By acting with others for a policy of asylum and immigration that contributes to an open and fairer society in Luxembourg and elsewhere.

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MALTA

1 Arrivals

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

Table 1

	2004	2005	Variation +/-(%)
Total	**997**	**1199**	**+20.3**

Source: National Statistics Office, Malta

5 Unaccompanied minors

Table 1

Nationality	Number
Somalia	8
Eritrea	8
Liberia	2
Ivory Coast	2
Sudan	1
Palestine	1
Burkina Faso	1
Total	**23**

Source: Dar is-Sliem Residential Home for Unaccompanied minor asylum seekers

Comment
DIS is the main home that unaccompanied minors are sent to. These figures reflect trends accurately, but may not exactly record the number of unaccompanied minors arriving in Malta.
Figures are up to November 2005.

2 Recognition Rates

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

Table 5

Statuses	2004				2005			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
Refugee status	49				36		-	
Humanitarian protection	560				510		-	
Rejected	259				556			

Source: National statistics office, Malta

Comments
There is no information available as to the stage at which a status was granted. Generally, a change in status at appeal stage is extremely rare.

The JRS experienced difficulties acquiring specific information from the Maltese authorities. The information below however provides a brief (but incomplete) summary of the current situation for asylum seekers in Malta, according to JRS Malta.

The vast majority of asylum applicants come to Malta from Libya by boat, travelling in an irregular manner usually without documents. Malta's National Statistics Office listed 1,199 immigrants for 2005, an increase from 997 in 2004. The largest nationality groups come from Somalia, Eritrea and Sudan. Most of these undocumented migrants apply for refugee status shortly after their arrival in Malta.

Upon apprehension by the immigration authorities, immigrants are registered before being taken directly to one of several detention centres. Detainees are given a form in English with which to file an application for asylum in Malta. The Office of the Refugee Commissioner interviews each applicant. They may recommend refugee status, humanitarian protection or rejection of the application. Humanitarian protection is normally granted to people who cannot return home safely, usually due to violent conflict in their country of origin (e.g. in the case of Somali asylum seekers).

Applicants are interviewed in chronological order, according to the date of their arrival in Malta. As most immigrants arrive between June and October, it not unusual for immigrants arriving later in the year to wait up to 9 or 10 months for an interview.

Asylum seekers are detained pending the final outcome of their application, which may take months; those whose application is still pending after 12 months are released to live in the community. National immigration law does not place a time limit on detention, but it is government policy that no immigrant can be detained for more than 18 months. Immigrants considered vulnerable are to be released as early as possible but there are cases where clearly vulnerable immigrants such as young children and pregnant women have been detained for weeks, if not months. In cases where vulnerability is harder to establish, such as that involving people with disabilities or serious illness, months can go by before they are released.

Detainees live in closed detention centres administered by the Detention Service and the security forces. Conditions in detention are poor and do not meet internationally recognised standards. All the centres are crowded and offer little or no privacy. Women are detained with men and all centres house detainees at different stages of their proceedings. Detainees cannot engage in any kind of constructive activity. They are also deprived of access to information about the procedures followed to determine their application for protection and about their rights, and they face serious difficulties when seeking to access basic services, like healthcare and legal assistance.

Once released, immigrants are offered accommodation, food, and some initial financial aid for a few days at open centres. Once the financial aid ends, immigrants must provide for themselves.
Quality of life after detention depends a great deal on the asylum application outcome. Those granted refugee status have the right to a residence permit and a Convention travel document, social benefits, education and access to state medical services, as well as the possibility of family reunification. They are also granted a permit to work in Malta. Immigrants with humanitarian protection are granted free state health services and education, a work permit, and permission to remain until the possibility of removal to a safe third country or country of origin. All of these are benefits rather than rights, granted on a purely discretionary basis.

Asylum applicants whose case is not yet decided have the right to remain in Malta until their application is finally determined. They also have a right to free education and to access state medical services. In theory asylum seekers have the right to access the labour market if their application has not been decided within 12 months, but in practice, the necessary work permit documents are expensive to obtain, valid for only 3 months at a time, and issued only after long delays.

Rejected applicants who are released from detention are given a temporary visa pending their removal from the country. Few rejected asylum seekers are removed and in practice, remain on the island indefinitely without a work permit and without the right to any government aid or benefits, apart from accommodation and food at one of the State-run Open Centres. Many of these resort to illegal and temporary work placements in order to survive, and depend largely on charity.

Biography

Sarah Grech

JESUIT REFUGEE SERVICE MALTA

To accompany, serve and defend the world's forcibly displaced people.

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NETHERLANDS

1 Arrivals

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

Table 1

Month	2004	2005	Variation +/-(%)
January	976	886	-10%
February	836	933	+10%
March	940	877	-7%
April	681	903	+25%
May	627	747	+16%
June	772	938	+18%
July	672	837	+20%
August	787	984	+20%
September	849	1,164	+27%
October	904	1,436	+37%
November	956	1,459	+34%
December	782	1,183	+34%
TOTAL	**9,782**	**12,347**	**+26%**

Source: IND

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

Table 2

Country	2004	2005	Variation +/-(%)
Iraq	1,043	1,630	+56%
Somalia	792	1,315	+66%
Unknown	889	1,212	+36%
Afghanistan	688	902	+31%
Iran	450	557	+24%
Burundi	405	419	+3%
Colombia	170	342	+101%
Sudan	255	339	+33%
Serbia & Montenegro	395	336	-15%
China	265	333	+26%
Others	*4,262*	*4,972*	+17%

Source: IND

3 Persons arriving under family reunification procedure

363 persons (2004:468)

Source: IOM Statistics

4 Refugees arriving as part of a resettlement programme

517 persons (2004:232)
Source: IOM Statistics

5 Unaccompanied minors

Table 3

Nationality	2004	2005
China	99	59
India	57	88
Somalia	46	28
Burundi	32	20
Angola	28	23
Iraq	27	39
Afghanistan	23	20
Other	282	238
Total	**594**	**515**

Source: IND

2 Recognition Rates

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

Table 4

Statuses	2004				2005			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded					8,084	47.8	838	42.4
Convention status					964	5.7	3	0.15
Subsidiary status					7,854	46.5	1,137	57.5
Other								
Total	**28,250**		**12,089**		**16,902**		**1,978**	

Source: IND

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

No figures available.

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

No figures available.

10 Persons returned on safe country of origin grounds

No figures available.

11 Number of applications determined inadmissible

No figures available.

12 Number of asylum seekers denied entry to the territory

No figures available.

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

No figures available.

14 Deportations of rejected asylum seekers

Address check: 9,071. Removal: 1,323, monitored departure: 1,966. Total 2005: 3,289 (2004:3,842).

Under the auspices of the "project return" that came into effect in July 2004 a second return centre with a capacity of 350 was opened in May 2005 in Vught. Initially this project aimed to facilitate the return of 26,000 asylum seekers who applied for asylum before April 1st 2001 who were expected to receive a negative decision on their application within three years. This number has subsequently grown due to the inclusion of other groups such as Iraqis and unaccompanied minors (who have since turned 18) who submitted their application before 2001. As of 1st January 2006, a total of 16,851 non-nationals have departed, or had their cases otherwise resolved, under this project. 3,556 of these left the Netherlands in a 'controlled' way, with assistance from the IOM (2,790), 462 were forcibly returned and 313 had a monitored departure. A further 5,754 are no longer registered with the authorities and it is not clear whether they are still in the country. 7,508 of the total have been granted some form of status, and 24 died before a decision could be made.
Many of those who are awaiting the decision on their cases resolved have been in the Netherlands for five years or more, and have children who were born there.

source: Jaarrapportage Vreemdelingenketen 2005

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

Total return with the assistance of the IOM: 3,548

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

In 2005, there were approximately 2,500 Dublin claims made by the Dutch to other countries, of these 64 percent were accepted, 2,729 claims were made to the Netherlands, of which 55 percent were accepted. It is not known how many of these were actually transferred.

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

Country policy
In 2005 the most important developments in country related asylum policy concerned asylum seekers from Iran, Ivory Coast, Somalia and Sudan

Iran
On 30 September a six month moratoria on decisions and return was introduced for homosexual Iranians, while research was conducted into their situation in Iran.

Ivory Coast
On 28 Nov. 2005 the moratoria on return and on decisions for asylum seekers from the Ivory Coast were replaced by a policy of categorical protection. The return moratorium could not be continued because the law doesn't allow a term longer than one year.

Somalia
In February 2005 the moratorium on return was extended to cover all Somali asylum seekers from southern and central Somalia. This was the result of a second interim measure motivated by a European Court of Human Rights ruling on 31 August 2004 and a decision on the importance of this interim measure from the Dutch Conseil d'Etat on 17 December 2004.
As the 16 June 2004 moratorium had come to an end, a policy of categorical protection was introduced for southern and central Somalia on 25 June 2005. This will remain in force at least until the final rulings of the European Court in approximately a dozen Somali cases.

Sudan
The categorical protection that was offered to Sudanese people from the south and from the Nuba Mountains was withdrawn on 1 September 2005. These asylum seekers are thought to have a relocation alternative in Khartoum if they have no individual reasons for seeking protection. Asylum seekers from Darfur still enjoy categorical protection.

Afghanistan
Since the start of forced returns of failed Afghani asylum seekers in April 2004, 50 have been returned (as of February 2006).

5 Legal and Procedural Developments

18 New legislation passed

See ECRE-Country Report 2004 about the implementation of the Directive on Temporary Protection in 2004/ 2005.

There were no other important changes made to legislation in 2005.

19 Changes in refugee determination procedure, appeal or deportation procedures

There were no noteworthy changes in these procedures in 2005.

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

Case law with regard to persecution/prosecution
On 25 October 2005, No. 200504250/1, the AJD (Administrative Jurisdiction Department of the Council of State) judged that the matter of dispute in asylum cases should not be whether the asylum seeker is persecuted or prosecuted for alleged crimes, but whether the punishment he risks is disproportionately severe or discriminatory according to local standards.

Case Law with regard to domestic violence and the Refugee Convention
In the case of a Nigerian woman whose asylum request was based on the domestic abuse she suffered from her husband the AJD judged on 23 November 2005, No. 200505627/1, that the application was not based on convention grounds. This was because firstly, the ill treatment was not based on one of the convention grounds, and secondly the refusal of the authorities to intervene or to prosecute the offender was not based on the fact that the asylum seeker was a woman. The Nigerian authorities only intervene in this kind of private matter if the ill treatment is far more severe. The fact that the ill treatment suffered by the applicant is considered here (in the Netherlands) as unacceptable and severe enough for police intervention does not change the fact that the ill treatment is not based on convention grounds.

Dublin Regulation

The AJD judged on 28 June 2005, No. 200502662/1 that article 16 of the Dublin Regulation has direct effect. Article 249 of the EC-Treaty states that the provisions of the Regulation, with certain exceptions, have direct effect. Article 16 is not one of these exceptions. The district court had judged that article 16 didn't have direct effect, as this article is explicitly addressed to the member states.

November 15th 2005, No. 200505554/1, the AJD judged that there is no reason why the Netherlands should have taken responsibility for the asylum application in the meaning of article 3(2) of the Dublin Regulation. The asylum seeker concerned failed to deliver concrete indications that Greece would violate its international responsibilities with respect to the Refugee Convention and the ECHR. Important in this case is that the asylum seeker hadn't yet followed an asylum procedure in Greece.

In three asylum cases where Greece was found to be the member state responsible for the status determination, the district court of Zwolle had to judge on the request for suspensive effect on appeal. The court considers that as a result of information delivered by Amnesty International and the UNHCR concerning the asylum determination procedure in Greece, the European Commission doubted the compliance of Greece with international legal agreements and started an investigation. This investigation is still on going, as a result of which the IND decided to ask the court to adjourn the court judgments without however giving suspensive effect to these appeals. The court considers that the reason the IND asked the court to hold these cases is connected to whether Greece has a careful asylum procedure. For this reason the court granted the appeal. (the district court of Zwolle, March 30th 2006, AWB 06/4489; April 5th, AWB 05/32703; April 10th, AWB 06/7567).

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

Since last years report no new policy developments took place in the Netherlands with regard to article 1F.
Interesting case law developed with regard to cases in which article 1F was no longer a matter of dispute. These were put forward on the understanding that there were reasons why the asylum seeker committed human rights violations. In these cases the only point at issue was whether the fact that the person was not entitled to refugee status, but could also not be expelled, as this would be a violation of article 3 ECHR, would be disproportionate. The district court of Breda judged on May 16th 2006 (AWB 05/30472) that the expected period that it will be impossible to expel the person should be taken into consideration when considering whether the denial of a residence permit based on article 1F would be (dis) proportionate. This jurisprudence is a consequence of the AJD decision of 2 July 2004 in which the AJD judged that article 3 ECHR should be considered in cases where the asylum request was rejected on the basis of article 1F and that in cases in which a person should be denied a residence permit while he could not be expelled because of a real risk of a violation of article 3 ECHR should be limited as far as possible.

22 Developments regarding readmission and cooperation agreements

No developments

6 The Social Dimension

23 Changes in the reception system

The EU Reception directive was implemented in February 2005 (see CR 2004 for details).

In 2005 the capacity of the reception system was further reduced from 45,000 to 30,000 places. As in previous years many asylum seekers had to move in order to keep the remaining centres as full as possible.
A new reception system was introduced in January 2005. The reception centres have been divided into 'orientation and integration' centres and 'return' centres. Those whose application is not rejected in the 48-hour procedure in the application centre are sent to an orientation and integration centre. If they are granted asylum, they will continue to be housed in the orientation and integration centre, until they can be placed in regular housing. As soon as an asylum seeker receives a negative decision and appeals, they will be sent to a return centre, here they will be obliged to follow a programme to stimulate repatriation.
In 2004 a pilot started whereby asylum seekers with a status in the centres could start taking professional Dutch lessons, and orientation courses on Dutch society and the labour market. As soon as the new Integration law comes into force most of the elements of the pilot will become a structural part of the new reception system. Refugees will be able to prepare themselves in advance for parts of the obligatory integration exam.
After many protests and parliamentary questions the financial allowance of asylum seekers was finally raised for the first time since 1997. Following the implementation of the European reception directive the minister raised the allowance by one euro per week. The Parliament was not satisfied with this and the minister promised an investigation to see if the financial allowance is sufficient. As a result she was forced to admit that the allowance did not comply with the standards of the National Institute for Budget Information (based on the standards for a sound nutritional diet by the Netherlands Nutrition Centre). However the allowance will be raised gradually, and will not comply with these standards until 2009.

24 Changes in the social welfare policy relevant to refugees

Apart from the changes under integration and reception there were no significant developments in welfare policies. However, the transfer of competence from the Aliens Police to the Immigration and Naturalisation Service (IND) with respect to the issuance of documents and renewal of permits, caused serious logistical chaos in 2004. As a result, documents of migrants and refugees expired and were not renewed in time. Many migrants and refugees had serious problems accessing social benefits and/or lost their jobs, as they did not have valid documents. Some of these problems were solved in 2005, but in many cases migrants and refugees still have to wait a long time before they have the right documentation.

25 Changes in policy relating to refugee integration

Introduction programmes and language courses

As of 15 March 2006 non-nationals aged 16 years or older who want to be admitted to the Netherlands for family reunification must demonstrate that they have passed a basic integration exam. This additional condition for admission to the Netherlands was introduced in the Integration in the country of Origin Act (Wet inburgering in het buitenland (Wib)). Based on various international agreements certain groups are exempted from this requirement (for example EU-nationals). The requirement does not apply to reunification with a partner who holds a residence permit on asylum grounds nor in cases where there is proof of medical grounds that make it permanently impossible to pass the exam. However, family members of refugees who have acquired Dutch citizenship are not exempted.

The Dutch government offers exercise materials (at a price of € 63.90 in the Netherlands) and offers computer-access at a Dutch embassy for the exam (fee € 350.00). The Act's official aim is to better prepare those moving to the Netherlands. However, in practice the Act functions as a selection tool to prevent immigration of partners from Morocco and Turkey who have often only enjoyed basic education.

Plans

As of 1 January 2007, the government will introduce a new Act on Integration. The main elements of the new policy will be the introduction of free market mechanisms in providing integration courses, and the obligation to pass the integration test at a certain level. The proposal for the new Act is now being discussed in Parliament. Research, conducted at the request of Parliament, shows that many problems can be expected during the implementation of the Act. It is therefore likely that the Act will be amended at the adoption stage.

The current proposal introduces a new integration test for migrants (newcomers and those already resident) in the Netherlands. Also migrants who obtained citizenship can in some cases fall under the scope of the Act (this is a point which is still under discussion). All persons falling under the scope of the Act are required to attain a certain level of Dutch as a second language. Some nationalities and persons who have certain Dutch diplomas are exempted. Persons who have passed an integration exam abroad (see above) are given 3,5 years to pass the exam at the advanced level. Persons who are admitted under the asylum procedure and old comers are given five years. If someone does not pass the exam within the given period, without a valid reason, a penalty can be imposed, and social security may be curtailed for those receiving social benefits. Passing the exam is also a condition for obtaining a permanent residence permit. As long as the exam is not passed, residence permits remain revocable.

Once the Integration Act comes into effect, the contents of the citizenship exam will be identical to the integration exam: passing the integration exam will give an exemption from the citizenship exam.

Access to employment and employment support

Dutch labour market policies of the last years can be characterised by the following:

- More and more emphasis on individual responsibility; both in national and local policies there has been a policy shift away from group-specific initiatives;
- An increasing role of the municipalities as a result of the 2004 implementation of the Labour and Income Act. This Act states that those entitled to social security benefits (for almost all refugees after obtaining there status/ permit) should accept any kind of work, regardless of one's level of education. This has the effect of making the financing of vocational training very problematic in practice.

In part due to research, but also as a consequence of pressure from the Parliament at the national level, the Ministry of Social Affairs and Employment has been receptive to the idea of:

- A special programme for highly qualified refugees; this is still under construction, and (in spite of the principles of the Labour and Income Act) is designed to enable special paths to work for specific highly qualified groups of refugees (i.e. doctors, technicians and teachers);
- A general programme carried out over a three year-period (2005-2008) aimed at matching 2,600 refugees to adequate employment. At the end of 2004, the Dutch Council for Refugees launched an Employment Offensive for Refugees. This programme is officially called the 'Banenoffensief', and was jointly designed by three major refugee-assisting organisations in the Netherlands: the Dutch Council for Refugees, the UAF Foundation for Refugee Students and Emplooi, in cooperation with the national (governmental) employment service. The Ministry of Social Affairs co-finances the project.

26 Changes in family reunion policy

In 2005 a new requirement was proposed in the case of family reunion or family formation. Family members older than 16 years need to pass an exam at the embassy in basic Dutch before they are allowed to join their family members in the Netherlands. Because the parliament doubted the scientific value of the test, the implementation of the law was delayed. It came into force in March 2006. Family members of refugees are exempted. But family members of asylum seekers with a regular status (like medical or some humanitarian statuses) are not exempted.

The high fees for residence permits still provoke a lot of discussion. The cost of permits and yearly renewal as lowered from July 2005, but the cost of the necessary entry visa for family reunion or family formation were raised from €50 to €803. Family members of refugees will be exempted in most cases from these enormous fees.

A legal procedure was started by 25 migrant organisations (including the Dutch Council for Refugees) against the high fees. In February 2005 a court ruled that the high fees should not apply to Turkish citizens because of the Association treaty with Turkey, but that they could be applied in other instances. Both the State and the migrant organisation have appealed the verdict. The new verdict is expected in 2006.

7 Other Policy Developments

27 Developments in resettlement policy

For the first time in many years the Netherlands was able to resettle their quota of 500 refugees. The Dutch government had sent selection missions to Uganda (for mainly Congolese refugees), Ecuador (Columbian refugees), Ghana (Liberians) and Kenya (Sudanese and Ethiopian refugees). In previous years the Netherlands failed to fill their quota, as over half of those nominated by UNHCR were turned down. In 2005 the resettled refugees were accommodated in ordinary reception centres for the first few months after their arrival. This

gave rise to tensions between the resettled refugees and asylum seekers. In practice the integration programme proved to be inadequate. At the end of 2005 the decision was made to house all resettled refugees from January 2006 in one specialised centre with a better integration programme.

28 Developments in return policy

See under point 23 return centres and also point 28, 2004.

29 Developments in border control measures

No developments

30 Other developments in refugee policy

No developments

8 Political Context

31 Government in power during 2005

The same as last year: coalition of CDA, VVD and D66. See report 2004.

32 Governmental policy vis-à-vis EU developments

In general the same as 2004. The Dutch government has not yet transposed the Qualification Directive. The Dutch government is positive about the practical co-operation initiatives. The Dutch government endorses proposed EU legislation that is restrictive, even if this is not part of national legislation. Thus, it supports the safe country of origin list, annex to the Procedures Directive, and the incorporation of a re-entry ban and a transfer of return decisions in the proposed Directive on return procedures. The Dutch government is critical about most of the Commission's proposal on return procedures.

33 Asylum in the national political agenda

Largely the same as in 2004. There seems to be a shift in 2006 towards a more normalised debate on asylum and migration. During the municipal elections in March 2006 the overwhelming majority of migrants voted for the PVDA (labour party), which was generally seen as a protest against restrictive migration and integration policies. Minister Verdonk, hardliner on immigration and integration, who was running for leader of the VVD party, lost the party elections to the more moderate Mark Rutte. This defeat was partly explained by the withdrawal of citizenship from VVD MP Hirshi Ali, just days before the party elections. A TV programme showed that Hirshi Ali had lied about her name and age in her application for Dutch citizenship. This was public knowledge and openly admitted by Hirshi Ali. Verdonk had made it a specific point during her campaign to be 'consistent', hinting at her harsh approach with regard to asylum seekers and migrants. On previous occasions she had withdrawn citizenship of refugees, who had come forward with their real name.

Biography

DUTCH COUNCIL FOR REFUGEES

The Dutch Refugee Council Association is an independent, broadly based professional organisation. Based on the Universal Declaration of Human Rights, it works to protect asylum seekers and refugees. This work is mainly done by its many volunteers and entails personal support and the protection of refugees' interests during admission, reception and social participation, primarily in the Netherlands.

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NORWAY

1 Arrivals

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

Table 1:

Month	2004	2005	Variation +/-(%)
January	763	473	-38.0 %
February	687	380	-44.7 %
March	734	347	-52.7 %
April	552	397	-28.1 %
May	630	382	-39.4 %
June	623	405	-35.0 %
July	703	426	-39.4 %
August	741	509	-31.3 %
Sept.	754	563	-25.3 %
October	626	541	-13.6 %
November	572	498	-12.9 %
December	560	480	-14.3 %
Total	**7,945**	**5,401**	**-32.0%**

Source: Norwegian Directorate of Immigration (UDI) www.udi.no

Comments
No conclusive explanation exists for the continued decrease in applications, but one reason may be increased knowledge amongst refugees, or those who assist refugees' passage, about stricter asylum policy passed in Norway in 2004. Specific measures to reduce the number of manifestly unfounded asylum requests were introduced in 2004, and these seem to have contributed significantly to the decrease.

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

Table 2:

Country	2004	2005	Variation %
Afghanistan	1059	466	-56.00 %
Somalia	958	668	-30.27 %
Russia	937	545	-41.84 %
Serbia and Montenegro	859	468	-45.52 %
Iraq	412	672	+38.69 %
Iran	394	279	-29.19 %
Stateless	298	210	-29.53 %
Nigeria	205	93	-54.63 %

Source: Norwegian Directorate of Immigration (UDI) www.udi.no

Comments
Increased instability in Iraq in 2005 probably accounts for the increase in applications from this country, the rest seem to be following the general trend in decreasing asylum applications to Norway.

3 Persons arriving under family reunification procedure

13,048 in 2005 (2004: 12, 716).

Source: Norwegian Directorate of Immigration (UDI) www.udi.no

4 Refugees arriving as part of a resettlement programme

Norway's current refugee quota agreed with UNHCR is 1000. In 2005 942 persons were selected for resettlement. Of these 750 actually arrived in Norway during 2005 (including some selected in 2004). 80 percent of resettled refugees were from Myanmar, the Democratic Republic of Congo and Burundi.

5 Unaccompanied minors

A total of: 291 unaccompanied minors arrived in Norway in 2005 (2004: 425)

Table 3:

Country	Numbers
Angola	5
Burundi	8
Dem. Rep. Congo	3
Ivory Coast	1
Eritrea	7
Ethiopia	9
Guinea	1
Cameroon	3
Liberia	2
Libya	1
Morocco	3
Nigeria	3
Rwanda	5
Sierra Leone	1
Somalia	72
Sudan	3
Western Sahara	2
Algeria	1
Georgia	2
Iraq	39
Iran	7
China	11
Lebanon	1
Myanmar	2
Nepal	1
Pakistan	3
Sri Lanka	15
Syria	3
Tajikistan	1
Vietnam	4

Afghanistan	36
Bosnia and Herzegovina	1
Lithuania	3
Moldova	1
Russia	16
Serbia and Montenegro	2
Hungary	1
Albania	1
Stateless	11

Source: Norwegian Directorate of Immigration (UDI) www.udi.no

2 Recognition Rates

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

Table 4:

Statuses	**2004**				**2005**			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	5069	40.5	-	-	3017	40.3	-	-
Convention status	454	3.6	-	-	579	7.7	-	-
Subsidiary status	1287	10.3	-	-	862	11.5	-	-
Humanitarian protection	1723	13.8	-	-	1073	14.3	-	-
Dismissed/Withdrawn/Dublin cases etc.	3972	31.8	-	-	1957	26.1	-	-
Total	**12,505**				**7,488**			

Source: Norwegian Directorate of Immigration (UDI) www.udi.no

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 5:

	2004				**2005**			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
Russia	84	6.5	-	-	28	4.8	-	-
Iran	73	19.2	-	-	39	13.5	-	-
Serbia and Montenegro	46	8.7	-	-	39	10.5	-	-
Stateless	41	13.9	-	-	52	25.9	-	-
Ethiopia	27	17.8	-	-	34	43.0	-	-
Iraq	27	3.3	-	-	31	3.5	-	-
Somalia	24	1.8	-	-	98	5.1	-	-
China	23	30.3	-	-	30	50.	-	-

Eritrea	13	29.5	-	-	73	45.3	-	-
Burundi	11	12.2	-	-	38	19.0	-	-
Rwanda	10	20.8	-	-	17	24.6	-	-
Syria	6	9.7	-	-	8	16.0	-	-
Sudan	5	9.6	-	-	12	30.7	-	-
Sri Lanka	0	0	-	-	8	13.1	-	-
Total	**390**			-	**507**			

Source: Norwegian Directorate of Immigration (UDI) www.udi.no

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

Table 6:

	2004				**2005**			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
Somalia	618	46.1	-	-	203	31.3	-	-
Iraq	292	35.4	-	-	192	21.9	-	-
Afghanistan	122	10.8	-	-	92	12.8	-	-
Stateless	58	19.7	-	-	32	15.9	-	-
Burundi	52	57.8	-	-	121	60.5	-	-
Liberia	20	39.2	-	-	12	26.7	-	-
Total	**1,162**		-	-	**652**		-	-

Source: Norwegian Directorate of Immigration (UDI) www.udi.no

Comments
The percentage is based on the total number of applicants from the country excluding Dublin-cases and cases that have been dismissed or withdrawn.

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

This information was not available at the time of writing.

10 Persons returned on safe country of origin grounds

This information is not available.

11 Number of applications determined inadmissible

This is not applicable to Norway. The only people determined inadmissible are asylum seekers who apply from abroad. There is no statistical information on this group.

12 Number of asylum seekers denied entry to the territory

See 3.11.

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

In 2005 the police detained 436 asylum seekers.
Asylum seekers can only be detained for four weeks at a time. This period can be renewed by the authorities, but should not exceed a total of 12 weeks unless the police consider the case to be exceptional. A small number of asylum seekers have been detained for up to two years in Norway.

Source: National Police Immigration Service / Politiets utlendingsenhet, (www.politiet.no)

14 Deportations of rejected asylum seekers

1088 asylum seekers were deported in 2005 (2004: 1,756). This does not include 867 persons who were transferred under the Dublin Convention.

Source: National Police Immigration Service / Politiets utlendingsenhet, (www.politiet.no)

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

No figures available in 2005.

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

In 2005 the National Directorate of Immigration (UDI) considered at first instance that 1,272 cases (2004: 3,267) were Dublin-cases.
Refugees under the Dublin convention where mainly returned to the following countries:

Table 7:

Germany	287
Serbia and Montenegro	277
Sweden	224
Italy	167
Romania	141

Source: National Police Immigration Service / Politiets utlendingsenhet, (**www.politiet.no**)

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

In 2005 the government decided to establish “removal centres” (or waiting centre, as these centres are not closed) for refused asylum seekers and those who for various reasons could not be returned to their country of origin. They had lost many privileges ordinarily granted to asylum seekers in 2004, such as housing and social benefits. In 2005 this applied particularly to Ethiopian, Iraqi and Somali asylum seekers.

5 Legal and Procedural Developments

18 New legislation passed

See Country Report 2004.

19 Changes in refugee determination procedure, appeal or deportation procedures

No developments.

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

No developments.

21 Development s 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

No developments.

6 The Social Dimension

23 Changes in the reception system

The government decided to establish a "removal centre" (utreisemottak), which will provide accommodation and 3 meals per day to those who have lost their accommodation as a result of the final rejection of their asylum application. These people cannot be returned immediately (in which case they would have to be sent to a closed deportation centre near the airport), but will be returned as 'soon as possible'.

24 Changes in the social welfare policy relevant to refugees

As of the 1st of September all those with refugee or subsidiary status are entitled to access a two-year introduction programme.

25 Changes in policy relating to refugee integration

See point 24.

26 Changes in family reunion policy

No developments.

7 Other Policy Developments

27 Developments in resettlement policy

No developments.

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 2005

Centre-right coalition followed by a centre-left coalition in October 2005

32 Governmental policy vis-à-vis EU developments

No developments.

33 Asylum in the national political agenda

A lot of debate arose regarding the original leader of the Islamist armed group Ansar al-Islam, Mullah Krekar. Since February 2003 he has been subject to an expulsion order, which is temporarily suspended pending Iraqi government guarantees that he will not face torture or execution upon entry.

The loss of accommodation for refused asylum seekers and who for various reasons could not be returned to their country of origin was also a cause of widespread concern. However the new government in October 2005 reversed this practice.

The forced return of 2 Somalis against the strong recommendation of UNHCR was also highly contentious.

Biography

Halstein Bagøien Moe

NORWEGIAN ORGANISATION FOR ASYLUM SEEKERS (NOAS)

NOAS is an independent NGO working for the rights of asylum seekers; as a spokesman and in handling individual cases.

