

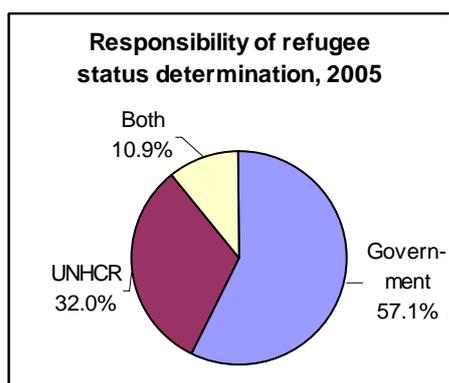
CHAPTER IV

ASYLUM AND REFUGEE STATUS DETERMINATION

INTRODUCTION

Refugee status determination is normally a governmental procedure. Each government decides according to its established national procedures to whom to grant refugee status among asylum applicants. This status can be granted, among others, under the 1951 Convention, its 1967 Protocol, the 1969 OAU Convention or for humanitarian reasons.

However, in many countries UNHCR supports the government's refugee status determination. Assistance usually can take the form of legal training and advice, attending hearings, drafting asylum laws or carrying out much of the work. However, in the absence of national procedures, or when the government has restricted the application of the 1951 Convention, UNHCR may conduct refugee status determination under its own mandate.



Asylum statistics are essential for monitoring purposes. For the 147 countries for which information was available, it was reported that Governments were responsible for refugee status determination in 84 countries (57%); UNHCR was responsible in 47 countries (32%), whereas a shared responsibility was reported for 16 countries (11%) (see *Table VI.1*).

In this report, the concepts "asylum" and "refugee status" are used interchangeably. Strictly speaking, however, territorial asylum

can only be provided by States. UNHCR may recognize refugees under its mandate, but cannot provide asylum.

GLOBAL TRENDS

APPLICATIONS

In 2004, 147 countries reported 680,000 new or appeal/review applications for refugee status in comparison with 829,000 in 2003. Of these, 524,000 (77%) requests were submitted for the first time, a decrease of 17 per cent compared to 2003 (618,000). The number of countries receiving more than 1,000 new asylum claims decreased from 58 in 2003 to 52 in 2004. In 2004, 75 countries reported a decline in the number of asylum claims, 72 countries reported a rise while for one country no change in the number of applications between 2003 and in 2004 was reported.

In 2004, as a result of the substantial decrease of asylum applications lodged in the United States and the United Kingdom compared to previous years, France received the highest number of new asylum requests (58,500). It is followed by the United

States (56,100; 2004 US fiscal year),¹ the United Kingdom (40,600), Germany (35,700), South Africa (32,600), Canada (25,800), Austria (24,600), and Sweden (23,200) (see *Tables III.1 and III.3*).²

All but one among the 10 main asylum countries recorded a decline in new asylum claims in 2004. In addition, a number of other countries also reported a significant decline in annual asylum requests submitted, including TTYR Macedonia³, Nigeria, Gabon, Ghana, and Namibia.

Asylum countries receiving significantly more applications for refugee status in 2004 than in 2003 included Cambodia, Gambia, Kenya, Mali, Nepal, Panama, Sudan, and the Syrian Arab Republic (see *Tables III.3 and III.4*).

DECISIONS

The number of asylum-seekers granted refugee status under the 1951 Convention, the 1967 Protocol, the 1969 OAU convention or the UNHCR mandate fell from 145,000 in 2003 to 127,000 in 2004 (-12%). This also includes recognition of refugee status at the appeal/administrative review level (see *Table III.1; 2003 UNHCR Statistical Yearbook, Table III.1*).

The United States recognized the largest number of asylum-seekers during its 2004 Fiscal Year (21,100), followed by Canada (16,000), France (15,900), the United Kingdom (13,000), Sudan (7,800), and Austria (5,200).

In addition, 40 countries allowed 51,100 asylum-seekers to remain for humanitarian reasons during 2004, this was slightly more than in 2003 (see *Table III.1*).

