



UNHCR and the European Union





UNHCR

United Nations High Commissioner for Refugees

Haut Commissariat des Nations Unies pour les réfugiés

United Nations High Commissioner for Refugees

Bureau for Europe

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The Road to a Common EU Asylum System

European states have a long tradition of providing a safe haven to the persecuted, and the protection of fundamental rights is embedded in Europe's identity. EU Member States have committed to creating a Common European Asylum System (CEAS). UNHCR welcomes this ambitious and unprecedented process, and is supporting Member States in their harmonization efforts.

However, there are still very significant differences in approaches to protection. According to Eurostat figures, protection rates (refugee status and subsidiary protection) for the same groups of asylum-seekers vary considerably from one Member State to another. For instance, protection rates for Somalis in 2009 ranged from 4 % to 93 %. Germany and the Netherlands received the largest numbers of Iraqi asylum-seekers in Europe that year; Germany recognized 63 % whereas the Netherlands granted protection to 27 %. For Afghan asylum-seekers, the two main receiving countries were the UK and Greece: the UK recognized 41 %, and Greece 1 %.

Material conditions also vary widely. Whether and what kind of reception assistance is made available to asylum-seekers differs from country to country. In some EU Member States, access to basic material support is so limited that many asylum-seekers end up sleeping in the streets.

The European Commission has proposed significant legislative improvements to narrow the gaps, but these proposals are meeting with resistance, as some Member States fear additional costs. UNHCR thinks that the investment in a well-functioning structure will pay off. Systems that can swiftly and efficiently identify those who are in need of protection are more cost-effective in the long run.

Dublin II Regulation

According to the Dublin II Regulation, the applications of asylum-seekers must be processed, with some exceptions, in the Member State where they first entered the European Union. This system of allocating responsibility is based on the assumption that all countries have the same capacity to cope with the applications and that the outcome of asylum procedures is more or less equal across the EU. This is far from the case.

UNHCR therefore supports the proposal that Member States facing particular pressure on their asylum system should be temporarily relieved from taking back Dublin transfers. The temporary suspension of the Dublin mechanism, coupled with support to help the Member State bring its asylum system up to standard, would be an example of EU solidarity in action.

Reception Conditions Directive

The EU Directive on Reception Conditions is a unique instrument, setting out the minimum conditions which asylum-seekers must benefit from. But when adopted in 2003, it did not address conditions of detention of asylum-seekers. In Europe, the detention of suspected and convicted criminals is better regulated than the administrative detention of foreigners, including asylum-seekers. In UNHCR's view, detention of asylum-seekers must be exceptional and strictly regulated. Conditions of detention must be clearly stipulated. Judges, not administrative bodies, are best suited to review detention decisions. Very importantly, the detention of children and other vulnerable persons needs to be avoided.

Asylum Procedures Directive

This Directive has made a considerable contribution to international law by setting out minimum standards for asylum procedures, something which is not regulated by the 1951 Convention relating to the status of refugees. However, the current version of the Directive allows for many exceptions and derogations. One important area concerns personal interviews of asylum-seekers. UNHCR believes that asylum-seekers must always be afforded an individual interview. Otherwise claimants are denied the chance to state their case in person and decision-makers are deprived of valuable information they need to reach accurate decisions.

Asylum-seekers whose claims are initially rejected should have the right to stay in the country while their appeals are heard. One in five refugees in the EU receives protection only on appeal. If appeals do not have suspensive effect, refugees may be sent back to their country of origin while their cases are still pending. They could end up facing the same persecution from which they fled. Such practice undermines the very core of every asylum system, which is the principle of non-refoulement.

Qualification Directive

This Directive has strengthened refugee protection by recognizing the need for a form of protection which is complementary to that offered by the 1951 Convention Relating to the Status of Refugees. Subsidiary protection is to be granted to persons facing risks of serious harm. Such risks are often as grave and long-lasting as those faced by refugees. At present, however, subsidiary protection status entails lower levels of rights than refugee status. UNHCR advocates for equal access to employment and integration programs for recognized refugees and beneficiaries of subsidiary protection. It is in the interest of the host society to ensure that persons granted international protection are able to be self-reliant and not dependent on government assistance.

Long-Term Residents Directive

After five years of legal stay, non-EU citizens who are residents of a Member State are allowed to take up residence in other EU Member States. Recognized refugees and persons with subsidiary protection are specifically excluded from the entitlement set out in the Directive. UNHCR sees no reason why international protection beneficiaries who are long-term EU residents should be singled out and prevented from fully integrating into European society. UNHCR thus supports amending this Directive to include them in its scope.