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POLAND

1 Arrivals

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

Table 1:

Month	2004	2005	Variation +/-(%)
January	433	544	+25.6 %
February	379	412	+8.7 %
March	505	499	-1.2 %
April	982	477	-105.9 %
May	355	451	+ 27. %
June	433	532	+22.9 %
July	630	550	-14.5 %
August	573	638	+11.3 %
Sept.	942	822	-14.6 %
October	852	646	-31.9 %
November	958	496	-93.1 %
December	1035	796	-30.2 %
Total	**8,077**	**6,863**	**- 17.9 %**

Source: Ministry of Internal Affairs and Administration, Office for Repatriation and Aliens

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

Table 2:

Country	2004	2005	Variation +/-(%)
Russian Federation	7183	6146	-14.5 %
Ukraine	66	84	+27.7 %
Belarus	47	82	+74.7%
Pakistan	211	66	-219.0 %
Georgia	47	44	-6.2 %
India	150	36	-316.7 %
Armenia	18	26	+44.4 %
Kazakhstan	30	21	-42.6 %
Others	*328*	*258*	*-27.1 %*

Source: Ministry of Internal Affairs and Administration, Office for Repatriation and Aliens

3 Persons arriving under family reunification procedure

No figures available.

4 Refugees arriving as part of a resettlement programme

Poland does not operate any resettlement programmes.

5 Unaccompanied minors

Table 3:

Nationality	Number
Russian Federation	239
China	3
Pakistan	3
Vietnam	2
Kazakhstan	2
Belarus	2
Ukraine	1
Afghanistan	1
Liberia	1
Philippines	1
Turkey	1
Azerbaijan	1
Bahrain	1
Sri Lanka	1
Uganda	1

Source: Ministry of Internal Affairs and Administration, Office for Repatriation and Aliens

Comments
Those from the Russian Federation are mainly of Chechen nationality.

2 Recognition Rates

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

Table 4:

Statuses	2003				2004			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	670	10	-		978	11	-	
Convention status	305	4.5	10	0.2	312	3.5	23	0.3
Subsidiary status (tolerated stay)	826	12.3	14	0.2	1829	20.5	24	0.3
Total	**1,801**	**26.8**	**24**	**0.4**	**3,119**	**35.0**	**47**	**0.6**

Source: Ministry of Internal Affairs and Administration, Office for Repatriation and Aliens

Comments
The absolute number of overall decisions in 2005 was 8,901 (2004:6,710).
100% of statuses granted to applicants from Russia are to persons of Chechen origin.
Since 2003 the Polish authorities have issued a permit for 'tolerated stay'. This can be granted for one year (with the possibility of extension) and gives the right to work, education and medical insurance, but not to integration programmes as offered to Convention refugees. The numbers given this status have increased exponentially.

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 5:

Country of origin	2004				2005			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
Russian Federation	265	3.9			285	3.2		
Belarus	10	0.15			9	0.1		
Somalia	4	0.06			5	0.05		
Afghanistan	1	0.01			3	0.03		
Iran	1	0.01			3	0.03		
Sri Lanka	-	-			2	0.02		
Pakistan	5	0.07			1	0.01		
Stateless	3	0.04			1	0.01		
Liberia	-	-			1	0.01		
Georgia	-	-			1	0.01		
Syria	-	-			1	0.01		
Albania	3	0.04			-	-		
Turkey	3	0.04			-	-		
Zimbabwe	2	0.03			-	-		
Myanmar	1	0.01			-	-		
Uzbekistan	1	0.01			-	-		
Ethiopia	1	0.01			-	-		
Total	305	4.55	10		312	3.50	23	

Source: Ministry of Internal Affairs and Administration, Office for Repatriation and Aliens

Comments
The absolute number of overall decisions in 2004 was 6,710 in 2005 it was 8,901. 100% of statuses granted to applicants from Russia are to persons of Chechen origin.

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

Table 6:

Country of origin	**2004**				**2005**			
	First instance		Appeal		First instance		Appeal	
Country of origin	Number	%	Number	%	Number	%	Number	%
Russian Federation	734	10.9			1,761	19.8		
Afghanistan	23	0.34			12	0.13		
Somalia	2	0.03			8	0.09		
Turkey	9	0.13			6	0.07		
Belarus	3	0.04			5	0.06		
Armenia	4	0.06			3	0.03		
Azerbaijan	0	-			3	0.03		
Nigeria	6	0.09			2	0.02		
Total	**826**	**12.3**	**14**	**0.2**	**1822**	**20.5**	**24**	**0.3**

Source: Ministry of Internal Affairs and Administration, Office for Repatriation and Aliens

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

Persons returned on safe third country grounds were mainly those transferred under the Dublin II Regulation to other EU states, which are considered to be safe third countries. All of those transferred to other Member states under the Dublin Regulation were citizens of the Russian Federation (Chechens).

Source: Ministry of Internal Affairs and Administration, The National Headquarters of Border Guards.

10 Persons returned on safe country of origin grounds

Not applicable

11 Number of applications determined inadmissible

Not applicable

12 Number of asylum seekers denied entry to the territory

According to the Ministry of Internal Affairs and Administration and the National Headquarters of Border Guards no non-nationals have been denied entry to the territory of Poland if they declared a wish to seek asylum. Non-nationals who did not meet the requirements for gaining entry to the territory of Poland and did not claim asylum were denied entry.

Numbers are not available.

Source: Ministry of Internal Affairs and Administration, The National Headquarters of Border Guards.

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

The main grounds for detention of non-nationals were:
-Non-nationals who applied for refugee status but were not in possession of valid documents required for entrance into Poland (no passports or visa),
-Those found irregularly living in Poland,
-Those crossing the border in or out of Poland in a manner that contravenes requirements – this applies to those transferred under the Dublin II Regulation to Poland.
In the situations mentioned above: a court must issue a decision to detain a non-national for an initial period of 30 days. Non-nationals residing in a guarded/detention centre awaiting deportation who apply for asylum can be detained for an additional 90 days. If an asylum seeker receives a negative decision before either of these two respective terms has expired, their detention continues until such time as a final decision can be made.
The maximum length that an asylum seeker can be detained is one year.
In 2005 3,598 non-nationals (2004:4,472) were detained at the border (arriving and leaving Poland).
Source: Ministry of Internal Affairs and Administration, The National Headquarters of Border Guards

14 Deportations of rejected asylum seekers

Decisions on deportations given by the President of the Office for Repatriation and Aliens:
In 2005, 978 persons were issued with a deportation order (2004:670).

According to The National Headquarters of Border Guards, in 2005 113 refused asylum seekers were deported from Poland. They originated from: Russia-95, Ukraine-4, Kazakhstan-4, Belarus-3, Kyrgyzstan-2, Georgia-1, Guinea-1, Mongolia-1, Vietnam-1, Somalia-1

Source: Ministry of Internal Affairs and Administration, The National Headquarters of Border Guards, Office for Repatriation and Aliens

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

Table 7: 2004

Country returned to	Number
Russian Federation/Chechen	42
Slovakia	6
Lithuania	1
Iraq	2
Ukraine	4
Belarus	1
Estonia	1
Total:	**57**

Table 8: 2005

Country returned to	Number
Russian Federation/Chechen	132
Russian Federation/Ingushetia	15
Russian	12
Russian Federation/Kumyk	4
Georgia	2
Moldova	2
Guinea	1
Belarus	1
Total:	**169**

Comment

Assisted return programmes for asylum seekers, refugees and those with a tolerated stay permit, were provided by the Office for Repatriation and Aliens and IOM (the International Organisation for Migration). Asylum seekers who were still in the procedure and had not yet received a final decision on their application were able to apply to the Office for Repatriation and Aliens for the organisation of documents and transport and some cash to assist the repatriation process. Those who had received a final decision, irrespective of whether or not a status had been granted, could apply for IOM assistance. IOM organised documents, transport and if there is an IOM Regional Office in the country of return they can apply for funds to assist reintegration.

Source: Ministry of Internal Affairs and Administration, Office for Repatriation and Aliens

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

2,851 applications to take back asylum seekers were addressed to Poland under the Dublin II Regulation. These originated principally from Austria:957, Germany: 458, France:387, and Slovakia:361. 2,395 of these applications were accepted with 862 accepted from Austria: and 393 from Germany-. 1,196 persons were actually transferred to Poland in 2005.

Poland referred 199 applications to other member states: 74 to Austria and 42 to France. Most of these were for reasons relating to family reunification or other humanitarian reasons. 87 applications were accepted. 148 persons were transferred to the member state responsible for hearing an application in 2005, including those who had been accepted in 2004.

Of those accepted in 2005 under the Dublin II Regulation 72 persons were transferred. All were from the Russian Federation and were of Chechen nationality. They were sent under family reunification auspices to: Austria-53
Belgium-11
France-4
Norway-2
Germany-1
The Netherlands-1

Source: Ministry of Internal Affairs and Administration, Office for Repatriation and Aliens

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

No data available

5 Legal and Procedural Developments

18 New legislation passed

Two amendments to the 2003 Act on Aliens have given additional rights to those granted a tolerated stay (subsidiary) status.

- As of June 2005 those with a tolerated stay status have the right to: register as unemployed and to be insured, as well as the right to access free medical assistance (with the exception of those who have entered into an agreement called "umowa o dzieło", a contract often put forward by employers under which the signatory has no rights to register and no insurance), the right to receive child benefits and state pensions.
- As of October 2005 they have the right to three months residence in refugee centres after they have received their temporary permit. Previously those granted a tolerated stay status were not entitled to do so.

19 Changes in refugee determination procedure, appeal or deportation procedures

After receiving a final negative decision, or a final decision granting a tolerated stay permit, non-nationals are now able to appeal to the Voivodship Administrative Court (provincial court), which reduces the time spent awaiting an appeal decision. (Previously it was only possible to appeal to the Supreme Administrative Court).

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

No data available.

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

No data available.

22 Developments regarding readmission and cooperation agreements

No data available.

6 The Social Dimension

23 Changes in the reception system

Unaccompanied minor asylum seekers
Children up to the age of 7 living in reception centres are entitled to receive the monetary equivalent of food that they do not consume due to their age. (Previously children of three and over received the same meals as adults). Children living in reception centres are obliged to pass an exam proving that they have a sufficient grasp of the Polish language in order to go to school. Children who fail are given half a year to study Polish in the reception centre in order to try to pass again. The exam is organised by schools and reception centres twice a year, in August and in January. 50 percent of children living in refugee centres went to school in 2005.

There was a major overhaul of 3 reception centres-owned by the Ministry of Internal Affairs and Administration. Three additional reception facilities were built (Poland now has 16 reception centres).

The Office for Repatriation and Aliens signed an agreement with the Central Clinical Hospital of the Ministry of Internal Affairs and Administration to provide medical services for asylum seekers in Poland. All examinations have been made at that hospital excluding cases of specific treatment, or treatment in hospitals in cities other than Warsaw (for all refugee centres near Warsaw there was one hospital).

The number of asylum seekers living outside reception centres (though still receiving social assistance) increased from 34 in 2004 to 403 in 2005. As of June 2006 this number had reached 492. Asylum seekers are able to ask for social assistance outside reception centres for health or safety reasons or if a member of the family has been granted refugee status.

24 Changes in the social welfare policy relevant to refugees

After the introduction of the new Act on Granting Protection to Aliens on the Territory of Poland in September 2003 that introduced, *inter alia*, the concept of a complementary status into Polish legislation, known as the permit for 'tolerated stay', asylum seekers in Poland have increasingly been granted this status. They have become a sizeable group of non-nationals in Poland, requiring assistance as their position makes it very difficult for them to survive in Poland. They are expected to leave the reception centres within three months of receiving their decisions. Once they leave the centres they become enmeshed in a vicious circle. They cannot rent a flat as most of them do not have the financial means, but they are not entitled to receive integration benefit or social assistance, as this is dependent on having a place to stay.

25 Changes in policy relating to refugee integration

The authorities in Warsaw have started to tackle the housing problems faced by refugees. A programme has been introduced that should grant municipal flats to refugees on preferential terms. So far five flats have been made available.

A new school of Polish language (Lingua Mundi) provides Polish courses for newly recognised refugees and some persons granted tolerated stay permits as part of a government run integration programme.

A number of new organisations working in the field of refugee issues have been established (A-Venir, which provides social help, Via, which provides a professional activities project and SIP, an association active in the area of Legal Intervention).

No developments.

26 Changes in family reunion policy

No developments

7 Other Policy Developments

27 Developments in resettlement policy

No developments.

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 2005

The minority government created by the SLD (Alliance of the Democratic Left) was in office until the parliamentary elections in September. The right wing PiS party (Law and Justice) won the election, and the new Prime Minister created a minority government. In October Lech Kaczyński (member of PiS) won the presidential election.
The issue of non-nationals and asylum seekers was not a very prominent topic during the term of the SLD government. This continues to be the case under the current PiS government.

32 Governmental policy vis-à-vis EU developments

Legislation is being prepared that will enable the transposition of the EU Reception directive into Polish Law.

33 Asylum in the national political agenda

Asylum was not an important issue in the national political agenda.

Biography

Agnieszka Wlodarczyk

POLISH HUMANITARIAN ORGANISATION

Making the world a better place through the reduction of human suffering and the promotion of humanitarian values.

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PORTUGAL

1 Arrivals

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

Table 1:

Month	2004	2005	Variation +/-(%)
January	8	6	-25%
February	5	13	+160%
March	3	8	+167%
April	10	7	-30%
May	11	5	-54%
June	5	3	-40%
July	8	9	+12.5%
August	7	11	+57%
Sept.	11	9	-18%
October	4	11	+175%
November	6	15	+150
December	6	5	-17%
Total	**84**	**102**	**+21.40%**

Source: Aliens and Borders Service/Portuguese Refugee Council

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

Table 2:

Country	2004	2005	Variation +/-(%)
Columbia	7	22	+214%
DRCongo	2	7	+250%
Guinea - Bissau	1	6	+500%
India	0	6	+600%
Georgia	2	5	+150%
Cuba	5	5	-
Nepal	0	5	+500%
Moldova	1	4	+300%
Russian Fed.	6	4	-33.33%
Angola	4	4	-
Others	*56*	*34*	*-39.30%*

Source: Aliens and Borders Service/Portuguese Refugee Council

3 Persons arriving under family reunification procedure

During 2005 a total of 2 persons arrived and were granted refugee status in Portugal under the family reunification procedure. They were both Myanmar citizens.

4 Refugees arriving as part of a resettlement programme

The first collective resettlement programme operated in Portugal involved the transfer, in January 2006, of 12 refugees from Morocco. Of the 12 resettled refugees, 10 were male and 2 were female. Nationalities included 5 citizens from Ivory-Coast, 5 citizens from DR Congo and 2 citizens of Liberia. (*0 resettled refugees in 2004*)

5 Unaccompanied minors

During 2005, Portugal registered 2 asylum applications by unaccompanied minors from the Russian Federation and DR Congo (*0 unaccompanied minors in 2004*)

2 Recognition Rates

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

Table 3:

Statuses	**2004**		**2005**	
	First instance		First instance	
	Number	%	Number	%
No status awarded	75	89.2	84	84.4
Convention status	2	2.3	7	6.8
Subsidiary status	7	8.3	9	8.8
Other				
Total	**84**	**100**	**102**	**100**

Source: Aliens and Borders Service/Portuguese Refugee Council

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:

	2004		**2005**	
	First instance		First instance	
Country of origin	Number	%	Number	%
Turkey	-	-	3	2.9
Myanmar	1	1.15	2	1.9
Cuba	1	1.15	1	1
Columbia	-	-	1	1
Total	**2**	**2.3**	**7**	**6.8**

Source: Aliens and Borders Service/Portuguese Refugee Council

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

Table 5:

	2004		2005	
	First instance		First instance	
	Number	%	Number	%
Country of origin				
Columbia	1	1.1	6	5.8
DR Congo	1	1.1		
Serbia - Montenegro	1	1.1		
Pakistan	1	1.1		
Sri – Lanka	1	1.1		
Uzbekistan	2	2.3		
Belarus			1	0.9
Nepal			2	1.9
Total	**7**	**8.3**	**9**	**8.8**

Source: Aliens and Borders Service/Portuguese Refugee Council

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

No figures available.
It should be noted that the "safe third country" principle as a ground for deeming a claim inadmissible is provided for by articles 13º/1/b and 13º/3/b of Asylum Law 15/98, 26th March. However, "Safe third country" in asylum decisions is always invoked along side other legal grounds of inadmissibility making it impossible to offer the data required.

10 Persons returned on safe country of origin grounds

No statistics available.
It should be noted that "safe country of origin" as a ground for considering a claim inadmissible is provided for by articles 13º/1/b and 13º/3/a of Asylum Law 15/98, 26th March. However, the "Safe country of origin" principle in asylum decisions is always invoked along side other legal grounds of inadmissibility making it impossible to offer the data required.

11 Number of applications determined inadmissible

Of the 102 asylum applications registered in 2005 all entered the admissibility stage in accordance with Asylum Law 15/98, 26th March. Of those a total of 79 were deemed inadmissible (2004:74).

12 Number of asylum seekers denied entry to the territory

See 3.13 and 14.

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

Asylum seekers are not detained in Portugal.
The only detention-like situation provided for in national asylum legislation is a special procedure for asylum claims presented at borders. In such cases, asylum seekers must remain in the "international area of the airport or seaport" while they await a decision on the admissibility of their claim, which is taken by the General Director of the Aliens and Borders Service or in case of review, by the National Commissioner for Refugees. During their stay at border points, asylum seekers are detained (they cannot enter Portuguese territory) until:
- A positive decision on admissibility of the claim is taken, which allows them to enter national territory; or
- Deadlines for the referred decision are not respected, which allows them to enter national territory; or
- A final negative decision on admissibility of the claim is taken and the asylum seeker has to return to the point where their journey began.

The asylum procedure at border points has shorter deadlines than the in country procedure. The General Director of the Aliens and Borders Service (Serviço de Estrangeiros e Fronteiras – SEF) takes the admissibility decision within five working days. An appeal can be lodged against that decision before the National Commissioner for Refugees within 24 (working) hours. A final decision must be taken within 24 (working) hours.
In 2005 a total of 49 asylum seekers who lodged their claims at an international border point were detained under the conditions described above.

14 Deportations of rejected asylum seekers

Despite the fact that all refused asylum seekers who lodge their claims within national territory are notified by the authorities that they should leave the country within 10 days, Portugal does not practice a systematic policy of deportation in these cases. The only exception occurs in the case of asylum requests presented at border points, namely at international airports. According to special border procedures, when the National Commissioner for Refugees takes a final negative decision on the admissibility of a claim, even though an appeal can be lodged before the Administrative Court, the asylum seeker has to return to the point where his/her journey began (there is no suspensive effect in this type of appeal, see Country Report 2004).
In 2005, there were a total of 49 asylum claims presented at border points. Of these 49, 35 were rejected, denied entry to the territory and consequently deported either to their country of origin or to a safe third country.

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

The International Organisation for Migration (IOM) is responsible in Portugal for the "Voluntary Repatriation Programme". When an asylum seeker, a former asylum seeker or a refugee shows willingness to return to his/her country of origin, the Portuguese Refugee Council (CPR) directs him/her to IOM in Lisbon, assuring that the return is voluntary and made in safety and with dignity. CPR also informs the asylum seeker of the limit stated in the voluntary repatriation contract: he/she will not be able to enter Portuguese territory within the next five years.
In 2005, five asylum seekers decided to return voluntarily to their country of origin, namely 1 national from Angola, 1 from Sierra Leone, 1 from Liberia, 1 from DR Congo and 1 from Guinea Bissau (7 in 2004). The individuals concerned had exhausted asylum procedures and seen their claims rejected, they had not been granted any kind of status, and in many cases could be described as "long term illegals".

During 2005 the "Voluntary Repatriation Programme" was temporarily interrupted by IOM. Insufficient budget caused by the delay in the implementation of the second phase of ERF (2005-2010) resulted in some limitations and delays in the voluntary repatriation of asylum seekers.

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

Requests Presented by Portugal to other Member States 2005:

Table 6:

Member States	Requests Presented	Transfers
Austria	1	-
Belgium	1	-
France	11	2
Germany	1	-
Hungary	2	1
Netherlands	5	1
Spain	5	1
Sweden	1	-
Total	27	5

Requests Presented by other Member States to Portugal 2005:

Table 7:

Member States	Requests Presented	Transfers
Austria	10	2
Belgium	8	2
Czech Republic	2	-
Denmark	1	-
France	12	3
Germany	5	1
Italy	1	-
Netherlands	7	2
Norway	3	-
Spain	9	2
Sweden	3	-
United Kingdom	2	4
Total	**63**	**16**

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

No developments.

5 Legal and Procedural Developments

18 New legislation passed

No new legislation specifically targeting asylum seekers and refugees was passed in the period.

The transposition of Directive 2003/9/CE (Receptions Directive) was still under discussion in Parliament as of April 2006. This debate has been somewhat delayed, as this directive should have been transposed by 6th of February of this year.

The Portuguese Refugee Council has been involved in this discussion, and participated in several meetings. To support our position and try to influence the legislator, CPR has also prepared a written opinion on the referred draft Law, which was sent to the Secretary of State of the Ministry of Interior and to the Parliamentary Commission for Rights and Liberties.
Although the CPR generally supports the draft Law, as it is intended to regulate, for the first time, reception conditions in Portugal, some issues were raised. Without trying to be exhaustive, three aspects should me mentioned:

- Freedom of movement should be explicitly referred to in the draft law;
- Women on their own should receive special attention, bearing in mind that they are especially vulnerable to sexual exploitation;
- A "follow-up" commission should be created to coordinate and monitor the activities and responsibilities proposed by the Law. This commission should also evaluate the application of the law.

The recently approved abolition of the position of the National Commissioner for Refugees under the Central State Administration Reform Programme (*Programa de Reforma da Administração Central do Estado - Council of Ministers Resolution n. º 39/2006)* further contributed to the delay in the necessary changes to the national Asylum Law, as they will now have to accommodate this unanticipated change. There is no indication of ongoing preparatory work for the transposition of the Qualifications Directive or the Procedures Directive.
A new and more flexible legal framework for the attribution and acquisition of Portuguese nationality was introduced in April 2006 by Organic Law n. º2/2006, 17th March (*Lei Orgânica n. º2/2006, de 17 de Abril*). The most relevant changes are as follows:

- regarding the granting of Portuguese nationality to the children born to non-nationals in Portugal, article n. º1/d of Organic Law n. º2/2006 states that all children born on national territory of non-national parents who, at the time of birth, had been legally residing in Portugal for at least 5 years (as opposed to between 6 and 10 years in the previous law) are to be given Portuguese citizenship at birth. The acquisition of Portuguese citizenship by alien minors born in Portugal of alien parents is also possible in two cases: as soon as they complete a basic education of 4 years or if their parents have been staying in the country in the previous 10 years, independent of legal residence (Articles n. º6/2/b and n. º 6/5).
-as for the acquisition of Portuguese citizenship by individuals born in a foreign country, the most significant change is the limitation in the number of years of legal residence required for naturalisation. Against a period that varied from 6 to 10 years, depending on whether the non-national was a citizen of a Portuguese speaking country or not, under article n. º 6/1/b of the new Organic Law n. º2/2006 only the shorter 6 years period will be applicable, irrespective of a person's country of origin.

19 Changes in refugee determination procedure, appeal or deportation procedures

As mentioned under point 18, the recently approved abolition of the National Commissioner for Refugees (NCR) within the Central State Administration Reform Programme (*Programa de Reforma da Administração Central do Estado - Council of Ministers Resolution n. º 39/2006)* will have implications for the asylum determination procedure.

The NCR is a decision making body within the Ministry of Internal Administration that, nevertheless, enjoys a statute of independence and impartiality in its decision-making. In spite of the queries addressed by the CPR to the Ministry of Internal Affairs on the matter, there is still much uncertainty surrounding the consequences of this decision. The Portuguese Refugee Council has meanwhile voiced its concerns to the Ministry of Internal Administration on the importance of maintaining an independent appeal authority at the administrative stage of the asylum procedure.

In 2004 the administrative courts were given the competence to analyse the formal aspects and merits of a case in the judicial appeals procedure. The administration also had to comply with court decisions regarding appeals; previously, if the administrative court decided on behalf of the previously refused applicant, this only meant that the administration had to examine the case again. However, despite hopes that this could positively influence asylum law practice, the administrative courts have adopted an extremely conservative approach, and have in practice disregarded this competence.

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

No developments.

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

No developments.

6 The Social Dimension

23 Changes in the reception system

No changes.
The European directive laying down minimum standards for the reception of asylum seekers (2003/9/CE) has not yet been transposed into the Portuguese Legal System.
Under the current legislation asylum seekers are allowed to work if they have received a provisional residence permit, which is issued once an admission decision has been made regarding their asylum application.

24 Changes in the social welfare policy relevant to refugees

Until very recently asylum seekers who were considered particularly vulnerable by the Social Emergency Service (*Serviço de Emergência Social*) of Santa Casa da Mesiricórdia, a private

charitable institution, and were granted financial support immediately after having applied for asylum, irrespective of the decision taken at the admissibility stage of their claim.
Such financial support, granted to minors, older people, single women or women with infants, covered accommodation expenses, food and other day-to-day expenses, transportation, education and health related expenses.
During the last trimester of 2005, however, this policy suffered a change as only those vulnerable cases that were declared admissible benefited from the support of Santa Casa da Misericórdia.

25 Changes in policy relating to refugee integration

In 2005, there were no significant changes in integration policy. The Integration of refugees was not on the government agenda. However, The Portuguese Refugee Council (CPR) continued to develop several activities in this area, in order to promote and facilitate the integration of refugees and asylum seekers in the labour market.

26 Changes in family reunion policy

No developments.

7 Other Policy Developments

27 Developments in resettlement policy

Article 27 of Asylum Law 15/98, 26th March expressly foresees resettlement as follows:

1. The petitions for resettlement of refugees under the mandate of the Office of the United Nations High Commissioner for Refugees shall be submitted by the representative of the Office of the United Nations High Commissioner for Refugees before the Minister for Internal affairs, who shall, within 8 days, request the Aliens and Borders Service to issue a report.
2. The report on the petitions referred to in the above paragraph shall be issued within twenty-four hours; the said Government member shall decide on the admissibility and the grant of asylum, taking into account the specific circumstances of the case and the legitimate interests to be safeguarded.

In spite of this existent legal framework, the government carried out only the first collective resettlement case in January 2006. In the past, only a limited number of individual resettlement cases were accepted.

The Portuguese government agreed to the resettlement of a group of 12 refugees who were under the protection of UNHCR. The refugees concerned had all been victims of refoulement, having been returned by the local authorities in Morocco to areas where their lives and security were jeopardised. Before resettlement they were at the borders with Algeria and Mauritania following the events in Ceuta and Melilla in the first quarter of 2005.

The Portuguese Refugee Council greeted this initiative as a sign of international solidarity and commitment towards international refugee protection. The organisation was involved from the beginning in the process of resettlement, having agreed with the Minister of Internal Administration that they would be accommodated for an initial period of 6 months in its Reception Centre of Bobadela. Since their arrival on the 9th of January 2006, the refugees concerned have been benefiting from a range of support and activities provided by CPR, including legal support, social support, training and employment search support.

28 Developments in return policy

No developments.

29 Developments in border control measures

No information available.

30 Other developments in refugee policy

No developments.

8 Political Context

31 Government in power during 2005

2005 was still a difficult year for Portugal and for the Portuguese due to an ongoing economic crisis.

The parliamentary elections of 20th of February 2005 gave power, and a majority in parliament, to the Socialist Party. Mr José Sócrates is now the Prime Minister. Despite the stable political climate, social instability was experienced as a consequence of the government's introduction of reforms, concerning the civil servants regime and the general retirement system, as well as an increase in taxes. The official unemployment rate rose to 7.7%.

32 Governmental policy vis-à-vis EU developments

Aside from the transposition of European legal norms on asylum into national Law, the government's attitude towards asylum related developments within the EU system has been relatively reserved.

The Ministry of Internal Administration has however publicly confirmed the commitment of the Portuguese government to a role in the frontline of all asylum related European policies. The Minister of State and Internal Administration made a special reference to RPP's and a European wide resettlement programme in a TV programme produced by CPR on Resettlement aired in March 2006 on public channel 2.

33 Asylum in the national political agenda

The appointment of Mr António Guterres, a Portuguese national and former Prime Minister, as United Nations High Commissioner for Refugees called attention to the work of UNHCR and had a positive impact on the perception of asylum issues. Nevertheless, during 2005, asylum was largely absent from the national political agenda. As has previously been the case, the political programme of the XVII Constitutional Government elected in March 2005 made no reference to asylum.

This being said, it should be noted that following the events of Ceuta and Melilla during 2005, the Ministry of Interior, António Costa, showed willingness to receive a group of refugees for resettlement under the mandate of UNHCR Morocco. As a consequence, the first collective resettlement programme operated in Portugal involved the transfer, in January 2006, of 12 refugees from Morocco. This resettlement initiative was the result of a decision by the Portuguese Government following an agreement with UNHCR's delegation in Morocco.

Biography

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PORTUGUESE REFUGEE COUNCIL

The Portuguese Refugee Council is a non-profit NGO with the following mission:
To give social and legal support to asylum seekers and refugees, in all phases of the asylum procedure, from reception through to integration in Portuguese society;
To call attention in Portuguese society to the problems faced by refugees, promoting and defending the right of asylum in Portugal

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ROMANIA

1 Arrivals

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

Table 1:

Month	2004	2005	Variation +/-(%)
January	46	38	-18%
February	81	50	-39%
March	42	49	+16%
April	30	58	+93%
May	36	56	+55%
June	27	27	0%
July	41	27	-66%
August	42	39	-7%
Sept.	54	37	-68%
October	57	34	-60%
November	38	40	+5%
December	50	30	-40%
Total	**544**	**485**	**-11%**

Source: National Refugee Office – Legal Department

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

Table2:

Country	2004	2005	Variation +/-(%)
China	84	44	-48%
India	65	27	-59%
Iraq	63	71	+12%
Turkey	43	31	-28%
Somalia	38	25	-35%
Syria	21	27	+22%
Iran	19	13	-32%
Pakistan	18	33	+83%
Bangladesh	17	50	+183%
Others	*176*	*164*	*-7%*

Source: National Office for Refugees

Comment

The total number of applications lodged is quite small and continues to decrease in comparison with neighbouring countries. This is potentially due to the fact that migration flows have been diverted as a result of the strengthening of border controls.

3 Persons arriving under family reunification procedure

No figures available.

4 Refugees arriving as part of a resettlement programme

Romania does not operate any resettlement programmes. However, in 2005, 400 people of Uzbek origin – victims of the revolution last year - were temporarily accommodated in a centre in Timioara as a result of an agreement between the Romanian Government and UNHCR. They are part of an ongoing resettlement programme and awaiting transfer to other destinations.

5 Unaccompanied minors

There were five asylum requests from unaccompanied minors in 2005: one from Uzbekistan, three from Liberia (March and April two) and one from Sri Lanka.

2 Recognition Rates

6 The Statutes accorded at first instance and appeal stages as an absolute number and as a percentage of total decisions

Table 3:

Statuses	**2004**				**2005**			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	376	83.2	-		416*			
Convention status	61	13.5	24		54*			
Subsidiary status	15	3.3	44		14*			
Other								
Total	**452**	**100**	**68**		**542***			

Source: National Refugee Office – Legal Department

*From 'Asylum Levels and Trends in Industrialised Countries in 2005', UNHCR.

