

## CHAPTER IV

# ASYLUM AND REFUGEE STATUS DETERMINATION

### INTRODUCTION

States bear the main responsibility for carrying out refugee status determination (RSD). However, in some countries UNHCR cooperates with governments in establishing fair and efficient asylum procedures. This cooperation can take on a variety of forms, including legal training, attending hearings, registering asylum-seekers or assisting in drafting asylum laws. If national procedures do not exist, are insufficient to identify protection needs or when the government has restricted the application of the 1951 Convention, then UNHCR is compelled to conduct RSD under its mandate. In addition, in a few countries, UNHCR undertakes RSD for the purpose of identifying persons with resettlement needs.

This chapter looks at the various components forming the refugee status determination process. First, levels and trends in the number of asylum applications submitted in both industrialized and non-industrialized countries are analysed. While the 38 industrialized countries<sup>1</sup> located in Europe, North America, Asia and Oceania are situated far apart geographically, many of these countries share a common experience in receiving asylum-seekers and admitting refugees. Despite the fact that all of the 38 countries have acceded to the 1951 Convention and/or its 1967 Protocol, asylum policies and practices are far from being harmonized and national asylum statistics are thus sometimes difficult to compare. For a better understanding of the national and international sources, definitions and categories (“meta-data”), this chapter should be read in combination with Table VI.2.

The second part of this chapter addresses the different types of decisions taken during 2005, that is, asylum-seekers who have been granted refugee status or a complementary form of protection, those who have been rejected or whose asylum application has been closed for administrative reasons. In addition, it examines the two types of recognition rates calculated by UNHCR and also provides an overview of asylum claims which are still pending, i.e. that have not yet been adjudicated by the end of the year.

The last part of this chapter analyses the level and types of refugee admissions in the 38 industrialized countries during the past decade, through refugee status determination procedures, resettlement arrivals or, for instance, the granting of temporary protection.

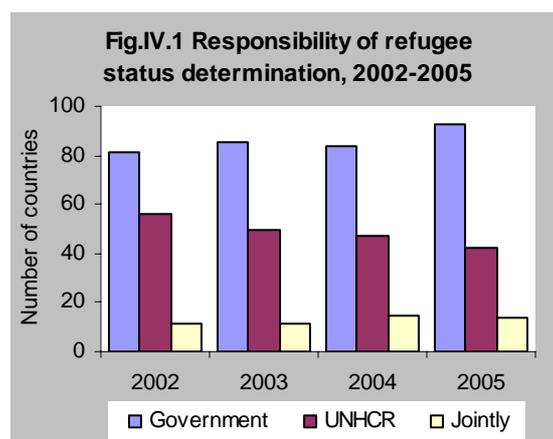
It should be stressed that even though the concepts of asylum and refugee status are sometimes used interchangeably in the 2005 Yearbook, territorial asylum can only be accorded by States. UNHCR may grant refugee status under its mandate, but it cannot provide asylum.

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<sup>1</sup> The 38 industrialized countries include the EU-25, Bulgaria, Iceland, Liechtenstein, Norway, Romania, Switzerland and Turkey in Europe as well as Australia, Canada, Japan, New Zealand, the Rep. of Korea and the United States (see also Annex D.5)

## RESPONSIBILITY OF REFUGEE STATUS DETERMINATION

The available data indicate that the number of countries where UNHCR was exclusively in charge of carrying out RSD has decreased in the last few years. While in 2002 UNHCR was responsible for assessing asylum claims in 56 countries, this number has dropped to 42 by 2005. As such, the data gives evidence to the positive results of the Office's continuous efforts in strengthening State's capacity to conduct RSD with the aim of eventually handing over the responsibility to state authorities.



Asylum statistics are essential for monitoring purposes. Out of the 149 countries for which information was available during 2005, Governments were responsible for refugee status determination in 93 countries (63%); UNHCR was exclusively responsible in 42 countries (28%), whereas a shared responsibility was reported for 14 countries (9%) (see *Table VI.1*). In a few countries, however, parallel procedures are in place where both UNHCR and the Government conduct RSD separately.