Statistics and the myth of the full boat

Immigration and asylum are controversial topics. A cool-headed debate on these issues is often difficult in the face of widespread myths, half-truths and distortions regarding numbers. The view that “the boat is full” is often justified by claims that Europe receives a disproportionate share of the world’s refugees.

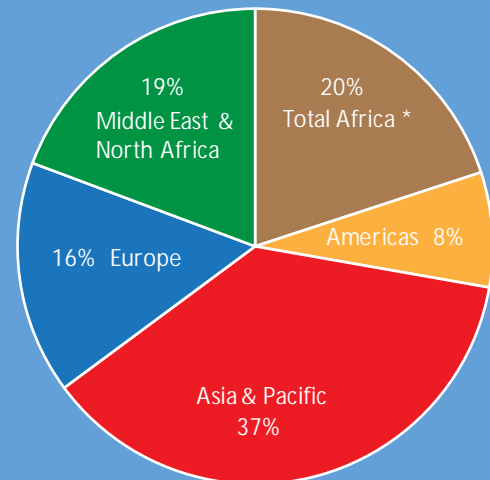
This is far from the truth. Only a relatively small portion (16 %) of the global refugee population of 15.5 million is found in Europe. (10.4 million fall under UNHCR’s responsibility and 4.8 million Palestinian refugees under UNWRA’s mandate.) Many of these had their status recognized years ago and are well integrated.

Global Refugee Population End-2009
(by region of residence)

Region	Population
Total Africa *	2,074,800
Americas	812,300
Asia & Pacific	3,856,000
Europe	1,647,500
Middle East & North Africa	2,005,900
Total	10,396,500

* Without North Africa

Source: 2009 Global Trends Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons © 2010 UNHCR.



Statistics show that 83 % of refugees stay in their region of origin. Most refugees flee to a country neighboring their own. Developing countries are home to 80 % of all the refugees in the world.

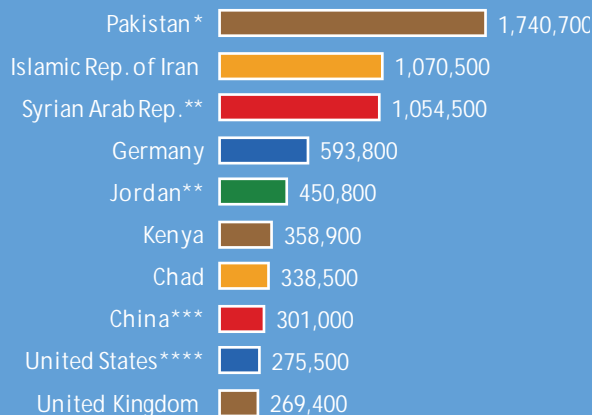
The vast majority of Afghan and Iraqi refugees, who account for nearly half of all the refugees under the UNHCR mandate, are hosted in neighboring countries. 1.7 million Afghans are currently living in Pakistan and over a million in Iran. More than one million Iraqi refugees have also been hosted in Syria (Government estimate). This makes Pakistan, Iran and Syria the three countries with the largest refugee populations in the world (excluding Palestinian refugees under the mandate of UNHCR's sister agency, the UN Relief and Works Agency (UNRWA)).

As for asylum-seekers, one African country, South Africa, registered nearly as many new asylum-seekers in 2009 (222,000) as all the 27 countries of the European Union combined (246,200).

Another common misperception is that the number of asylum-seekers is growing in Europe. Although the number of asylum claims rose in some individual countries last year, the total number of new asylum claims in Europe as a whole (EU and non-EU) in 2009 (282,200) was approximately the same as in 2008.

There has in fact been a considerable decline in the number of asylum applications in Europe during the past decade. In 1999, the European Union (which had 15 Member States) registered 388,000 asylum applications, compared to 246,000 in the 27-country EU of 2009.