3 Returns, Removals, Detention and Dismissed Claims

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

The national Refugee office did not detain any asylum seekers. However, in some cases other law enforcement agents held irregular migrants in custody.

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

Romania is not party to the Dublin Convention.

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

No developments.

5 Legal and Procedural Developments

18 New legislation passed

None in 2005.

23 Changes in the reception system

Enlargement of the accommodation and procedural facilities throughout the country – new centres have been created in Radauti and Somcuta Mare at the northern border.

Biography

David Felix

NATIONAL REFUGEE OFFICE, ROMANIA

Protecting Refugees Celebrating Diversity

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THE RUSSIAN FEDERATION

The situation with regards to migration in the Russian Federation in 2005.
(Compiled from a report by the Migration Rights Network of the Memorial Human Rights Centre).

In 2005 the situation for migrants and asylum seekers remained difficult, there are few indications that the negative tendencies in its development stayed the same.

K.O. Romodanovskii was appointed as the new director of the Federal Migration Service (FMS) by decree of the President of the Russian Federation Vladimir Putin. Since his appointment practically all the migration services' activities have been put on hold. The human rights agency Memorial lost all its previous contacts and links with FMS staff members. For this reason it became impossible to further develop agreements that had been reached and included in a conference report 'The problems of forced migration in the Russian Federation'. These agreements included plans to co-operate on drafting new versions of the Federal laws 'On Refugees' and "Forced Migrants"; working to improve asylum systems in the Russian Federation; the introduction of special legislation to protect those displaced within the country and the elaboration and implementation of a complex set of measures to regulate the legal situation and documentation of foreign citizens and stateless persons, residing extended periods of time on the territory of the Russian Federation.

The situation for refugees and asylum seekers according to the FMS' operational figures:

During 2005, 957 applications for refugee status were examined. 19 of these were granted refugee status in 2005.

456 recognised refugees were registered with the Federal Migration Service as of 1st January 2006. This is 568 less persons than on 1st July 2005.

The number of people granted subsidiary protection (called "temporary" asylum in the Russian Federation) was 175, out of 881 applications received. The total number of those in the Russian Federation who have received temporary asylum, as of 1st January 2006 was 1,062 people according to FMS figures. This again is less than the number on 1st July 2005, which was 1,171 people.

These figures show that the number of refugees and those with temporary asylum is steadily going down; the number of those recognised as a refugee is almost in single figures and there are only a few dozens asylum seekers in a country with millions of inhabitants. This can in part be attributed to the local migration service branches excluding migrants when they present their documentation. They refuse to take applications, do not give out questionnaires and forms and do not provide access to information. There are problems with access to the RSD procedure in the majority of Russian regions. There are registered refugees in only 11 of the administrative regions of the Russian Federation and persons with "temporary" asylum in only 27. Refusals to accept documents are usually given orally, so there is no record of them and they cannot be appealed. This means that the majority of those who apply are not even included in the statistics for asylum applications. Those whose applications are accepted and examined on their merit are asked to provide such high levels of proof of persecution that only 0.8 percent of applicants manage to do so.

In Moscow it has become common practise to postpone accepting asylum applications for 2 to 3 years. In 2005, the migration service authorities started to give out documents with the date and time of interviews, inviting people to attend in 2008, even 2009. These forms do not legalise a foreign citizen's stay on the territory of the Russian Federation, though they are a positive progression compared to previous years when applications to the migration service authorities were not recorded at all. Armed with this form asylum seekers have, in a few cases, been able to appeal

refusals to accept applications in the courts. This possibility is however only open to those who have not been imprisoned, and are able to contact a lawyer as once inside a pre-trial detention centres (spetspriemniki) there is very limited access to the outside world. Detainees are often refused paper and pens, especially to write an appeal.

Not having any documents to legalise their right to stay on the territory of the Russian Federation or any registration with the interior affairs' authorities, asylum seekers arbitrarily removed from the register of refugees, are subject to being stopped on the streets daily, being taken to police stations and often fall victim to extortion and cruel treatment at the hands of law enforcement officers.

Asylum seekers are often taken straight from the police station to court, where immediate decisions are taken on administrative expulsion. They are then taken into custody until the court's decision to expel them can be implemented. The main ground for expulsion is the absence of registration with the interior affairs' agencies at the asylum seeker's place of residence. This violation is widespread as there are many barriers hindering non-nationals from registering, including: the limited working hours of the registering authorities; the short term nature of the registration given; the need to present documents from the housing authority; the requirement of written permission or the physical presence of all of the permanent inhabitants of the premises in which the new arrival is being registered. In addition, those who cross the border without needing a visa are only able to register for 90 days, after which they are expected to leave the Russian Federation. However, the procedure for receiving 'temporary sojourn' or residence takes six months. This means that practically any non-national can, and does, find themselves at risk of administrative expulsion.

The situation of Afghans in the Russian Federation

According to UNHCR there are no less than 100,000 Afghans who have been living on the territory of the Russian Federation for many years who have not been granted refugee status.

Migration authorities throughout the Russian Federation have stopped extending the temporary asylum statuses of Afghanis. The authorities are constantly trying to expulse them on the pretext that the situation in Afghanistan has stabilised. In St Petersburg courts have written in their decisions that 'at the present time people who applied for asylum in other countries are now returning to Afghanistan in large numbers. The court believes that the situation has stabilised in Afghanistan on the whole, military activities have stopped, and there are only isolated acts of violence in several places' (from a decision of the Kuibyshevskii court from 07.06.2005 from an Afghan case).

Since April 2005 Afghans in the Rostov and Volgograd regions have been being informed that their temporary asylum on the territory of the Russian Federation has expired on the grounds of Article 12.5.1 of the Law On Refugees and of point 16a of Decree No. 274 of the Government from 09.04.01 On granting temporary asylum on the territory of the RF, on the grounds that: 'the conditions that served as grounds for granting temporary asylum no longer exist'.

There are still 300 Afghan citizens living as asylum seekers in Krasnodar Krai, whose applications were registered in 2001 – 2002. They have special documents (with photographs and their application details) to say that their applications for refugee status in the Russian Federation have been accepted. However, these people are still living in a state of legal uncertainty as the time period allowed for examining their applications has run out and the Migration Affairs Department of the State Department of Interior Affairs of Krasnodar Krai is not giving any official information on the results of their claims, ignoring all requests from the leadership of the Krasnodar branch of the Afghan Community.

The situation of asylum seekers from CIS countries.

The Federal Migration Service continues to maintain that there are no refugees from CIS countries, despite the fact that it is mainly streams of citizens from the former USSR who are arriving in Russia, persecuted by new totalitarian regimes. It is well known that in many countries of the CIS (e.g. Uzbekistan, Turkmenistan), use torture and that summary execution have become a regular occurrence. However, this is not taken into consideration. The law does not contain any prohibition on the deportation or administrative expulsion of foreign citizens to countries where there is a risk of torture. There is also no legal norm that would exclude the extradition of a person to a country where torture and cruel treatment are practiced.

After the events in Andijan of May 2005 the number of asylum seekers from Uzbekistan rose sharply. They were all refused asylum, despite the obvious danger of returning to their homeland. At the same time all male Uzbeks living in Russia, not just refugees, are suspected of illegal activities by the Russian special services who work with the Uzbek special services. They are in effect being persecuted under the guise of the war on terror. This persecution is part of a widespread campaign carried out by the Russian special services against Muslims, who supposedly belong to extremist Islamic organisations.

The case of Alishir Usmanov is a clear example of the co-operation between Russia and Uzbekistan. He was sentenced to 9 months' imprisonment in Tatarstan for possessing ammunition. There are grounds to believe that the ammunition was planted on him as Usmanov was also charged with participating in extremist activity and with being a member of the Hizb ut Tahrir party, though he was later cleared of this charge. He should have been released on 20th June 2005. However, when his wife went to collect him from prison she was told that "friends" had come for him at 5am and had asked for the prisoner to be allowed to leave with them. Usmanov's relatives opened an official enquiry to locate him. His whereabouts were only discovered in October, when relatives from Uzbekistan told Alishir's wife that he was being held in detention in Namangan [Uzbekistan]. Memorial Human Rights Centre (HRC) distributed information about this in a press release on 19.10.05. On 24th October 2005 the "RIA Novosti" press agency published the following announcement with a reference to O. Turakulova, the head of the Bureau of Public Affairs of the National Security Service of Uzbekistan: "Alisher Usmanov was transported under guard from Kazan to Uzbekistan in accordance with a joint plan with the Federal Security Service of Russia on the war against international terrorism". It was confirmed in the same message that: "at the present time Usmanov is a citizen of Uzbekistan as he was stripped of his Russian Citizens by a decree of the Ministry of Interior Affairs of Tatarstan and on the basis of an appeal decision by the Supreme Court of Tatarstan". Not long before this, the prosecutor's office had confirmed after an enquiry from Memorial HRC that Usmanov could not be extradited as he was a citizen of the Russian Federation. On 16th November 2005 Alisher Usmanov was found guilty under Articles 159.3 of the Criminal Code of Uzbekistan (infringement of the Constitution), 242.2 (organising a criminal group), 244.2 (taking part in banned organisations) and 228.2 and 228.3 (using a forged document – in this case a passport of a citizen of the Russian Federation) and sentenced by a court in Uzbekistan to 8 years' imprisonment. There has been information that Usmanov has been subjected to cruel treatment whilst in detention.

On 18th July 14 ethnic Uzbeks were detained in Ivanovo in co-operation with the special services of Uzbekistan (there is documentary evidence to support this fact), all accused by the Uzbek authorities of taking part in the "Andijan events" of May 2005. They were detained by the Russian special services with assistance from the Uzbek special services. Many of those detained had been living in Russia for a long time and so could not have taken part in the events in Andijan. However, despite the large number of violations committed in detaining them and extending measures to hold them, the Russian authorities seem determined to extradite the Uzbeks to Uzbekistan. The Memorial HRC Migration Rights Network hired a barrister to represent all of those detained, who managed to get asylum applications accepted in Russia on their behalf. The deadline for examining

the applications was extended to 11th February 2006, but at the beginning of January they were all refused asylum. This decision was quickly appealed in court and through urgent communications with the European Court.

One of those detained, Khatam Khadjimatov, a Russian citizen, was released on 11th October by court decision, as it was impossible to extradite him. However, the authorities started a case to annul his Russian citizenship. This was done by a decision of the Khants-Mansiiskii town court of 25th October 2005. The ground for declaring Khadzhimatov's citizenship invalid was information about an allegedly hidden Uzbek passport. In 2000 when Khadzhimatov was granted Russian citizenship his Uzbek citizenship would not have been a barrier as according to the Law "On Citizenship of the Russian Federation" at that time the spouse of a Russian citizen, whatever their nationality, could acquire Russian citizenship by written declaration. Having a good idea of where this was leading, Khadjimatov left Russia for Ukraine on 15th October, where he applied for asylum.

According to information from Memorial HRC, in the last year there have been several cases of abduction and secret removal to Uzbekistan of people who had moved to the Povolsh'ya region of Russia. There is a well-known case of a "disappearance" in the Saratov region. An Arabic teacher, Mannobzhon Rakhmatullaev, and his relative, Ruvazhdina Rakhmanov disappeared after the General Prosecutor's Office of the Russian Federation had refused requests for their extradition to Uzbekistan.

On 6th July a 25 year old café worker, Artur Iskanderov, was arrested in a café near the mosque in the Mamadyshskii region of the Republic of Tatarstan by a brigade from the Department for the fight against organised crime (UBOP) from Kazan. His laptop was taken from him, as was his mobile telephone, 80 compact discs and Islamic literature. He was detained for 48 hours, denied a lawyer and questioned without any report being drawn up, after which he was released. On 23rd July Isanderov was arrested for a second time at his home and taken to the regional interior affairs authorities in the town of Mamadysh. His parents only found out on 10th August by chance that he was being held in custody at a temporary pre-trial detention facility at the Central Administration of Interior Affairs in Naberezhnye Chelny.

On 17th August, at an appointment with the investigator for particularly important cases Artur's father found out that his son was suspected of preparing and implementing terrorist acts in Samara, Bugul'ma, Ufa and in other places and that the punishment was 10 to 20 years imprisonment. Artur was tortured for 18 days: he was suspended by his arms in handcuffs all night, kept in a cage in which it was impossible to stand up straight, and was subjected to lengthy night-time interrogations.

On 31st August 2005 members of the Department for the fight against organised crime detained a citizen from Uzbekistan, Bairamali Yusupov, in Tiumen. He had been working as a personnel manager for a Russo-Turkish building firm since November 2003. He was detained in connection with a request to extradite him to Uzbekistan. The Uzbek authorities accuse Yusupov of "Islamic extremism". In November 2003, he had left for Russia, fearing he would be arrested on trumped-up charges. In July, when applying for an extension of his work permit, Yusupov discovered that he was wanted by the Uzbek authorities, as he had allegedly hidden after a criminal case had been opened against him on 24th December 2004 (Yusupov himself says that he has not been in Uzbekistan since 2003). Yusupov contacted the Department of Migration of the State Department of Interior Affairs in the Tiumen region on 17th August 2005 to apply for asylum because of the fabricated criminal case against him. On 14th September 2005 the Russian authorities refused to examine his application for political asylum. Bairamali Yusupov's mother and wife are worried that if he is extradited to Uzbekistan, he could be at risk of torture and conviction on fabricated charges.

On 23 September 2005 the Vakhitovskii regional court of Kazan ruled on the administrative expulsion from Russia of a second year student at one of the Kazan institutes of higher education, a

citizen of Uzbekistan called Marsel' Ramzilzhonovich Isaev (dob 1986). Marsel' Isaev arrived in Russia from Uzbekistan in 2004. He intended to apply for Russian citizenship as he considered Russia his homeland. His parents and younger brother lived in the Orenburg region and are all Russian citizens. He had no relatives left in Uzbekistan and he no further ties with that country. The decision on expulsion was taken on the basis of article 18.8 of the Administrative Procedural Code for non-compliance with the correct procedure for registration. Mr Isaev could not extend his registration as a member of the police force had illegally taken away his passport.

The real reason that the court chose the strictest of all punishments foreseen in the Administrative Procedural Code was Isaev's refusal to give false testimony in court. Earlier an officer from the Department for the fight against organised crime had threatened Isaev with deportation to Uzbekistan, forcing him to give a statement he had been accepted into the banned Hizb ut Tahrir party. However, when he was questioned in court as a witness, Marsel' did not commit perjury and told of the pressure that had been put on him to give false testimony. Despite his application to the Russian Migration Service for refugee status, Isaev was deported to Uzbekistan on 12th October.

The situation of Meskhetian Turks in Krasnodar krai.

At the end of 2005 around 5000 people had been resettled to the USA**.** However the regional authorities did not ease their pressure on the remaining Meskhetian Turks, trying to make all of them leave the region. Members of the law enforcement agencies continued to draw up reports on administrative violations as per Article 18.8 of the Administrative Procedural Code of the Russian Federation, on the basis of which courts took the decision to fine or even to deport Meskhetian Turks. This type of "administrative" pressure grew for other groups of "national minorities" in the region, including: Armenians, Yezids and Khemshili Turks.

The situation for Armenians who fled Azerbaijan and settled in the Moscow region.

Some of these people have managed to settle by themselves. A few have even been able to earn some money and buy themselves a flat. Others have left Russia, including those who were resettled to the USA. During this resettlement programme some families experienced problems. They turned to the Migrants Rights Network for help as they had previously given them advice and helped them to fill out the necessary documents. Svetlana Gannushkina contacted the US Embassy regarding several cases that had been refused [resettlement] for groundless reasons and asked them to look again at the arguments given by the applicants, which were generally very convincing, and which were not refuted in replies received by applicants from the Embassy.

There are now no more than a few hundred Baku Armenians living in hotels in Moscow. Their situation is more difficult than ever, as gradually all the hotels have fallen into private hands. The owners have started to evict these burdensome inhabitants by any means possible. On 15th April all the Armenian refugee families living in a hostel on Molodtsov Street were evicted without a court decision and without being provided with any other housing. They were turned out into the rain and their things were thrown out onto the street. The refugees were left without a roof over their heads and are living anywhere they can. Network lawyers helped the refugees to challenge the illegal eviction in court and the Babushkinskii Court is currently examining the case. One of the Baku Armenians who was left without a home committed suicide at the beginning of this year. This was only discovered when the police tried to find the relatives of the deceased.

On New Year's Eve, refugees who had been living in the "Yuzhnyi" hotel (around 30 families the majority of whom are pensioners and disabled people although there are also families with children among them) had their electricity, water and telephone lines cut off and the entrance to the hotel was blocked off. They fought for several days for the right not to freeze in temperatures of - 30ºC. A group of Baku Armenians took the initiative with advice from network lawyer Evgenii Bobrov and forced the law enforcement agencies to do their job, using all the legal methods available to them, including an attempt to stop the traffic on Novokuznetskaya Street near the building of the

Prosecutor's office in Moscow. The doors of the hotel were re-opened for the 36 Baku Armenians who were housed there back in 1990 and the water and light were switched back on. The Moscow Prosecutor's office opened a criminal case against the arbitrary actions of the management of the city's Hotel "Yuzhnii".

An earlier court decision did not allow them to be removed from the hotel without alternative accommodation being provided. However, the responsibility of housing them had not been assigned to any particular authority. Therefore, the issue of re-housing Baku Armenians is still unresolved. The Federal authorities and the Moscow authorities do not want to take responsibility for these people – Russian citizens - whose problems should have been solved many years ago.

The number of registered forced migrants[22] continued to fall.

As of 1st January 2005 there were 238,000 forced migrants registered by the FMS. In 2004 the number of forced migrants had already fallen by 116,000 people. The number of forced migrants fell by a further 109,000 people in the first 6 months of 2005, the same amount as for the whole of the previous year. Network lawyers from across Russia have commented on the sharp reduction in the number of registered forced migrants. In the Volgograd region 1,500 people lost their forced migrant status, in Dagestan over 1,000, 2,035 people lost their status in Kaluga in the first 6 months alone, in Samara it was 1,062 people, in Ufa 2,240 and so on. The grounds for refusing to extend forced migrant status by migration service staff included that people were registered in a relative's flat, which meant that they were seen as being re-housed, or the fact that they had received compensation for lost housing. Neither of these reasons is a legal ground for depriving them of forced migrant status.

For example, in the Tambov region forced migrants from Kazakhstan, a married couple V.C. and V.N. Omel'chuk, were refused an extension of their forced migrant status and taken off the housing register. The reason given was that information had been received that their children (who had never lived with their parents in Tambov and who had never been registered with the Department of Interior Affairs) had housing. The Omel'chuk's children had moved to Russia from Kazakhstan and settled in Moscow. The Omel'chuks appealed the against the Interior Affairs authorities'decision in court, supported by a Network lawyer. The court ruled in favour of the family.

The biggest issue in 2005 was that of housing for forced migrants. In Bryansk, where there are around 600 families on the list for housing, the housing list has been practically suspended. There were only 1.8 million roubles allocated to re-housing forced migrants in 2005. It would cost this to buy two two-roomed flats. In the Voronezh region there are 2,600 forced migrants on combined lists of those needing support to improve their living conditions, including 462 people living in the Borisoglebskii region. However, in the period from 2002 to 2005 the migration service was only able to help six families of forced migrants (20 people) living in the Borisoglebskii region.

There is a similar situation in all regions. The subsidies given to forced migrants to buy housing are extremely small. In Udmurtiya, for example, it is practically impossible to buy anything for the amounts given (sometimes 16-20,000 Roubles), even in remote villages. In the Volgograd region a family of 3-4 people receives 80-100,000 Roubles, whilst in the Volgograd region housing costs 8-10,000 Roubles per m² and in Volgograd itself, 17,000 Roubles per m² or more. This means that for the given sum a family can buy 10m² of housing in the Volgograd region or 5m² in the town itself. The positive improvement in the situation for migrants from Tadjikistan living in the Borisoglebskii

[22] Note from translator, "forced migrant" is a legal status in Russia. Law "On Forced Migrants", Article 1.1 "A forced migrant shall be a citizen of the Russian Federation, who was forced to leave his/her place of permanent residence due to violence committed against him/her or members of his/her family or persecution in other forms, or due to a real danger of being subject to persecution for reasons of race, nationality, religion, language or membership of some particular social group or political opinion following hostile campaigns with regard to individual persons or groups of persons, mass violations of public order".

area of the Voronezh region after a "Special Correspondent" programme was shown on the RTR television channel and the Commission from Moscow visited, has come to nothing. The main issue – giving subsidies to forced migrants so that they can finish buildings they had begun – has not been resolved. The television show has agreed to run another programme on this issue.

The situation for internally displaced persons (IDPs) from the Chechen Republic.

The biggest problem for Chechens living in rented accommodation is registration with the interior affairs authorities. There is a secret directive to restrict the registration of Chechens in practically all regions. It is still the Moscow region, Krasnodar Krai and Kabardino-Balkaria where the most difficult situations with regards to registering Chechens arise. A lack of registration causes many problems – a risk of being detained, a lack of access to free medical treatment, not being able to receive your pension or benefits, problems with employment and getting children into schools and kindergartens.

After the armed attack by fighters on 13th – 14th October in Nalchik, the capital of Kabardino-Balkaria, many IDPs left the Republic, fearing persecution or unfounded charges by the authorities or a repeat of mass assaults on young people.

There are less and less IDPs from Chechnya in temporary accommodation centres (TACs). Many cannot cope with pressure from the administration and leave for their homeland.
In the Novgorod TAC, refugees who receive compensation for property lost in Chechnya have their forced migrant status taken away from them and their registration is no longer extended as a result of which they cannot use their medical insurance. In the Tambov TAC, the administration went to court in order to evict those who had received compensation. In this case, the Migration Department is refusing to extend their status.

The authorities even go to court to evict those who have only just applied to be paid compensation, as was the case with Raisa Atsievna Murtazova's family. At the end of 2004, R.A, Murtazova applied for compensation to the Grozny municipal administration. As soon as the Migration Department discovered this, they refused to extend her registration at her residence (from April 2005) and gave her an eviction notice. This was despite the fact that Ms Murtazova's forced migrant status was valid until July 2006. Ms Murtazova took the case to the regional court that ruled in her favour. However, the Migration Department put in an appeal. The case is still not resolved.

In the "Serebryaniki" TAC, in the Tver region, the administration put up a list of 50 Chechens with notification that they had been taken off the Migration Service register. Without this registration Ruslan Magomedovich, who lives with his wife and three children in the "Serebryanki" TAC, cannot get a certificate to show that he is disabled. He has psychological problems caused by the trauma he endured in Chechnya. After treatment in a psychiatric hospital in February 2005, he was recommended to register as disabled. However, in the regional medical insurance office he has been illegally refused a certificate because of the fact that he is no longer registered as living at the TAC.

Thus, the migration services and local authorities do all that is in their power to get rid of IDPs by forcing people to return to Chechnya, where pogroms, "mop-up" operations and abductions continue. On 4th July there was a pogrom in the village of Borozdinovskaya, as a result of which 77 year old Magomaz Magomazov was killed, three houses were burnt down and 11 young people were abducted. There were mainly Avartsy living in the village from the Tsuninskii region of Dagestan. More than 200 families left Borozdinovksaya and erected a camp near Kizlyar on the border with Chechnya, hoping that the Dagestani authorities would assist them. However, they refused to take in their former fellow-countrymen and tried to persuade them to return to Chechnya. The refugees categorically refused to return and demanded that the 11 people abducted from their

village be returned to them alive or dead. There were attempts to disband the camp by force but they were not successful thanks to the resilience of the refugees and the support of the local people.

On 26th June the President of the Chechen Republic, Alu Alkhanov, came to the camp, along with the First Vice-Premier, Ramzan Kadyrov, the chair of the State Committee Taus Djabrailov and Arkadii Edelev, the head of the regional operative headquarters (ROSh). Trying to persuade the Borozdinovskaya residents to return, Alu Alkhanov told them that the whole of Chechnya was in the same position but that everyone else "carried on living and put up with it". The State Commission of the Chechen Republic, which is headed by Ramzan Kadyrov, promised that thorough investigations would be carried out and that the inhabitants of Borozdinovskaya would be paid compensation loss suffered within one month and that measures would be taken to provide for their safety. On 28th June the refugees agreed to leave the camp and return home. According to unverified information, 20 families received the compensation promised by Kadyrov. However, it was not peaceful in the village. Guns were fired at nights. Several dozen families left the village again and started up a camp in the same spot near Kizlyar. Representatives of the refugees went to Makhachkalu several times to see the government in Dagestan, hoping that they would help them to get their compensation for the houses they were forced to flee in Borozdinskaya. However, both the government and the Federal Migration Service turned them down. The people from Borozdinskaya do not want to return and do not believe an open investigation into the events of 4th June is being conducted. There is still no official information on the fate of the eleven people abducted. The majority of the inhabitants from Borozdinovskaya are planning to leave Chechnya once they have received their compensation.

The payment of compensation for destroyed housing is another current, serious problem for IDPs.

Government Resolution No. 489 of 4th August 2005 replaced point 10 of Government Resolution No. 404 "On the procedure for paying compensation for destroyed housing and property to those citizens who suffered loss as a result of the resolution of the crisis in the Chechen Republic, permanently living on its territory". Point 10 [of the previous Resolution] instructed the Ministry of Interior Affairs of the Russian Federation, the Ministry of Justice, the Ministry of Finances, the Ministry of Labour and Social Development, The State Committee for Building and Housing and Communal Services to put forward proposals to the Government of the for changes to Government Resolution No. 510 of 30th April 1997 "On the procedure for paying compensation for destroyed housing and/or property to citizens who have suffered as a result of the resolution of the crisis in the Chechen Republic and who have left its territory for good" within a two month period. These changes were concerned with the amount of compensation for destroyed housing and property and the conditions for its payment. The Federal Migration Service was charged with elaborating these changes.

Those citizens who have left the Chechen Republic can receive no more than 120,000 Roubles compensation according to Resolution No. 510. In 1997 this sum was enough to buy a modest place to live, but now you could not buy any kind of acceptable living quarters with this. Resolution No. 404 for those who live permanently on the territory of the Chechen Republic stipulates 300,000 Roubles as the amount of compensation for lost housing and 50,000 Roubles for destroyed property. It was proposed that the compensation payments as stipulated in Resolution No. 510 should be increased to the same amount as those in Resolution 404. The difference in the amounts of compensation awarded is a source of conflict between those Russians who left and those Chechens who stayed. This situation is already being used for political ends and allows people to talk of discrimination towards Russian citizens who were forced to leave the Chechen Republic.

People have waited hopefully for the changes to Resolution No. 510 not for two months, but for two years. The FMS of Russia drew up draft changes and sent them to the Government, expecting

to receive a solution to this problem any day. However, instead of this, on 4th August 2005, Resolution No. 404 abolished point 10 completely. A proposal to reinstate point 10 of Resolution No. 404 from 4th July, and implement it without delay, has been sent to the President of the Russian Federation.

The situation of those who have not been able to regularise their legal situation.

This includes citizens from the new members of the CIS and stateless persons, who arrived in Russia before the laws "On citizenship of the Russian federation" and "On the legal status of foreign citizens" came into force and who live permanently on its territory.

These people have problems getting permits for temporary sojourn and residency permits. Those with no registration at their place of residence as of 01.07.2002 (foreign citizens and stateless persons) have to manage to be included in a regional quota, which is set by the authorities of each administrative region of the Federation, in order to receive their permit for temporary residence. These quotas are set arbitrarily and are not substantiated by the authorities at all. The quotas that are set are paltry – usually 500 people for a whole region or area, and these are usually filled by the end of the first quarter. This situation has not changed despite the severe shortage of labour in the majority of regions.

In the Volgograd region the quota for 2006 has been reduced by a quarter to 1,500 people. Meanwhile, in nine months of 2005 there were 1,340 people from Uzbekistan alone who registered as living in that region. In January-February they will apply to be granted a permit for temporary sojourn. The quota will already be filled. What will happen to those who arrive later? The main stream of migrants usually arrives between April and October.

The situation has become critical for those who are refused an extension to their registration at place of sojourn as their documents have been handed in to the authorities. The time limit for examining documents [for a permit for temporary sojourn] is six months. However, the period a foreign citizen or stateless person is allowed to stay on the territory of the Russian Federation according to their registration is only 90 days. The visa department does not extend registration for anyone over 90 days despite the fact that they have already applied for a temporary sojourn permit. Without registration at their place of sojourn they can incur an administrative penalty of 1,000 Roubles. If they are charged with an administrative violation such as this twice, this can serve as grounds to refuse their application for a temporary sojourn permit.

There are still problems for those trying to obtain citizenship.

In St Petersburg a woman from Kazakhstan, Regina Il'shatovna Geleeva, was not allowed to apply for Russian citizenship according to Article 14.4. This is despite the fact that she is married to a Russian citizen, has three small children and a 1974 passport with registration as of 01.07.2002. The rejection [of her application] was appealed in court. The court ruled in her favour, stating that the actions of the Passport and Visa Service officials were illegal.

In many regions migrants from the CIS are not granted Russian citizenship according to the accelerated procedure as per international agreements, despite the fact that they have their own housing and means of support.

There are problems everywhere obtaining citizenship for children. In Pyatigorsk an application for citizenship for a child has still not been accepted even though one of the parents is a Russian citizen. The second parent cannot obtain citizenship either (in this case because the child is not registered at their place of residence). Even though they have all the documents needed to prove that the child has been living on the territory of Stavropol' krai, the application for citizenship for the child has still not been accepted. In this particular case there has been no recommendation to go

to court to prove that the child has been living in that region as even with a court ruling in their favour the application will still not be accepted.

In the Saratov region there have been problems for migrants who have already been granted Russian citizenship who want to obtain passports for their children. The children obtained Russian citizenship at the same time as their parents and had certificates to show their Russian citizenship and a stamp on their birth certificate. However, this citizenship was never documented with a Russian Federation passport.

In the Tambov region Shakaryan Sarkis found himself in a similar situation. In 1998 he arrived in the Russian Federation, still a minor, to live permanently with his parents. His parents have their own house, where all of them are registered. Nevertheless, when it came to applying for citizenship, his parents' applications were accepted, but his was not. The authorities demanded proof that he really had been living in the Russian Federation all these years with his parents, even though he has a school certificate, a certificate from the village and a copy of his medical card from the polyclinic where he gets treatment. He went to court to prove that he was permanently living in the Russian Federation as of 01.07.2002. However, the Tambovskii regional court refused to issue such a ruling in its decision of 24.08.05, on the grounds that there is no legal reason to prove this fact in order to obtain Russian citizenship according to the simplified procedure that should apply [in his case].

The problem is obviously that the Passport and Visa Service staff and local judges are not sufficiently well-trained but also that there is a whole row of unregulated normative problems which means that many people are faced with a dead end when they try and legalise their status. This particularly affects those who have no identity documents. This is mainly the case for those who came to the Russian Federation as children and who for whatever reason have never been given a passport. These people are in a hopeless situation as they are denied practically all their rights and cannot even go to their country of origin to sort out their problems, as they do not have any identity documents at all.