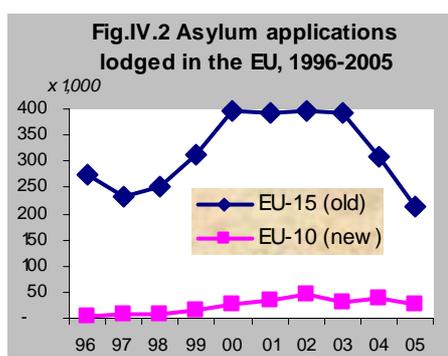
## GLOBAL TRENDS

## APPLICATIONS

During 2005, a total number of 674,000 first instance or appeal applications for asylum or refugee status were submitted to Governments or UNHCR offices in 149 countries. The global level of applications remained fairly stable compared to 2004 when 681,000 claims were lodged (-1%). Most applications were registered in Europe (365,000), followed by Africa (131,000), Asia (99,000), Northern America (60,000), Latin America and the Caribbean (12,000), and Oceania (7,000).

Out of the total number of 674,000 asylum applications lodged, some 540,000 (80%) requests were submitted for the first time, an increase of three per cent compared to 2004 (524,000).

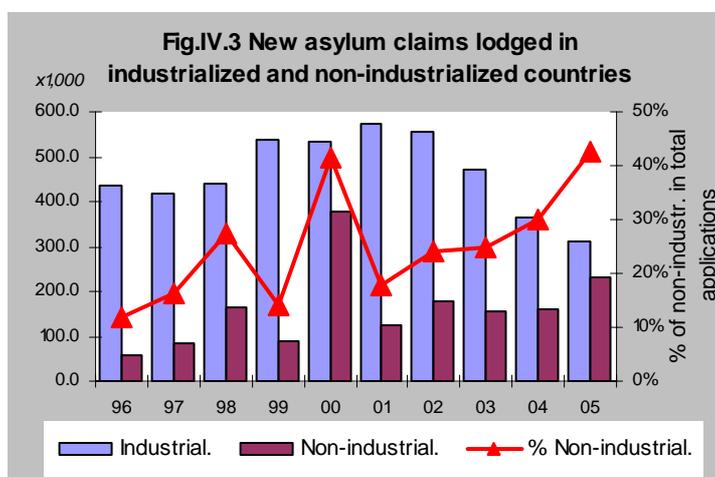
Tab.IV.a New asylum claims lodged in the EU and Europe					
	2001	2002	2003	2004	2005
EU-15 (old States)	391,100	395,000	393,400	309,300	212,700
EU-10 (new States)	32,900	44,000	32,100	37,300	27,100
EU-25 (old+new States)	424,000	439,000	425,500	346,600	239,800
Europe (total)	461,300	484,500	477,200	390,200	260,700



Europe saw a continuation of the sharp downward trend in the number of new asylum-seekers arriving on the continent. Between 2002 and 2005, the number of new asylum claims submitted in Europe almost halved from 484,500 to 260,700 (-46%). This decrease was witnessed in most European countries, but, to a slightly lesser extent in the 10 member states that joined the EU on 1 May 2004. Here, the decrease amounted to 38 per cent during the same period. In general, it is believed that more

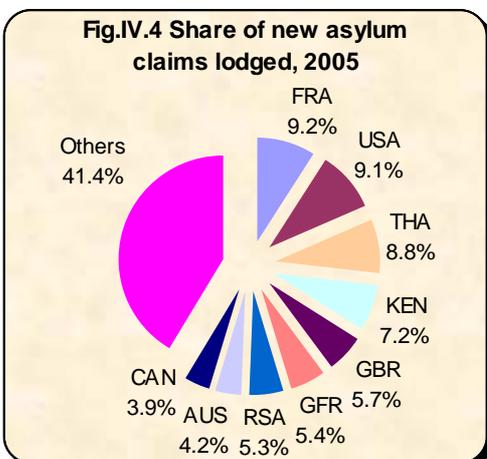
restrictive asylum policies in many parts of Europe in combination with improved living and security conditions in some of the major source countries of asylum-seekers as a result of the end of armed conflicts are responsible for this decrease.