Major refugee hosting countries, end-2009



Regional asylum trends (2001=100)

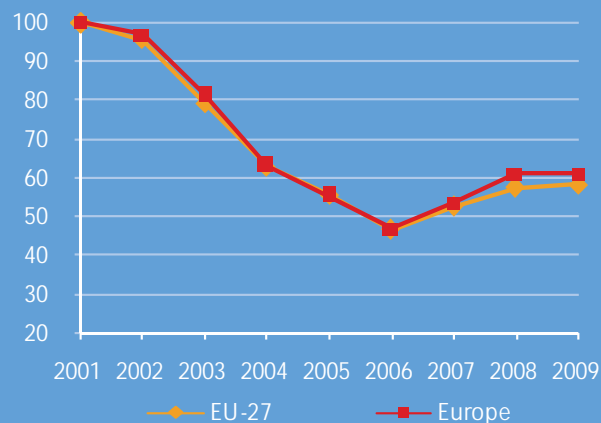


Fig.1 Source: 2009 Global Trends Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons © 2010 UNHCR.

* Includes Afghans in a refugee-like situation.

** Government estimate.

*** The 300,000 Vietnamese refugees are well integrated and in practice receive protection from the Government of China.

**** UNHCR estimate.

Fig. 2 Source: UNHCR Division of Programme Support and Management 2010

The European country that received the largest number of asylum applications in 2009 was France, with some 42,100 applications.

For some Member States the number of asylum-seekers is lower than the application figures suggest because the statistics include so-called “repeat” applications (filed e.g. because the circumstances in the person’s country of origin have changed since their first application was turned down); or claims which are the responsibility of (and thus also counted in) another European country (so-called “Dublin” cases).

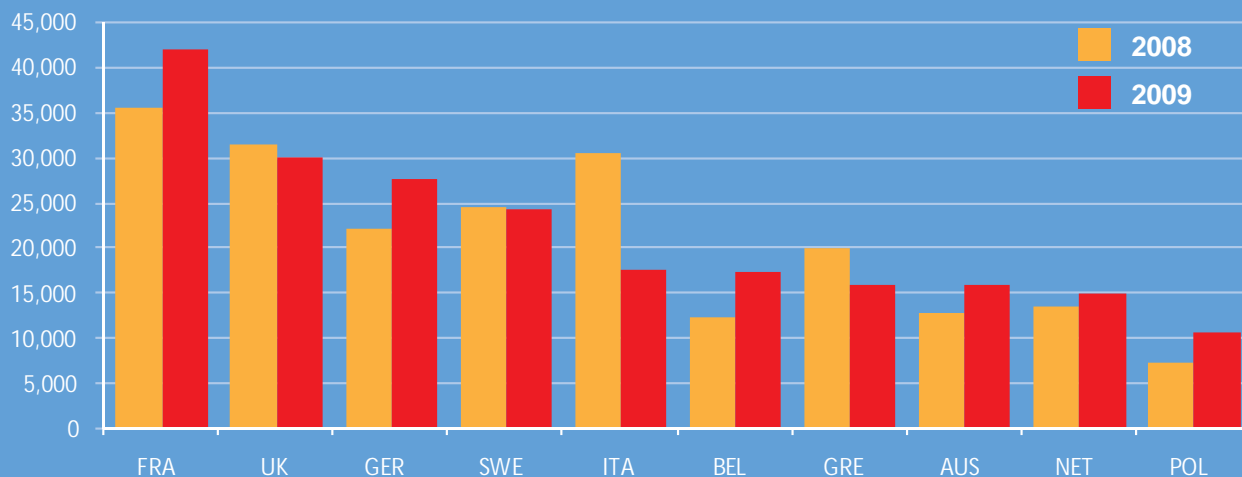
78,800 persons were granted protection at first instance by the 27 EU Member States in 2009 according to Eurostat. Protection status encompasses refugee status (39,300), subsidiary

protection (29,900) and authorization to stay on humanitarian grounds (9,600).

Overall, more than one quarter of all asylum decisions were positive, but the rate of recognition varied considerably between Member States. Three quarters of all persons granted protection status were concentrated in five countries only: United Kingdom (12,500), Germany (12,100), France (10,400) Sweden (9,100), Italy (8,600) and the Netherlands (8,100).

The largest groups of beneficiaries of protection status came from Somalia (17 %) Iraq (17 %) and Afghanistan (9 %).