Quite recently the practise of taking away passports that were given out without grounds has become widespread. Unfortunately, no other identity document is given in exchange. It has been obvious for several years now that there is a need for some sort of temporary identity document for stateless persons, but nothing has been done about this to date.

The level of public hostility to migrants continues to grow.

A fascist march, passing through the centre of Moscow on 4th November is an example of this. The authorities allowed the march. 5 to 6,000 young people from the "Eurasian Union", the "Movement Against Illegal Immigration" and other extremist groups took part. They carried signs saying: "Russia for Russians!" and "Russians Advance!" Hatred and xenophobic attitudes are growing towards people from the Caucasus, dark-skinned foreigners and people from Central Asia. The number of violent acts, including murders and attacks on non-ethnic Russians and foreign students is also rising. From January to November 2005 there were 27 murders committed on racist grounds and 288 people were hospitalised due to attacks by extremists.

St Petersburg has the highest number of attacks and murders on racist grounds. On 15th September a 29-year-old student from the Congo was badly beaten. He never regained consciousness and died. On 21st September there was another attack on a foreign student, a Jordanian third year student at the Mechnikov state medical academy was attacked by four young men who beat him, stabbed him twice with a knife and then ran away. On 09.11.05 a 25-year-old Chinese student at the Conservatory was attacked on Stachek Boulevard in the Kirovskii area of St Petersburg. The student was taken to hospital injured. Kamsim Leon from Cameroon was brutally beaten, again in the Kirovskii area on 24.12.2005. He was a student at the University of hydro-technology. A second student, a citizen from Namibia, was also attacked and taken to hospital with knife wounds. The attackers wore black jackets and black hats. On 9th October a group of young hooligans killed Urtado Ankhelis, a student from Peru.

Representatives of the authorities do not hide hostility and hatred towards non-ethnic Russians in much the same way. For example, in Tambov and the Tambov region there are a large number of ethnic Armenians and Kurds. The majority of them have their own homes. They have all been living there since before 01.07.2002. The fact that they have been living there since that date gives them the right to receive Russian citizenship according to a simplified procedure. However, the courts refuse to support this position. There are grounds to believe that the position of the local courts is due to the position of their colleagues in citizenship cases at the regional court level: Not to let Armenians and Kurds into the region. I. Andrianova, a judge from the Tambov local court said outright when examining an application from an N.V. Fisher from Kazakhstan that the regional court would change her decision anyway, in order not to create a precedent, as in: "if we create this precedent we will be swamped by a stream of Armenians and Kurds".

In 2005, the start of the New Year was celebrated by a startling act in the State Duma. Upon the initiative of Alexander Krutov, a deputy from the "Rodina" [Motherland] faction, a letter was written to the General Prosecutor calling upon him to open a case to "ban all religious and national Jewish organisations as extremist". The letter was signed by 19 deputies from the State Duma and hundreds of social activists, making around 500 signatures in all. On 14th January this letter was published in the "Orthodox Rus'" newspaper. That same evening a group of young people shouting anti-Semitic slogans severely beat Aleksandr Lakshin, a Rabbi, kicking him and striking him with bottles. A criminal case was opened into the attack but not as an act that aimed to incite national, racial or religious enmity and degrading treatment towards a national group (Article 282 of the Criminal Code of the RF), but under Article 213 – hooliganism.

Biography

MEMORIAL HUMAN RIGHTS CENTRE

SERBIA & MONTENEGRO

1 Arrivals

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

Table 1:

Month	2004	2005	Variation +/-(%)
January	9	1	-88.8
February	2	2	-
March	1	3	+200
April	0	1	-
May	4	10	+150
June	6	5	-16.6
July	0	10	-
August	3	8	+166.6
September	15	1	-93.3
October	4	5	+25
November	2	3	+50
December	4	6	+50
Total	**50**	**55**	**+10**

Source: UNHCR

Comments

SAM is currently the only country in the region that does not have comprehensive asylum legislation, as a result of which asylum cases are being handled by UNHCR.[23] At this point SAM lacks adequate infrastructure, especially reception centres for asylum seekers, and trained staff to process applications effectively.

The majority of asylum seekers are persons caught whilst irregularly entering or staying in the territory of the former Yugoslavia, these individuals are often in transit to Western Europe when they are apprehended. In addition, a small number of individuals with legal residence in SAM have voluntarily approached UNHCR, and a number have entered the procedure through the UNHCR reception office at Belgrade Airport. UNHCR does not have reception centres at other border crossings. If they are granted refugee status by UNHCR, these people will be relocated to third countries – mainly to the USA and Canada.

[23] Neighbours of SAM already have well-defined asylum systems in place: the Asylum Law of the Republic of Croatia was passed on June 18, 2003; BiH adopted its Law on Movement and Residence of Aliens and Asylum on July 18, 2003; the Law on Asylum and Temporary Protection of the Republic of Macedonia was passed on July 16; the Asylum Law of Albania was enacted on December 14 1998 and the Bulgarian Asylum Law was passed on May 16, 2002.

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

Table 2:

Country	2004	2005	Variation +/-(%)
Turkey	15	1	-93.3
Iraq	10	5	-50
India	5	5	-
Nigeria	4	1	-75
Georgia	3	7	+133.3
Mongolia	3	4	+33.3
Sudan	2	0	-100
Ukraine	2	0	-100
Armenia	1	0	-100
Azerbaijan	1	0	-100
Canadian	1	0	-100
Iran	1	2	+100
Romanian	1	0	-100
Stateless Palestinians	1	1	-
Bangladesh	0	8	-
Bulgaria	0	3	-
Moldova	0	3	-
Somalia	0	0	-
Albania	0	2	-
Morocco	0	3	-
Netherlands	0	1	-
Russia	0	3	-
Sri Lanka	0	4	-
Tunis	0	1	-
Uzbekistan	0	1	-

Source: UNHCR

3 Persons arriving under family reunification procedure

According to UNHCR data, no persons arrived in SAM under family reunification procedures during 2005.

4 Refugees arriving as part of a resettlement programme

According to UNHCR Representation in Serbia and Montenegro, no persons arrived in the country as part of a resettlement programme during 2005.

5 Unaccompanied minors

No figures available.

2 Recognition Rates

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

Table 3:

Status	2004		2005	
	Number	%	Number	%
No status awarded	33	94.9	37	
Convention status	2*	5.1	2**	
Total	**35**	**100**	**39**	

Source: UNHCR

Comments
* In 2004, refugee status was granted to two Ukrainian nationals who applied to UNHCR during the year. Of the 33 individuals not granted refugee status, 13 were rejected and 20 cases were otherwise closed with no substantive decision having been made, usually the result of a "no-show" by the asylum-seeker, rejection on formal grounds, etc.

** In 2005, refugee status was granted to two people (nationality unknown) who applied to UNHCR. Of the 37 individuals not granted refugee status, 17 were rejected and 20 cases were otherwise closed with no substantive decision having been made, usually the result of a "no-show" by the asylum-seeker, rejection on formal grounds, etc.

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

* See point 6.

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

SAM has signed readmission agreements with 15 EU and adjacent countries. In addition to returning their own nationals, all the agreements also provide for the return of third country nationals and stateless persons who have transited through the territory of one signatory country before arriving in the territory of the other. There is no available data on how these agreements have been implemented with regards to the return of third country nationals to SAM, nor is there data on how many people have been returned to neighbouring countries after they have entered SAM from these territories. In general, countries of Western Europe do not return third country nationals to SAM, since there is neither legislation nor capacity for the reception of asylum seekers, or procedures that would guarantee that they would be protected from expulsion if returned. However, UNHCR has initiated asylum procedures in the case of nationals from Moldova, returned to SAM from the territory of Croatia.

The new laws currently in the process of being drafted are intended to insure compliance with international standards on refugees and asylum-seekers and should incorporate the safe third country concept into SAM legislation.

10 Persons returned on safe country of origin grounds

In 2005 Serbia and Montenegro was yet again the main country of origin of asylum-seekers in industrialised countries, with 21,927 asylum claims lodged by its citizens.[24]

The return of a large number of SAM nationals who were rejected as asylum seekers in Western Europe, or who have had their temporary protection for humanitarian reasons, granted during the conflicts in the former SFRY, withdrawn, is underway. The return of these people is being carried out according to the obligations SAM has undertaken by signing readmission agreements. See point 22.

11 Number of applications determined inadmissible

UNHCR rejected the applications of 24 asylum seekers during 2005. 20 entered the admissibility procedure.
Source: UNHCR

12 Number of asylum seekers denied entry to the territory

UNHCR does not have data on cases of refoulement. But given the current disarray of procedures safeguarding access to protection there is still a significant possibility of refoulement. According to unofficial estimates, there were 27,000 foreign citizens who where not allowed to enter Serbia and Montenegro in 2005 and potential asylum seekers were certainly among them. UNHCR also prevented the repatriation of an Iraqi citizen who would have been deported because his travel documents had expired in Serbia and Montenegro.

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

In relation to 2004, not many things have changed regarding the reception or detention of asylum seekers. There is a great deal of inconsistency concerning police administration in different parts of Serbia. In some cases, people who are caught irregularly crossing the border and who claim asylum are immediately directed to UNHCR. In other instances asylum seekers are sent to the local prosecuting judge who orders two to three weeks detention for entering irregularly or irregularly staying in the country under Article 106 of the Federal Law on the Movement and Residence of Foreigners. During the court procedure and detention, these individuals do not have access to legal counsel. Women with children, or unaccompanied children are however immediately directed to UNHCR. Illegal migrants are permitted to apply for asylum only after they have completed their initial period of detention.

After serving their penalty, provided they have not been deported, the police transfer these claimants to the Centre for Reception of Foreign Citizens, an institution within the county prison of Padinska Skela. The centre mainly accommodates foreign citizens waiting for their identity to be established and the papers for return to their country of origin to be arranged. As a rule, UNHCR takes claimants who appear to have well founded claims for international protection from detention and provides them with special accommodation. Usually persons without documents whose identities cannot be established stay in detention. These persons have either destroyed their documents to prevent return to their country of origin or have had

[24] UNHCR, *Asylum Levels and Trends in Industrialized Countries* 2005, March 2006.

the documents taken by traffickers. Due to their lack of documents detention can last for extended periods.

14 Deportations of rejected asylum seekers

The IOM assists those whose asylum claims have been rejected by UNHCR by organising the return to their country of origin. In 2005, there was only one case of voluntary return of an asylum seeker. An Albanian gave up their asylum claim and, through IOM, voluntarily returned to Albania.

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

According to the estimation of the Serbian Commissariat for Refugees in the period between 1996 and 2005, 60,000 refugees have returned to Croatia and 70,000 to Bosnia and Herzegovina.
In 2004, UNHCR, OSCE and European Commission missions to Serbia and Montenegro, Croatia, and Bosnia and Herzegovina launched a regional initiative called *Road Map* aimed at enhancing sustainable solutions through return or integration, with the intention of closing the refugee chapter in former SFRY by the end of 2006. At the trilateral ministerial meeting held on January 31, 2005 in Sarajevo, the three countries signed the Sarajevo Declaration. Each signatory is expected to adopt an action plan, which will lead to a joint template specifying tasks and deadlines. The countries in the region are expected to offer conditions permitting refugees to freely choose whether to integrate in the host country or return to the country of origin. Also see Q.34

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

SAM is not party to the Dublin II Regulation.

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

Iraqi nationals are currently granted temporary protection in SAM, under the care of UNHCR. Although they have entered the UNHCR procedure, UNHCR will not examine their claims for international protection so long as the security situation in Iraq remains in doubt. In 2005 there were 19 Iraqi nationals in SAM who enjoyed this type of temporary protection.[25]

5 Legal and Procedural Developments

18 New legislation passed

The SAM Parliament passed the new Law on Asylum in draft form in March 2005. The law does not specify procedures for the reception and protection of asylum-seekers and only guarantees the right to seek asylum. In Montenegro, the draft law has been prepared for adoption at the Assembly, while in Serbia it is still in its draft form. The reason for delay in Serbia lies above all in the lack of institutional cooperation, which is characterised by animosity among certain Ministries.

[25] There were 18 asylum seekers in Kosovo in 2005 under the refugee status determination procedure of UNHCR.

Aiming at strengthening capacities for future asylum protection, UNHCR carries out training for the police in Serbia and organises study visits in order to familiarise the authority representatives with the asylum systems in neighbouring countries. After the Law on Asylum is adopted, UNHCR is planning training for judicial bodies and the civil sector.

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

No developments.

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

SAM has signed readmission agreements with the following 15 countries: Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Germany, Hungary, Italy, Luxembourg, Netherlands, Slovakia, Slovenia, Sweden, and Switzerland. All the above-mentioned agreements have been ratified with the exception of the agreements with Austria and Croatia. The process of making readmission agreements with the following countries are currently underway: Albania, Canada, France, Great Britain, Greece, Macedonia, Norway, Portugal, and Romania. Currently there is little data on the way these agreements are being implemented. Since March 2003 no readmission agreement has been signed.
The ratification of readmission agreements is a prerequisite for cooperation with the EU and their implementation is essential for getting financial aid and the liberalization of the visa regime. However, readmission agreements do not guarantee reintegration for returnees and, with some exceptions, do not specify human rights conditions on return to the country of origin.

There is no accurate data on the number and demographic structure of returnees. Since December 2005 there has been an office, staffed by a lawyer and a social worker from the Ministry of Human and Minority Rights, for the reception of returnees at Belgrade Airport. They are to provide free legal guidance and assistance for returnees, as well as maintaining a data system. The current lack of data poses a serious difficulty in attempting to analyse the problem, suggest measures, and plan actions on behalf of those people affected. The lack of information is an obstacle for any impartial assessment of the needs of returnees and for the identification of the most vulnerable among them.

The Council of Europe estimates that between 50,000 and 100,000 citizens of SAM are to be returned from Western Europe, the majority from Germany. Some estimates envisage 150,000 potential returnees. The majority of these are Roma, followed by Muslim-Bosnians and Serbs.

Certain minorities are being returned directly to Kosovo, or to central Serbia proper as a safe part of the country, under the controversial concept of the internal flight alternative in spite of the request from the Parliamentary Assembly of the Council of Europe and UNHCR that such practices be suspended. This is an especially problematic and difficult issue as people may find themselves internally displaced; as a result they may face undue hardship, and be unable to exercise their basic human rights.

6 The Social Dimension

23 Changes in the reception system

Those asylum seekers admitted into the UNHCR procedure for obtaining asylum are allowed to reside in Serbia and Montenegro but without any economic or social rights. In the absence of a national asylum system in SAM, UNHCR provided accommodation to asylum seekers at the motel "Hiljadu ruža" (10 kilometres Southeast of Belgrade) until December 2005. Since then, UNHCR has been accommodating asylum seekers in the workers' barracks in a part of New Belgrade called "Savski nasip", based on an agreement with a construction company. The asylum seekers there have regular meals, but the living conditions are generally worse than at the motel "Hiljadu ruža". If they have money, asylum seekers can pay for private accommodation in a room or a flat.

UNHCR offers 100 US dollars a month as assistance to the persons who have been granted refugee status, in order for them to find their own private accommodation while they are waiting for relocation to third countries. There are no restrictions regarding the choice of accommodation for refugees, but UNHCR advises them to select Belgrade or its surroundings due to the location of the UNHCR office. In SAM, people who have entered the UNHCR determination procedure are issuedwith a UNHCR ID card, which enables them to move freely throughout the country, with prior authorisation from the police.

There are cases where people leave UNHCR accommodation and continue their journey towards Western Europe, even after UNHCR has indicated that their asylum claims will be positively resolved and that they will be transferred to a third country. This is partly due to the fact that the process of obtaining asylum can take several months, if not years. Even in situations where a refugee status has been granted, long periods may elapse while the final details of a case are resolved.

24 Changes in social welfare policy relevant to refugees

No developments.

25 Changes in policy relating to refugee integration

No developments.

26 Changes in family reunion policy

No developments.

7 Other Policy developments

27 Developments in resettlement policy

No developments.

28 Developments in return policy

No developments.

29 Developments in border control measures

Progress in SAM towards an integrated border management system finally seems to be gaining some momentum. The action plan of the Republic of Montenegro indicates that the strategy should be adopted by the end of the year.
On March 10 2005, the Government of the Republic of Serbia issued a Decision on Appointment of the President and Members of the Commission on Preparation and Organization of a National Strategy on Management of Border Security and Control services of the Republic of Serbia (Official Gazette No.24/05). The Commission consists of 24 members presided over by the Minister of Interior. The members are the representatives of the 11 ministries. This makes it a very cumbersome body that is able to perform operational tasks only in more limited formations. The first draft of the Strategy is expected in a short time. As soon as the Strategy is adopted the issue of its implementation will be raised. The precondition for strategy implementation is the demilitarization of SAM borders i.e. the handover of state border control from the military to the police authorities of the constituent republics. In preparation for the handover of state border control to the Ministry of the Interior of Serbia, based on the decision of the Supreme Defense Council (Official Gazette of SAM No.1/03), all necessary documents for the venture have been harmonized and adopted by the competent bodies.

- Decision of the Council of Ministers on Temporary Takeover of State Border Control, Resources for Performing those Tasks and Members of SAM Army by the Ministry of Interior of Serbia (Official Gazette No.4/05).
- Memorandum on Turnover of State Border Control, Resources for Performing those Tasks and takeover from Professional Members of the SAM Army by the Ministry of Interior of Serbia.
- Decision of the Minister of Defense to Establish the Commission to prepare concrete Proposals and activities for the Implementation of the Decision of the Council of Ministers.
- Plan of Action for the turnover of State Border Control from the SAM Army to the Ministry of Interior of Serbia.

In accordance with the Amended Plan of Action adopted on August 15, 2005, the takeover of the state border control has commenced without problem. On September 15, 2005, at 4:30 p.m., state border control from the border area Hungary-SAM -Croatia to the border area Hungary-SAM -Romania, totaling about 175 km in length, was handed over to the Border Police of the Ministry of Interior of Serbia. In total the Border Police took control of 16 watchtowers and 40 military compounds.
At the time of writing this report, the national assembly is still debating a very important Law on the position of the Police force, which is expected to delineate the police as a public service as well as further defining the position of the border police within law enforcement. The Law on Surveillance of the State Border is unfortunately still pending.

30 Other developments in refugee policy

No developments.

8 Political Context

31 Government in power during 2005

State Union
Serbia and Montenegro are no longer in the State Union formed in 2003. The results of the referendum in Montenegro on 21st of May showed that the majority of people want an independent Montenegro. At this moment, most of the State Union institutions are going

through the process of politically and practically dividing the State Union into two member countries.

Montenegro
In Montenegro, Milo Đukanović of the Democratic Party of Socialists (DPS) became Prime Minister after his party came to power in October 2002, taking 39 of 75 seats. Filip Vujanović of the governing DPS party remained in office as President having taken the post in May 2003. The election was the third attempt to fill the presidency as low turnout caused elections held in December 2002 and February 2003, to be invalidated; the Montenegrin Parliament consequently abolished the 50%+1turnout requirement needed for an election to be considered valid.

Serbia
In June 2004, Boris Tadić of the Democratic Party (DS) was elected president after a series of failed elections in 2002/2003. The post had been vacant since January 2003, when then-president, Milan Milutinović surrendered to the Hague Tribunal at the end of his term. The series of failed presidential elections in 2002/2003 resulted in the Speaker of the House taking on the role of Acting President and led to the February 2004 removal of the controversial 50%+1 turnout requirement needed for an election to be considered valid. Vojislav Koštunica of the centre-right Democratic Party of Serbia (DSS) became Prime Minister in March 2004. Koštunica's coalition government continues to feud with the DS (which he had formed with assassinated Prime Minister Zoran Đinđić before leaving to establish the DSS) and relies on support from the Socialist Party.

32 Governmental policy vis-à-vis EU developments

In the field of migration, the European Union monitors the policy reforms implemented by candidate countries. One of the three working groups for negotiations with the EU will be negotiating the issues of visas, asylum, border control, and migration. After the Feasibility Study for EU accession in April 2005 approved SAM, a Stabilisation and Association Agreement should also be signed and will include the provisions related to these issues. This is similar to the agreement signed by Croatia and Macedonia. Although these acts predominantly contain economy and trading issues, there will be articles related to the asylum and border control policy of SAM. The EU expects full co-operation and real reforms in this field.

However, the Stabilization and Association negotiations between EU and SAM were stopped at the beginning of May 2006 due to a lack of cooperation from SAM with the Hague Tribunal (war criminal Ratko Mladic is still hiding, and the tribunal does not believe that SAM is cooperating fully with attempts to apprehend him).

33 Asylum in the national political agenda

See point 32.

34 Additional information

Between the end of 2004 and the beginning of 2005, a registration of refugees was carried out in which 141,705 persons were registered. The revision of their status is still under way. Out of the total number of registered refugees, 100,528 are from Croatia and 41,177 from Bosnia and Herzegovina.[26] In Montenegro, 8,431 refugees were registered - 6,103 from Bosnia and Herzegovina and 2,328 from Croatia.

[26] Source: Commissariat for Refugees of the Republic of Serbia.

The number of refugees is nearly four times lower than in 1996, when 551,000 refugees were registered. The decline is a result of the return process to Croatia and Bosnia and Herzegovina, local integration in Serbia, or relocation to third countries. The decrease in number of refugees does not necessarily imply that a durable solution for their problems has been found. Croatia and Bosnia and Herzegovina have shown that difficult economic situations or discriminatory practices against minority members hamper the return process and make it unsustainable. In addition, it is possible that persons did not register as refugees, but have simply become part of local disadvantaged populations.

2004 and 2005 saw some progress being made towards finding a lasting solution to the refugee problems in the territory of the former Yugoslavia. A regional initiative for the return of local integration of refugees called *Road Map* was launched with the participation of Serbia, Montenegro, Bosnia and Herzegovina and Croatia. Serbia has, despite numerous difficulties, continued with the implementation of the National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons in cooperation with foreign donors and partner organisations by offering projects for integration through acquisition of citizenship[27] as well as housing and income-generation projects. International and local non-governmental organisations continue to provide refugees with substantive support and assistance for return or integration into the local community.

Montenegro
In the face of the critical opinion of the international community regarding Montenegro's unwillingness to confront the problems of refuges and IDPs, the Government of Montenegro reluctantly adopted its National Strategy for a durable solution to the problem of refugees and IDPs in March 2005. As the authorities in Montenegro are not keen to integrate refugees and IDPs, believing that it would disturb the ethnic and political structure of the country, the desired end result is unclear.

Internally Displaced Persons

According to official data, Serbia and Montenegro hosted 225,877 IDPs, of whom 18,019 are in Montenegro.[28] The ethnic structure of the displaced population shows that the majority are Serbs (68%), followed by Roma (12%), and then Montenegrins (8%).

According to UNHCR data, only 14,553 minority members have returned to Kosovo in the six years since the end of the conflicts, (6,616 Serbs, 3,927 Ashkalias/Egyptians, 1,576 Roma, 1,324 Bosniacs, 484 Goranis and 623 Albanians).[29] Lack of freedom of movement, bleak economic prospects and the uncertainty surrounding the final status of Kosovo make many reluctant to return. It is difficult to expect people to make the final decision to return without knowing if the territory that he/she returns to will be independent, autonomous or enjoy some other status. The security situation and unresolved status of Kosovo not only hinder any large-scale return, but also cause donors to lose interest in supporting return programmes.[30]

The decision on the future status of Kosovo will directly affect the displaced population, primarily through their citizenship status, but also all the other rights derived from it. In the

[10] According to data from the Serbian Commissariat for Refugees, 207,000 refugees from Bosnia and Herzegovina and Croatia have so far acquired citizenship of Serbia and Montenegro.
[28] This figure is a subject of debate. It is claimed to be significantly lower, as it cannot actually be higher than the number of minority members, especially Serbs, who ever lived in Kosovo, whereas on the other hand, number of IDPs could be higher than the official figure suggests as many Roma have not registered as IDPs. Serbian authorities for the time being do not intend to conduct a new census of displaced persons to resolve this issue. (For more information on this topic see: Global IDP Database www.db.idpproject.org)
[29] UNHCR, *Kosovo:* Minority Voluntary Return, January 2006.
[30] Global IDP Project, *IDPs from Kosovo: Stuck Between Uncertain Return Prospect and Denial of Local Integration*, September 2005.

worst-case scenario, the future status of Kosovo may lead to new displacements. The decision on the new status may be reached without Serbia or without the consent of the Serbian Government. IDPs in Serbia and Montenegro already experience numerous problems in accessing their rights because of the conflicting political agendas reflected in the lack of cooperation between UNMIK and the Republic of Serbia and mutual non-recognition of official documents.

Due to unfavourable living conditions and the denial of access to some basic rights, many IDPs who lived in Montenegro left that Republic and came to Serbia. Thus the number of IDPs in Montenegro fell from 30,000 in 1999 to 18,000 in 2005.

Biography

Danilo Rakić & Gordan Velev

GRUPA 484

Group 484's activities focus on migration issues in the Balkans, especially the protection and realisation of the rights of forced migrants. Founded in 1995, our original objective was to provide humanitarian, legal and psychosocial help to the large numbers of refugees who were coming to Serbia and Montenegro. Since that time, our organisation and its activities have continued to evolve and expand in order to meet the changing dynamic and needs of our communities. Today, working together with our beneficiaries, we offer civil society development along with advocacy, legal, and psychosocial assistance to refugees, internally displaced persons and others throughout Serbia and Montenegro with the intent of finding durable solutions at both the national and regional level. We remain committed to the development of a peaceful, tolerant society, and our initiatives focus on educating young people to become active participants in the realisation of this goal.

WWW.GRUPA484.ORG.YU

SLOVAK REPUBLIC

1 Arrivals

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

Table 1:

Month	2004	2005	Variation +/-(%)
January	982	377	- 61.6 %
February	751	127	- 83.1 %
March	801	138	- 82.8 %
April	1,621	295	- 81.8 %
May	1,117	217	- 80.6 %
June	1,114	259	- 76.8 %
July	989	254	- 74.3 %
August	773	405	- 47.6 %
Sept.	873	379	- 56.6 %
October	1,079	415	- 61.5 %
November	643	369	- 42.6 %
December	652	313	- 52 %
Total	**11,395**	**3,549**	**- 68.9 %**

Source: Slovak Migration Office

Comments
There was a significant decrease in the number of asylum applications in 2005, a total of 68.9 % less than in 2004. This reflects the general trend of declining numbers throughout European countries, although in Slovakia it could also indicate an increase in the number of persons passing through Slovakia without being registered by the authorities.

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

Table 2:

Country	2003	2004	Variation +/-(%)
Russian Federation	2,413	1,037	- 57 %
India	2,969	561	- 81.1 %
Moldova	826	309	- 62.6 %
China	1,271	280	- 78 %
Bangladesh	544	277	- 49.1 %
Georgia	989	258	- 73.9 %
Pakistan	799	196	- 75.5 %
Afghanistan	393	109	- 72.3 %

Source: Slovak Migration Office

3 Persons arriving under family reunification procedure

Figures not available.

4 Refugees arriving as part of a resettlement programme

The Slovak Republic does not operate any resettlement programmes.

5 Unaccompanied minors

Table 3:

Country	2004	2005
India	24	33
Moldova	68	26
Bangladesh	13	13
Russia	18	11
Afghanistan	23	8
Vietnam	2	4
Georgia	8	3
Somalia	0	1
Liberia	0	1
China	31	0
Pakistan	3	0
Iraq	2	0
Israel	1	0
Senegal	1	0
Turkey	2	0
Total	**196**	**100**

Unaccompanied minors granted tolerated stay status between 1.4.2005 – 31.12.2005 by nationality:

Table 4:

Country	2005
Moldova	15
India	12
Vietnam	10
Pakistan	5
China	3
Bangladesh	3
Afghanistan	3
Turkey	2
Palestine	2
Russia	2
Iraq	1
Georgia	1
Total	**59**

Source: the *specialized orphan house for unaccompanied minors* in Horné Orechové that was opened in April 2005.

Comments

Unaccompanied minors allocated to the orphanage are granted a 'tolerated stay' status for 180 days. This is prolonged every 180 days until the age of 18, or until the age of 25 provided that the minor attends school.

2 Recognition Rates

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

Table 5:

Statuses	**2004**				**2005**			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	1,592	87.2			827	73.7		
Convention status	15	0.9			25	2.23		
Subsidiary status	0				0			
Tolerated Stay	219	12			269	24		
Total	**1,826**	**100**			**1,121**	**100**		

Source: Migration office of the Slovak Republic

Comments

In 2005 out of a total of 3,549 applications, the procedure was suspended in 2,923 cases (82%) due to the unauthorised exit of the applicant from the Slovak Republic. There were only 25 asylum statuses granted. Of these, asylum was granted to 2 big families, 1 family with 12 members from the Ukraine and 1 family with 5 members from Serbia and Montenegro.

There is no real form of subsidiary protection in Slovakia as yet. It will be introduced by the transposition of the Qualification Directive into Slovak law by October 2006. The only form of subsidiary protection at present is the so-called "tolerated stay". This can be granted by the Alien and Border Police Department if:

- the alien cannot be expelled for administrative reasons
- s/he was granted temporary protection
- they can not be returned and there is no reason for detention
- s/he is a minor

Tolerated stay status is granted for a maximum of 180 days, which can be renewed on request, provided that the police department decides that the reasons for granting tolerated status still exist. Those that have been granted the tolerated stay cannot work or carry on any business except for those who have been granted temporary sanctuary. After three years the police department can upon request of a person who cannot be administratively expelled grant permission to work.

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 6:

Country of origin	**2004**				**2005**			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
Ukraine	0	0	0		12	48	0	
Serbia & Montenegro	0	0	0		7	28	0	

Afghanistan	0	0	0	2	8	0
Cuba	0	0	0	2	8	0
Iraq	0	0	0	1	4	0
Zaire	0	0	0	1	4	0
Russian Federation	5	33.3	0	0	0	0
Iran	4	26.6	0	0	0	0
Congo	2	13.3	0	0	0	0
Angola	1	6.7	0	0	0	0
Egypt	1	6.7	0	0	0	0
Kuwait	1	6.7	0	0	0	0
Stateless	1	6.7	0	0	0	0
Total	**15**	**100**	**0**	**25**	**100**	**0**

Source: Migration office of the Slovak Republic

Comments
The Migration Office does not hold information on whether asylum was granted at 1st instance or on appeal. However, it can be assumed that the final decision was always issued by the 1st instance body, as the appellate authority only confirms or cancels the decision at 1st instance and in the latter situation returns the case back for a repeat hearing at 1st instance.

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

There is no real form of subsidiary protection in the Slovak Republic as yet.

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

No figures available.

10 Persons returned on safe country of origin grounds

No figures available.

11 Number of applications determined inadmissible

Act No.480/2002 Z.z. on asylum (amended) §11 section 1(a) states that the Ministry of Interior can declare an application to be inadmissible 'If another state is responsible for processing it' (safe third country).

No. of applications deemed inadmissible in 2005 on safe third country grounds: 52 (2004:10)

Act No.480/2002 Z.z. on asylum (amended) §11 section 1(b) states that the Ministry of Interior can declare an application to be inadmissible 'if the applicant comes from a state that the Slovak Republic considers to be a safe third country; this does not apply if in the particular case this country can not be considered as safe or if the applicant can not be effectively returned to the country'.