Some 442,000 asylum applications (might be a combination of persons and cases) were rejected for substantive reasons in 2004, however, this figure also includes negative decisions from first instance which might be appealed. Persons who appeal are therefore double counted in this figure which nevertheless gives an indication about the workload in the asylum systems.

Recognition rates indicate the proportion of refugee claims accepted during a particular period. Significant differences in recognition rates between countries or periods may point to different standards of treatment for asylum-seekers. However, recognition rates may differ for legitimate reasons, reflecting differences in the composition of the asylum-seeker population.

UNHCR generally distinguishes between the Convention and the total refugee 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**. In some countries, asylum-seekers who are not granted Convention refugee status might be allowed to stay for humanitarian reasons. The proportion of asylum-seekers granted either Convention or humanitarian status is referred to as the **total recognition rate**.

¹ Estimated number of persons based on the number of new cases (27,000) 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 (17,100).

² While Table III.1 provides a global overview, Table III.3 allows for a more accurate comparison among industrialized countries.

³ The number of asylum requests lodged in TTYR Macedonia was exceptionally high in 2003 due to the regularization of citizens from the former Yugoslavia.

At the global level, the refugee recognition rate amounted to an estimated 21 per cent of all decisions taken during 2004 while the total recognition rate amounted to 29 per cent. In reality, the proportion of positive decisions is higher, because cases rejected on appeal are counted twice. As such, the latter should be considered as a rough indicator 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.

During 2004, the global backlog of undecided or pending cases fell by 16 per cent. Countries with the largest asylum-processing backlog at the end of 2004 were the United States (264,000 cases), South Africa (115,000), and Germany (86,000) (see *Table III.1*).

Whereas Canada, France, Germany, the Netherlands, Sweden, Switzerland, the United Kingdom and the United States reported significant reductions in the backlog during 2004, the number of pending asylum cases increased in Austria, Cyprus, Jordan, Malaysia, and South Africa (see *Table III.1*).

Despite the global fall in undecided asylum cases in 2004, more countries reported a rise (81) rather than a decline (54) in the backlog of asylum decisions. The number of countries with more than 500 undecided cases remained almost unchanged with 65 at the start of the year and 62 at the end of 2004.

Change in pending cases, 2004 (Top-15)			
<i>See table III.1</i>			
Country of asylum	Start-2004	End-2004	Annual change
United States	351,876	263,710	-25%
South Africa	84,085	115,224	37%
Germany	128,083	86,151	-33%
Austria	33,564	38,262	14%
Netherlands	44,672	28,452	-36%
Sweden	35,276	28,043	-21%
Canada	41,575	27,290	-34%
Belgium	22,604	22,863	1%
Switzerland	24,630	18,633	-24%
Jordan	6,741	12,453	85%
France	22,900	11,600	-49%
Burundi	10,572	10,712	1%
Malaysia	9,195	10,322	12%
Cyprus	5,082	10,028	97%
United Kingdom	23,900	9,800	-59%

ORIGIN

Main origin of asylum applicants, 2004 (Top-15)	
<i>See table III.1</i>	
Origin	Total
Russian Federation	35,530
Serbia and Montenegro	31,210
China	29,090
Dem. Rep. of the Congo	28,800
Turkey	27,120
Iraq	23,380
Somalia	22,930
Colombia	20,210
Nigeria	18,420
India	15,610
Islamic Rep. of Iran	15,570
Pakistan	15,510
Sudan	15,170
Afghanistan	14,890

On a global scale, the largest number of asylum applications, including on appeal, was submitted by citizens from the Russian Federation (35,500), many of whom are from Chechnya. Serbia and Montenegro was the second largest country of origin of asylum-seekers in 2004 (31,200), followed by China (29,100), the Dem. Rep. of the Congo (28,800), Turkey (27,100), Iraq (23,400), Somalia (23,000), and Colombia (20,200).

