

Switzerland

	ZH Zurich
	BE Berne
	LU Lucerne
	UR Uri
	SZ Schwyz
	OW Obwalden
	NW Nidwalden
	GL Glarus
	ZG Zug
	FR Fribourg
	SO Solothurn
	BS Basle-Town
	BL Basle-Country



4 languages

26 Cantons

2768 Communities

	SH Schaffhausen
	AR Appenzell Outer-Rhodes
	AI Appenzell Inner-Rhodes
	SG St. Gall
	GR Grisons
	AG Argovia
	TG Thurgovia
	TI Ticino
	VD Vaud
	VS Valais
	NE Neuchâtel
	GE Geneva
	JU Jura

Preface

This report is the result of the ENARO exchange programme from 8th until 19th of May 2006, during which Hassan Taboush and Gerben van Os were sent to Switzerland together with another Norwegian colleague.

The goal of this exchange programme was to get an overall view of the Swiss asylum system which was completely new to us. Before we left the Netherlands we hadn't any information about the 'Bundesamt für Migration' (Federal Office for Migration)

Also the Swiss are reluctant to join any International organisation, they found out that coping the problematical asylum issues is something they can't do it by there own. Therefore the Swiss Federal Office for Migration (FOM) joint the ENARO program this year; to learn and to exchange best practices with their European sister organizations.

A sub-goal was to find out how the Swiss are coping with trafficking in human beings. Like, who is trying to help and protect trafficked victims and studied the phenomenon. Look at the current legal provisions for the fight against trafficking in human beings. Sadly enough the Swiss couldn't provide us with any information concerning this matter.

Gerben personally had one more goal and that was to find out what range of services the Swiss provide rejected asylum seekers in Return assistance. Aimed at encouraging them to return home on a voluntary basis.

During these two weeks, the staff of FOM (Federal Office for Migration) and specially Andreas Bouman, Eva Kristen and Evalina Colavita guided us trough regulations and provided much information and a lot of impressions.

The Swiss came up with a terrific and extensive program in which they showed us every aspect concerning asylum seekers. The first week we travelled together as a group. We visited the Head Office at Bern for an introduction into the Federal Office for Migration. Our mutual stay at Basel was overwhelming. We visited the Reception Centre, Foreign Police, Border Patrol, Legal Aid, Cantonal Reception Centre, Detention Centre, Shelter Home for illegal aliens, etcetera, etcetera.

The second week we were split up: Hassan Taboush went to the French part of the country (Reception Centre Vallorbe). Gerben van Os went to the German part (Reception Centre Kreuzlingen), and our Norwegian colleague went to the Reception Centre Chiasso in the Italian part of Switzerland.

Every organization and its people we visit were open about their work and received us with great hospitality. Almost everyone asked us questions about our system in the Netherlands and how we cope with certain problems. They were surprised to find out that we faced more ore less the same problems as in Switzerland. It generated interesting discussions about their solutions.

Nevertheless with 4 languages, 26 cantons and 2768 Municipalities the reception of asylum seekers in Switzerland is an complex process. Due to the fact that this was the first exchange programme to Switzerland we only had an overhaul view of there system. Hopefully the next exchange will be more in-depth on a few items. For example; how is the cantonal reception organized, or the reception of illegal aliens (nott-hilfe).



*Cantonal Reception Centre (Canton Basel-Land)

1. Federal Office for Migration – FOM

On 1st January 2005 the Federal Office for Migration (FOM) resulted from the amalgamation of the Federal Office for Refugees (FOR) and the Federal Office of Immigration, Integration and Emigration (IMES). The new authority regulates all matters relevant to aliens and asylum in Switzerland.

The organisational structure of the FOM is as follows:

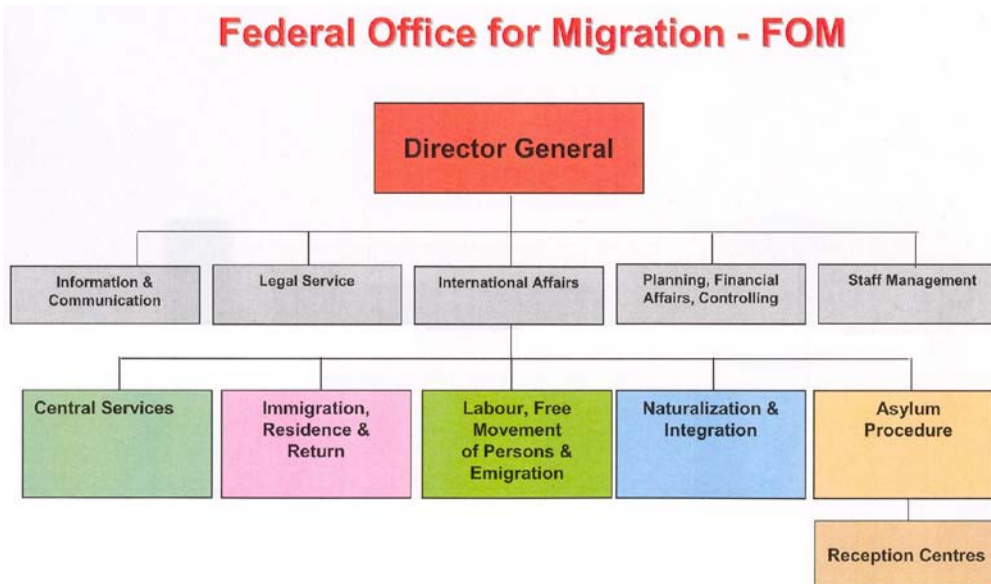
The FOM is headed by a Director General.