Whereas industrialized countries<sup>2</sup> received the vast majority of asylum applications only a decade ago, the relative share of non-industrialized countries among the total number of new asylum claims has increased steadily in the last few years, reaching its highest level in 2005. During 2005 alone, more than 40 per cent of all new asylum applications



were lodged in the non-industrialized countries. As already mentioned, the main reason for the currently observed phenomenon can be attributed to the sharp decrease in new asylum-seekers arriving in developed countries, particularly in Europe. Conversely, the number of asylum-seekers arriving in non-industrialized countries has, with the exception of the year 2000<sup>3</sup>, either remained relatively stable over the past few years or even increased, as witnessed during 2005.

Like in 2004, France received the highest number of new asylum requests (49,700) during 2005, followed by the United States (48,900)<sup>4</sup>, Thailand (47,300), Kenya (39,000), the United Kingdom (30,800), and Germany (28,900). All but Thailand and Kenya among the 10 main asylum countries recorded a decline in new asylum claims in 2005. The large increase of applications recorded in Thailand (from 2,500 in 2004 to 47,300 in 2005) reflects primarily the regularization of nationals from Myanmar who are residing in camps. The significant increase in Kenya from 9,300 in 2004 to 39,000 in 2005, however, is the result of screening procedures of Somali and Sudanese asylum-seekers conducted by UNHCR in refugee camps.



As a result of this large increase, Thailand moved from being the 35<sup>th</sup> largest recipient of asylum-seekers in 2004 to 3<sup>rd</sup> in 2005 whereas Kenya moved from being the 18<sup>th</sup> largest recipient in 2004 to the 4<sup>th</sup> position in 2005.

While officially classified as a developing country, South Africa's asylum situation

<sup>2</sup> See footnote 1.

<sup>3</sup> The high number of asylum applications submitted in non-industrialized countries during 2000 is primarily the result of the screening of some 246,000 Afghans in the Islamic Rep. of Iran. Excluding this figure, the share of non-industrialized countries in the total number of new asylum-seekers would have been around 20 per cent.

<sup>4</sup> Estimated number of persons based on the number of new cases (24,200) and multiplied by 1.4 to reflect the average number of persons per case (Source: Department of Homeland Security); and number of new "defensive" asylum requests lodged with the Executive Office of Immigration Review (15,000).

closely resembles that of industrialized countries. In 2005, South Africa received 28,500 new asylum applications, significantly more than Austria, Canada, Belgium or Switzerland. During 2002-2005, some 152,400 asylum applications were lodged in South Africa alone making it the largest recipient of asylum-seekers in the developing world.

	2004	2005
Kenya	9,300	39,000
Malaysia	20,700	15,200
Ecuador*	7,900	7,100
Jordan	6,400	5,800
Turkey	3,900	3,900
Egypt	10,700	3,500
Cameroon	2,100	3,100
Yemen	1,600	1,900
Morocco	..	1,900
Pakistan	3,200	1,800

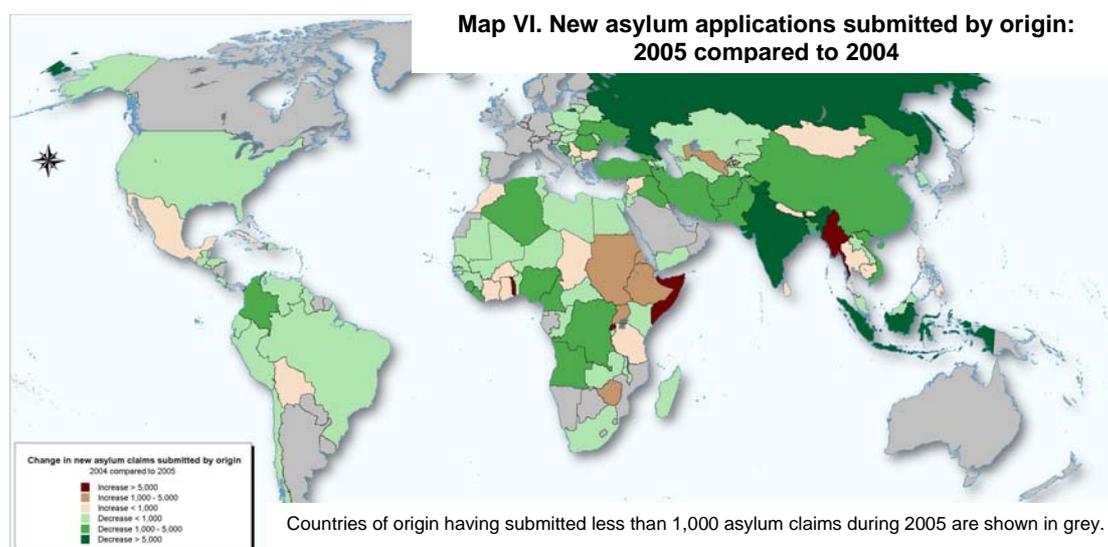
\* UNHCR registers asylum-seekers.