In 2004, a total recognition rate, taking into account both refugee and humanitarian status decisions, of over 50 per cent was reported for asylum-seekers from Indonesia (86%), Myanmar (85%), Eritrea (75%), Rwanda (67%), Burundi (65%) and Somalia (51%). Countries of origin with the lowest total recognition rates (less than 10 per cent) included asylum-seekers from the Rep. of Moldova, Algeria,

Nigeria and TfYR of Macedonia (see *Table III.2*).

Asylum-seeker nationalities for which the backlog of undecided cases increased significantly during 2004 included Zimbabwe (171%), Sudan (80%), Côte d'Ivoire

(45%), and Somalia (39%). Conversely, the processing backlog was successfully reduced for asylum-seekers from a number of countries, including Rwanda (-48%), Bosnia and Herzegovina (-46%), the Russian Federation (-36%), and Afghanistan (-35%).

INDUSTRIALIZED COUNTRIES

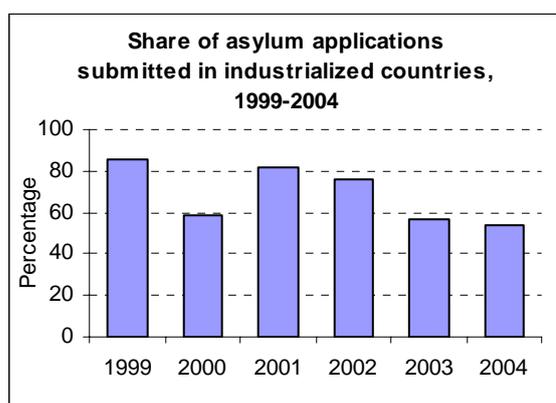
Asylum statistics on the 38 industrialized countries⁴ located in Europe, North America, Asia and Oceania are published more frequently by UNHCR in its quarterly report "Asylum levels and trends in industrialized countries". Many of these countries share a common experience in receiving asylum-seekers and admitting refugees. In recent years, asylum has become intertwined with immigration, with the so-called "asylum-migration nexus".

Although the industrialized countries have acceded to the 1951 Convention and/or its 1967 Protocol, asylum policies and practices are far from harmonized. Consequently, the statistics produced from these different national procedures are sometimes difficult to compare. A detailed description of national and international data sources, definitions and categories ("meta-data") is provided in Table VI.2.

In 36 of the 38 industrialized countries, the Government is the sole provider of statistics on asylum-seekers and refugee status determination. UNHCR is partly involved in the asylum procedure in Cyprus, whereas it is the sole data provider for Turkey.

APPLICATIONS

New asylum applications lodged in the 38 industrialized countries fell by 22 per cent, from 471,000 in 2003 to 365,900 in 2004. The share of applications lodged in industrialized countries compared to the total number lodged globally has decreased gradually from 86 per cent in 1999 to 54 per cent in 2004. The only exception is the year 2000 reflecting the screening procedure of some 246,000 Afghan asylum-seekers in the Islamic Republic of Iran and subsequently increasing the share of non-industrialized countries to 41 per cent compared to the total number of applications of that year.



During 2004, the largest relative decrease in annual asylum claims was reported for North America (-29%), followed by Australia and New Zealand (-26%), Western Europe (-24%) and Central Europe (-15%) (see Table C.1).