There are five divisions:

1. Information & Communication
2. Legal Service
3. **International Affairs**
4. Planning, Financial Affairs, Controlling
5. Staff Management

The third division, **International Affairs** is the one which is responsible for asylum seekers. This division is again divided into five direction sectors:

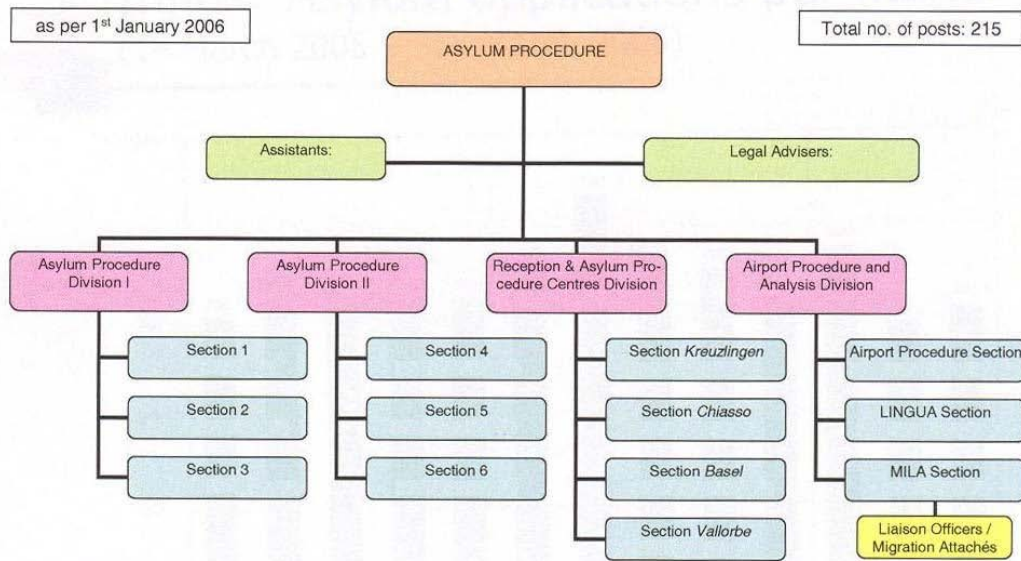
1. Central Services
2. Immigration Residence & Return
3. Labour, Free Movement of Persons & Immigration
4. Naturalization & Integration
5. **Asylum Procedure**



The organisational structure of the direction sector **asylum procedure** is subdivided in:

1. Asylum Procedure Division I
2. Asylum Procedure Division II
3. Reception & Asylum procedure Centres Division
This division again is divided into four sections: Kreuzlingen, Basel, Vallorbe & Chiasso
4. Airport Procedure and Analysis Division
This division again is divided into three sections: Airport Procedure, LINGUA & MILA

Organisational structure of the Direction Sector Asylum Procedure



Hassan and Gerben visited during their ENARO exchange the third Division: the Reception & Asylum procedure Centres Division. Together we went to section Basel after which we were split up. Hassan visited the section Vallorbe and Gerben section Kreuzlingen.



* Entrance gate FOM Reception Centre Basel

2. The reception centres

In principle, asylum applications must be submitted either at a border crossing point or at one of the Swiss airports. If entry into Switzerland is permitted, the applicant is referred to one of four FOM reception centres in Chiasso (Italian part), Vallorbe (French part), Basel (German part) or Kreuzlingen (German part) for further processing of his/her asylum claim. Foreign nationals who are already in the country may apply directly to one of the FOM reception centres.

In practice, only a few asylum seekers submit their applications for asylum at the borders. Most enter Switzerland legally with a valid visa or illegally by avoiding border control, and file their asylum claim directly with the FOM reception centres.

During our stay in Switzerland we visited the reception centres at Basel, Kreuzlingen and Vallorbe. The system was everywhere the same, but we find out that most of the African asylum seekers prefer to apply for an asylum at the French part (Vallorbe) because most of them speak French, in the German part of the country most of the asylum seekers came from other countries like Iraq, Georgia or Serbia.

Organisational structure of a Reception Centre

The Reception Centres are staffed by several organisations, due to the popularity of outsourcing by the Swiss government. The FOM is actually responsible for its centres, but in fact it's run by three commercial companies: ORS Service AG, Securitas AG & Ascom AG.