In the absence of a national asylum procedure, UNHCR receives and assesses asylum claims pursuant to its mandate. During 2005, the Office registered some 97,300 asylum applications, some 25,000 more than the year earlier (+35%).<sup>5</sup> UNHCR's share in processing asylum claims compared to the global number of asylum applications in 2005 has increased slightly, from 11 per cent in 2004 to 14 per cent a year later, primarily as a result of the screening procedures in Kenyan refugee camps mentioned before. In total, some 85 per cent of all asylum claims submitted to UNHCR were received by 10 offices only, the largest recipients by far being Kenya (39,000) and Malaysia (15,200) (see Table

III.1).

On a global scale, the largest number of both new and appeal asylum claims lodged in 2005 was filed by nationals from Myanmar (55,800), Somalia (36,400), Serbia and Montenegro (32,000), the Russian Federation (27,900), the Dem. Rep. of the Congo (25,500), and China (23,100). Asylum-seekers from Myanmar, however, went primarily to two countries: Thailand where a regularization of camp residents conducted by the Government's Provincial Admission Board took place (46,200) and Malaysia (7,700). Almost two thirds (22,400 or 62%) of all applications submitted by Somali nationals during 2005 were lodged in Kenya where refugee status determination is conducted by UNHCR.

Overall, some 120 different nationalities lodged at least 100 or more new asylum claims during 2005. Out of these 120 nationalities, two thirds submitted fewer applications in 2005 compared to the year. Map VI. below illustrates these changes.



<sup>5</sup> These figures also include UNHCR operations where the Office is responsible for specific aspects of the asylum procedure (e.g. registration etc.) or where refugee status determination is conducted jointly with the Government.

## DECISIONS

An estimated 834,000 decisions were taken during 2005 of which UNHCR rendered some 77,000 (9%). In other words, roughly one out of 10 refugee status decision-making in the world was carried out by UNHCR.

The global number of asylum-seekers granted refugee status under the 1951 Convention or the UNHCR mandate increased from 128,000 in 2004 to 153,000 in 2005 (+19%). In addition, some 55,000 asylum-seekers were granted a complementary form of protection (e.g. humanitarian status, subsidiary protection) during the year, about 4,000 more than during 2004. These figures include recognition at different levels of the asylum procedure, i.e. first instance, appeal, administrative review, etc.

In Europe, 50,200 asylum-seekers were granted individual refugee status under the 1951 Convention and another 37,700 a complementary form of protection. Both figures were slightly higher than in 2004 when the corresponding figures amounted to 47,300 and 34,300 respectively. Africa was the second largest region in terms of asylum-seekers being recognized in 2005 (49,100), followed by Northern America (31,800), Asia (33,200), Latin America and the Caribbean (3,700), and Oceania (2,200).

On a global level, Kenya recognized the largest number of asylum-seekers (29,900), followed by France (22,100), the United States (19,800; during US Fiscal Year), Canada (12,100), and Malaysia (10,900).