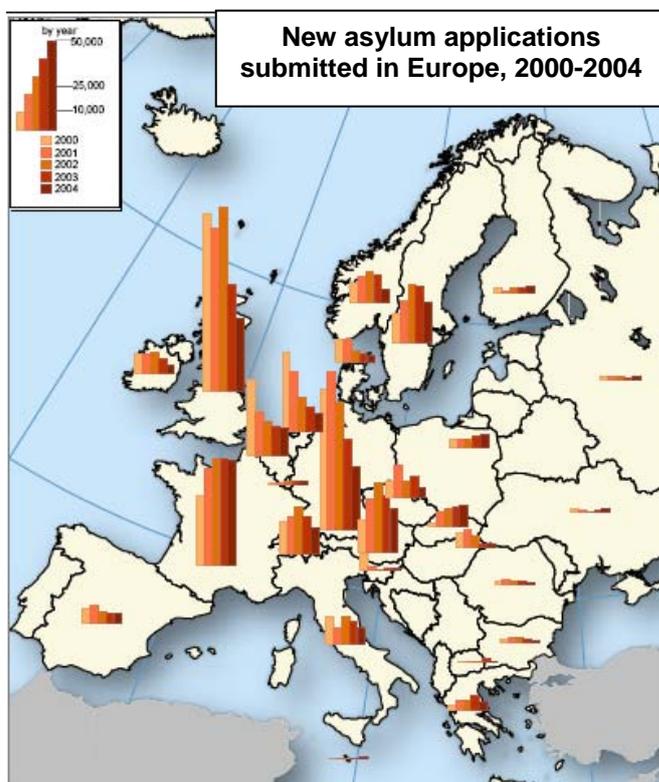
In spite of a continuous decrease in the last years, France received the largest number of asylum-seekers in 2004 (58,500), followed by the United States (56,100)⁵, the United Kingdom (40,600), Germany (35,600), Canada (25,800), Austria (24,600), and Sweden (23,100).

Nine of the 10 largest industrialized asylum countries recorded a fall in the number of

⁴ This includes EU-25, Australia, Bulgaria, Canada, Iceland, Japan, Liechtenstein, New Zealand, Norway, Rep. of Korea, Romania, Switzerland, Turkey and the United States.

⁵ See footnote 12.

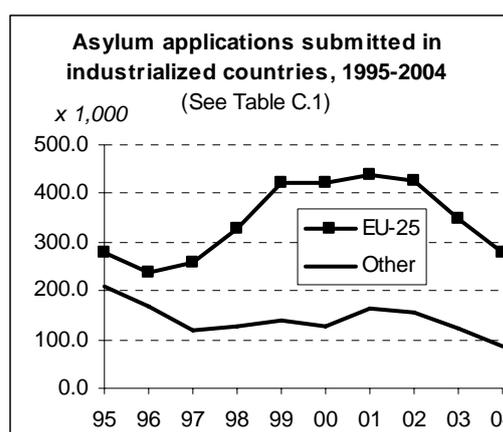
asylum applications in 2004. The highest decreases were reported by the United States (-36%), the United Kingdom (-32%), Switzerland (-32%), Germany (-30%), Sweden (-26%), and Austria (-24%). Slovakia was the only major receiving country recording an increase (10%).



In 2004, the Russian Federation continued to be the leading country of origin of asylum-seekers in the industrialized countries, accounting for 30,500 individual requests. Serbia and Montenegro was the second leading asylum-seeker nationality (24,100), followed by China (17,600), Turkey (16,200), the Islamic Rep. of Iran (12,400), and Nigeria (12,300) (see Table C.2).

However, all 10 leading countries of origin of asylum-seekers recorded a decrease during 2004. The largest relative decrease in the annual number of claims was recorded for citizens from Iraq (-58%), Somalia (-46%), Turkey (-36%), China (-24%), the Islamic Rep. of Iran (-24%), and Pakistan (-22%). The number of asylum-seekers from the Russian Federation, which includes a large share of persons from Chechnya, dropped by 13 per cent, the first decrease in the last 10 years.

During the decade 1995-2004, there were 12 countries whose nationals lodged more than 100,000 asylum claims. These 12 nationalities accounted for 52 per cent of the estimated 4.8 million requests submitted. Nationals from Serbia and Montenegro submitted the largest number of asylum requests (523,600), followed by nationals from Iraq (353,900), Turkey (290,400), Afghanistan (228,200), China (170,000), and the Islamic Rep. of Iran (167,700) (see Table C.2).



Distance is an important determinant of asylum patterns (see Chapter III). Thus, during 1995-2004, Europe received virtually all European asylum-seekers applying for refugee status in the industrialized countries (94%), but very few asylum-seekers from Latin America and the Caribbean (12%). The United States and Canada on the other hand received almost all Latin American and Caribbean applicants.