FOM

A Reception Centre is headed by a chief (FOM), the FOM staff is responsible for handling all asylum requests. They do the interviews with the help of interpreters, make decisions (positive & negative) and run the Return Assistance (REZ). The Administration Department is also run by the FOM.

ORS Service AG

The reception of asylum seekers is in the good hands of ORS Service AG. They organise all in-house duties like living, supplies, food, clothing, pocket money etc, etc. ORS also gives small medical treatments, like handing out medicine for headache or a common cold.

On arrival every asylum seeker will get an interview with an ORS employer about their health. Together with this ORS employer the asylum seekers will fill in a questionnaire about his/her health, if there is any doubt about his/her health (or more than 10 negative answers on the questionnaire), he/she will be sent to a specialist or to the hospital.

Established in the beginning of the 1990s, ORS Group is a leading provider of specialized personnel outsourcing services to Swiss and international customers.

The group operates in the following areas:

- complete outsourcing solutions to Swiss public authorities (the Confederation, the Cantons and the Municipalities) for the management of asylum seeker and refugee centers.
- management of the asylum seekers welfare contribution system on behalf of the Swiss Confederation.

On behalf of the Swiss Federal Office for Migration, ORS Service AG runs four reception centers for asylum seekers in Switzerland since 1992. From that day on ORS also became responsible for the reception of asylum seekers in many municipalities within the Cantons of Switzerland.

SECURITAS AG

Securitas AG is a Swiss private security company, founded in 1907. It is not to be confused with the Swedish Securitas AB which has larger operations in Europe and North America.

The Securitas Group Switzerland, with its divisions Security Services as well as Alarm and Security Systems represents a major part of modern and effective security instruments. Altogether 18 enterprises and over 7000 employees are at the service of the Securitas Group in Europe and worldwide.

One of these enterprises is responsible for the security on all four FOM Reception Centres. Its staff makes the first registration of asylum seekers on their arrival at the reception centres. They also check if the asylum seeker carries any documents or dangerous goods.

ASCOM AG

Ascom is an international service provider for integrated voice and data communications, network-based security solutions and networked revenue collection systems for public and private transport operators.

The new SWISS Automated Fingerprint Identification System (AFIS) of the Swiss Federal Department of Justice and Police (BAP), with its new central processing system, new registration devices and state-of-the-art transmission technology, provides speed and flexibility for the police Fingerprint Identification.

Ascom implemented the trend setting identification system for AFIS Services - the center of competence responsible for the identification of persons by fingerprints within the Swiss Federal Department of Justice and Police. In addition Ascom is responsible for the on-going maintenance and support.

AFIS Services is the national service desk for the identification of persons and makes its services available to the Swiss Federal Department of Justice and Police (BAP), the cantonal police forces, the border patrol corps and the Swiss Federal Office for Migration around the clock. The fingerprint experts of the AFIS Services identify persons based on fingerprints as well as latent and palm prints, and maintain the national fingerprint collection.

Ascom is responsible for the system integration, maintenance and support of the SWISS AFIS. So they take fingerprints and photos of the asylum seekers on their arrival at the reception centre.

Aliens Police

We couldn't find any role for the Aliens police at the registration centres.

TBC Control

Starting in 2006, border sanitary examinations with focus on tuberculosis prevention will be performed in these reception centers in cooperation with the Swiss Federal Office of Public Health.

A private company called Comartis has developed an interviewing tool which helps identify people suspected of having tuberculosis, initiate medical treatment (if necessary) and manage patient records.

Interviews are held in 29 languages, including Tibetan, Mongolian and Punjabi. The questions are not only displayed on-screen, but also automatically played as audio files. Moreover, the application makes it possible to show the interviewees a video on HIV/Aids.

Interpreters

The FOM uses qualified interpreters, through all stages of the determination process.