In addition to the 208,000 persons who received a positive decision on their asylum application during 2005, some 363,000 claims were rejected on substantive grounds, 83,000 less than the year before. This decrease can likely be attributed to the lower number of asylum applications in industrialized countries. Figures on rejected asylum-seekers also include negative decisions at the first instance which might be appealed. Asylum-seekers who appeal a negative decision at first instance are therefore double counted in this figure. It provides however an indication about the workload of the asylum process in a country.

If an asylum-seeker withdraws his or her application before the interview has taken place, then the asylum application is, in most national statistics, recorded as having been closed for administrative reasons. The same applies if the applicant dies before the interview, if the application has been considered as inadmissible to the procedure, or if for instance the applicant has not shown up for the interview. In all of these cases, generally no substantive decision has been taken on the asylum claim and is therefore reported as "Otherwise closed" in UNHCR statistics. In some Central European countries, this figure was extremely high only a few years ago because persons who had formally applied for asylum did not show up for their interviews. For instance, the Slovenian authorities formally closed some 9,900 applications in 2001 without taking a substantive decision, primarily because most asylum-seekers had disappeared before their interview took place. In Slovakia, a year later, the authorities reported some 8,000 formally closed applications due to the same reason. Overall, during 2005, some 264,000 applications were closed for administrative reasons globally, virtually the same number as in 2004 (267,000).

Recognition rates represent the proportion of refugee claims accepted during a particular period. In the absence of a universally accepted method of calculating the recognition rate and in order to ensure international comparability of the data, UNHCR calculates all recognition rates rather than reflecting the ones reported by

national authorities. In this respect, UNHCR distinguishes between the Convention and the total recognition rate. The proportion of asylum-seekers granted refugee status under the 1951 Convention is referred to as the **Convention recognition rate or refugee recognition rate**<sup>6</sup>. In some countries, asylum-seekers who are not granted Convention refugee status might be granted a complementary form of protection (e.g. humanitarian status, subsidiary protection). The proportion of asylum-seekers granted either Convention or humanitarian status is referred to as the **total recognition rate**<sup>7</sup>.

At the global level, the Convention recognition rate amounted to an estimated 27 per cent of all decisions taken during 2005 while the total recognition rate to 36 per cent. Both values were above the corresponding rates in 2004, i.e. 21 per cent for the Convention recognition rate and 27 per cent for the total recognition rate. In reality, however, the proportion of positive decisions is higher, because persons rejected on appeal are counted twice. As such, negative decisions should be considered as indicative only. To allow for a more accurate comparison of recognition rates, the level of procedure (first instance, appeal, etc.) should therefore be taken into account.

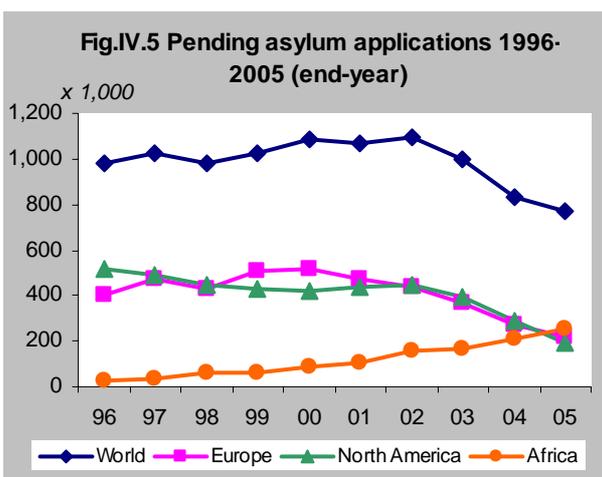
It should be stressed that significant differences in recognition rates between countries or periods may point to different standards of treatment for asylum-seekers, as shown by the example of Russian asylum-seekers given below. Whereas in Belgium and Canada the Convention recognition rate for Russian asylum-seekers in 2005 was relatively high (72% and 71% respectively), the corresponding values

for the Netherlands and in particular Sweden are extremely low. In the last two countries, Russian asylum-seekers were predominantly granted a complementary form of protection. In total, however, none of these countries granted any type of international protection to Russian asylum-seekers to the same extent like Belgium or

Country	Conv- ention status	Human- itarian status	Reje- cted	Conv. recog. rate	Total recog. rate
Belgium	1,256	-	488	72.0%	72.0%
Canada	145	-	60	70.7%	70.7%
France	683	-	1,568	30.3%	30.3%
Netherlands	54	160	236	12.0%	47.6%
Sweden	3	88	940	0.3%	8.8%

\* All figures refer to first instance procedure.