DECISIONS

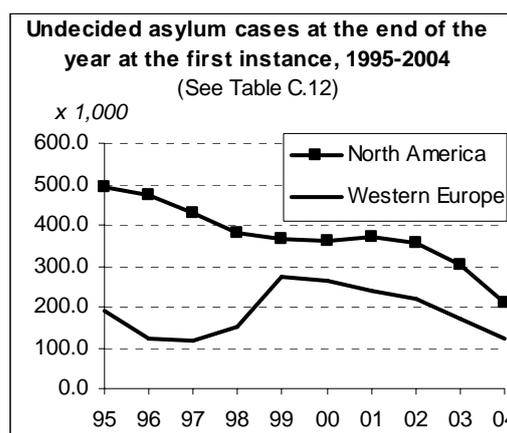
Some 120,000 asylum-seekers were granted Convention refugee status or a complementary form of protection in the 38 industrialized countries in 2004, seven per cent less than in 2003 (128,000). Asylum-seekers from the Russian Federation were the largest group receiving residence permits for refugee-related reasons in 2004 (10,300), followed by persons from Somalia (7,700), Serbia and Montenegro (6,400), Colombia (6,000), the Islamic Rep. of Iran (5,500), and Turkey (5,400) (see *Table C.23*).

During 1995-2004, the largest number of asylum-seekers was granted refugee status under the 1951 Convention by the United States (201,000), the United Kingdom (169,700), Germany (133,200), and Canada (131,200). In addition, the United Kingdom accepted the largest number of asylum-seekers for humanitarian reasons (104,600), followed by the Netherlands (91,300), Switzerland (81,200), Sweden (54,800), and Denmark (35,800) (see *Table C.24*).

The largest number of asylum-seekers recognized under the 1951 Convention or accepted for humanitarian reasons by the industrialized countries since 1995 originated from Iraq (167,500), Serbia and Montenegro (127,900), Afghanistan (102,600), Somalia (93,000), Sri Lanka (84,800), Turkey (69,000), and the Islamic Republic of Iran (63,400) (see *Table C.23*).

In the 32 industrialized countries with available data, the number of undecided asylum cases pending at the first instance was reduced from 497,700 at the end of 2003 to 362,100 at the end of 2004 (-27%). This is almost half the level in 1999 when the number of pending cases amounted to some 658,800 cases, and it is the lowest level in the last 10 years (see *Table C.12*).

The Convention recognition rate for asylum-seekers in industrialized countries at the first instance increased from 15.5 per cent in 2003 to 18.1 per cent in 2004. When humanitarian status is included, the total recognition rate in 2004 (22.5%) increased from 20.3 per cent, the latter being by far the lowest level since 1995 (see *Tables C.13-14*).

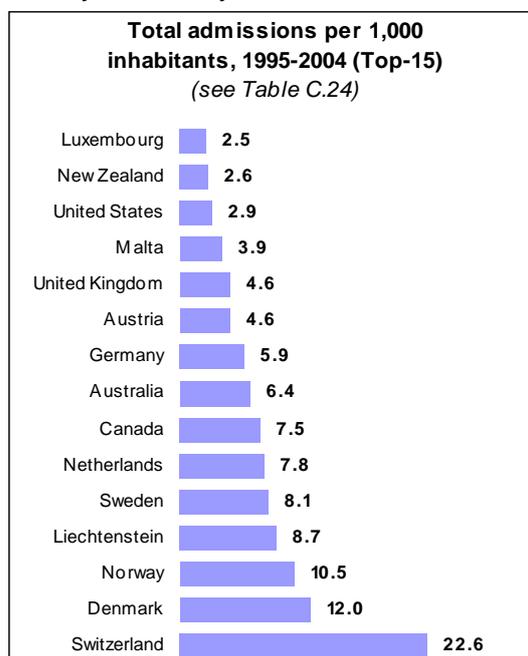


Following years of increase, the number of asylum appeals lodged in industrialized countries dropped slightly in 2003 and continued to drop in 2004. In the 17 countries which reported these data, an estimated 187,500 appeals were lodged in 2004, ten per cent fewer than in 2003 (209,000). The number of appeal decisions in 2004 decreased by 11 per cent since 2003 (266,500). Also the backlog of undecided appeals fell to 143,400 (-16%) (see *Tables C.15-20*).