No. of inadmissible applications in 2005: 1 (2004:0)

12 Number of asylum seekers denied entry to the territory

According to the Bureau of Border and Aliens Police such statistics are not available. However, the following information is available.

In 2005, 5,178 migrants were detained whilst crossing the border illegally (2004: 8,334). The majority of these irregular migrants are attempting to transit through Slovak territory, or are hoping to use the asylum procedure for the purpose of legitimizing their residence in the Slovak Republic with a view to preparing their irregular entry into another state. This is demonstrated by the repeated attempts of some asylum seekers to cross the state border with Austria.

Table 7:

Country	2004	2005	Variation +/-(%)
Russian	1,921	1,278	-33.5
Moldova	941	1,126	+19.7
India	1,295	582	-55.1
China	993	435	-56.2
Georgia	828	356	-57
Pakistan	445	192	-56.9
Vietnam	145	136	-6.2
Ukraine	166	122	-26.5
Bangladesh	184	122	-33.7
Palestine	119	107	-10.1
Other	1,297	722	-44.3
Total	**8,334**	**5,178**	**-37.9**

As a result of the readmission agreement with Ukraine, in 2005 1,841 out of 2,554 (72%) persons trying to cross the Slovak/Ukrainian border were returned. In 2004, 832 out of 3,352 third-country nationals were returned to Ukraine (32%).

Source: Yearbook 2005 of Bureau of Border and Aliens Police

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

The maximum length of detention is 180 days. Act 48/2002 Z.z. on residence of aliens (amended) §62 section 1 stipulates the grounds on which a non-national can be detained:

- Unauthorised entry into the territory of the Slovak Republic
- Unauthorised residence on the territory of the Slovak Republic
- If it is necessary for the execution of administrative expulsion or an expulsion penalty notice
- Where non-nationals have previously left Slovak territory without authorization and have been returned by the authorities of a neighbouring state.
- Where a non-national attempts to irregularly cross a border into a neighbouring state.
- Where a non-national submits an application for asylum after an expulsion notice or where an administrative expulsion notice has been issued against them.
- If it is necessary for transfer according to special national legislation

There are two detention centres in the Slovak Republic. Medveďov is situated in the west and Sečovce in the east of Slovakia. Sečovce was closed in June 2006, but will re-open next year. During 2005 the most common reasons for detention were points 1-3 above.

Table 8:

	2005			2004		
	Males	**Females**	**Total**	**Males**	**Females**	**Total**
No. of detained non-nationals	873	264	**1137**	1277	271	**1548**
No. of administratively expelled non-nationals	462	231	**693**	211	83	**294**
No. of non nationals released	175	33	**208**	340	74	**414**
No. of detained asylum seekers	347	29	**376**	941	156	**1097**

Source: Police Detention Centres in Medveďov and in Sečovce

14 Deportations of rejected asylum seekers

Figures not available.

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

The assisted return of persons who voluntarily opted for repatriation were organised and supervised by IOM**.**
2005: 119**;** 2 unaccompanied minors
2004: 148; 1 unaccompanied minor

Table 9

Country of return	**2005**	**2004**
China	49	75
Russia /Chechnya/	21	15
Georgia	15	1
Turkey	11	20
Moldova	7	12
Bulgaria	4	0
Armenia	2	16
Syria	2	0
Azerbaijan	1	1
Belarus	1	0
Ethiopia	1	0
India	1	0
Iran	1	0
Lebanon	1	1
Serbia & Montenegro	1	0
Vietnam	1	0
Total	**119**	**148**

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

Table 10:

Dublin Transfers 2005:	From SR outgoing requests	To SR incoming requests
Total number of requests	604	2715
EURODAC	388	1995
Total number accepted	203	1769
Total number refused	214	520
Total number transferred	36	454

Source: Migration office of the Slovak Republic

Comments
The numbers do not include children below 14 years of age, which means that actual numbers are significantly higher. One transfer can include for example, one family with five members. In 2005 the Police Force Asylum Department executed 1,054 transfers of asylum seekers, 182 Dublin transfers and issued 15 administrative expulsion decisions.

Source: Yearbook 2005 of Bureau of Border and Aliens Police

Dublin Transfers 2005

From SR outgoing requests

Table 11:

Submitted to	Requests	EURODAC	Accepted	Refused	Transferred
Belgium	4	2	1	1	0
Czech Republic	11	4	3	5	2
Germany	23	10	1	9	1
Spain	1	0	0	0	0
France	11	10	6	2	2
Italy	2	1	0	0	0
Hungary	39	13	7	12	3
Netherlands	1	0	0	0	0
Austria	44	31	10	18	3
Poland	455	306	173	162	25
Finland	1	1	0	0	0
Sweden	7	6	0	4	0
Norway	5	4	2	1	0
Total	**604**	**388**	**203**	**214**	**36**

To SR incoming requests

Table 12:

Submitted by	Requests	EURODAC	Accepted	Refused	Transferred
Belgium	55	55	39	19	8
Czech Republic	79	32	46	13	51
Denmark	81	0	3	1	1
Germany	275	245	196	64	155
Spain	3	3	1	2	0
France	143	119	60	73	14
Ireland	4	3	2	1	0
Italy	8	7	2	4	0
Luxemburg	1	1	1	0	1
Hungary	4	3	0	4	1
Netherlands	42	40	32	10	14
Austria	1,902	1,379	1,297	304	138
Poland	1	1	0	1	0
Finland	4	3	3	0	2
Sweden	33	28	24	5	6
United Kingdom	69	68	54	17	56
Norway	11	8	9	2	7
Total	**2,715**	**1,995**	**1,769**	**520**	**454**

Source: Migration Office of the Slovak Republic

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

For developments regarding unaccompanied minors, see point 24.

5 Legal and Procedural Developments

18 New legislation passed

Act No. 48/2002 on the residence of foreigners has been substantially amended 3 times due to the transposition of 6 EU Directives; Directive 2001/51/EC (Schengen), Directive 2003/86/EC (Family Reunification), Directive 2003/110/EC (assistance in transit cases for removal by air), Directive 2003/109/EC (status of third country nationals who are long-term residents), Directive 2004/38/EC (right of residence for students) and Directive 2004/82/EC/(obligation of carriers to communicate passenger data). These amendments came into force in December 2005:

- Introducing a carriers' liability for carriers' transporting persons across a border without the necessary documentation.
- Allowing for the granting of temporary residence permits in the case of family reunification.
- Specifying the conditions for granting permanent residence permits to non-nationals.
- Dealing with residence permits of EU citizens residing within the territory of the Slovak Republic, including the conditions under which they can be administratively expelled.
- Putting in place a strategy for dealing with illnesses that may endanger public health.

Act No.480/2002 on asylum has been amended by Act No. 1/2005 as a response to the transposition of 2 EU Directives: Directive 2001/55/ EC on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and Directive 2003/9/EC on minimum standards for the reception of asylum seekers, the act now:

- Specifies who can see an applicant's file.
- Quarantine camps have been renamed, and will now be known as reception camps.
- Prescribes the basic support that should be provided to an asylum applicant i.e. food, accommodation, basic sanitary conditions, health care and pocket money. It also lays down the conditions under which pocket money can be refused, for example, in the case of an applicant's disappearance.
- Outlines the duties of the applicant in the reception and accommodation camp.
- Asylum seekers can now apply for a job if a final decision on their case has not been reached within 1 year after they have applied for asylum. In practice, if the applicant decides to live outside the camp and work, no further financial assistance will be provided by the Migration Office.
- If the applicant has not reached the age of 18 a guardian will be appointed at the beginning of the asylum procedure.
- In the event that a case is dismissed or declared to be inadmissible or manifestly unfounded, an appeal no longer has suspensive effect.
- The Ministry of the Interior will commission a medical assessment of those who claim to be an unaccompanied minor to determine their age if there are doubts about the veracity of the claim. So far the Slovak Humanitarian Council has not observed this occurring in practice.
- The applicant can leave an accommodation camp only when permission is granted, and then only for up to 7 days. The applicant can ask for permission to be extended in specific circumstances, if for example they were to find work in a different town.
- Those who are granted an asylum status are obliged to attend a Slovak language course in an integration centre.
- An asylum seeker can be transferred from one camp to the other only in exceptional circumstances, though it is unclear what these exceptional circumstances are.

The qualification directive is going to be transposed into national legislation by a new amendment to the Asylum Act. The proposed Act is being prepared and should be passed by Parliament in early autumn 2006.
The proposed changes are as follows:

- Terminology referring to different aspects of asylum/refugee issues will be defined e.g. international protection, subsidiary protection, serious injustice, the agent of persecution, country of origin.
- It will define the concept of persecution, its perpetrators and the forms it can take.
- It will specify the grounds on which individuals can claim asylum from persecution.
- It will broaden the grounds on which an asylum claim can be ruled inadmissible.
- It will introduce subsidiary protection in cases of serious injustice, as well as the circumstances in which subsidiary protection will not be granted, expires or is cancelled.
- It will sanction the granting of subsidiary protection for family reunion.
- It will obligate the authorities to inform asylum-seekers given subsidiary protection of their rights under this protection.
- It will introduce a lump-sum benefit for those awarded an asylum status amounting to 1.5 times the minimum wage, in order to assist them to integrate into society.
- It will specify the period of time in which a recognised asylum seeker can apply for family reunification.

The Procedures Directive will also be transposed into national legislation by amendments to the Asylum Act.

19 Changes in refugee determination procedure, appeal or deportation procedures

Act No.480/2002 on asylum has been amended by Act No. 1/2005. A non-national, who has been returned to the Slovak Republic from another EU Member State, because the Slovak Republic has been determined responsible for examining their asylum application, will have a new interview on their application. In the event that the case is dismissed or declared inadmissible or manifestly unfounded, an appeal no longer has a suspensive effect.

The Asylum Act No.480/2002 does not consider the voluntary exit and subsequent return from Slovak territory as an aggravating circumstance. However, this may make the applicant appear less credible when their application is examined as it implies that the applicant is not serious about receiving asylum in the Slovak Republic.

The penalty for voluntary exit later return by a neighbouring country or the unauthorised entry onto the territory of a neighbour State is that the applicant's 'pocket money' will be withdrawn.

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

No developments.

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

Act No.480/2002 Z.z. on asylum (amended) **§ 13** states the grounds on which asylum will not be granted. This names specific categories of people who are excluded from the protection that is offered by the 1951 Geneva Convention. This clause excludes an individual if there are serious reasons for believing that:

a. The person has committed a crime against peace, a war crime, or a crime against humanity, as defined in international instruments law;
b. The person has committed a serious non-political crime outside the territory of the Slovak Republic prior to his application for asylum;
c. The person has been guilty of acts contrary to the purposes and principles of the United Nations.

22 Developments regarding readmission and cooperation agreements

The Slovak Republic is party to 23 readmission agreements. Of these, 19 are bilateral readmission agreements and 4 agreements have been made between the European Community and third countries.

In 2005, a highly significant change occurred in the way in which the readmission agreement with Ukraine was applied. While in 2004, out of 3,352 migrants heading towards Slovakia via the Slovak-Ukraine state border, 832 third-country nationals were returned to Ukraine (32%), in 2005 out of 2,554 migrants 1,841 were returned (72%).

Bilateral readmission agreements have been signed and come into effect since 2005 with the following states:

- Kingdom of Norway

- Romania
- Socialist Republic of Vietnam

Texts for bilateral readmission agreements have with the following states are being prepared in line with the requirements of the Council regarding a model readmission agreement:

- Republic of Poland
- Republic of Slovenia
- Republic of Croatia
- Republic of Bulgaria
- Republic of Macedonia

Bilateral readmission agreements are also under preparation with the following states:

- Swiss Confederation
- Greece
- Republic of Moldova
- Lebanon
- Bosnia and Herzegovina
- Jordan
- Republic of Belarus

Source: Yearbook 2005 of the Bureau and Aliens Police

6 The Social Dimension

23 Changes in the reception system

An asylum applicant is housed in an initial reception centre for a maximum period of 30 days whilst a medical examination is conducted. The applicant does not necessarily have to stay in the reception centre for 30 days, but can be released immediately after the results of the examination have been obtained, at which point they will be transferred to a second reception centre in which their asylum claim will be examined. If this second centre is full, they are entitled to receive permission to leave the initial centre, as is the case in the second centre.

There used to be 2 reception centres in the western part of the Slovak Republic, one of which was specifically designed to receive vulnerable groups. In February 2005, this reception centre in Adamov was closed, leaving only one reception centre for refugees based in Rohovce. However, vulnerable groups are accommodated in one part of the facility, the unaccompanied minors separately from the adults if possible, families are accommodated in their own rooms. Women are accommodated separately from the men in the different part of the building. There are security men present who check on the well being of residents. There are also social workers that work daily directly in the camp and they also keep an eye on these vulnerable groups of refugees.

There is another reception camp in Opatovská Nová Ves and Liptovské Vlachy in Central and in the East of the Slovak Republic. A new reception camp in Humenné will be opened in September in Eastern Slovakia.

24 Changes in the social welfare policy relevant to refugees

In 2005 the new Act No.305/2005 Z.z. on the social and legal protection of children was passed. It applies to unaccompanied minors as well as to Slovak children, and establishes Slovakia's first orphanage especially for unaccompanied minors.

Every unaccompanied minor is appointed a guardian by the court. This guardian is a representative of the Office of Labour, Social Affairs and Family and is usually a social worker.

On 1st April 2005 the first orphanage for unaccompanied minors was opened in Horné Orechové. It so far only admits males as the number of boys applying for asylum is significantly higher than girls. There are only fifteen places available in the Orphanage at the moment, so girls are placed in regular Slovak Orphanages. However, a new building is under construction and once it is completed the capacity of the unaccompanied minor facility will increase, making it possible to accomodate girls at the same location. Since the foundation of this orphanage unaccompanied minors are able to choose whether they want to apply for asylum or not. If they choose not to apply for asylum they will be entitled to stay in the orphanage and are automatically granted 'tolerated' status, irrespective of their reason for leaving their country of origin. Tolerated stay is granted for 180 days and is automatically prolonged until the minor reaches the age of 18. Provided the minor studies at school, tolerated stay can be prolonged until the age of 26. If they do apply for asylum they are moved to the reception centre for vulnerable adults. During their stay in the orphan house the minor can at anytime decide to apply for asylum, in which case they are transferred to the asylum facility.
The difference between tolerated status and asylum status is that the former is only temporary and does not include permission to work. Currently there is a proposal in the new legislation to extend the right to work to those granted tolerated status.

With respect to unaccompanied minors, the tolerated status includes the right to free full medical care, 3 meals a day, and pocket money. Minors under 15 years receive 10% of the subsistence minimum i.e. 215 -SKK a month, minors over 15 years receive 30% of the subsistence minimum i.e. 645 SKK a month. If they are in the asylum procedure, they only have a right to free urgent medical care, 3 meals a day and pocket money of 8-SKK a day. Currently attempts are being made to equalize the situation of minors with tolerated status and those in the asylum procedure. Tolerated status is a positive development with regards to those unaccompanied minors who are not eligible for asylum as they are able to remain in the Slovak Republic and gain an education that could help create a more secure future for them.

25 Changes in policy relating to refugee integration

According to amendment No.1/2005 to Act No. 480/2002 on asylum those who are awarded asylum status are obliged to attend a Slovak language course in the integration centre.

26 Changes in family reunion policy

No developments.

7 Other Policy Developments

27 Developments in resettlement policy

No developments.

28 Developments in return policy

No developments.

29 Developments in border control measures

In 2005 the authorities became more effective at combating irregular migration. The state border security was enhanced in line with requirements arising from the Schengen Convention, monitoring of asylum centres and their surroundings was improved and responses to current border situations, particularly at the state borders with Ukraine, Poland and Austria became more flexible.

Within the context of service reorganisation there are plans to equip 28 Border and Alien Police divisions (mobile units) with "Schengen Bus" monitoring vehicles. These will be used both in border and inland areas. Their presence will become increasingly significant as abolition of border checks at the Slovak state borders with neighbouring EU/Schengen Member States come into effect. All monitoring systems are of a stationary-mounted type. In 2005, the technical equipment was supplemented, with funding from PHARE funds, and allocated to the basic divisions dispatched to the Slovak/Ukrainian state border and future Schengen airports.

The establishment of reciprocal points of contact is one of the new forms of cooperation at common borders with other EU Member States, based on Article 39 to 46 of the Schengen convention.
The main duties of the common contact points are:

- Maintaining uninterrupted contact between Police authorities of the states involved
- Gathering and exchange of information concerning service activities of the parties involved
- Keeping each other aware of the mutual awareness of changes in national legislation concerning common state borders
- Designing common situation reports concerning the security of state border and general criminal occurrences in the border areas
- Mutual logistic assistance within common actions and common investigation teams operating in the border area (e.g. provision of technical equipment, common service, inspections in the neighbouring states territory)
- Submission and receipt of aliens under a bilateral re-admission agreement

Activities of common contact points are particularly focused on:

- Verification or ascertainment of data concerning owners of vehicles, vessels and aircrafts, driving license holders, boat operators' licences, and other equivalent authorisations, insofar as such are kept, a persons place of residence, type and legitimacy of residence, owners of telephone connections, together with relevant technical data, weapon and ammunition holders
- Searches for those wanted by the authorities of either state and for lost property
- Examination of the authenticity of documents
- Cooperation in the pursuit and apprehension of persons in border area
- Participation in resolution of incidents at the state border
- Assistance in avoiding immediate threats to human lives or public order where this can not be managed via national centres
- Exchange of statistical data on illegal migration and trafficking

Source: Yearbook 2005 of Bureau of Border and Aliens Police

30 Other developments in refugee policy

Police cooperation agreement

The agreement between the Slovak Republic and the Republic of Austria on Police Cooperation was signed in Vienna on 13th February 2004. The Agreement came into effect on 1st July 2005 (it provides for the operation of combined patrols at the state border).Since August 2005 combined patrols have only been operational on the territory of the Slovak Republic. Between August and December 2005, 608 combined patrols have been undertaken at the green border and 9 combined patrols by boats on the Danube and Moravia border rivers. Evaluation by both parties is very positive.

The agreement between the Slovak Republic and the Czech Republic on cooperation on Criminal Activity, Public Order Protection and State Border Protection was signed on 27th January 2004 and came into effect on 24th February 2005. 18 common patrols were undertaken during the period from October to December 2005.

Source: Yearbook 2005 of Bureau of Border and Aliens Police

8 Political Context

31 Government in power during 2005

After the elections in 2002 the national government was composed of 4 parties – Slovak Democratic and Christian Union (SDKU), Christian Democratic Movement (KDH), Alliance of the New Citizen (ANO) and the Party of Hungarian Coalition (SMK). All of these parties have a right of centre ideology. When the minister of the economy, who was also the leader of ANO, was dismissed, ANO left to join the opposition in the summer of 2005. This weakened the coalition but it was able to survive due to the support of independent members of Parliament. There was a big disagreement between the KDH and the rest of the coalition on the Vatican agreement regarding conscientious objection. KDH claimed that the Slovak Republic should sign the agreement, the rest of the coalition disagreed. Thus KDH left the coalition in February 2006 and this precipitated early elections that are going to be held on 17th June 2006.

32 Governmental policy vis-à-vis EU developments

On 12th January 2005 the 'Concept of a migration policy for the Slovak Republic' was adopted by the Slovak Government. This establishes a co-ordinated approach to migration including all actors in the migration field until 2010. It will allow the conditions necessary for the fulfilment of proposed tasks in the areas of personal, material, technical and financial resources. The aim of this concept is firstly to safeguard the national interest of the Slovak Republic in the area of migration, and secondly to ensure the process of harmonising national legislation with Community law thereby creating the conditions necessary for implementing the policies in this area. The '*Work Committee for securing the co-ordination of the procedures connected with the fulfilment of the tasks and activities resulting from the Concept*' started work in April 2005, and is composed not only of representatives of various Ministries but also a UNHCR representative, an IOM representative and a Human Rights League representative. Its main task is to monitor whether the tasks set out in the Concept are being enacted, as well as trying to find new ways of improving the methods used in their realisation.

33 Asylum in the national political agenda

The Slovak Republic is awaiting the results of the elections on 17th June 2006. However, asylum issues are not a significant part of the agenda or political programme for any of the political parties.

Biography

Katarína iľanovská

THE SLOVAK HUMANITARIAN COUNCIL

- non-governmental, apolitical, independent union of volunteer non-profit organizations
- protects and enforces the rights and interests of individuals to help them to fulfill their goals
- provides an information system for the disabled ReHis Slovensko
- organizes the import of technical aids for disabled people from abroad
- implements social projects for refugees
- organizes and coordinates humanitarian help in case of catastrophes (such as floods)
- cooperates in all subjects, that correspond with its mission and basic principles of humanity
- accedes to the international declaration of basic principles of volunteerism
- forms a framework to enhance the quality and alleviate the exchange of information
- expands and improves the consultative, methodological, organisational and mediatory services
- initiates mutual help and coordination of specialists
- in special sections, it creates conditions for coordination of activities and solution of problems in volunteer organisations with similar objectives
- constitutes regional councils as subjects to cooperate with regional government and sponsors
- improves the conditions for international cooperation and integration into international development programmes
- helps to expand volunteerism as a symbol of solidarity among people and nations

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SLOVENIA

1 Arrivals

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

Table 1:

Month	2004	2005	Variation +/-(%)
January	60	129	+ 115%
February	118	123	+4%
March	130	129	- 0.08 %
April	148	155	+5%
May	112	157	+40%
June	52	196	+276%
July	51	223	+337%
August	86	134	+55%
Sept.	91	143	+57%
October	107	134	+25%
November	104	90	- 14%
December	114	61	-47%
Total	**1173**	**1674**	**+42.7%**

Source: UNHCR statistics; www.unhcr.org

Comment
Slovenia is one of the few countries registering an increase in the number of asylum applications. This could be due to Slovenia's acession to the EU, and the perception that Slovenia is now a potential gateway to the rest of the European Union (Slovenia remains mainly a transit country for asylum seekers hoping to access protecton in other Member States).

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

Table 2:

Country	2004	2005	Variation +/-(%)
Serbia & Montenegro	394	562	+42.6%
Bosnia & Herzegovina	109	236	+116.5%
Turkey	187	230	+23%
Bangladesh	17	164	965%
Albania	195	145	-25.7%
Macedonia	65	71	+9.2%
Moldova	31	61	+96.7%
India	15	34	+126.7%

Source: Ministry of internal affairs

Comments
Most of the asylum seekers coming from Serbia and Montenegro originated from Kosovo (the majority of whom are Roma who are still the victims of highly discriminatory treatment in Kosovo and whose position there is still not regarded as safe).

3 Persons arriving under family reunification procedure

None.

4 Refugees arriving as part of a resettlement programme

Slovenia does not operate any resettlement programmes.

5 Unaccompanied minors

104 unaccompanied minors applied for asylum in 2005 (2004:105). The majority were from Albania, Kosovo and Serbia and Montenegro.

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	**First instance and Appeal 2004**		**First instance and Appeal 2005**	
	Number	%	Number	%
No status awarded	371	90.4	661	96.2%
Convention status	19	4.6	14	2.03 %
Asylum on Humanitarian grounds	20	4.9	12	1.07%
Total	**410**	**100**	**687**	**100**

Statistical data is available only in cumulative numbers for first instance and appeal
Source: Ministry of Interior

Comments
In 2005 1,674 asylum applications were lodged. Fourteen asylum seekers were granted refugee status according to the Geneva Convention (Article 1: paragraph 2 of the Asylum Act) while 12 applicants were granted asylum on humanitarian grounds (Article 1: paragraph 3 of the Asylum Act). Six hundred and sixty-one applications were rejected while 1120 asylum procedures were stopped (due to the disappearance of the applicant). Thirty-eight applications were not admitted into the normal procedure and in three cases the applications were rejected on safe third country grounds.
Although more asylum applications were received in 2005, the numbers receiving a status dropped, this can be attributed to the stricter policies imposed through the provisions of the new Asylum Act. In the first half of 2006 only one family with five members received a Convention status.

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

No figures available.

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.

Comments
There were 35 applications for special protection made in 2005. In three cases the procedure was stopped, the Ministry made a positive decision in three cases, seventeen applications were rejected and five were deemed inadmissible (seven were still in the procedure at the time of writing).

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

Three persons were returned on safe third country grounds.

10 Persons returned on safe country of origin grounds

In 2005 the safe country of origin concept was not yet incorporated into Slovenian legislation (however the new Asylum Act that came into force in February 2006 does implement the safe country of origin concept see point.18).

11 Number of applications determined inadmissible

38 asylum applications were determined inadmissible.

12 Number of asylum seekers denied entry to the territory

In the period between January 1, 2005 and December 31, 2005, out of a total of 2,116 individuals who crossed the border irregularly, the Slovenian police returned 611 persons on the basis of readmission agreements. Most were returned at the border of Croatia (557). They originated from Serbia and Montenegro (120), Albania (89), Bosnia and Herzegovina (90), Macedonia (89) and Turkey (23). At the border with Hungary 29 persons were returned, at the border with Italy 21 and at the border with Austria 3. NGO's are still unable to monitor the border regions, (although UNHCR have conducted a monitoring project). See point 14 for concerns regarding the risk of refoulement at the border.

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

The Ministry of the Interior under Article 27 of the Law on Asylum can order that the free movement of an asylum applicant be temporarily limited in order to:

- Establish the identity of the applicant
- Prevent the spread of a contagious disease
- Where there is a suspicion that the applicant is being misleading or abusing the asylum procedure

- Where the applicant is considered to be a threat to life or property

The Limitation of movement order may stay in effect for three months, or until the grounds for imposing it cease to exist. If the grounds for limitation of movement still exist after that period the limitation can be extended for a further period of one month.
There were 57 resolutions on limiting movement issued from September 2005 to the end of the year (until that time no facilities existed in asylum accommodation centres for those with a limited movement order to be accommodated, instead they were transferred to a detention centre). The Administrative Court adjudicated on 29 orders limiting movement, and in 26 cases it found them to be legitimate and justifiable. In three cases the Court found the resolutions to be unfounded and returned the case to the Ministry of the Interior. The Supreme Court dealt with 9 cases on limited movement and in 2 cases it found the decisions of the Ministry of Interior to be unfounded.
As was mentioned in last year's report, a person waiting for their application to be lodged is no longer allowed to leave the asylum accommodation centre in order to prevent them from absconding to other (member) states**.**

14 Deportations of rejected asylum seekers

No figures available.
A refused asylum seeker can voluntarily leave the country within the time determined by the Ministry of Interior (usually three days) after the procedure is completed. In this case the Ministry notifies the border guards that the person has been expelled.
If the refused asylum seeker does not leave the country in the given time frame, the authorities will transfer them to the Centre for Foreigners (detention centre) where they will be detained until the State authorities organise their transfer back to their country of origin (the legal time limit on detention is 6 months, though this can last longer if difficulties arise in organising the transfer).

There have been reports that families and other asylum seekers have been removed from the premises of the Asylum accommodation centre and deported from Slovenia, without any prior notice on the time of the deportation and often at inconsiderate times (e.g. 6am). The persons concerned are given half an hour to prepare before being removed by the police authorities. The social workers in the Asylum accommodation centre have complained about this treatment to the responsible authorities in the Asylum sector, however their response was that the families would be notified half an hour before being deported, whilst single men will have no notice at all.

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

If a person expresses a wish to return to their country of origin voluntarily a so-called assisted voluntary return (AVR) is organised and carried out by the International Organization for Migration (IOM).
Persons who are entitled to AVR are:
- Irregular migrants,
- Victims of trafficking,
- Asylum seekers whose asylum application was withdrawn before a final decision was reached or who were not granted a status,
- Displaced persons given temporary humanitarian status.

As in the case of forced returns, most of the voluntary returns are carried out by air. Due to the low number of migrants in Slovenia the authorities use regular flights rather than charter lines. In the case of persons with a temporary status from countries bordering Slovenia, ground convoys are organised to transfer people and their. Other assistance provided by IOM Ljubljana includes: providing travel documents for return or resettlement;

providing transit assistance at Ljubljana's airport for migrants travelling through Slovenia as well as providing counselling.

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

In 2005 there were 361 demands made to Slovenia from other Member States to take back asylum seekers. Slovenia accepted responsibility in 263 cases, however only 87 were actually transferred. In 2005, 3 transfers from Slovenia to other Member States responsible for examining asylum applications under the Dublin II Regulation took place (out of 48 take back claims made from Slovenia other Member States took responsibility in 15 cases).

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

In the past year the Slovenian authorities have begun to process unaccompanied minors in the accelerated procedure. Before the present government took office it was an informal rule that all unaccompanied minors should be examined in the normal procedure.

5 Legal and Procedural Developments

18 New legislation passed

A new Act amending the Asylum Act came into force in February 2006. It was adopted by the National Assembly, even though NGOs active in the asylum field were highly critical and opposed the amendments. The Act transposes the provisions of the Qualification Directive and the Reception Directive as well as the Procedures Directive into National Law.
The Regional Office of UNHCR was also very critical of the Act as were the opposition parties in the National Assembly. The President of Slovenia initially refused to declare the law (a necessary step in order to validate the new Law), however, as this would be unconstitutional, he was forced to do so.
The Act is currently under constitutional review. The Constitutional Court issued a temporary injunction on paragraphs 1, 2,3 and 4 of Article 26 (the so called pre-asylum procedure, carried out by the Police); Article 37: para.2 (non-suspensive effect of an appeal against the dismissal of an asylum application on safe third country grounds) and Article 41: para.2 of the Asylum Act (non-suspensive effect of an appeal against the dismissal of a subsequent asylum application).

19 Changes in refugee determination procedure, appeal or deportation procedures

Making an asylum application:
Article 6 of the Act Amending the Asylum Act introduced a new pre-procedure into Slovenia's asylum procedure that will be carried out by the police authorities. The applicant will firstly have to make a statement to the police authorities giving the reasons for the asylum application. If the police find the reasons to be unsatisfactory they will deny access to the asylum procedure and the applicant will be deported. There are no procedural guarantees for the applicant, no right to an effective legal remedy and the Constitutional right to asylum is also breached as the applicant will not be able to lodge application in a formal proceeding at the department for asylum of the Ministry of Interior. Furthermore the Act does not contain any provisions on the procedure that the police will follow while examining the asylum application.
Moreover, free legal aid will no longer be available for first instance hearings. NGOs have argued strongly against this provision, however the Government did not allow any

amendments to it. With the new Act, free legal aid shall only be granted for appeals at the Administrative Court and Supreme Court.

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

On April 3rd 2006, The Slovenian Constitutional Court issued a temporary injunction, with which it partly withheld the implementation of the new Asylum Act, as it found that irreparable and damaging consequences might occur through its implementation. In accordance with Article 39 of the Constitutional Court Act the law is not to be implemented until the Constitutional Court reaches a final decision.