Canada. The EU is currently, among others, working on harmonizing asylum procedures across member states. Recognition rates for asylum-seekers originating from the same country might differ from country to country for legitimate reasons, including possible differences in the composition of the asylum-seeker population.



The number of asylum claims which have not yet been adjudicated ("pending cases"), both at the first instance and on appeal, has

<sup>6</sup> The Convention recognition rate is derived by dividing the number of persons recognized under the 1951 Convention by the total number of substantive decisions taken. Cases closed on non-substantive grounds ("otherwise closed") are, when known, excluded.

<sup>7</sup> The Total recognition rate is derived by dividing the number of persons recognized under the 1951 Convention and those granted a complementary form of protection by the total number of substantive decisions taken. Cases closed on non-substantive grounds ("otherwise closed") are, when known, excluded.

decreased gradually over the past few years, reaching an estimated 773,000 by the end of 2005, the lowest level in at least a decade (see Fig.IV.5). The overall number of asylum-seekers waiting for a decision globally has gone down by 29 per cent since 2002. In general, a fall in the backlog of asylum cases might indicate that asylum procedures have become more efficient or can also coincide with a decrease in the submission of new asylum applications, a situation currently experienced by many industrialized countries in Europe and North America. While the backlog of undecided asylum cases has gone down in industrialized countries, the contrary is the case for Africa. Here, pending asylum cases have drastically gone up in recent years, most notably because of a huge backlog accumulated in South Africa.

At the end of 2005, the largest number of undecided cases at the first instance and on appeal was reported by the United States (169,700), South Africa (140,100), Germany (71,600), Austria (40,700), and Thailand (32,200). Many countries were able to reduce the number of undecided cases during 2005, including the United States (-93,000), Germany (-29,200), the Netherlands (-13,800), and Sweden (-12,300). The strong reduction of backlog cases in the United States refers by large to asylum-seekers from El Salvador (-44,400) and Guatemala (-25,600) whose applications were closed for administrative reasons during 2005. Increases in the backlog on the other hand were reported by South Africa (+24,900), Thailand (+31,100), Burundi (+9,200), and Jordan (+5,500).

#### TOTAL ADMISSIONS IN INDUSTRIALIZED COUNTRIES

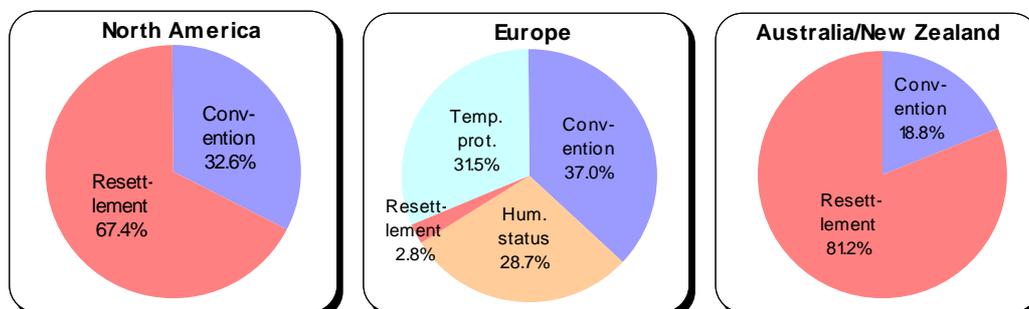
In order to fully understand the significance and role of industrialized countries in sharing the responsibility for the refugee problem, it is important to look into the different types and forms of international protection. First, countries can provide protection to asylum-seekers who have arrived spontaneously and who are recognized through national refugee status determination procedures. Second, in some situations, countries might allow asylum-seekers who do not qualify for refugee status under the 1951 Convention to remain on humanitarian grounds, sometimes of a temporary nature. Third, some countries might grant refugee status to only a small proportion of asylum-seekers and admit refugees under resettlement schemes. While temporary protection provides only short-term relief, Convention refugee status and resettlement imply a more stable form of protection and durable solution.