TOTAL ADMISSIONS

Industrialized countries provide protection to asylum-seekers who have arrived spontaneously and who are recognized through national refugee status determination procedures. In addition, some countries continue to receive refugees resettled from first asylum countries. In certain situations, complementary forms of protection have been provided, sometimes of a temporary nature. While temporary protection provides only short-term relief, Convention refugee status and

resettlement imply a more permanent form of protection and durable solution. Some countries allow asylum-seekers who do not qualify for refugee status under the 1951 Convention to remain on humanitarian grounds. The duration and degree of protection accorded to asylum-seekers granted humanitarian status varies from country to country.



Since 1995, the 38 industrialized countries have extended protection to an estimated 2.8 million refugees. This includes recognition of asylum-seekers (911,000), allowing asylum-seekers to stay for humanitarian reasons (447,000), resettlement (924,000) and temporary protection (486,000).

When all protection categories are 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 provided 139,000 refugees with a durable solution (see Table C.24).

On a per capita basis, Switzerland ranks first among the 38 industrialized countries in receiving refugees. During the period 1995-2004, the country extended protection to 22.6 refugees per 1,000 inhabitants. Denmark ranked second with 12.0 refugees per 1,000 inhabitants, followed by Norway (10.5), Liechtenstein (8.7), and Sweden (8.1). 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).

NON-INDUSTRIALIZED COUNTRIES

As already mentioned, UNHCR provides assistance to governments or conducts refugee status determination under its mandate in countries without governmental procedures. This is also the case in some countries which officially have procedures, but whose procedures are not functioning in practice. Refugee status determination is also an important prerequisite for resettlement under UNHCR auspices. Some of the higher figures reported in this chapter reflect the results of *ad hoc* screening campaigns carried out during mass inflows, in more stable refugee situations or when *prima facie* refugees have repatriated.

APPLICATIONS

In 2004, 158,300 applications for refugee status were submitted in 115 non-industrialized countries, 23 per cent of the global number of new and reviewed asylum requests. The three main receiving countries in 2004 were South Africa (32,600), Malaysia (20,700), and Sudan (12,000) (see Table III.4).

Officially classified as a developing country, South Africa's asylum situation closely resembles that of industrialized nations. In 2004, South Africa received more asylum requests than countries such as Austria, Canada and Sweden. In total, 25 non-industrialized countries received more than 1,000 applications for refugee status in

2004 (see *Table III.4*).

Major asylum countries that received substantially more applications in 2004 compared to 2003 included Sudan (344%), Kenya (122%), Malawi (91%), and Jordan (78%).

In contrast, countries registering significantly fewer asylum requests included Djibouti (-100%), FYR Macedonia (-95%), Nigeria (-93%), Gabon (-93%), Ghana (-76%), and Zimbabwe (-71%).

The number of new refugee status applications received by non-industrialized countries has fluctuated over the last five years, but the 158,300 applications submitted in 2004 remained at the level of the previous year (156,500 in 2003). As already mentioned, the peak of 377,000 applications in 2000 is explained by the screening of 246,000 Afghan asylum-seekers in the Islamic Republic of Iran, while the 2002 figures include 27,000 cases from a mass screening operation in Sudan (see *Table III.4*).

Excluding the Islamic Republic of Iran and Sudan, the non-industrialized countries have received 701,000 applications for refugee status since 2000. About half (49%) of these requests were lodged in seven countries: South Africa (131,300), Egypt (54,700), Malaysia (42,800), Kenya (37,800), Ecuador (31,200), Jordan (24,300), and Ghana (19,900).

Of the 158,300 requests for refugee status submitted in non-industrialized countries in 2004, 41 per cent (65,000) were lodged in governmental procedures, while 43 per cent (69,000) were registered by UNHCR. The remaining 16 per cent of applications were submitted in countries where the responsibility for the determination process was shared (see *Tables III.4 and VI.1*).