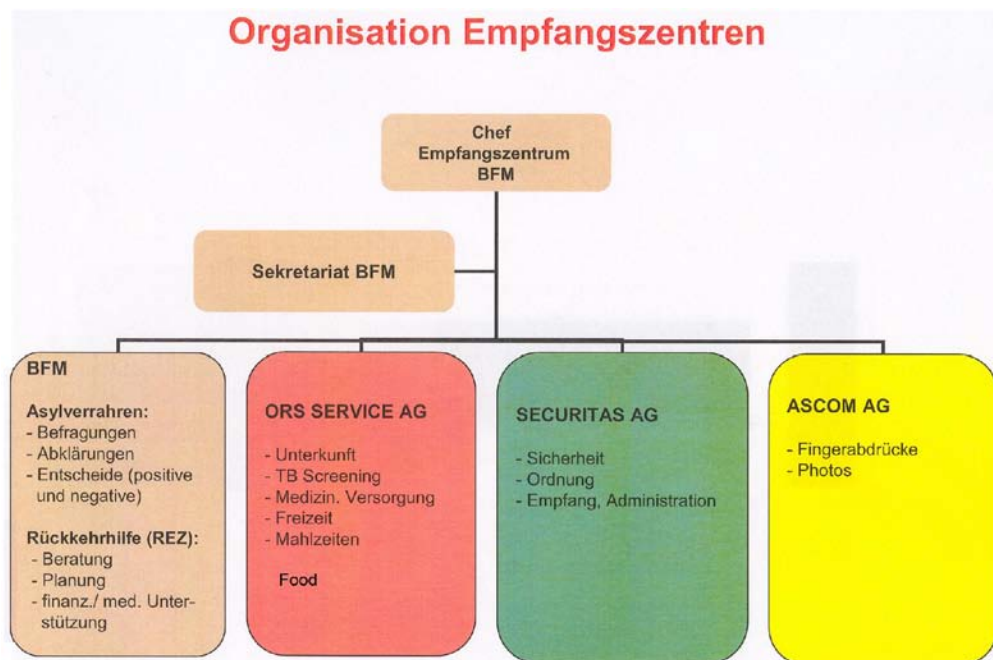
Legal counselling

An information leaflet, about their right to obtain legal representation, is provided to asylum seekers when they submit their asylum claim at the Reception Centre. The leaflet is provided in about 20 refugee languages.

At their 2nd interview the asylum seeker has to tell more about their grounds for asylum. The applicant is allowed to bring his/her appointed lawyer appointed to the interview.

No systemic legal counselling is provided for the asylum seekers at the reception centres. However, some NGO's have access to the interviews and are able to give some legal and social support.

The Swiss Red Cross has access to the transit zones of Zürich airport to inform asylum seekers about the legal process. Lawyers also have access to Zurich airport provided they have written authorisation from their client. At Geneva airport written authorisation is not required.



3. Request for asylum

As mentioned before the Asylum Procedure Directorate at the Federal Office for Migration is responsible for this task. This office submits each asylum application to a careful and individual examination. Manifestly abusive applications are dismissed. In the case of the other applications, the office has to examine whether the asylum claims are credible and – if so – whether the person in question fulfils the requirements for refugee status laid down in the Asylum Act.

Asylum seekers seeking protection in Switzerland can request asylum with any diplomatic representative or Swiss consulate, at any one of the country's borders or at any Swiss airport.

An asylum application is not bound to any formal provisions. It may be submitted verbally or in writing to a Swiss representation abroad, to a border post or to the border control at a Swiss airport.

However, almost 90% of asylum-seekers enter Swiss territory illegally and go directly to one of the four FOM Reception Centres located in Chiasso, Basle, Vallorbe and Kreuzlingen.

Applications from abroad

Article 20 of the Asylum Law provides for the possibility of submitting an application for asylum in Switzerland via a Swiss diplomatic representation abroad. This will give the asylum seeker a good idea of his actual chances before he invests in costly travel to Switzerland. The diplomatic representation must send the application together with a report to the Federal Office for Migration (FOM), in Bern.

In principle, applications filed abroad will only be considered if the applicant is able to state convincing reasons for leaving his/her country of origin and to demonstrate previous ties to Switzerland.

The FOM will determine on the basis of an interview or written request whether the claimant can travel to Switzerland for further clarification of his application for asylum. If, on the basis of the information received and the embassy's assessment, the FOM comes to the conclusion that the claimant cannot reasonably be expected to stay in his/her native country any longer or to file his/her asylum application in another state, the Swiss authorities will grant him/her an entry permit. On arrival at the Swiss border, the asylum seeker must present his/her entry visa to the border control officials, who will then send the asylum seeker to the nearest FOM registration centre.

In 2001, 757 persons applied for asylum from abroad and requested permission to travel to Switzerland. In 130 cases the entry permit was granted.

Swiss border procedure

The FOM is responsible for making decisions on entry into the territory regarding aliens who apply for asylum at border points and airports. According to the Asylum Law, entry should be granted to an alien who does not meet the normal requirements for entry (documentation and /or visa) but who appears to fall under the definition of Article 3(1) of the Asylum Law, or is at risk of inhuman treatment in the country from which he/she directly comes. Entry should also be allowed if the alien gives convincing arguments which demonstrate that the country which he/she comes directly from may send him/her to another country, where he/she would be exposed to danger, in violation of the non-refoulement principle.

Land border procedure

A special procedure applies at land borders where, in the absence of any representatives of the FOM, applicants are interviewed by border guards. A summary of the interview is sent to the FOM, which then makes a decision as to whether entry into the country is to be allowed or denied. There is no time limit for the FOM to make such decision, but in practice, this is done rapidly.

An entry permit may be granted if the asylum seeker faces the danger of persecution or inhuman treatment in the country he/she travelled directly from or if there is a grave danger of the asylum seeker being sent back to his/her native country or to another country where he/she would be persecuted after the Swiss authorities had expelled him/her back to the neighbouring country.

A further criterion is the length of time spent by the asylum seeker in another state in which he or she could have filed an asylum application. If the asylum seeker have stayed 20 days for no particular reason in a State where he could have requested asylum as well, generally entry to Switzerland would generally be refused. Exceptions are not authorised unless close relatives of the asylum seeker officially reside in Switzerland. The FOM can permit the entry, if the asylum seeker came the fastest way to Switzerland. The asylum seeker must report to one of the four FOM reception centres within 24 hours of authorised entry.