Since 1996, the 38 industrialized countries have extended protection to an estimated 2.7 million refugees. This includes recognition of asylum-seekers (929,000), allowing asylum-seekers to stay for humanitarian reasons (432,000), resettled refugees (870,000) and those granted temporary protection (473,000). Even though these data provide the most comprehensive picture possible, they are not necessarily fully representative. First, the above data do not take into account refugees who have returned home during the period. For instance, some European countries granted temporary protection to a large number of refugees escaping the conflict in the former Yugoslavia, many of whom have returned home since. And second, resettlement arrivals in the United States are overestimated, because, contrary to other countries, the US statistics include data on family reunification.

With all protection categories combined, Europe provided protection to an estimated 1.5 million refugees in the last 10 years, North America accepted 1.1 million refugees while Australia and New Zealand accepted 135,000 refugees (see *Table C.24*). The three major recipient regions of the industrialized world, however, show a quite different approach towards the type of protection granted to refugees. Whereas in North America and Australia/New Zealand resettlement has been the by far most important form of protection extended to refugees, in Europe, resettlement has been

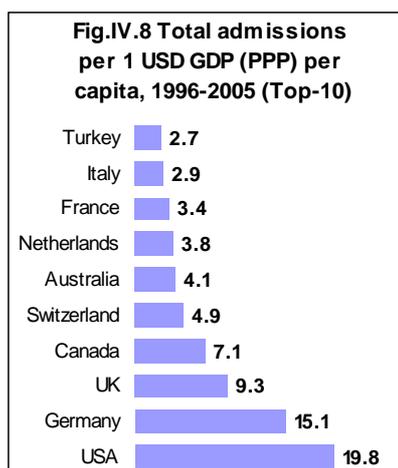
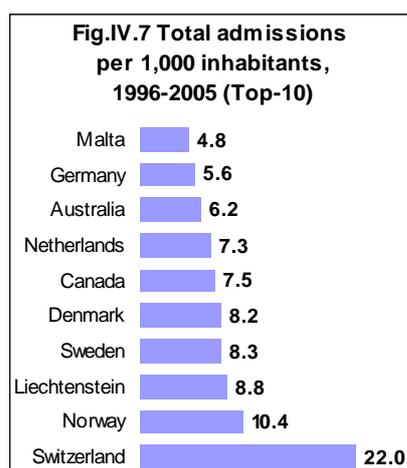
of a smaller scale. Here, besides recognizing refugees under the 1951 Convention, humanitarian status and temporary protection schemes have been crucial as displayed in the three pie charts below.

**Fig.IV.6 Type of protection granted to refugees in industrialized countries, 1996-2005  
(Total = 2.7 million)**



When compared to the size of the national population, Switzerland ranks first among the 38 industrialized countries receiving refugees. During the period 1996-2005, the country extended protection to 22 refugees per 1,000 of its inhabitants. Norway ranked second with 10.4 refugees per 1,000 inhabitants, followed by Liechtenstein (8.8), and Sweden (8.3). As noted earlier, this measure combines all forms of protection against *refoulement*, ranging from short-term residence permits of less than a year to more permanent solutions (see *Table C.24*).

When the economic capacity of industrialized asylum countries to receive refugees is taken into account, a different picture emerges. Here, the United States ranks first, having admitted, on average, almost 20 refugees per 1 USD GDP (PPP) per capita during the last decade. Germany was the country with the second highest level of admission compared to its economic resources (15 refugees per 1 USD GDP (PPP) per capita), followed by the United Kingdom (9 refugees per 1 USD GDP (PPP) per capita) and Canada (7 refugees per 1 USD GDP (PPP) per capita).



It should be noted that the level, type and scope of admission granted to refugees and asylum-seekers as shown here is limited to the 38 industrialized countries only. For a more comprehensive picture and discussion on global burden-sharing between developed and developing countries, Chapter VII should be consulted.