The procedure for the assessment of the constitutionality and legality of the new Asylum Act, began with the submission of a written request by a group of deputies of the National Assembly (members of the opposition parties of the Liberal Democrats of Slovenia and the Social Democrats) and with a resolution of the Constitutional Court to initiate procedures made by 70 asylum seekers and their representative mag. Matevž Krivic (a former Constitutional judge).
The final decision by the Constitutional Court on the Act is still to be made.

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

No developments.

6 The Social Dimension

23 Changes in the reception system

Employment rights: Asylum seekers had a right to work for 8 hours per week according to the provisions of the previous Asylum Act, but according to the provisions of the New Act, this right has been revoked, and they can only start working a year after their application is lodged if the asylum procedure is still open. According to the Government, this change was necessary in order to prevent further abuses of the asylum procedure pertaining to the right to work. In order to start working, the identity of the asylum seeker will need to be established and s/he will have to obtain a work permit for three months from the Employment office of Slovenia.

24 Changes in the social welfare policy relevant to refugees

The new Act also revoked the right to spending money, which was already at a bear minimum **(**10 euro per month), it also revoked the right to financial aid (200 euro) if an asylum seeker is placed in private rented accommodation. Due to the new provisions on employment rights and financial aid, the material reception conditions of asylum seekers in Slovenia deteriorated gravely. Before May 2005 asylum seekers had the right to reside outside the Asylum Home if they had a guaranteed place to live. After May 2005 the Ministry of Interior revoked this right and decided that asylum seekers are to reside in the Asylum Home until the Asylum procedure is finalised. In the new Act amending the Asylum Act, the right to private accommodation is to be granted only in exceptional cases.

25 Changes in policy relating to refugee integration

According to the statement of the Minister of the Interior in February 2005, the policy relating to the integration of refugees will remain the same until 2007. The ministry will continue to exercise integration measures in cooperation with other Ministries and with UNHCR, IOM and other international organisations and NGOs. According to the Ministry's plan an Integration House for recognised refugees will start operating in 2007 in Ljubljana (accommodation for 30-40 persons), at a later date two more integration houses shall open in Maribor and Celje.

On May 18 2005, the Slovene NGOs active in the asylum area stressed that there were major problems with the integration policy in Slovenia. According to their statement the integration policy in Slovenia lacks transparency as well as coordination between different Ministries responsible for integration (principally employment, health and social care). Another problem is the process of involving NGOs in an active discussion concerning the creation of a humane integration policy. Even though the Government gives certain financial resources to NGO's for certain integration programmes, it also obstructs the successful execution of these programmes by not accepting any comments and criticism from NGOs.

26 Changes in family reunion policy

There were no changes.

7 Other Policy Developments

27 Developments in resettlement policy

No developments.

28 Developments in return policy

On 25 July 2005 the Government and the IOM Ljubljana signed a Memorandum of Cooperation on the Programme of Voluntary Return of Migrants (Memorandum). The purpose of the memorandum is to confirm cooperation between the parties as outlined in the previously concluded agreement (Agreement on Cooperation between the Government of the Republic of Slovenia and the International Organization for Migration). This is particularly to define the framework of the implementation of the programme for assisted voluntary return for certain categories of migrants. (Article 1/1 of the Memorandum) The parties also agreed that in implementing the programme special attention will be give to vulnerable groups of migrants (persons with special needs and notably victims of trafficking in human beings, unaccompanied minors, unaccompanied women, the disabled, the elderly, pregnant women, single parents with minor children, victims of sexual abuse and victims of torture or organized violence, Article 1/2 of the Memorandum). According to the memorandum voluntary return means free and informed decision of a person to return to the country of origin. If return under these circumstances is not possible, or if a person is stateless, voluntary return means that a person freely returns to the country of his/her last permanent residence or to a country willing to receive him/her. (Article 4/1of the memorandum)[31].

[31] Source: Repatriation and Return Policies in EU Member States, Country Report – Slovenia, By Neža Kogovšek, LL.M, Peace Institute

29 Developments in border control measures

According to the Ministry of Interior Affairs, the priorities for 2006 remain the enforcement of a secure State border, to prevent irregular migration and to fulfil all the conditions needed for the Schengen order to be implemented. It is hoped that once this has been achieved Slovenia will be able to control irregular migration, and will as a result fulfil its obligation to protect external EU borders.

30 Other developments in refugee policy

According to Slovene NGOs the asylum policy in Slovenia is becoming very restrictive and repressive. In the past year there were many measures adopted by the Ministry that confirm this view (e.g. detention of asylum seekers prior to lodging the application). The repressive nature of the national policy is also seen in the provisions of the new Act amending the Asylum Act, which severely lowered the legal and social standards offered to asylum seekers in Slovenia.

8 Political Context

31 Government in power during 2005

The coalition of Social Democrats of Slovenia, The Slovenian People's Party and New Slovenia are currently the Government in power.

32 Governmental policy vis-à-vis EU developments

The Governmental policy is very rigorously following EU developments; this was especially noticeable in the adoption of the new Asylum Act, which transposed three EU Directives (Reception, Qualification and Procedures). With the transposition of the Directives into national law Slovenia lowered the standards guaranteed to asylum seekers, the Government however continued to argue that they are just following their EU obligations. They ignored NGOs concerns that the EU is only setting minimum standards.

33 Asylum in the national political agenda

The national political agenda with regards to asylum is still to speed up the asylum procedure and to rationalise the refugee determination procedure as much as possible.

Biography

Meira Hot

FOUNDATION GEA 2000

Foundation Gea 2000 is a non-governmental organisation, which focuses on providing legal aid and social support to the most vulnerable groups in the society. Its beneficiaries are therefore refugees, immigrants, asylum seekers, "erased" 30,000 citizens whose resident names were deleted from the Nation's civil registers in 1992, among whom special attention is directed to unaccompanied minors, stateless persons, temporarily protected refugees and others in need of assistance.

WWW.FUNDACIJA-GEA2000.SI

SPAIN

1 Arrivals

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

Table 1

Months	2004	2005	Variation +/-(%)
January	476	322	-23%
February	459	479	4%
March	585	655	12%
April	420	419	0%
May	438	413	-6%
June	391	413	6%
July	377	348	-8%
August	320	278	-13%
September	520	392	-25%
October	815	626	-23%
November	410	564	38%
December	344	348	1%
TOTAL	5555	5257	-5%

Source: Spanish Asylum Office (Provisional Data until the Official Bulletin 2005 is published)

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

Table 2

Country	2004	2005	Variation +/-(%)
Algeria	991	406	-59%
Colombia	760	1655	118%
DRC	203	170	-16%
Guinea	228	173	-24%
Guinea-Bissau	114	114	0%
Mali	253	273	8%
Nigeria	1029	726	-29%
Russian Federation	84	138	64%

Source: Spanish Asylum Office (Provisional Data until the Official Bulletin 2005 is published)

3 Persons arriving under family reunification procedure

There is no official data available on family reunification.

Comments
The term "*family reunification*" is not used within the Spanish asylum procedure; an equivalent term, *"extensión familiar"* is used under Aliens Law (art. 10 of the 9/1994 Law) this states that "refugee status can be given by extension to family members of the first degree as well as to a legal spouse or partner."

"*Trato más favorable*", (favourable treatment), - *Art.34.1 of the R.D. 203/1995* is applied to those refugees who marry after recognition of their refugee status. In this case, the partner of the refugee cannot ask for refugee status by family extension, but he/she may ask for a resident permit based on exceptional circumstances. This procedure is usually applied to persons who are already in the country.

4 Refugees arriving as part of a resettlement programme

As Spain has not yet implemented a formal resettlement programme, no official figures are available.

It is worth mentioning that every year around 30 to 50 of the asylum cases granted a refugee status in Spain are described as resettlement cases. Within Spanish Asylum legislation there is a special procedure enabling individuals to ask for asylum at Spanish embassies outside of their country of origin. The Spanish Government, through other national or international organisations may acknowledge certain cases that are considered appropriate, and will grant these people a refugee status prior to entering Spain. In most of these cases UNCHR is involved in some capacity, either making a statement in favour of the case or by directly referring it to the Spanish government for consideration for resettlement.

Source: Spanish Asylum Office

5 Unaccompanied minors

The Spanish Asylum Office does not compile data on unaccompanied minors. Cases are referred to the Public Attorney (Ministerio Fiscal) and a guardian is then designated to the minor by the Child Protection Service to represent them during the asylum procedure.

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	**2004**				**2005**			
	First Instance		Appeal		First Instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
Inadmissible	4,648	70.2			3,319	68.2.	2,442	75.3
No status awarded	1,653	25.0	445	92.9	1,223	25.1.	705	21.7
Convention status	161	2.4	14	2.9	202	4.1.	58	1.8
Subsidiary Protection	163	2.5	20	4.1.	124	2.51.9	37	1.1.
Total decisions	**6,625**	**100**	**479**	**100**	**4,868**	**100**	**3,242**	**100**

Source: Spanish Asylum Office (Provisional Data until the Official Bulletin 2005 is published)

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

	2004				2005			
	First Instance		Appeal		First Instance		Appeal	
Country	Number	%	Number	%	Number	%	Number	%
Algeria							1	1.7
Apatrida					6	3.0		
Armenia	6	3.7			3	1.5	5	8.6
Azerbaidjan					2	1.0		
Belarus	8	5.0			13	6.4		
China					1	0.5		
Colombia	53	32.9	4	28.6	81	40.1	28	48.3
Costa de Marfil					1	0.5	1	1.7
Cuba	8	5.0	2	14.3	14	6.9	5	8.6
Ecuador	2	1.2			1	0.5		
D. R. of Congo	7	4.3			4	2.0	2	3.4
Equatorial Guinea	9	5.6	2	14.3	17	8.4	1	1.7
Eritrea					1	0.5		
Ethiopia	6	3.7	1	7.1	2	1.0	5	8.6
Georgia	3	1.9			3	1.5		
Guinea							1	1.7
Iran	3	1.9			4	2.0	2	3.4
Iraq	4	2.5			6	3.0		
Liberia	2	1.2					1	1.7
Morroco					3	1.5		
Mauritania					1	0.5	3	5.2
Nigeria	1	0.6					2	3.4
Russian Federation	25	15.5	3	21.4	23	11.4		
Serbia and Montenegro					4	2.0		
Sierra Leone	1	0.6			1	0.5	1	1.7
Somalia					4	2.0		
Tunisia	2	1.2			1	0.5		
Turkey	2	1.2			1	0.5		
Ukraine	2	1.2			1	0.5		
Venezuela					2	1.0		
Vietnam					1	0.5		
Yugoslavia	1	0.6			1	0.5		
TOTAL	**161**	**100**	**14**	**100**	**202**	**10**	**58**	**100**

Source: Spanish Asylum Office *(Provisional Data until the Official Bulletin 2005 will be published)*

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

Table 5

	2004				2005			
	First Instance		Appeal		First Instance		Appeal	
Country	Number	%	Number	%	Number	%	Number	%
Algeria		0.0		0.0		0.0	3	8.1
Stateless					6	4.8		
Armenia	8	4.9	2	10.0	1	0.8	2	5.4
Belorus		0.0		0.0		0.0		0.0
Colombia	56	34.4	2	10.0	17	13.7	25	67.6
Ivory Coast	4	2.5	3	15.0	9	7.3		0.0
Cuba	4	2.5	4	20.0	26	21.0	3	8.1
Equatorial Guinea		0.0		0.0		0.0	1	2.7
Georgia	1	0.6		0.0	3	2.4		0.0
Guinea					1	0.8		
Honduras					5	4.0		
D.R. Congo		0.0		0.0	1	0.8	1	2.7
Iran		0.0		0.0	2	1.6		0.0
Iraq	47	28.8		0.0	17	13.7	1	2.7
Jordania					1	0.8		
Liberia	7	4.3		0.0	2	1.6		0.0
Palestine					1	0.8		
Russian Federation	11	6.7		0.0	21	16.9		0.0
Serbia and Montenegro			6	30.0	3	2.4		0.0
Sierra Leone	1	0.6		0.0	2	1.6	1	2.7
Somalia	1	0.6		0.0	5	4.0		0.0
Yugoslavia					1	0.8		
TOTAL	**163**	100	**20**	100	**124**	100	**37**	100

Source: Spanish Asylum Office *(Provisional Data until the Official Bulletin 2005 will be published)*

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

There are no figures available concerning the countries to which people are returned. In Spain the "safe third country" concept appears in Art. 5.6. F of the Asylum Law as grounds for inadmissibility. After asylum seekers have had their asylum applications refused, and they have become illegal immigrants, it would be possible to forcibly return them to these countries. However the concept is rarely used, in 2005 25 persons were removed on this ground.

Art 5.6.F has a wider application than "safe third country", as it can also be applied to people who received a refugee status in another country before entering Spain.

10 Persons returned on safe country of origin grounds

Spain does not have a list of safe countries of origin nor does the term exist within the Spanish Asylum Procedure. When an applicant comes from a safe country of origin, Art. 5.6. D of the Asylum Law (inadmissibility clause that applies to implausible facts and data) is usually applied. There is no record of the countries to which people were returned.

11 Number of applications determined inadmissible

Table 6

2004							2005						
Adm.	%	Inad.	%	Res.	%	Total Claims	Adm.	%	Inad.	%	Res.	%	Total Claims
1,370	24.7	4,959	89.3	104	1.9	5,555	2,497	42.0	3,319	55.8	131	2.2	5,947

Adm: Admitted
Inad: Inadmissible
Res: Resigned. This refers to those who decide to voluntarily withdraw their initial asylum application.

Comments
It is important to note that these numbers do not correspond exactly with the number of asylum applications as the Spanish authorities have 60 days in which to pass an inadmissibility decision, nor do these figures include admissibility appeals with a positive resolution.

12 Number of asylum seekers denied entry to the territory

In 2005 1445 persons lodged asylum applications at the border (645 in 2004). A total of 1562 persons received an admissibility or inadmissibility decision at the border in 2005. Of these 881people were considered admissible and were permitted to enter Spanish territory to continue the procedure. Therefore, 681 (265 in 2004) asylum applications were considered inadmissible at the border and were not allowed to enter the territory under the Aliens Law.

Source: Spanish Asylum Office *(Provisional Data until the Official Bulletin 2005 will be published)*

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

Asylum seekers are never detained when they lodge their claim within the territory.

When asylum seekers lodge their claim at the border, they are held, not "detained" whilst the asylum office decides on the admissibility or inadmissibility of their asylum claim. If he/she wishes to leave the premises they are free to do so once they have informed the authorities. The admissibility procedure at the border lasts a maximum of 5 days. If the decision is negative the asylum seeker can ask for a re-examination of his/her request within 24 hours. The re-examination must take place within the next 2 days. If the decision is again negative, the applicant has to leave the border post and will be returned to their country of origin or to a third country (i.e. under readmission agreements, flight destination, visas on their passport…).

14 Deportations of rejected asylum seekers

In 2005 15,258 non-nationals were forcibly returned from ports or airports (35% more than in 2004), 11, 002 were expelled (17% less than in 2004) and 14,466 were transferred (10% more than in 2004). Of those transferred (return of those caught entering Spain illegally within 72 hours, either to country of origin or country of transit), 90% were of Moroccan origin. The reduction in the number expelled (those returned as a result of illegal stay in Spain) is probably caused by the increased application of border control measures that prevent immigrants entering Spanish territory. In addition the regularisation process served to reduce the number of irregular migrants in the country.

Joint Repatriation Flights.
There were 41 flights organised in 2005, which repatriated 2,831 foreigners staying irregularly in Spain. Three of these were joint operations organised with France, Italy and Portugal. Spain was also involved in a joint flight organised by France destined for Romania.

Source: "*Balance de la lucha contra la inmigración ilegal en 2005. La inmigración irregular a través de pateras registró en 2005 las cifras más bajas de los últimos seis años*" – "*Report of the fight against the illegal immmigration in 2005- lowest figures registered for six year*". *Ministerio del Interior. Madrid. Spain. 6th February 2006.* ***www.mir.es***

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

In 2005 two Spanish NGOs, ACCEM, (in collaboration with Spanish Red Cross) and Rescate, ran voluntary repatriation programmes for asylum seekers and refugees who wished to return to their countries of origin.33 family units = 36 Persons were assisted to return in 2005.

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

Table 7

Country	Requests to Spain	Acceptances	Transfer by Spain
Austria	99	86	59
Belgium	51	53	28
Check Republic	1	1	
Denmark	4	4	1
Deutschland	91	92	68
Finland	6	4	2
France	179	156	65
Greece		1	
Ireland	9	11	
Italy	27	10	1
Luxemburg	5	7	6
Norway	34	34	12
Portugal	8	7	2
Slovakia	1		
Sweden	41	57	24
The Netherlands	27	24	11
United Kingdom	41	42	39
Total	**624**	**589**	**318**

Source: Statistics provided by the Spanish Asylum Office (Provisional Data until the Official Bulletin 2005 is published)

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

During 2005 nationals of certain countries continued to receive special treatment following a previous call for special protection from UNCHR; Chechens, Iraqis, Palestinians, people from Ivory Coast, Somali nationals and those originating from Sri Lanka (especially the Senegalese community) and Tsunami, affected regions were granted humanitarian protection. These cases were granted subsidiary protection status in accordance with *Article 31.3 and Article 31.4 of the Asylum Regulation (Royal Decree 203/1995, dated from 10 February, by means of*

which the implementing Regulation of Act 5/1984 is passed, dated from 26 March, on the Right to Asylum and the Refugee Status, amended by act 9/94 dated from 19 May). All cases are considered on their individual merits in the ordinary asylum procedure and they are not prevented from receiving refugee status.
Also Liberians and nationals from Togo and Sudan (Darfur) still received special treatment on humanitarian grounds. (Art. 31.4 Alien's Law).

5 Legal and Procedural Developments

18 New legislation passed

No new asylum legislation was passed in 2005. However in February 2005 Royal Decree 203/2003 of Asylum Regulation approved by Royal Decree No. 203/1995 entered into force (see country report 2004 for further details).

19 Changes in refugee determination procedure, appeal or deportation procedures

In 2005 the practice relating to the closing of cases by the Asylum Office changed. They do now try to get in contact with the applicant and will only close the case if they cannot do so.
The Asylum Office has also made additional efforts to speed up the resolution of unaccompanied minor asylum seekers cases without compromising the quality of the decision-making.

The Spanish authorities have set up a procedure to organise the transfer of Dublin II cases to the country that has agreed to take charge of the asylum application. However, it should be noted that in practice if the asylum seeker does not report to the police station, they won't be transferred and the police will not look for them. In this case they will become irregular migrants and if the police detains them they may be expelled in the same way as any other irregular migrant.

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

National Audience - Audiencia Nacional, AN Sala 3ª Sección 4ª. Judgement of the 23rd of March 2005.
The Court ruled that article 23 of Law 29/1998, 13th July, which regulates the contentious principle of Administrative Jurisdiction must be applied. The court judged that where a state-appointed lawyer is defending a case it implies that they also assume the responsibility of representation and that therefore official notifications should be made to them alone(Art. 23.1).

Court for Contentious Administrative Proceedings JCCA nº3 s nº249/2005, 15-11-05. Judgement on the 16th December 2005.
The Court ruled on the need to be conscious of the asylum seeker's situation, and the traumatic nature of the experiences that they are relating. It deemed that it is unreasonable to expect that an asylum seeker can repeat a statement word for word on various occasions. . Indeed, it would perhaps be more suspicious if this were the case.

Court for Contentious Administrative Proceedings, Juzgado Central Contencioso-Administrativo N° 9 . Judgement A n° 2/05 de 11st January de 2005.
The Court judged in favour of the admissibility of an asylum application in cases where the deadline of 60 working days for the admissibility stage stipulated by the Asylum Spanish Law is breached.

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

Agreements of Operative Cooperation

On the 6th July 2004 Spain and Peru "*ENTRADA en vigor del Acuerdo entre el Reino de España y la República del Perú para la cooperación en materia de inmigración, hecho en Madrid el 6 de julio de 2004* signed an agreement on technical cooperation regarding immigration subjects. It includes staff training, the exchange of information and statistics, collaboration on border control and other related areas. The objectives of the agreement are the fight against illegal immigration and labour exploitation, better administrative management of migratory flows and exchange of experience.

6 The Social Dimension

23 Changes in the reception system

Entry into force on the 7th February 2005 of Royal Decree 2393/2004 of 30th December 2004. Following the transposition of the Reception directive this decree gives asylum seekers the right to access reception centres immediately after the submission of their asylum claim.

24 Changes in the social welfare policy relevant to refugees

No developments.

25 Changes in policy relating to refugee integration

Since 2001 different Autonomous Communities ("*Comunidades Autónomas*") have run programmes for the Social Integration of Immigrants and refugees living on their territory "*Planes Para La Integración Social De Los Inmigrantes*". The programmes are directed by regional policies related to immigrant and refugee populations; understanding integration as a two way process that involves the immigrant and the host society. The programmes cover education, health, family, youth, housing, and gender.

The programmes used to be valid for a period of between two and four years. Each Autonomous Community decided when and how to modify these programmes. As of 2005, some Communities for example Murcia and Cataluña have adapted their plans in line with new central government developments. The Spanish Government is promoting National Strategic Immigration Plan - "*Plan Estratégico De Integración De La Inmigración*", that will coordinate all the regional programmes. This national plan will have a budget of 127 million euros, and should be approved during 2006.

26 Changes in family reunion policy

No developments.

7 Other Policy Developments

27 Developments in resettlement policy

No developments.

28 Developments in return policy

No developments.

29 Developments in border control measures

The numbers illegally crossing at the Pyrenean Border were reduced as a result of enhanced security measures and the increased "effectiveness" of cross border cooperation. This is illustrated by a 37.5% decrease in the number of readmission requests to France – 52,017 in 2005 as against 83,431 in 2004.

In order to improve the "effectiveness" of irregular immigration control, the Home Office have invested 28.8 million in the SIVE (*Integrated System of External Surveillance - Sistema Integrado de Vigilancia Exterior*) during the course of 2006. In addition they have invested 13 million euros in the Southern Immigration programme for creating and improving detention centres for non-nationals. *Centros de Internamiento de Extranjero*s (CIE). Moreover 24.9 million euros were assigned to cover transportation costs created by the return, expulsion, and transfer of foreigners, as well as 4 million for additional expenses generated by immigration related activities.

In 2005, the police dismantled 67 mafia rings involved in smuggling irregular immigrants into Spain. Two hundred and sixty nine persons were detained as a result of being linked to these groups, 63 percent more than in 2004.

The number of persons arriving on the Spanish coast in small-overcrowded boats (known as "*pateras*") in 2005 was at its lowest level since 1999. 11,797 persons arrived in 2005, 24.7% less than in 2004 (15,675). The decrease was mainly in the Canary Islands with a reduction of 43%. The decrease is attributable mainly to the SIVE system and increased collaboration with Morocco. In addition the Spanish authorities provided West African countries with information concerning the possible departure of large ships carrying immigrants, allowing the latter to intercept these boats prior to reaching the Canary Islands.

30 Other developments in refugee policy

No developments.

8 Political Context

31 Government in power during 2005

The political party in power since 14th of March 2004 is the Spanish Socialist Workers' Party "*Partido Socialista Obrero Español" (PSOE)* with Mr. José Luis Rodriguez Zapatero as president.

32 Governmental policy vis-à-vis EU developments

At the moment the Spanish Government is working on a new draft asylum law to adapt the Spanish legislation to the EU Asylum legislation and ensure the transposition of all the directives.

33 Asylum in the national political agenda

No information available.

Biography

Reyes Castillo

ASOCIACIÓN COMISIÓN CATÓLICA ESPANOLA DE MIGRACIÓN (ACCEM)

ACCEM is an NGO that dates from 1951. The purpose of this organization is to provide social legal support to asylum seekers, refugees, displaced persons and migrants in Spain.

WWW.ACCEM.ES

SWEDEN

1 Arrivals

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

Table 1

Month	2004	2005	Variation +/-(%)
January	2,310	1,426	-38%
February	1,942	1,405	-28%
March	1,980	1,336	-32%
April	1,798	1,246	-31%
May	1,521	1,269	-16%
June	1,894	1,297	-31%
July	1,843	1,243	-32%
August	2,164	1,548	-28%
Sept.	2,203	1,650	-25%
October	1,833	1,506	-18%
November	1,773	1,733	-2%
December	1,900	1,871	-1%
Total	**23,161**	**17,530**	**-24%**

Source: Migration Board Statistics

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

Table 2

Country	2004	2005	Variation +/-(%)
Serbia-Montenegro	4,022	2,944	-27%
Iraq	1,456	2,330	+60%
Russia	1,287	1,057	-18%
Libya	419	451	+8%
Iran	660	582	-12%
Afghanistan	903	435	-52%
Stateless	1,578	806	-49%
Azerbaijan	1,041	431	-58%
Somalia	905	422	-53%
Others	*10,890*	*7,756*	*-29%*

Source: Migration Board statistics

3 Persons arriving under family reunification procedure

21,908 persons arrived under the family reunification procedure in 2005; no nationality breakdown is available (2004:22,337).

4 Refugees arriving as part of a resettlement programme

1,263 refugees arrived as part of a resettlement programme in 2005 (2004:1,822)

Countries from which people are resettled	
Myanmar	408
Colombia	314
Afghanistan	183
Iraq	64
Others	294
Total	1,263

Source: The Swedish Migration Board

The annual quota is decided by the parliament each year, usually approximately 1,700 persons. However, the annual quota is not reached every year.

5 Unaccompanied minors

398 unaccompanied minors applied for asylum in 2005 (2004:388).

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	**2004**				**2005**			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	27,876	86.6			15,867	77.3	N/A	
Convention status	546	1.7			342	1.7	456	
Subsidiary status	729	2.3			665	3.2	508	
Humanitarian protection	3,043	9.4			3,662	17.8	1,193	
Total	**32,194**	**100**			**20,536**	**100**	**N/A**	

Source: Migrations Board and Aliens Appeals Board statistics

Comments
Other 2004 = humanitarian reasons. Other 2005 = humanitarian reasons and temporary legislation (see Q.18). Rates on appeal are not available for 2004. Number of rejections/no status awarded on appeal are not available for 2005.

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	2004				2005			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
Serbia-Montenegro	189	34.6			109	31.	186	4
Somalia	72	13.2			81	23.	125	2
Iran	79	14.5			40	11.	19	4.
Eritrea	20	3.7			23	6.7	6	1.
Iraq	10	1.8			15	4.4	-	-
China	13	2.4			4	1.2	10	2.
Stateless	11	2.0			8	2.3	34	7.
Syria	37	6.8			5	1.4	17	3.
Others	115	21			57	16.	59	1
Total	**546**	**100**			**342**	**100**	**456**	**1**

Source: Migrations Board statistics

Comments
Numbers for appeal instance not available for 2004

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

Table 5

Country of origin	2004				2005			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
			N/A				N/A	
Iraq	336	9.0			1,385	32.0	229	13.
Somalia	572	15.2			438	10.1	181	10.
Burundi	243	6.5			399	9.2	-	-
Eritrea	95	2.5			222	5.1	202	11.
Stateless	465	12.4			173	4.0	61	3.6
Iran	126	3.4			131	3.0	34	2.0
Afghanistan	155	4.1			115	2.7	80	4.7
Russian Federation	168	4.5			94	2.2	52	3.1
Others	1,589	42.4			1,370	31.7	862	50.
Total	**3,749**	**100**			**4,327**	**100**	**1,701**	**100**

Source: Migrations Board statistics

Comments
For 2004 includes humanitarian status. For 2005 includes humanitarian status (41.3% 1st instance and on appeal) and temporary legislation from 15th November (39.2% 1st instance and on appeal). No numbers available at appeal stage for 2004 but 6 % of appeals were approved.

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

97 (2004:385)

10 Persons returned on safe country of origin grounds

3,407 persons were returned on safe country of origin grounds (manifestly unfounded claims) (2004: 4,385)

11 Number of applications determined inadmissible

Information not available.

12 Number of asylum seekers denied entry to the territory

Information not available.

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

During 2005, 2,963 asylum seekers were held in detention. In Swedish law there are no absolute limits on the length of time that an asylum seeker can be detained.

Detention of asylum seekers during 2005:

Table 6:

Length of stay	
0-2 days	477
3-14 days	1,183
15-60 days	745
>60 days	558

The Migration Board can decide to detain an asylum seeker if:
1) his/her identity is unclear;
2) detention is considered necessary for further investigation of his/her right to stay in Sweden
3) it is likely that he/she will be refused entry, or it is deemed necessary in order to enforce an existing refusal of entry or expulsion order. Detention under 3) can only be ordered if there are reasons to presume that the person will otherwise go into hiding or engage in criminal activities. Detention under 2) is limited to 48 hours. In other cases, detention is limited to two weeks unless there are exceptional grounds. If entry has already been refused or the expulsion order has been decided on, the detention period may last up to two months, and longer if there are exceptional grounds. A decision concerning detention may be appealed to the County Administrative Court.

14 Deportations of rejected asylum seekers

During 2005, 1,995 persons were forcibly deported from Sweden.

Table 7:

Country	
Serbia-Montenegro	311
Russia Federation	147
Bosnia-Herzegovina	97
Azerbaijan	96
Belarus	85
Georgia	73
Iraq	57
Romania	56
Bulgaria	53
Others	*1,020*

Source: Swedish Migration Board

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

Ten different projects working with return programmes were granted financial support by the Swedish Migration Board in 2005. The programmes concerned return to Afghanistan, Bosnia-Herzegovina, Iraq and Somalia. 18 persons were granted financial support and assistance to return to their country of origin.

Source: Swedish Migration Board

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

2,801 persons were sent back to the member state responsible for examining their asylum claim under the Dublin II Regulation in 2005.

Claims made to Sweden by other countries: 3,183, of which 2,345 were accepted.

Main countries	
Finland	469
Germany	420
France	408
Norway	247
Others	1,639

Claims made by Sweden to other countries: 3,408, of which 2,784 were accepted.

Main countries	
Germany	980
Norway	552
Finland	262
France	257
Austria	206
Others	1,151

Source: Swedish Migration Board

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

The practice regarding asylum seekers from Eritrea was changed in 2005. Deserters and human rights activists were granted refugee status. Asylum seekers from Iraq, Afghanistan and Somalia that had previously been rejected were also granted residence permits on humanitarian grounds, in some cases temporary residence permit. Asylum seekers from Uzbekistan were granted temporary residence permit for 1 year.

The government was preparing a change its legislation transferring gender related persecution grounds from subsidiary protection to refugee convention status.

It was observed by NGOs that separated children's claims for asylum were not examined with sufficient care in the investigation and determination procedure. The recognition rate was very low for this group. The need for better staff training was brought to the authorities' attention.

5 Legal and Procedural Developments

18 New legislation passed

Between November 2005 and March 2006 temporary legislation enabled some categories of refused asylum seekers to apply for a government amnesty. Factors taken into consideration included length of stay, health problems, families with children and those who cannot be returned to their country of origin (see Q.33 also).

New legislation was passed concerning guardianship for separated children, enforcing a child's right to protection and also extending the guardians' responsibilities.

19 Changes in refugee determination procedure, appeal or deportation procedures

No developments.

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

No developments.

21 Development s 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

No developments.

6 The Social Dimension

23 Changes in the reception system

No developments.