The decision on the entry refusal is immediately executable. The rules of the Administrative Procedure Law do not apply and an appeal is not possible. Normally, rejected asylum seekers are sent back to the other side of the border point and given the address of the nearest Swiss embassy in order to have their claim submitted there.

Additionally, border police officers can remove people without an entry visa (or other legal permit to stay in Switzerland) found in the border region. In such cases, they will turn back those persons to the other side of the border. The decision on a preliminary removal is not formal and cannot be appealed.

Airport procedure

If a foreign national makes a submission for asylum during a transit stop at a Swiss airport, the asylum seeker will be refused entry if another country is under a treaty obligation to examine the asylum request. Asylum seekers are otherwise allowed to enter the country if they have a valid entry visa or if there is a grave danger of the asylum seeker being sent back to his/her native country by the authorities of the original destination without being granted fair asylum proceedings beforehand.

When it is not possible to decide immediately on entry into the territory, the FOM issues airport applicants with a so-called "provisional refusal of entry". In such cases, applicants can be held in the airport up to 15 days, until a first-instance decision is made. Normally, applicants will stay in the transit zone. Special rooms have been built in the transit zone of Geneva and Zürich airports. The airport police supply food and asylum seekers are free to move around within the transit zone.

No systemic legal counselling is provided for the asylum seekers at the airports. However, some NGOs have access to the international zone and are able to give some legal and social support. The Swiss Red Cross has access to the transit zones of Zürich airport to inform asylum seekers about the legal process. Lawyers also have access to Zurich airport provided they have written authorisation from their client. At Geneva airport written authorisation is not required.

The FOM can remove an airport applicant when it is feasible, legal and reasonable, to send him/her to a third country, especially if:

- the third country is responsible for examining the asylum request according to an international treaty, and the asylum seeker does not possess a visa or other travel document required to enter Switzerland. No such treaty exists at present;
- the asylum seeker has previously stayed in and can re-enter the third country in order to seek protection;
- the asylum seeker is in possession of a visa for the third country; or
- the asylum seeker has close relatives or other persons with whom he/she has close relationships, who live in the third country.

An asylum seeker who is refused entry at the airport but who cannot be sent to a third country, may be returned immediately to his/her country of origin or country of last residence, provided the FOM and UNHCR agree that he/she does not risk persecution in that country. In practice, the FOM forwards the file to UNHCR together with the proposed decision. UNHCR then interviews the applicant (usually by telephone) in order to form its opinion.

The decision to send the asylum seeker to his/her country of origin or any other country must be made within 15 days of submission of the application. If no decision has been made during this period, the FOM must allow entry. When the decision has been made to send the asylum seeker to his/her country of origin or another country, he/she may be kept at the airport until the next available flight, but for no longer than seven days.

Asylum seekers have the right to appeal against both the decision to refuse entry and their detention in the airport transit zone. The appeal is lodged to the Asylum Appeal Commission ("Schweizerische Asylrekurskommission" or "Commission Suisse de recours en matière d'asile"). This normally has no suppressive effect. The removal-order may be enforced after 24 hours and thus the applicant must file any

appeal within this period to restore the suppressive effect. Even if the asylum seeker is represented by a lawyer, the deadline commences from the time the asylum seeker is informed. In practice, most asylum seekers in transit may not be able to lodge an appeal without having contacted a lawyer beforehand, a crucial obstacle given the short deadline of 24 hours.

Requests for foreigners already living officially in Switzerland

Individuals temporarily residing in Switzerland and in possession of a residence permit may submit an asylum application if changes in his home country could render him subject to political persecution upon his return. He/she can submit a request for asylum directly to the Aliens Police in his canton of residence. Consequently, the applicant doesn't have to present himself to one of the four FOM Reception Centres and can stay in his/her canton of residence until the end of the procedures that concern him/her.

Requests for asylum by persons having entered Switzerland illegally

In principle, asylum applications must be submitted either at a border crossing point or at one of the Swiss airports. In practice, only a few asylum seekers submit their applications for asylum at the borders. Most enter Switzerland legally with a valid visa or illegally by avoiding border control. Once a person has entered Switzerland illegally, he can go to one of the four FOM Reception Centres to submit his request.

Unfortunately, this is the method chosen by the majority of asylum-seekers to avoid being denied entry at the border. If the person is stopped in the frontier zone while attempting to cross the border illegally, he will be immediately sent to the authorities of the neighbouring country, where he will have the possibility of requesting asylum. The only tolerated exception is if one of it's next of kin is already officially living in Switzerland. If it is impossible to demonstrate what country the person came from (Germany, France, Italy ore Austria), the person will be granted an asylum procedure in Switzerland nonetheless.