Asylum claims submitted in 10 major receiving countries (2009)



Source: UNHCR, Division of Programme Support and Management 2010



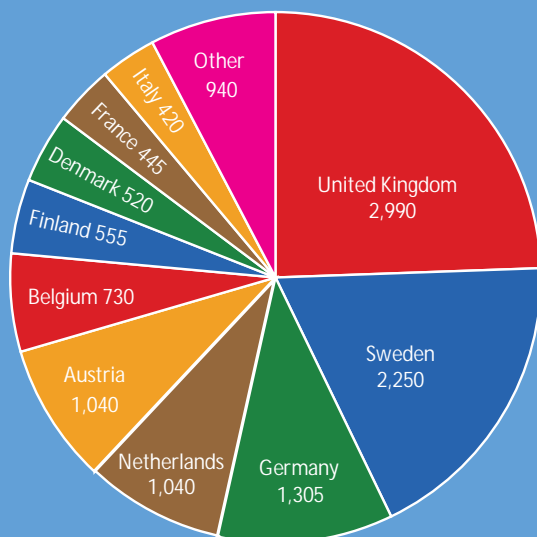
Children seeking refuge alone

The arrival of unaccompanied and separated children (UASC) from other parts of the world has been an issue of mounting concern to many European countries as well as to UNHCR. These children travel without their parents or other guardians and are exposed to dangers and human rights abuses.

In 2009, 12,235 children applied for asylum alone in EU Member States. More than 38 per cent (4,595) were from Afghanistan, followed by Somali (1,800), Iraqi (820) and Eritrean (405) youth. While the number of children seeking asylum alone in the EU is more or less at the same overall level as in previous years, some Member States have recently experienced significant increases.

Children seeking refuge alone, EU 2009

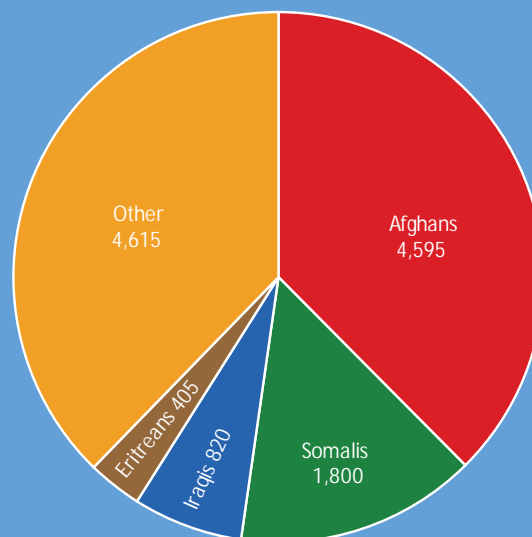
Total: 12,235, by country of asylum



Source: Eurostat

Children seeking refuge alone, EU 2009

Total: 12,235, by country of origin



Source: Eurostat

Anecdotal evidence suggests that a considerable number of unaccompanied and separated children (UASC) do not, or not immediately, lodge asylum claims when entering an EU Member State, but precise statistical data is not available.

Not enough is known about the background and motivation of children traveling to Europe. For this reason, UNHCR published a special report on Afghan children in June 2010. The report examines why the children are on the move, the reasons for the departures, the routes they take, and their reception on arrival. It also presents recommendations on how governments should respond to this complex issue.

Individual experiences of war and human rights violations combined with insecurity, widespread poverty, political instability, poor educational prospects and a declining hope for a brighter future are all fuelling the flows of Afghan children, as are expanding smuggling networks.

The European Commission published an Action Plan on Unaccompanied Minors (2010-2014) in May 2010 which contains recommendations on data collection, prevention of unsafe migration and trafficking, increasing protection capacities in third countries, reception and procedural guarantees in the EU, as well as return and reintegration in the country of origin.

UNHCR has welcomed the Action Plan because it contains important principles which should guide all actions related to unaccompanied and separated children. At the same time the plan emphasizes that an effective and coherent policy is needed to respond to rising challenges.

The following key principles should guide actions regarding these children:

- The best interest of the child has to be a primary consideration in all dealings of a state with unaccompanied children. The outcome of an individual Best Interest Determination, which takes into account the views of the child and all relevant information, must be a key consideration in any decision relating to a child's future.
- Immigration and asylum systems and child protection regimes are intertwined and must work together where unaccompanied children are concerned.
- A holistic approach is required, because children who do not apply for asylum may nevertheless have international protection needs.



Detention of asylum-seekers widespread in Europe

In EU Member States, the detention of asylum-seekers is widely practiced and poorly regulated. Seeking protection is a fundamental human right, not a crime. It is noteworthy that pre-removal detention is regulated in some detail by the European Union's Returns Directive, whereas rules on detention of asylum-seekers are limited to a reference in the Asylum Procedures Directive.

Numerous reports by Members of the European Parliament and by the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment (CPT) are highly critical of immigration detention in the EU. In their visits, EU and CPT representatives, as well as UNHCR, have found that many Member States systematically detain asylum-seekers. In several instances, they have been held together with persons in criminal detention.