24 Changes in the social welfare policy relevant to refugees

No developments.

25 Changes in policy relating to refugee integration

No developments.

26 Changes in family reunion policy

No developments.

7 Other Policy Developments

27 Developments in resettlement policy

No developments.

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 2005

The Social Democrats, who have been in government since the 1920s, are still in power.

32 Governmental policy vis-à-vis EU developments

The foreign ministry, migration authorities and NGO's regularly meet to discuss developments in the European Union. The government continues preparations for transposition and implementation of EU directives into national legislation.

33 Asylum in the national political agenda

During 2005, the government was planning and preparing major reforms for 2006. The reforms are aimed at safeguarding the right to asylum, decreasing the long waiting times, focusing on protection rather than humanitarian issues in the asylum system, improving the reception of asylum seekers and introducing measures to deal with asylum seekers' lack of identity documents.

The proposal contains a new appeals system whereby the Aliens Appeals board will be replaced by a procedure in the courts. Decisions by the Swedish Migration Board may be appealed to migration appeals tribunals and after being granted leave to appeal, to a precedent-setting migration higher appeals tribunal.

The opposition requested a general amnesty for all asylum seekers staying in the country ahead of the reforms entering into force. A compromise led to the implementation of temporary legislation in November, granting many previously rejected asylum seekers residence permits on humanitarian grounds. The implementation of the temporary legislation had a major impact on statistics for 2005: acceptance rates, numbers of detentions and deporations.

Biography

Anki Carlsson
George Joseph

SWEDISH REFUGEE ADVICE CENTRE
CARITAS SWEDEN

She Swedish Refugee Advice Centre offers legal advice on asylum, family reunification, Swedish citizenship and other matters concerning the Swedish aliens' act.

Caritas Sweden is the relief organisation of the catholic church especially committed to and involved in preserving Europe as a place of refuge and protection for those who are persecuted and as a place where non-nationals are treated with respect; eliminating the causes of forced migration and promoting the integration of all.

WWW.RADGIVNINGSBYRAN.ORG
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SWITZERLAND

1 Arrivals

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

Table 1

Month	2004	2005	Variation +/-(%)
January	1,608	771	-52.1
February	1,398	674	-51.8
March	1,720	768	-55.3
April	1,378	815	-40.9
May	1,103	830	-24.8
June	1,201	814	-32.2
July	1,148	811	-29.4
August	1,012	892	-11.9
Sept.	1,001	1,081	+8.0
October	980	914	-6.7
November	883	886	+0.3
December	816	805	-1.3
Total	**14,248**	**10,061**	**-29.4 %**

Source: Federal Office of Migration – Asylum statistics, Jan. 2006

Comments
According to the Federal Office of Migration, the continuing reduction of asylum applications is a result of restrictive measures deterring persons from filing abusive claims (exclusion from social welfare, detention, etc).

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

Table 2

Country	2004	2005	Variation +/-(%)
Serbia/Montenegro	1,771	1,506	-15.3
Turkey	1,154	723	-37.3
Somalia	592	485	-18.1
Iraq	631	468	-25.8
Bulgaria	624	461	-26.1
Georgia	731	397	-45.7
Russian Federation	505	375	-25.7
State unknown	601	314	-47.8
Bosnia Herzegovina	301	301	0
Iran	200	291	+45.5
Others	*10,063*	*4740*	*-29.4*

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

3 Persons arriving under family reunification procedure

946 (2004:1,059)

4 Refugees arriving as part of a resettlement programme

Ten refugees from Uzbekistan were resettled in Switzerland after the massacre in Andijon in May 2005.

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	2004				2005			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	10,080	59.9			6,965	63.4		
Convention status *	1,555	9.2			1,497	13.6		
Provisional admissions**	4,198	24.9			4,436	34.8		
Applications deemed inadmissible	5,193	30.8			2,530	23.0		
Retreat and write-off	2,329	-			1,703	-		
Total	**19,157**	**100**			**12,695**	**100**		

Source: Federal Office of Migration – Asylum statistics, Jan. 2006
* Includes family reunifications
** Number included in: No status awarded

Comments
It is not possible to indicate whether a status was accorded at first instance or on appeal.
A provisional admission status is equivalent to subsidiary status, and is granted in cases where enforcing a removal order would be in breach of international law, technically impossible or unreasonable. According to article 44 of the asylum Law, provisional admission may also be granted for humanitarian reasons in cases of personal hardship when an asylum application has been pending for more than four years. A provisional admission is granted for one year and then needs to be renewed. Since April 2006 persons with this status are allowed to work, though in practice this is difficult. Holders of this status are not allowed to travel, and family reunification is almost impossible.

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	2004				2005			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
Turkey	571	25.9			496	31.6		
Iraq	176	40.4			175	29.3		
Togo	112	7.5			97	21.4		
Serbia Montenegro	112	3.4			85	4.3		
Tunisia	85	45.5			73	60.8		
Sri Lanka	21	10.7			68	33.5		
China	78	11.1			60	33.3		
Total	**1,555**				**1,497**	**9.2**		

Source: Federal Office of Migration – Asylum statistics, Jan. 2006

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

421 (2004:658)

10 Persons returned on safe country of origin grounds

495 (no figures available in 2004)

11 Number of applications determined inadmissible

3836 (2004:5193)

12 Number of asylum seekers denied entry to the territory

Of the 338 individuals for asking asylum at the border (including international airports) 197 were denied entry.
(399 and 199 respectively in 2004)

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

In October 2005, the Review Commission of the Swiss Parliament issued a report on detention in Switzerland. The findings suggested that detention of asylum seekers normally does not exceed one month, which in turn suggests that removals are carried out without

significant delays. The report compared the practices of rather restrictive Cantons, where refused asylum seekers are often detained, with more liberal Cantons who use detention only as a last resort, and concluded that the quota of successful removals differs only very slightly, whereas the costs differ a lot.

14 Deportations of rejected asylum seekers

860 (2004:2,330) (see also point 13)

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

Switzerland operates programmes to the following countries: Ethiopia, Angola, Tunisia, Algeria, Morocco, Libya, Mauritania, and Armenia, Balkan (vulnerable), Iraq, Dem. Rep. Congo, Georgia.
In 2005, new programmes have been implemented regarding return to 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 programmes. Amendments to the Asylum Regulation 2 on Financial Matters that entered into force on 1 April 2006 enlarged the scope of beneficiaries: Persons whose deadline for departure has expired and persons whose claim was rejected at the admissibility stage can likewise benefit from repatriation grants and assistance.

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 Regulation.

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

NB: The published decisions of the Swiss Asylum Appeals commission (AAC) can be downloaded at www.arc-cra.ch, an English summary of the main arguments is provided.

Chechnya – Russia
Decision of the AAC of 14 June 2005; in re: T.V., Russia
Analysis of the situation in Chechnya, in particular the question of whether Chechen asylum seekers are being collectively persecuted in the entire Russian Federation and the judiciousness of a forcible return to Chechnya. It establishes the criteria for the assumption of a reasonable internal flight alternative within the Russian Federation.
Main findings:
- Chechen asylum seekers are not being collectively persecuted in the Russian Federation.
- Forcible return to Chechnya is not reasonable.
-Under certain circumstances a reasonable internal flight alternative within the Russian Federation may be appropriate for refused Chechen asylum seekers. However, cases should be assessed individually and a high standard of scrutiny must be applied

Afghanistan
Decision 2006 / 9, of the AAC of 24 January 2006, in re. A. B., Afghanistan
Update of the analysis of the security situation and the situation regarding medical treatment (consid. 7.2. - 7.7.). Under certain conditions, removal to Kabul, some Northern provinces and to Herat can be considered reasonable (in particular if there are family members or relations who are able to provide support and if accommodation is ensured). Removal to the Pashtun provinces in the South and East of the country remains unreasonable (Cons. 7.8.).

Minorities from Kosovo
1. Decision 2006 / 10, of the AAC of 18 November 2005, in re. T.I. and N.K. and children, Serbia and Montenegro
The forced removal of Albanian-speaking Roma, Ashkali and Egyptian minorities to Kosovo is in principle reasonable if reintegration of the returnee is possible (criteria: professional training, health status, age, sufficient means for living and family structures). The individual case has to be analysed thoroughly, in particular through research in the region.
2. Decision 2006 / 11 – 112 of the AAC of 13. January 2006, in re. S. X. and children, Serbia and Montenegro
The removal to Kosovo of a single Roma mother and her four minor daughters who cannot rely on stable family structures and have no property is not reasonable. In general it is not reasonable to expect Albanian-speaking Roma, Ashkali and Egyption minorities from Kosovo to reside in other parts of Serbia-Montenegro other than Kosovo.

Minors
Decision 2005 / 16, of the AAC of 20 May 2005; in re: O.G., Guinea
The decision specifies the requirement with which a medical specialist must comply when determining the age of an asylum seeker who claims to be a minor. These prerequisites are necessary to meet the standard of proof required by Art. 32 para. 2 (b) Asylum Law. If an asylum seeker alleges he or she is under-age, the credibility of this statement has to be examined before the detailed hearing into their asylum claim, in order to determine if a guardian ad litem has to be assigned.

5 Legal and Procedural Developments

18 New legislation passed

The Asylum Law and the Law on Aliens are still being revised. The amended versions were approved by Parliament in December 2005. (For Details see: Country report 2004).
The Asylum Law has been amended to bring it into line with the Dublin system; the changes will enter into force when Dublin becomes operational (not before January 2008 at the earliest).
On 7 September 2005 the Federal Council decided on changes in several Regulations regarding Asylum, Aliens and Integration. The changes entered into force on 1 April 2006.
Regulation on Integration:

- The degree of integration can be taken into account when deciding whether to grant a settlement permit (the most durable permission to reside in Switzerland).
- The grant of a residence permit can be correlated with an obligation to participate in a Language/ Integration course, if the person concerned will take up responsibilities in public life (as an Imam, for example).

Asylum Regulation 1 on Asylum Procedure:
The stay in the Registration Centre can be prolonged for up to 60 days (before: 30 days)
Asylum Regulation 2 on Financial Matters:

- Persons who have been issued with a deadline to depart can benefit from return programmes.
- Changes in the lump sums that the Cantons receive from the State for the management of asylum issues.

Regulation on the Limitation of the Number of Aliens (regulates access to work for all foreigners in Switzerland):
Persons under subsidiary protection get improved access to the labour market. They are now entitled to access the labour market on the same basis as non-nationals with a residence permit. Previously a person with a provisional admission status could only work in certain branches, and could only apply for a job if there were no Swiss citizens or EU/EFTA

citizen, or a non-national with a settlement or residence permit. Those in the first four categories are still however given privileged treatment.

19 Changes in refugee determination procedure, appeal or deportation procedures

A new Law on the Use of Force during deportation procedures was discussed in Parliament. The main issues discussed included: prohibition of life-endangering measures, prohibition of forced medication, training of removal staff, rules on the tools appropriate during removals (allowed: use of handcuffs and other means to tie up a person, use of police dogs), conduct of removals by air, guidelines for medical checks before, during and after deportation, unfortunately no mechanism for monitoring of the use of force during deportation and transport was discussed.

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

China – Tibet
1. Decision 2005 / 1, of the AAC of 30 November 2004; in re: R.C., People's Republic of China
Exiled Tibetan asylum seekers are generally not of unknown nationality; in most cases they are considered nationals of the People's Republic of China, even after a possible prolonged stay in India or Nepal. Indications for persecution in the sense of Art. 32 para. 2 (a) Asylum Law have to be examined with regard to the country of origin of the asylum seeker. In the case of exiled Tibetan asylum seekers, this would be the People's Republic of China.
2. Decision 2006 / 1, of the AAC of 13 December 2005; in re: T. L. T., People's Republic of China
No collective persecution of Tibetans in China. Yet, Tibetan asylum seekers who left China irregularly – without having stayed in India or Nepal for a longer period – are considered to have subjective post-flight reasons and will therefore be granted convention status in the sense of Art. 54 Asylum Law. This decision changed the practice regarding Tibetan asylum seekers who reached Switzerland after having stayed in India or Nepal for short period.

Turkey
1. Decision 2005/ 11, of the AAC of 29 March 2005; in re: X.Y., Turkey
The possession by Turkish police forces of a political file on an asylum seeker will, generally, suffice to constitute a justified fear of future persecution in the sense of Art. 3 Asylum Law.
2. Decision 2005 / 21, of the AAC of 8 September 2005; in re: M.K.S., Turkey
The decision analyses the current political situation in Turkey. Despite the latest legal reforms with a view to joining the EU, reprisals against family members of assumed activists of the PKK (or its successor organisations) or other Kurdish groups regarded as separatist by the authorities cannot currently be ruled out.

Eritrea – Ethiopia
Decision 2005 / 12, of the AAC of 18 May 2005; in re: A.Y. and R.A., Eritrea and Ethiopia
1. The deportations of Eritrean nationals from Ethiopia between 1998 and 2002 may, in principle, create a justified fear of persecution in the sense of Art. 3 Asylum Law. In the present case, the applicants are denied refugee status due to their dual citizenship.
2. Forcible return to Eritrea is only reasonable on the condition that favourable individual circumstances (capacity of family to give economic support or other factors allowing economic integration) exist, which ensure that the person in question will not be impoverished to such an extent that their existence might be threatened.

Somalia
Decision 2006 / 2 – 015, of the AAC of 13 December 2005, in re. M.C.C., Somalia

Due to the chaotic situation and the permanent state of violence in Central- and Southern Somalia, removal remains unreasonable. Under certain conditions, removal is reasonable to Somaliland and Puntland. In particular, the returnee has to have special strong ties to the region, and must be in a position to build up a stable existence and/or can rely on a functioning family/ clan structure. It is not sufficient that the person belongs to one of the main clans of the region.

Sudan
Decision 2005 / 14, of the AAC of 7 April 2005; in re: X.Y., Sudan
Analysis of the situation in southern Sudan after the Sudanese government and the Sudan People's Liberation Movement (SPLM) signed a peace agreement. It is determined that supporters of the SPLM are, generally, no longer persecuted as political opponents. The applicant in this case is an SPLM-member who engaged in activities (of a limited nature) while in exile, which were in favour of this party and the concerns of the Nuba people. Based on the reasoning provided above, the applicant cannot claim post-flight reasons for persecution.

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

No developments.

6 The Social Dimension

23 Changes in the reception system

According to an amendment in the Asylum Regulation 1 on the Procedure that entered into force on 1 April 2006, asylum seekers lodging an asylum request at the Swiss borders can be held in registration centres for up to 60 days (30 days previously). According to the Federal Office of Migration (FOM), the aim is to enable more asylum cases to be dealt with at registration centres thereby reducing the number of asylum seekers in the cantons and reducing costs.
In April 2004 it was decided to exclude refused asylum seekers from social assistance. However, the Federal Tribunal ruled in a decision of 18 March 2005 (Decision 2P.318/2005) that Cantonal authorities were not permitted to cut or deny minimum assistance even if the person was not cooperating with the removal procedure. The Swiss constitution stipulates in Art.12 that no one on Swiss territory should become destitute and that the canton/community where the person is residing has to provide emergency assistance.

24 Changes in the social welfare policy relevant to refugees

No developments.

25 Changes in policy relating to refugee integration

The Regulation on the Limitation of the Number of Aliens (Verordnung über die Begrenzung der Ausländer, BVO) has been amended. As of 1 April 2006, persons granted subsidiary protection (vorläufige Aufnahme) will be able to access the labour market more easily thereby reducing social welfare costs and facilitating their integration.

26 Changes in family reunion policy

The Asylum Appeals Commission ruled in a decision of principle of 7 March 2006, (Decision 2006/ 7, see www.ark-cra.ch), that the family of a refugee with Convention status (and according to Swiss law only a subsidiary protection permit, so called F-permit) could join him/her without delay and benefit from the same status, if family life could not reasonably be realised in a third country. Previously, Convention refugees had to wait for three years until they could apply for family reunification. The AAC argued that this waiting period was not in accordance with the right to family life and marriage according to the Constitution and international human rights law (Art. 8, 12 ECHR). The ACC ruled further that family reunion was even possible if the family had not been separated by the flight.

7 Other Policy Developments

27 Developments in resettlement policy

Switzerland has had a moratorium on resettlement programmes since the Balkan crisis of the mid-Nineties. Although the intention was to lift the moratorium in 2005, the Federal Office opted to prolong the suspension arguing that they had insufficient resources. Nevertheless, ten refugees from Uzbekistan were resettled in Switzerland after the massacre in Andijon in May 2005.

28 Developments in return policy

The Federal council proposed a draft of a new "Law on the Use of Force". The law regulates the means and measures that the police and other actors are allowed to use during deportation and removal procedures. The law explicitly prohibits measures that could endanger the health and life of those being subjected to removal, as well as forbidding forced medication. Although a legal basis regulating the means of restraint is a positive development, the proposed law remains inadequate, as it does not provide for a neutral monitoring mechanism and still allows for certain degrading treatment (fixation of the feet, use of police dogs). The Law on the use of Force is currently being debated in Parliament.

29 Developments in border control measures

Switzerland will join the Schengen agreement, though it will not become operational before 2008.

30 Other developments in refugee policy

On 1 January 2005 the Swiss Ministry of Justice merged the Federal Office for Refugees and the Federal Office of Immigration, Integration and Emigration (IMES) into the new Federal Office for Migration. The FOM consequently covers all aspects of migration, and is not focused specifically on asylum and refugee issues. The argument was that this would streamline the administration, reduce expenses (budget cuts) and also prevent inconsistencies in the policies of both offices.
www.bfm.admin.ch.

8 Political Context

31 Government in power during 2005

No changes since 2004, the minister in charge is still Christoph Blocher of the Swiss Peoples Party, (SVP, UDC).

32 Governmental policy vis-à-vis EU developments

On 5 June 2005 the Swiss people voted 1,474,704 to 1,226,449 to accept the association to the Schengen agreement and the Dublin II Regulation. The association treaties will enter into force as of end 2006. The association is planned to become operational in 2008.

33 Asylum in the national political agenda

Asylum remains high on the political agenda. In March 2006 over 100,000 signatures were collected in order to initiate a referendum against the revised Asylum Law and the Alien Law (which will take place on 24 September 2006), officially agreed upon by the two houses of parliament in December 2005. The referendum follows a campaign by the "Coalition for a Humanitarian Switzerland". The Coalition has called the proposed changes to the asylum law 'inhumane' and believes it breaches the Refugee Convention and international law. The new laws will introduce Europe's harshest refugee regime if adopted. The Coalition is a group of more than 30 organisations including the Swiss Refugee Council, charities and churches, and is backed by the Social Democrats and the Green Party.

Biography

Susanne Bolz, 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.

WWW.OSAR.CH

UNITED KINGDOM

1 Arrivals

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

Table 1

Month	2004	2005	Variation +/-(%)
January	3,040	2,635	-13
February	2,905	2,215	-23
March	3,010	2,165	-28
April	2,635	2,185	-17
May	2,550	1,975	-22
June	2,725	2,065	-24
July	2,865	1,980	-30
August	2,685	2,150	-18
Sept.	3,065	2,190	-28
October	2,815	2,070	-26
November	2,885	2,105	-26
December	2,780	1,990	-28
Total	**33,960**	**25,720**	**-24**

Source: Home Office, Research Development and Statistics
Figures do not include dependants.

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

Table 2

Country	2004	2005	Variation +/-(%)
Iran	3,455	3,140	-9
Somalia	2,585	1,770	-31
Eritrea	1,105	1,760	+60
China	2,365	1,735	-27
Afghanistan	1,395	1,585	+13
Iraq	1,695	1,435	-16
Pakistan	1,710	1,145	-33
Democratic Republic of Congo (DRC)	1,475	1,060	-28
Zimbabwe	2,065	1,070	-48
India	1,405	970	-31
Others	*14,705*	*10,050*	*-31*

Source: Home Office, Research Development and Statistics

Figures do not include dependants.

3 Persons arriving under family reunification procedure

No figures available.

4 Refugees arriving as part of a resettlement programme

In 2005, 136 refugees arrived under the UK resettlement programme (150 in 2004).
(See point 27 for further details).

Source: Home Office

5 Unaccompanied minors

In 2005, the UK received 2,720 applications for asylum from unaccompanied minors (subject to change, as there is often late recording of applications). The main countries of origin were*:

Table 3

Country Name	Number
Afghanistan	485
Iran	395
Somalia	220
Eritrea	175
Iraq	165
China	150
DRC	135
Vietnam	110

These countries accounted for 1,835 applications from unaccompanied minors.

Source: Home Office, Research Development and Statistics
*Figures have been rounded to the nearest five.

2 Recognition Rates

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

Table 4

Statuses	2004				2005			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	40,525	88	43,760	78	22,740	83	27,090	79
Convention status	1,515	3	10,845**	19	1,945	7	5,905**	18
Humanitarian Status	155	0.3 4	-	-	125	0.4 5	-	-
Discretionary leave	3,840	8	-	-	2,685	10	-	-
Total	**46,035**		**55,975**		**27,495**		**33,995**	

Source: Home Office, Research Development and Statistics

Comments
Figures do not include dependants.
The statuses accorded at first instance and appeal stage do not necessarily relate to applications made in the same period.
Figures include asylum refusals after non-substantive consideration, for example refusals on non-compliance grounds and on safe third country grounds.
* Appeal figures relate to appeals determined by the Immigration Appellate Authority/Asylum and Immigration Tribunal and do not include successful appeals at other appeal stages.
** This figure includes successful appeals that resulted in awards of Convention status, Humanitarian Protection and Discretionary Leave.
Figures may not add up due to rounding.

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 5

	2004				**2005**			
	First instance and appeal		Appeal		First instance and Appeal			
	Number	%	Number	%	Number	%	Number	%
Somalia	460	14	1,835	19	660	33	760	12
Eritrea	60	3	405	4	555	28	475	8
Zimbabwe	220	8	595	6	80	4	465	8
Sudan	120	8	445	4	70	3	400	6
Iran	80	3	985	10	70	3	740	12
DRC	55	3	400	4	65	3	305	5
Pakistan	75	7	410	4	45	2	225	3
Turkey	70	2	840	8	35	1	440	7
Total countries	**1,515**	**3**	**9,545**	**19**	**1,945**	**7**	**5,905**	**18**

Source: Home Office, Research Development and Statistics.

Comments
Figures do not include dependants.
* Appeal figures include Convention status grants, Humanitarian Protection and Discretionary Leave.
Appeal figures relate to appeals determined by the Immigration Appellate Authority/Asylum and Immigration Tribunal and do not include successful appeals at other appeal stages.
Figures may not add up due to rounding.

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

Table 6: **Humanitarian Protection**

	2004				2005			
	First instance and Appeal				First instance and Appeal			
Iran	15	9	985	10	25	20	740	12
Afghanistan	10	6	325	4	20	16	200	3
Eritrea	25	16	405	4	15	12	475	8
Iraq	-	0	280	2	10	8	175	2
Sierra Leone	5	3	65	0	10	8	30	0
DRC	-	0	400	4	5	4	305	5
Somalia	10	6	1,835	19	5	4	760	12
Zimbabwe	**	1	595	6	**	1	465	7
Total countries	**155**	**9**	**9,545**	**19**	**125**	**7**	**5,905**	**18**

Source: Home Office, Research Development and Statistics.

Comments
Figures do not include dependants.
Appeal figures relate to appeals determined by the Immigration Appellate Authority/Asylum and Immigration Tribunal and do not include successful appeals at other appeal stages.
* Appeal figures include Convention status grants, Humanitarian Protection and Discretionary Leave.
** = 1 or 2.
Figures may not add up due to rounding.

Table 7: **Discretionary Leave**

	2004				2005			
	First instance		Appeal*		First instance		Appeal*	
Country of origin	Number	%	Number	%	Number	%	Number	%
Afghanistan	405	10	325	3	445	16	200	3
Iran	220	5	985	10	360	13	740	12
Somalia	455	11	1,835	19	190	7	760	12
DRC	175	9	400	4	150	5	305	5
Iraq	185	4	280	2	150	5	175	2
Bangladesh	275	7	10	0	140	5	10	1
Vietnam	220	5	45	0	135	5	20	0
Eritrea	155	4	405	4	125	4	475	8
Total countries	**3,840**	**9**	**9,545**	**19**	**2,685**	**10**	**5,905**	**18**

Source: Home Office, Research Development and Statistics.

Comments
Figures do not include dependants.
* Appeal figures include Convention status grants, Humanitarian Protection and Discretionary Leave.
Appeal figures relate to appeals determined by the Immigration Appellate Authority/Asylum and Immigration Tribunal and do not include successful appeals at other appeal stages.
Figures may not add up due to rounding.

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

Home Office, Research Development and Statistics provide figures for asylum seekers refused on safe third country grounds. In 2005, there were 1,780 such refusals. It is likely that most of these are to the EU under the Dublin Convention but separate figures by country are not published.

10 Persons returned on safe country of origin grounds

No figures available.

11 Number of applications determined inadmissible

No figures available.

12 Number of asylum seekers denied entry to the territory

No figures available.

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

Figures for the total number of asylum seekers detained throughout the year are not available. As of 31 December 2005, 1,450 asylum seekers were detained under Immigration Act powers; 630 asylum seekers were detained for less than one month and 30 asylum seekers were detained for more than one year.

14 Deportations of rejected asylum seekers

See point 15 below.

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

13,675 principal asylum applicants were 'removed' from the UK in 2005 including enforced removals, persons departing 'voluntarily' following enforcement action initiated, persons leaving under the Assisted Voluntary Return Programme run by the International Organisation for Migration and those who have left the UK without informing the immigration authorities. Including dependants, 15,850 asylum seekers were 'removed'.
The nationalities with the largest numbers of principal applicants removed or departing voluntarily in 2005 were from SAM* (1,690), Afghanistan (1,155), Iraq (1,040), Turkey (855), Pakistan (670), Iran (620), Albania (560), India (470), and Sri Lanka (430).
* SAM comprises the Republic of Serbia, the Republic of Montenegro, and the province of Kosovo.

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

No figures available.

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

Zimbabwe
In July 2005, all removals to Zimbabwe were suspended following a legal challenge arguing that returns were inherently unsafe as rejected asylum seekers were subject to persecution by the Zimbabwean authorities. In April 2006 the Court of Appeal ordered that the Asylum and Immigration Tribunal must rehear all aspects of the case, in particular whether people who returned voluntarily ran the same risk. A differently constituted Tribunal delivered their decision in August this year and stated that there was no risk in general to those who returned involuntarily. The Tribunal identified a number of risk factors such as those with a history of military involvement and those with a history or criminal activity. The appellant has applied for permission to appeal to the Court of Appeal and at the time of writing the application remains undecided. Following the decision of the Tribunal the Secretary of State announced that removals to Zimbabwe would resume.

Afghanistan
The Government continued with forced removals to Afghanistan throughout 2005, despite the worsening security situation. The monthly maximum of 50, agreed informally with the Afghan government, remained in force. Those removed were still young, single males, including some heads of households. Although it remained the Government's intention to remove families with children, including girls aged 12 or older, to date this has not been implemented.

Iraq
In July 2005, the UK Immigration Minister restated the Government's intention to commence removals to Iraq at the earliest opportunity. At the beginning of August, the Immigration Service detained a group of unsuccessful Iraqi asylum applicants with a view to removing them to Iraq at the end of that month; legal challenges ensued. The main Kurdish political parties voiced concern over the UK's policy, and in early September, the Kurdistan Regional Government High Representative, Bayan Sami Abdul Rahman, met the UK Immigration Minister to "seek a rethink by the British government of its decision to forcibly return refused asylum seekers to Kurdistan." Nonetheless, in the early hours of Sunday 20 November, 15 Iraqis were forcibly returned to northern Iraq via Cyprus despite threats of legal action and pleas from refugee agencies to reconsider the planned returns. All 15 returnees were reportedly left in Arbil (Northern Iraq) with reintegration assistance of $100 (£58) each to help them re-establish themselves in their home country. It was also reported that the returnees were handcuffed and forced to wear military 'protective clothing' for the second part of the journey by military plane from Cyprus.

The opening up of air routes into Iraq had implications for Iraqis receiving support under the Section 4 'hard cases' concession of January 2005 (see Q 23 for more on Section 4), which allowed Iraqis to claim support without signing up for voluntary return. The National Asylum Support Service (NASS) makes no distinction between various regions of origin in its treatment of applications for Section 4 support. The Home Office announced that from Monday 1st August a safe route of return was considered to exist for refused Iraqi asylum seekers. Therefore, from 1st August NASS required Iraqi asylum seekers who made a new application for Section 4 support to demonstrate that they satisfied one of the criteria for support. In most cases, this meant demonstrating they were taking all reasonable steps to leave the UK. From Thursday 1st September, Iraqi asylum seekers receiving Section 4 support were expected to show that they were taking steps to leave the UK, or satisfy one of the other grounds for Section 4 support, in order to remain eligible. In most cases, it was clear

that the choice they had to make was either to agree to leave voluntarily or to lose Section 4 support. However there have been no forced removals to Iraq since November 2005.

5 Legal and Procedural Developments

18 New legislation passed

Immigration, Asylum and Nationality Act 2006

The main piece of legislation in 2005/06 was the Immigration, Asylum and Nationality Act 2006, which received Royal Assent in March 2006.
http://www.opsi.gov.uk/acts/acts2006/20060013.htm

The Act implements many of the measures outlined in the Government's five year plan on asylum and immigration, *Controlling our borders: making migration work for Britain*.
http://www.ind.homeoffice.gov.uk/6353/aboutus/fiveyearstrategy.pdf

Most of the Act's provisions reflect the immigration and nationality measures of the five-year plan and do not concern asylum.

However, measures with implications for asylum seekers include:
- the intention to stop granting indefinite leave to remain (ILR) to recognised refugees
- the introduction of an appeal against a decision to remove, or a refusal to extend, the right to remain in the UK
- measures to further strengthen border controls by fingerprinting all visa applications and carrying out electronic checks on people entering and leaving the country
- the introduction of an integration loan to replace the integration grant for those recognised as refugees
- the extension and consolidation of vouchers as a form of support for refused asylum seekers who are unable to return to their country of origin
- the introduction of a number of counter terrorism measures, including a clause that extends the grounds on which the government can exclude people from asylum.

Terrorism Act 2006
http://www.opsi.gov.uk/acts/acts2006/20060011.htm

The Terrorism Act 2006 received Royal Assent on 30th March 2006.

Under the Act it is a criminal offence to directly or indirectly incite or encourage others to commit acts of terrorism. 'Encouraging' terrorism is broader than 'inciting' and includes the 'glorification' of terrorism.

The Government claimed that the new Act was needed to combat organisations that try to promote terrorism and encourage people to think that suicide bombings are a "noble and holy activity"[32]. 'Glorification of terrorism' is now prohibited regardless of whether the 'glorification' applies to terrorist acts in Britain or in other countries. Because terrorism is defined very broadly, this could mean that statements about violent opposition to regimes in other countries could be punishable in Britain. Taken in conjunction with the counter terrorism measures in the Immigration, Asylum and Nationality Act 2006, NGOs are concerned that those engaged in legitimate opposition to despotic regimes could be denied refugee protection in the UK.