* FOM Reception Centre Basel

4. Entry to the territory

Reception Centre procedures

As said before, asylum applications must be submitted either at a border crossing point or at one of the Swiss airports. If entry into Switzerland is permitted, the applicant is referred to one of four FOM reception centres in Chiasso, Basel, Vallorbe or Kreuzlingen for further processing of his/her asylum claim. In practice, only a few asylum seekers submit their applications for asylum at the borders. Most enter Switzerland legally with a valid visa or illegally by avoiding border control, and file their asylum claim directly with the FOM reception centres.

Upon registration at an FOR reception centre an asylum-seeker will first be asked to produce any official identification within 48 hours. In the past, many asylum-seekers hid their identification papers, since that could hinder the deportation process in the event of denied entry. A new Law has since been passed stipulating that the asylum request will only begin in two cases: either the asylum-seeker is able to give a credible reason why he no longer has identification papers, or provide serious evidence of persecution. Since then, more and more asylum-seekers have been presenting their identification papers. Those who still do not present any official identification all the same are asked to retrieve them of their own accord or through relatives in their State of origin.

The asylum seekers provide their personal details and are fingerprinted and photographed for identification purposes by ASCOM. These documents will be sent to the Federal Office for Migration at Bern to determine whether he/she had sought for asylum in Switzerland in the past under another name. Switzerland is not a party to the Dublin Convention or the Schengen Agreement yet, nevertheless they have an agreement with their direct neighbouring countries (Germany, Austria, France and Italy) to take back their former asylum seekers. This procedure takes anywhere from five to ten days, during which time the asylum-seeker will be housed at the Reception Centre. An information leaflet, about their right to obtain legal representation, is provided to asylum seekers when they submit their asylum claim at the Reception Centre. The leaflet is provided in about 20 refugee languages

Procedure stage 1: Initial interview

The asylum-seeker will then undergo a preliminary interview (1st interview) concerning their travel route, family situation and the reasons for leaving their country of origin. Supporting this if possible, with official documents.

Procedure stage 2: In depth interview

At the 2nd interview the asylum seeker has to tell more about their grounds for asylum and have to answer the questions of the interviewing officer. The interviewing officer will call an interpreter if necessary and a lawyer appointed by the applicant may attend. During these proceedings, which on average will take 20 days (maximum is 60 days), asylum seekers stay at the Reception Centre. Applicants can ask for a permission to leave the centre on a daily basis. When the Swiss authorities are convinced that the claim will precede further, the asylum seeker will be transferred into a Canton. The canton will see to his/her basic needs and will conduct further detailed questioning concerning his or her reasons for asylum. Asylum seekers are allocated to the cantons by the FOM in accordance with the following key:

Canton	%	Canton	%	Canton	%	Canton	%
Zurich	17	St. Gallen	6	Solothurn	3,5	Waadt	8,4
Bern	13,5	Schwyz	1,8	Basel-Stadt	2,3	Wallis	3,9
Luzern	4,9	Obwalden	0,5	Basel-Landschaft	3,7	Neuenburg	2,4
Uri	0,5	Nidwalden	0,5	Graubunden	2,7	Genf	5,6
Schaffhausen	1,1	Glarus	0,6	Aargau	7,7	Jura	1
Appenzell AR	0,8	Zug	1,4	Thurgau	2,8		
Appenzell IR	0,2	Freiburg	3,3	Tessin	3,9		

Procedure stage 3, Decision: Normal determination procedure

First Instance

Other than the interview with the cantonal authorities (see next paragraph), the Asylum Act also provides for the possibility of a direct interview with a representative of the FOM, if this accelerates the procedure. Such direct interviews with the FOM take place in the procedure centres of the FOM (in Berne, Zurich, Givisiez) but also in the Reception Centres. They follow the same rules as the interviews in the Canton.

In order to further accelerate the procedure, the FOM launched the so-called DUO-Project in August 2002 by establishing procedural units in the Reception Centres. These units conduct direct interviews with asylum seekers and make first-instance decisions. The aim is to speed up the process so that asylum seekers leave the registration centre with a first-instance decision. The FOM process up to 30 percent of all applications in the registration centres. By the new law starting in the end of 2006 the FOM must process up to 60 percent. The procedure from registration until first-instance decision should take no more than 15 days.

The procedural units in the registration centres will focus on cases that it anticipates will be concluded in a short period of time and where not a lot of research is necessary. These cases are clearly negative, manifestly unfounded or inadmissible where no asylum case is initially evident or clearly positive cases such as those for family reunion.

After the first-instance negative decision, asylum seekers are either removed to their home country or a third country, if removal is possible. Removal is estimated to be possible in 5 percent of cases. If direct removal is not possible, the asylum seekers will be transferred to a Canton for further removal procedures. Asylum seekers are free to seek legal representation. The Swiss Refugee Council participates in running a legal service close to the registration centres.

At present the FOM processes 80% of all asylum requests within three months, but this can vary from a few days to several years.