Refugee status applications and decisions in main UNHCR operations, 2004 (see <i>Table III.1</i>)		
UNHCR country office	No. of applications	No. of decisions*
Malaysia	20,663	18,099
Egypt	10,702	4,569
Pakistan	3,183	4,113
Kenya	9,329	3,905
Thailand	2,468	3,624
Cameroon	2,053	1,565
India	686	960
Cambodia	899	604
Yemen	1,563	520
Bosnia and Herzegovina	203	351
Congo	327	319
Syrian Arab Rep.	5,283	266
Lebanon	553	166
Uzbekistan	196	141
Libyan Arab Jamahiriya	778	140

* Excluding "otherwise closed" cases; including decisions on applications submitted prior to 2004

Among the countries where UNHCR is solely responsible for refugee status determination, Malaysia recorded the highest number of new applications in 2004 (20,700), followed by Egypt (10,700), Kenya (9,300), Jordan (6,300) and the Syrian Arab Republic (5,300).

The annual number of new applications registered in major UNHCR operations varies greatly. In 2004, new requests submitted dropped sharply in Pakistan (-45%), Rwanda (-41%) and Thailand (-39%). In contrast, UNHCR operations experiencing a significant increase in new applications include the Syrian Arab Republic (218%), Kenya (122%), Jordan (78%), and Egypt (78%) (see *Table III.4*).

DECISIONS

During 2004, some 58,600 persons were granted refugee status in the non-industrialized countries, this was eight per cent lower than the level in 2003. The largest number of asylum-seekers was recognized in Malaysia (18,000), Sudan

(7,800), Egypt (3,700), Kenya (3,200), Thailand (2,900), and Ecuador (2,500) (see *Table III.4*).

Major asylum-seeker receiving countries where the refugee recognition rate was over 80 per cent in 2004 included Malawi (99.8), Ethiopia (99.7), Malaysia (96.2), Sudan (95.3), Uganda (95.2), Thailand (81.0), Kenya (80.7), and Egypt (80.5) (see *Table III.1*).

Although the practice of allowing rejected asylum-seekers to stay for humanitarian reasons is quite widespread in industrialized countries, few asylum-seekers are granted such status in non-industrialized countries. In 2004, countries having granted humanitarian status or temporary protection to asylum-seekers include Malaysia (16,500), TfYR Macedonia (960), Nepal (100), Armenia (100), and Belarus (60) (see *Table III.1*).

In 2004, the number of decisions on refugee status applications exceeded 2,000 in 10 UNHCR country offices: Malaysia (18,100), Sudan (8,200), Ecuador (6,800), Egypt (4,600), Pakistan (4,100), Kenya (3,900), Thailand (3,600), Uganda (2,500), Ethiopia (2,300), and Burundi (2,000) (see *Table III.1*).

An asylum request is "otherwise closed" for example if an asylum-seeker does not appear for the scheduled interviews, dies, withdraws the application or when the request is rejected for other formal reasons. Sometimes, asylum-seekers have moved to another country before their claim has been decided. In 2004, the proportion of otherwise closed cases was substantial in Malawi (8,700), Azerbaijan (8,100), the Syrian Arab Rep. (5,800), Pakistan (4,600), Egypt (2,800), and Ecuador (1,900).

In a number of countries, the decision-making process has not kept pace with the increase in new requests. The backlog of undecided refugee claims increased significantly during 2004 in countries such as Sudan (15 times more), Ethiopia (300%), Uganda (149%), Guinea (148%), Kenya (136%), Yemen (102%), Jordan (85%), and the Bolivarian Republic of Venezuela (70%).

The number of non-industrialized countries with a backlog of more than 1,000 undecided cases increased from 31 at the beginning of 2004 to 33 at the end of the year. Countries with a significant backlog of undecided cases at the end of 2004 included South Africa (115,200), Jordan (12,500), Burundi (10,700), Malaysia (10,300), Kenya (9,500), Egypt (8,800), and Pakistan (8,200) (see *Table III.1*).