[32] Statement by Charles Clarke, Home Secretary reported by the BBC 15th February 2006

19 Changes in refugee determination procedure, appeal or deportation procedures

The most significant development in 2005/6 has been the rollout of the New Asylum Model (NAM) as discussed in the 2004 Report. This has passed from its pilot stage to a programme that is due to be fully implemented by April 2007. (See also Q 23 for more detail on the NAM).

There are some features of the NAM that are positive – in particular the allocation of a case owner to each applicant who will bear responsibility throughout the procedure (and will be contactable) The Home Office also seem to accept that legal advice needs to be provided to asylum seekers prior to their interview. For the NAM in Liverpool there has been a rota of solicitors to whom cases can be referred.

Less positive, however, is the fact that the system is wholly process driven, and preoccupied with adhering to timetables and operating to extremely tight deadlines. This makes it difficult to ensure that, for example, all the necessary evidence and information relating to an asylum claim has been gathered so that a full consideration of the claim can take place. Asylum seekers in the NAM are interviewed as early as the sixth day after initial screening, despite all the demands of induction and dispersal. Newly arrived asylum seekers have to learn about the asylum system, to move to new accommodation twice, learn about health care and childcare and any other service that they may require while in the UK. In addition, they have to find a solicitor, explain their case and receive legal advice in time for their interview on, or soon after, day six. Obtaining and translating documents can be particularly problematic given the time available. Although NAM case owners are in theory allowed to extend deadlines where necessary, there is little evidence to date of them doing so.

The desire to swiftly move all asylum cases into the new system (to avoid having two different determination systems in parallel for too long) means that new casework teams are being set up far faster than recruitment and training procedures can be put in place. As a result, at the time of writing, there are NAM teams operating without named case owners, contravening one of the core features of the new system. Existing briefings in Induction Centres make no reference to the NAM at all.

The government is clear that its primary concern is more rapid processing of asylum claims leading, in most cases, to rapid removal. Hence the case owners' start to finish responsibility for the management of cases and a requirement that they maintain high levels of contact with their clients by setting criteria for reporting and/or electronic monitoring. Generally people are required to report to one of a network of Reporting Centres, the frequency being set by their case owner and depending partly on fears of their absconding and partly on how easy they might be to remove. In November 2005, the Minister announced that the use of electronic tagging was to be extended and that people would no longer have to give their consent – the only alternative being detention. The number of people being tagged (including on arrival) has increased accordingly and there is budgetary provision for 800 asylum seekers to be tagged in the year 2006/7. This is part of the overall strategy for much more rigorous reporting requirements for asylum seekers at all stages of the process.

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

The following is a summary of cases that have affected the interpretation of the Refugee Convention and the European Convention on Human Rights.

AA & LK (AIT and Court of Appeal) (See Q 17)

The Asylum and Immigration Tribunal (AIT) considered the issue of what happens to failed asylum seekers forcibly returned to Zimbabwe. The Tribunal found that all the evidence indicated that Zimbabweans who were forcibly returned were at risk of ill treatment. The Secretary of State argued that asylum seekers in this position shouldn't be eligible for protection as voluntary return was an option for every asylum seeker, thereby avoiding ill treatment. The Tribunal stated that they were bound by a previous Court of Appeal decision and that the possibility of voluntary return was irrelevant in cases where an asylum seeker effectively stated that they did not wish to return. The Tribunal allowed the appeal.

The Secretary of State appealed to the Court of Appeal. The Court of Appeal stated that in cases where safe voluntary return was an option open to the asylum seeker, the fact that forced returns would give rise to ill-treatment did not mean that the asylum seeker qualified for protection. The Court of Appeal also stated that the Tribunal were wrong to state that the evidence all went one way and remitted the case back to the AIT for reconsideration.

ZT v SSHD (Court of Appeal)

Ms ZT, a citizen of Zimbabwe, arrived in the UK in July 2000, and was given leave to enter as a visitor for a period of 6 months. Fairly shortly thereafter she was diagnosed as being HIV-positive, and started a course of anti-retroviral treatment, which has succeeded in controlling the disease. In February 2001, she sought permission to remain on the basis that to return her to Zimbabwe, where treatment for her very serious illness would be difficult or impossible to obtain, would infringe her rights under the European Convention on Human Rights. The House of Lords in **N** in 2004 considered the return of a Ugandan woman with AIDS and stated that only the most exceptional of such cases could succeed under article 3. Ms ZT attempted to distinguish her case on 3 grounds:

i. Unlike Uganda, which was making a concerted effort to counter AIDS, the Zimbabwe government's policy of discriminatory application of health care had significantly contributed to the problem.
ii. Ms ZT had only been diagnosed with AIDS after arriving in the UK. She was not therefore someone who came to the UK seeking healthcare.
iii. The test of exceptionality should be applied as against the situation of other UK sufferers and not sufferers in Zimbabwe.

The Court rejected each of these submissions stating in turn that there was no special requirement to consider the behaviour of the receiving state, the timing of Ms ZT's contracting AIDS was irrelevant as she, like N, was seeking to remain in the UK on healthcare grounds, her fear was a fear of what would happen to her in Zimbabwe and so Zimbabwe was the proper country of reference. In considering Article 8 the Court revisited the concepts of a 'domestic' and 'foreign' case as set out in Ullah[33]. The appellant contended that her case was a domestic case as it related to the removal of her healthcare in the UK as opposed to the consequences of her return. The Court stated that it had never been suggested that different rules of law apply as between the two types of case; nor could it be, since they are both subject to the same rule of Article 8. They stated that the categorisation of cases as 'domestic' or 'foreign' did not affect the tests to be applied.

[33] Ullah (2004) UKHL 26 (HL)

Januzi & others v SSHD

The House of Lords considered two approaches to the interpretation of internal flight. The first approach is to be found in New Zealand jurisprudence and is based on Professor Hathaway's "The Law of Refugee Status" and can be summed up as a concept which "*should be restricted in its application to persons who can genuinely access domestic protection, and for whom the reality of protection is meaningful. In situations where, for example, financial, logistical, or other barriers prevent the claimant from reaching internal safety; where the quality of internal protection fails to meet basic norms of civil, political, and socio-economic human rights; or where internal safety is otherwise illusory or unpredictable, state accountability for the harm is established and refugee status is appropriately recognized*"[34]

The second approach was used by the Court of Appeal in E & others v SSHD and can be summed up as " *a comparison between the conditions prevailing in the place of habitual residence and those which prevail in the safe haven, having regard to the impact that they will have on a person with the characteristics of the asylum seeker.*"[35]

The Court of Appeal in Januzi considered the two approaches and preferred the reasoning in E for five reasons:

1. there is nothing in any article of the Convention from which the Hathaway/New Zealand rule may, by any process of interpretation, be derived
2. acceptance of the Hathaway/New Zealand rule cannot properly be implied into the Convention
3. The Hathaway/New Zealand rule was not expressed in Council Directive 2004/83/EC[36] that was binding on the UK.
4. The rule is not supported by uniformity of international practice or academic opinion.
5. The Hathaway/New Zealand rule would give the Convention an effect that was anomalous in its consequences. The Court used the example of a refugee from a poor and deprived country who could, with no fear of persecution, live elsewhere in his country of nationality, but would there suffer all the drawbacks of living in a poor and backward country. The Court stated that it would be strange if the accident of persecution were to entitle him to escape, not only from that persecution, but also from the deprivation to which his home country is subject.

The Court then considered the following extract from the UNHCR Guidelines on International Protection of July 2003:

National authorities are presumed to act throughout the country. If they are the feared persecutors, there is a presumption in principle that an internal flight or relocation alternative is not available[37]

The Court stated that there could be no such absolute rule and that the language of presumption was unhelpful. The Court stated that a decision maker should consider all the facts of the particular case and come to a decision based on an analysis of those facts.

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

As mentioned in Question 18, the Immigration, Asylum and Nationality Act 2006 and Terrorism Act 2006 are relevant developments. The Terrorism Act 2006 greatly broadened

[34] Quoted in Januzi and others v SSHD Para 9 House of Lords February 2006
[35] Quoted in Januzi Para 24
[36] EU Council Directive 2004/83/EC April 2004 (OJ L 304.12) on Minimum standards for the qualification and status of third country nationals or stateless persons.
[37] Quoted in Januzi Para 21

the definition of terrorism and the former then applies this to Article 1(F) and 33(2) of the Refugee Convention.

Under the Terrorism Act 2006 it is a criminal offence to incite or encourage, directly or indirectly, others to commit acts of terrorism. 'Encouraging' terrorism is broader than 'inciting' and includes the 'glorification' of terrorism. (See Q 18)

The Government's statutory construction of Article 1F(c) is set out in Section 54 of the Immigration, Asylum and Nationality Act 2006 as follows:

(1) In the construction and application of Article 1F(c) of the 1951 Refugee Convention the reference to acts contrary to the purposes and principles of the United Nations shall be taken as including, in particular-

(a) acts of committing, preparing or instigating terrorism (whether or not the acts amount to an actual or inchoate offence), and

(b) acts of encouraging or inducing others to commit, prepare or instigate terrorism (whether or not the acts amount to an actual or inchoate offence).

UNHCR has specifically advised against this construction and is concerned that "an automatic and non-restrictive use of Article 1F(c) to all acts designated as 'terrorist' may result in a disproportionate application of the exclusion clauses, in a manner contrary to the overriding humanitarian object and purpose of the 1951 Convention". It is feared that this statutory construction of Article 1F(c), taken in conjunction with the UK definition of terrorism, directly undermines one of the core purposes of the Refugee Convention: to provide protection for people seeking asylum on the grounds of persecution for political opinion. The breadth of the UK definition of terrorism, when used as the basis for exclusion, potentially means that thousands of asylum seekers fleeing persecution who would previously have been recognised as refugees under the 1951 Refugee Convention, will now be denied refugee status.

Section 55 of the Immigration, Asylum and Nationality Act 2006 relates to asylum appeals where the Secretary of State issues a certificate that the asylum claimant, or recognised refugee, is not entitled to protection from non-refoulement under Article 33(1) of the Refugee Convention because-

(a) Article 1F of the 1951 Convention applies to them (whether or not they would otherwise be entitled to protection), or
(b) Article 33(2) applies to them on grounds of national security (whether or not they would otherwise be entitled to protection).

This provision affects asylum seekers as well as refugees who have already been recognised by the UK as fulfilling the 1951 Refugee Convention definition. It means that if the Asylum and Immigration Tribunal (AIT), or the Special Immigration Appeals Commission (SIAC), agrees with the Home Secretary's certificate, they are required to dismiss the asylum appeal before hearing it, and are not able to consider the individual's actions in the context of the Government against which they were directed.

This provision inappropriately fetters the discretion of the AIT and SIAC to look at actions in their context and could apply to a large number of refugees and asylum seekers in the UK. It has been argued that the provision is incompatible with the UK's obligations as a party to the 1951 Refugee Convention because it denies individuals a substantive appeal against a refusal of their asylum application, regardless of the fact that the quality of initial decisions made on asylum applications in the UK is unacceptably poor.

22 Developments regarding readmission and cooperation agreements

A bilateral readmission agreement signed with Albania on 14 October 2003 came into force in July 2005. In December 2005 the UK signed a readmission agreement with Switzerland, and in July 2006 with Algeria, neither of which had entered into force at the time of writing. Negotiations were finalised for a readmission agreement with Serbia & Montenegro but the agreement was never signed and its status is unclear following the referendum in favour of Montenegrin independence.

In addition to formal (Treaty) readmission agreements, the UK negotiates informal arrangements to address operational issues, often involving re-documentation. These are often termed Bilateral Memoranda of Understanding http://www.parliament.the-stationery-office.co.uk/pa/jt200506/jtselect/jtrights/185/18502.htm

6 The Social Dimension

23 Changes in the reception system

New Asylum Model

In February 2005, the UK Immigration Minister announced the introduction of a New Asylum Model (NAM). The aim of this new model was to align asylum determination with support in order to achieve closer contact management and a more robust asylum system. The model will be wholly implemented by December 2006.

The NAM consists of 6 reporting centres across the UK: Croydon, Liverpool, Leeds, Solihull, Cardiff and Glasgow. The key characteristics of the NAM are:

- Changes in reception and determination time frames so that asylum seekers should receive a decision on their claim within one month
- Changes to use of existing structures such as initial accommodation (EA and induction centres) (integrated network)
- The introduction of end to end case management, whereby every asylum seeker will be assigned a case owner who is responsible for all asylum support and determination decisions from the beginning to the end of process.
- The piloting of earlier legal advice provision and an emphasis on improving the quality of the decisions

The Home Office is establishing 25 NAM Teams, 12 people per team who will receive 5 new cases per head per month or 18,000 p.a. All decisions will be made within one month except where otherwise specified as "fast track" either because the claim is certified as "clearly unfounded"[38]; or "late and opportunistic"[39]. Fast track decisions are made by day eleven.

The concern about the speed of the new process relates to fears about the quality of initial decision-making. The Home Office response to criticisms of quality has been to invite UNHCR to examine their casework in detail and make recommendations. The third UNHCR Quality Initiative report was published in May 2006.
http://www.ind.homeoffice.gov.uk/6353/aboutus/QI_Third_Report.pdf

One major recommendation has been that Case owners making decisions should be "accredited" (essentially they will have to pass an exam) just as legal representatives are. The

[38] Currently a list of 17 countries from which applications are generally considered "clearly unfounded" although claims can be certified from other countries.
[39] Generally where people have claimed asylum only after refusal of other leave or who are identified as illegally working.

Home Office is actively pursuing the accreditation of staff and has appointed a member of the Quality Initiative Team to take this forward. However as it is still in the development phase, NAM staff are currently not accredited. In the interim Case owners are being appointed on a higher grade and with higher educational requirements.

NAM process

The NAM is characterised by three processes:

i. Segmentation
ii. Fast track processing
iii. Case ownership

(i) Segmentation

On arrival a screening interview (conducted at the Asylum Screening Unit) with an Immigration Officer will assign an applicants case to one of seven segments, based on the characteristics of each case. The segments are:

Segment	1	Third Country Cases
	2	Minors (including UASC)
	3	Potential non detained NSA
	4	Late/Opportunistic low barriers to removal[40]
	5	Late/Opportunistic high barriers to removal
	6	General cases low barriers to removal
	7	General cases high barriers to removal

Segments 6 and 7 require different reporting (weekly reporting for low barrier; monthly reporting for high barrier) and electronic monitoring arrangements.

Segmentation determines the processing, management and support pathways of each individual case thereby determining:

- the speed at which a person's asylum claim is processed;
- when they will have their initial interview;
- whether they will be assisted in accessing legal advice;
- the type of accommodation a person is required to occupy (e.g. highly supervised accommodation blocks; flats close to reporting centres or remote accommodation.)
- how and when a person is required to report to the Immigration Service, that is, whether this will be by voice recognition or appearance in person weekly or daily. Compliance with these requirements will be a condition of continuing support.

IND may create a tenth segment called "well founded" for people with strong claims to accelerated determination. IND is consulting with the UNHCR on this process and at present it is unclear how it would operate.

(ii) Fast track processing

The NAM uses a fast track procedure piloted in Harmondsworth detention centre and the North West Pilot. It accelerates the assessment process by removing the formal application form stage, instead proceeding straight to the interview. It also integrates casework for detained and non-

[40] Claimants are assessed as low or high barriers to removal primarily according to IS Documentation Unit advice based on their nationality and level of documentation. Those with valid documentation; or who can be removed on an EU letter; or for whom documentation can be obtained within a month are classified as low barriers to removal.

detained applicants, and reduces the time from initial interview to initial decision from two months to two-weeks.

(iii) Case ownership

The NAM has a single case owner case management model. The case owner is responsible for a specific asylum application throughout the procedure – from application to the granting of a status or removal. Case owners will be employed at a higher grade reflecting their complex roles and responsibilities, including:

- producing case management plans for each claimant ensuring that their case is dealt with within the stipulated timescales.
- moving cases from one segment to another if they have been inappropriately allocated (the process for doing this remains unclear).
- making case decisions, handling appeals, ensuring appropriate support and reporting arrangements, arranging re-documentation, and handling removals casework.

Applicants will increasingly receive the final decision on their asylum claim in person when they report, enhancing the capacity to detain those who are given a removal order.

Organisational changes resulting from NAM – the end of Centralised NASS

The National Asylum Support Service (NASS) has been decentralised. All casework will be regionalised by the end of 2006, aligning it with the new asylum processing systems introduced by NAM. Asylum support is now divided between two directorates: Asylum Resources and Regional Operations and Dispersal, which is a part of the Asylum Directorate.

Eventually this means that the NAM caseworker will be the key contact point on all aspects of a case and will be making asylum claim and support decisions.

New accommodation provision contracts

In February 2006 NASS secured more tightly specified and cheaper contracts with private and public sector accommodation providers. The new contracts will deliver a saving of £177 million against the Home Office's original £450 million target for accommodation procurement, and the cost per service user per day has been reduced by 11%, representing a saving of £15 million.

All existing contracts end as of 1 July 2006 with new contracts becoming active from September 2006 at the latest. Interim arrangements have been made in most cases, allowing asylum seekers to remain in their current accommodation with the new provider accepting responsibility for future management. However this has not always been possible. Some asylum seekers have had to leave their accommodation, with some having to move to temporary accommodation while an appropriate alternative is sourced. The combination of this transition with a new process for agreeing dispersals with accommodation providers has resulted in a significant drop in dispersals and a significant increase in the number of people in temporary accommodation.

The voluntary sector remains concerned that inadequate action is undertaken to ensure that families are not disrupted, and that their welfare is not jeopardised through forced relocation, and that normal dispersal continues.

Update on existing provision

Section 4 of the 1999 Asylum and Immigration Act (also known as 'hard case' support) allows rejected asylum seekers to apply for food and housing, as an alternative to the full NASS support to which they were previously entitled. There are very strict criteria for receiving this

support: either a willingness to return to their country of origin voluntarily; or Home Office recognition that return is impossible.

The government continues to struggle with the administration of the system as demand has increased significantly with the acceleration of initial and appeal stage decision-making. Throughout 2005 applicants not considered to be immediately vulnerable have had to wait an average of 8 weeks – during which time they are destitute. The average amount of time a person remains on s.4 support is 260 days, or 8.7 months due to difficulties associated with voluntary return, re-documentation, fresh claims, judicial reviews and health care issues.

Recipients receive £35 a week in food vouchers, irrespective of their needs. No clothing provisions are made. The Home Office is currently considering issues relating to those on section 4 support for over 6 months and provisions for women and babies. Until the secondary legislation provisions are implemented, NGOs continue to meet this area of need from their own funds.

People with special needs receiving section 4 support continue to experience difficulties accessing additional support from Local Authorities, despite recent legal challenges maintaining this right [AW v LB Croydon and SSHD and A, D and Y v LB Hackney and SSHD Case nos CO/2016/2005,CO/6016/2004, CO/3433/2004, CO/3110/2005.]

Section 10 of the Asylum and Immigration Act 2004 allows the Secretary of State to make a person's eligibility for Section 4 support "conditional upon his performance of or participation in community activities in accordance with arrangements made by the Secretary of State". This provision has remained dormant since the government's failed attempt to implement it through a partnership with YMCA Liverpool. The YMCA, in line with other voluntary sector organisations, has now chosen not to participate due to reservations about forced labour. The government is likely to reintroduce this provision as part of the NAM, as this anticipates increased contact with people at the end of the asylum process.

Section 9 of the Asylum and Immigration Act 2004 withholds any support from families that do not satisfy the Government that they are complying with attempts to remove them from the UK. The Government has said that if a family becomes destitute as a result of this provision the only support available will be for the children under section 20 of the Children's Act (the provision for taking children into care). The Government piloted the provision with 116 families in Leeds, London and Manchester between December 2004-July 2005. The Home Office conducted an evaluation of the pilot in November 2005 but the findings and the government stance on the future implementation of the provision have yet to be made public. An evaluation by a number of NGOs suggested that the provision fails to achieve any of the government objectives, jeopardises the safety and well being of families, is expensive and cumbersome to administer and fails to recognise the complex situation in which families at the end of the procedure find themselves. Key concerns for NGOs and local government centre on the rights of the child, both under UK law, and under Article 8 of the ECHR (right to family life).

Section 55 of the 2002 Nationality, Immigration and Asylum Act stopped the provision of support for childless adults who did not apply for asylum 'as soon as reasonably practicable' after arriving in the UK. This policy was effectively abandoned for people seeking accommodation and support after the House of Lords decided that Section 55 was a violation of Article 3 of the ECHR, if it forced someone into destitution. The Government is, however, still applying Section 55 to all 'late' applications for subsistence-only support (i.e. support without accommodation).

24 Changes in the social welfare policy relevant to refugees

The **Family ILR (Indefinite Leave to Remain) Amnesty** exercise[41] continues to receive applications from families unaware of, or unable to comply with, the October 2003 deadline. Families are still able to apply to the Home Office for consideration of eligibility for ILR if they fit the criteria as stated in 2000. Several legal challenges are underway, challenging the criteria for the amnesty and seeking an extension to the deadline.

25 Changes in policy relating to refugee integration

Refugee integration loans introduced in the Immigration, Asylum and Nationality Act 2006 will come into force in October. Currently those granted refugee or complementary protection statuses are entitled to claim the difference between NASS support payments and mainstream benefit levels from the date of the original asylum claim.The Home Office is developing mechanisms for administering Refugee Integration Loans through the Department of Work and Pensions, which will recover the loan repayments from benefit payments.

Refugee and asylum seeker representatives and NGOs are concerned that integration loans undermine refugees' rights as UK residents, which should entitle them to benefit support from the time of making a claim. They will also jeopardise access to mainstream support, will not be universal and will lock refugees into debt related poverty instead of enabling them to move on with rebuilding their lives.

26 Changes in family reunion policy

For the first time, those granted Humanitarian Protection were entitled to apply for immediate family reunion

7 Other Policy Developments

27 Developments in resettlement policy

The Home Office (HO) refugee resettlement programme is known as the Gateway Protection Programme. The target is to bring in up to 500 refugees per year. The HO provides specific funding for resettled refugees', contracting NGOs to provide support for the first 12 months, as well as providing additional finance to health and education agencies to pay for additional services.

The following groups of refugees have been resettled to the UK during 2005

Table 8

Country of Origin	Country of First Asylum	Numbers	Date	Resettlement Region
Burma	Thailand	51	May 05	Sheffield
Sudan	Uganda	85	Nov 05 – Feb 06	Bolton and Bury
Democratic	Zambia	115	March – April	Hull and Rochdale

[41] See the Home Office website for eligibility details at http://www.ind.homeoffice.gov.uk/documents/asylumpolicyinstructions/apunotices/oneoffexercise.pdf?view=Binary

Republic of Congo	06

An increasing number of local authorities are committed to resettlement programmes in their districts, though so far there are none in Scotland or Wales, and only one (Brighton) in the south of England. So far, only one local authority has run the programme without voluntary sector input (Rochdale), though a number of local authorities have helped to provide housing. Two local authorities (Sheffield and Bolton) have each accepted two groups of resettled refugees into their districts, and the success of the programme there and elsewhere is encouraging other local authorities to become involved, whether as direct providers or enablers.
The HO is still committed to individual selection of refugees for resettlement via missions, rather than the dossier-based approach recommended by UNHCR.
Formal evaluations (HO and voluntary sector) have confirmed that operationally the first two programmes have been very successful. There is also evidence that the focussed HO support for health services and education in the early stages is improving outcomes for refugees in the longer term (e.g. intensive health support early on reduces the demands made by refugees on health services later, to the level of, or lower than, the wider population). Investment in initial services at the induction stage is also having spin-off benefits for other refugee and asylum groups
There is still no specific HO policy on family reunification for resettled refugees, which is one of the main issues for the Gateway refugees now in the UK. The HO's new policy of giving most successful applicants a temporary refugee status renewable after five years, will not apply to Gateway refugees. They will be treated as a special case and receive a permanent refugee status immediately

28 Developments in return policy

In 2005, the Prime Minister announced a new monthly Government target to remove more refused asylum seekers than there were applications. This became known as the "tipping target" which the Home Office sought to achieve by the end of 2005. Though the deadline was not met, the target was reached for the months of February and March 2006. There are widespread concerns among NGOs that concentration on this target has led to neglect in other areas of asylum policy, such as improving the quality of initial asylum decisions.

During 2004 and 2005, there was a sustained campaign targeting the detention of children and families in Dungavel house Removal Centre in South Lanarkshire, Scotland. The campaign disputed the detention of children per se, as well as criticising the removal process. This involves so called "dawn raids" whereby large numbers of immigration officers wearing protective clothing descend on a family and demand entry. Children are handcuffed and the family are given barely enough time to gather a few personal belongings before being taken to Dungavel. The whole process has been condemned by NGOs as disproportionate and unnecessarily traumatising, especially for children. Particular concern was raised around issues of child protection when it was discovered that six children were detained and removed whilst they were subject to investigations by the Scottish Children's Reporter into allegations of child abuse.

Following a widespread media campaign, criticism by the Scottish Children's Commissioner and a debate in the Scottish Parliament, Jack McConnell, the First Minister of Scotland spoke out and criticised the practice and its impact on asylum-seeking children and communities in Glasgow. This has led the UK government to carry out a review of its procedures of forcibly removing families in the whole of the UK.

The Government's return programme for unaccompanied minors, announced in February 2005, is still being developed. Whilst the position of the government has not changed, unaccompanied minors not considered to be in need of international protection, will only be returned if safe reception arrangements can be made for them, the programme being developed means that the conditions under which return is considered have been extended. The Government is currently negotiating with various governments and NGOs to put into place a package of accommodation and support for unsuccessful asylum seekers under the age of 18 who will be returned. These negotiations are currently being actively pursued in Vietnam and Angola; further work is planned to explore the possibility of developing programmes in Democratic Republic of Congo and Albania. Fears around the safety of these young people are based on the difficulty of ensuring that the international protection needs of all unaccompanied children, seeking asylum, have been fully addressed by the Home Office, as well as the lack of an independent best interests determination as part of the planned process.

29 Developments in border control measures

The Home Office is seeking to fully implement its e-borders project by 2008, resulting in a system that can identify people who have boarded transport destined for the UK, check them automatically against databases of individuals who pose a 'security risk', and keep an electronic record of entry into the country. The system will also enable authorities to record people leaving the UK, and identify those who overstay. Undoubtedly, it will also make it increasingly difficult for refugees fleeing persecution to reach safety in the UK.

The Home Office continues to prioritise enhanced border control measures, and participates in a wide range of EU border control projects.

30 Other developments in refugee policy

In August 2005, the government introduced a policy of granting only five years limited leave to recognised Convention refugees. At the same time it also amended the rules relating to those granted Humanitarian Protection (HP). The previous period of three years leave was increased to five years to bring them in line with those with Refugee Status.

Scotland

Whilst only the UK Parliament at Westminster can pass asylum and immigration legislation, education, employment, police protection, housing, legal aid, children and social work services are all areas devolved to the Scottish Parliament. Scotland currently houses approximately 10% of the UK asylum-seeking population, mainly in the city of Glasgow.

Integration in Scotland

In February 2005 the Scottish Refugee Integration Forum (SRIF) reported on its work towards delivering integration goals for refugees in Scotland. SRIF was set up in 2003 by the Scottish Executive to identify key actions that would make a real difference to the lives of refugees in Scotland. It has focussed on issues of community development, positive images, housing, justice, children's services, health and social care, enterprise, lifelong learning, employment and training. Through SRIF, the Scottish Executive continues to promote integration as a process that should start when asylum seekers first arrive in Scotland. This approach differs from the National UK Refugee Integration Strategy, published in March 2005. A new SRIF action plan is currently being developed and will be published in 2006.

Discourse on immigration and the political context in Scotland
There are clear differences between the way immigration is perceived in Scotland and elsewhere in the UK. Concerns about a declining birth rate (the fastest in Europe), out-migration and skills shortages in Scotland have created a more favourable discourse on immigration. This was most noticeable during the UK General Elections in 2005, when political parties in Scotland used a lot less anti-asylum and immigration rhetoric. The Scottish Executive is committed to tackling racism and promoting race equality in Scotland Throughout 2005, it has continued to run a high-profile anti-racist media campaign, *One Scotland*. This campaign has included specific references to refugees.

The demographic decline in Scotland has also led the Scottish Parliament to challenge the UK Government's refusal to allow asylum seekers to work. In November, the European and External Affairs Committee of the Scottish Parliament published a report into Fresh Talent, a major initiative designed to attract more people to move and settle in Scotland. Whilst the issue of employment for those awaiting a decision is not devolved, the Committee asked the Scottish Executive to consider assistance into employment within the context of Fresh Talent. The Committee also urged the Executive, in its discussions with the Home Office, to make the case for employment opportunities for asylum seekers.

Legal Aid
The Scottish Executive does not restrict the amount of legal aid available to asylum seekers during their asylum application as has happened elsewhere in the UK. There are, however, continued problems where people have engaged a lawyer in England and then find themselves dispersed to Glasgow. English lawyers are not allowed to practice in Scotland and vice versa.

8 Political Context

31 Government in power during 2005

The Labour Party was in power throughout 2005, but with a reduced majority following the election in May 2005.

32 Governmental policy vis-à-vis EU developments

The UK's policy is to participate in all EU asylum measures that are deemed to be in the UK's interests, and to refrain from participation where there are significant differences between EU measures and those in the UK. In line with this policy, the UK decided not to participate in the Returns Directive, because the Government felt that the changes required to domestic practise would create unnecessary bureaucratic and administrative burdens. The Government's official line is, however, that increased co-operation with international partners, including EU member states, is central to managing migration and other global issues. In this light, the UK is keen to support joint efforts where they clearly further the UK's interests, as for example with joint charter removal operations.

33 Asylum in the national political agenda

Immigration and asylum remained high on the political and media agenda. Opinion polls throughout the year showed that asylum and immigration was one of the publics top four policy concerns.

The main opposition party, the Conservative Party, under the new leadership of David Cameron, has sought to distance itself from the anti-asylum rhetoric used in the 2005 General Election. David Cameron has committed himself to protecting and supporting refugees in the UK. He has launched a comprehensive policy review that will be complete in 2007.

A series of political controversies involving the Home Office, and the Immigration and Nationality Directorate (IND) in particular, has resulted in the sacking of the Home Secretary (the UK's Interior Minister post) and a reshuffle of Junior Ministers. The new Home Secretary has described IND as "not fit for purpose" and has promised to turn it around in 100 days. Although the controversies have largely focused on non-asylum immigration, the Government is highlighting the increased numbers of forced removals of refused asylum seekers as evidence of its success in dealing with the issue.

Biography

REFUGEE COUNCIL

Several Refugee Council staff in the Mainstreaming Policy team, Protection Unit, and Information and Marketing team contributed to this report. Scottish Refugee Council, Refugee Legal Centre and Immigration Advisory Service contributions were also incorporated in this report.

The Refugee Council is the largest organisation in the UK working with asylum seekers and refugees. It not only gives help and support, but also works with asylum seekers and refugees to ensure their needs and concerns are addressed.

WWW.REFUGEECOUNCIL.ORG.UK