Cantonal procedures

Following the preliminary (1st) interview at the FOM Reception Centre, asylum seekers can be allocated to a particular canton by the FOM. FOM's decisions on allocation can only be contested for reasons of family unity. Once allocated to a canton, asylum seekers should be interviewed within 20 days. Interviews are conducted by canton authority's or the Aliens Police who are specially trained in asylum matters. During this interview, the applicant is required to explain his/her reasons for seeking asylum in Switzerland as clearly and completely as possible and he/she is invited to produce any relevant documents to support such statements.

A representative of a relief organisation is allowed to attend the interview, provided the asylum seeker agrees. A certain number of organisations appointed by the Federal Council are authorised to send representatives to the interviews. All of them are members of the Swiss Refugee Council (OSAR). The canton's authorities communicate the date of the interview to the organisations beforehand and the latter are responsible for co-ordinating their presence at the interviews. The state pays a lump sum for the costs incurred. The interview has legal effect even if there is no representative present.

The representative of a certified aid organisation attends the interview as an observer and his/her function is to check the correctness of the procedure. He/she may not intervene in order to help the asylum seeker, but he/she can require that certain questions be asked in order to clarify the facts, or can suggest that further investigations be conducted. The representative may also raise objections to the interview records. Any such objections must be noted in the records.

Following the interview, the file and the interview records are forwarded to the FOM at Bern. The asylum-seeker allegations will then be examined by the FOM, which has an extensive amount of accurate documentation on all countries and can obtain additional information from the Swiss Embassy in the country of origin. The FOM thus decides in each individual case whether asylum is to be granted or denied, or whether a situation of collective danger warrants a provisional admission.

Appeal

Negative decisions by the FOM - usually accompanied by an expulsion order - can be appealed to the Swiss Asylum Appeal Commission within 30 days. All the details of his file will be carefully examined once again by the Asylum Appeals Committee.

The Asylum Appeal Commission is an independent body, whose members are appointed by the Federal Council. The Commission comprises five chambers, representing the three national languages. Each chamber is normally composed of three judges, although in some cases only one judge will hear the appeal. Interviews of the appellants are theoretically possible, but this seldom happens. In most cases, the Commission decides whether or not a case was correctly decided according to the provisions of Swiss asylum law on the basis of the written record of the first instance decision. The Asylum Appeal Commission at present processes 80% of appeals within three months.

If the asylum-seeker has no grounds for appeal or his appeal is rejected, he can no longer stay in Switzerland. The person will be given anywhere from a few days to six months to leave on his own free will. If this person will not leave Switzerland within this timeframe, he will be forced out by police intervention. Searches will be conducted for anyone who stays in the country illegally.

Only approximately 10% of asylum-seekers are recognized refugees.

Procedure stage 3, Decision: Manifestly unfounded or Inadmissibility

First Instance

Swiss asylum authorities have the right to refuse to examine the merits of an asylum application for formal reasons. This decision of "not to enter into the matter" ("Nichteintretensentscheid", "non-entrée en matière") may be taken in the following situations:

- the applicant has no travel document or other document establishing his/her identity. However, this does not apply if he/she gives convincing arguments explaining why he/she cannot provide such documentation within 48 hours, or if there are indications of persecution;
- he/she has given a false identity;
- he/she has severely infringed in another way his/her obligation to co-operate with the authorities;
- he/she has the option to travel to another country, where an application for asylum is still pending, or which is responsible for processing his/her application in accordance with an international convention, provided that this country will not send him/her to another country where he/she would be exposed to inhuman treatment;
- he/she has already had an asylum claim processed and rejected in Switzerland, or he/she has withdrawn his/her request for asylum, or he/she has returned to his/her country of origin during the asylum procedure, unless new elements which may justify the granting of refugee status or temporary protection have occurred in the meantime;
- he/she has stayed illegally in Switzerland and submits the asylum claim solely to prevent his/her expulsion from Swiss territory, and he/she cannot substantiate a prima facie case of persecution; or
- he/she originates from a country deemed safe by the Federal Council and cannot substantiate a prima facie case of persecution.

In principle, according to the Asylum Law, the decision of "not to enter into the matter" should be taken within 20 working days, but this time limit is not always met. The Swiss asylum authorities must provide reasons for a decision "not to enter into the matter".

On average, about 15 percent of asylum applications fall within this category. The DUO-Project described above is expected to raise this quota.

Appeal

An appeal does not have suppressive effect unless the applicant specifically asks the Asylum Appeals Commission to be allowed to await the outcome of the appeal in Switzerland. The authorities can remove

the applicant after 24 hours from notification of the decision if no appeal has been submitted or the Asylum Appeals Commission has not allowed the appeal to have suppressive effect.

Procedure stage 3, Decision: Manifestly unfounded applications

First Instance

Article 40 of the Asylum Law provides for the possibility of rejecting, within the same 20-day period and without further investigation, an asylum application, which, following interview, indicates that the applicant cannot prove or make credible his/her grounds for claiming refugee status, and when there are no obstacles to his/her removal from Switzerland. This is not a distinct procedure as such, but rather an accelerated processing of applications deemed manifestly unfounded. Nevertheless, decisions made under Article 40 are only briefly reasoned.