Reports mention overcrowded and substandard facilities. In some cases, children cannot access education, and no special care is provided for vulnerable people. In some countries women are held together with men, in others they find themselves in solitary confinement, if they are the only female detainees in the facility at the time.

Sometimes asylum-seekers are confined for prolonged periods, without being provided with information on how to appeal against their detention. Persons who are to be returned to another EU Member State according to the Dublin II Regulation are also regularly detained.

In some countries there is a thin line between reception and detention. Euphemisms such as "closed reception centre" or "obligatory presence" may conceal the fact that asylum-seekers are held in confinement or that their freedom of movement is very limited. Airport transit zones are treated as being outside Member State territory, so national legislation regulating detention does not apply for persons stranded there.

UNHCR considers that persons with special needs, as well as unaccompanied asylum-seeking children, should not be detained in any circumstances, while the detention of asylum-seekers should remain a very exceptional action.

UNHCR is encouraged by the fact that a number of EU Member States are exploring alternatives to the detention of asylum-seekers. Such alternatives can take the form of accommodating people in special open facilities where social workers or counselors are available to assist them. A number of pilot projects focus specifically on families with children.

UNHCR supports the European effort to define clearly in the asylum legislation:

- the grounds under which detention is permitted, including an obligation to consider less coercive measures before detention can be used;
- essential legal remedies and safeguards, in particular judicial review of detention within 72 hours; and
- the minimal material conditions under which people are held in confinement.



Importance of resettlement is growing in EU

Resettlement is an important tool of refugee protection which provides durable solutions for tens of thousands of refugees who cannot safely remain in their first countries of asylum or return to their countries of origin. Resettlement offers refugees a chance to rebuild their lives in a new country of permanent residence.

UNHCR co-ordinates resettlement in cooperation with governments. Although at present, 90 % of the refugees resettled every year go to the United States, Canada and Australia, more and more countries are engaging in resettlement.

In the EU, resettlement is increasingly recognised as a crucial part of refugee protection systems. The European Commission has proposed a “Joint EU Resettlement Programme” to support and co-ordinate resettlement within the European Union. UNHCR estimates that up to 805,000 refugees will be in need of resettlement within the next three to five years, and encourages the EU to participate actively in worldwide resettlement efforts.

A growing number of EU Member States now have national resettlement programs. In 2009, the Czech Republic, Denmark, Finland, France, Ireland, the Netherlands, Portugal, Sweden and the United Kingdom resettled refugees based on annual programs; Belgium, France, Germany, Italy and

Luxembourg accepted refugees for resettlement on an ad hoc basis. Romania and Spain have established new resettlement programmes which will be active in 2010.

UNHCR Resettlement to EU 2009

EU Member State	Persons
Belgium	54
Czech Republic	17
Denmark	488
Finland	710
France	179
Germany	2,064
Ireland	194
Italy	191
Luxembourg	28
Netherlands	347
Portugal	26
Sweden	1,880
United Kingdom	969
Total	7,147

Source: UNHCR Resettlement Service

In total, 7,147 refugees were resettled to the European Union in 2009. Compared to 2008, this was an increase of 61 %. In global terms, however, the EU's intake of resettled refugees is still small – only one out of twelve refugees resettled worldwide in 2009 went to an EU country. In other words, EU Member States together took in fewer resettled refugees than Canada alone.

Sometimes refugees have to be quickly extracted from a dangerous situation. To this end, an Emergency Transit Centre was set up in Timișoara, Romania, with the active support of the Government of Romania. There, refugees can stay in a safe environment for up to six months while awaiting resettlement. Slovakia has offered a backup transit facility as well, and over the past years, several hundred persons found a temporary safe haven in these two locations. In addition, ad

hoc transit evacuations have also taken place to the Czech Republic.

In view of the exposed position of Malta, which in past years has received a large number of asylum-seekers on its shores, the EU introduced the concept of “relocation” within the Union, as opposed to resettlement from outside the EU. Relocation from Malta offers a durable solution for beneficiaries of international protection and helps to relieve the pressure on Malta.

UNHCR acknowledges the benefits of relocation as one approach to responsibility-sharing, but urges simultaneous efforts to upgrade reception, asylum and integration systems so that countries can cope with new arrivals themselves. A collective effort is needed to consolidate and expand protection space all across the European Union.

UNHCR Resettlement departures- EU vs. All Other Countries