Appeal

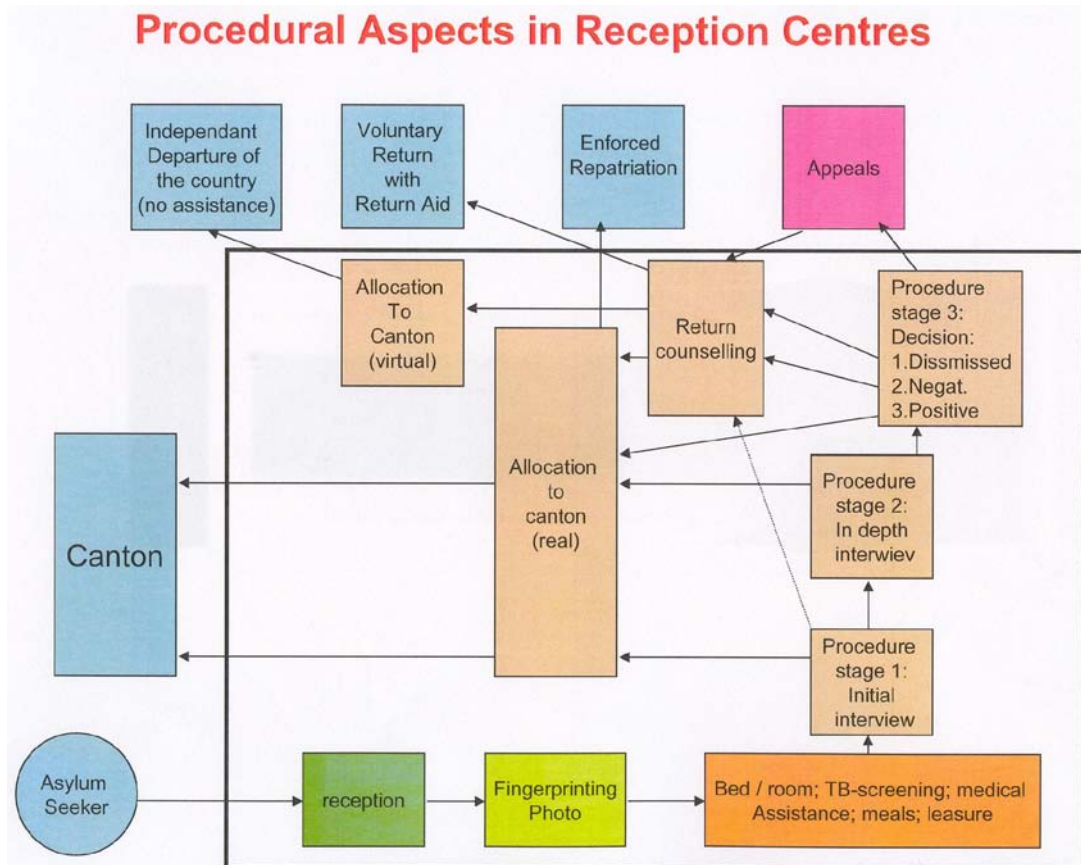
An Article 40 decision may be appealed to the Asylum Appeal Commission within 30 days. Appeals have no automatic suppressive effect, and the applicant's removal can take place within 24 hours of notification of the decision. However, the Appeal Board may suspend the removal within 48 hours of submission of the appeal. Appellants have, in principle, access to the state-funded free legal aid system, but this is seldom granted (see "Legal Aid" below).

Near future

Switzerland is not a party to the Dublin Convention or the Schengen Agreement yet. They signed the treaty but haven't ratified it yet.

The Swiss Federal Council (the highest Swiss governmental authority) has proposed a number of amendments to the Asylum Law. These include the introduction of a strict third country rule whereby the government would be able to declare a list of safe third countries and would have the authority to return asylum seekers on the basis of accelerated decisions of non-admissibility.

The Federal Council is also considering the introduction of a new Aliens Act, which will, expand the reasons for detaining asylum seekers.



5. Asylum seekers with particular needs

Unaccompanied minors

Special arrangements for unaccompanied minors depend on the cantonal authority and the age of the minor. Children are usually placed in special educational institutions. Older unaccompanied minors are often kept in the same centres as adults.

The Federal Office for Migration and the Swiss Asylum Appeals Board as well as some of the Swiss Canton authorities, use the definition recommended by UNHCR and define separated children as people under the age of 18 who are separated from both parents and not being cared for by an adult determined by law or custom.

A FOM directive sets out that unaccompanied minors who have lodged an asylum claim should be allocated to accommodation in the Canton they have been residing in, or where there is a guardian - even if it is someone not covered by the UNHCR definition, such as older siblings, cousins, or grandparents.

According to the Asylum Law all unaccompanied minor asylum-seekers, once allocated in a canton, should be appointed a "person of confidence" in charge of defending their interests during the asylum determination procedure. This task ceases when the child comes of age or when he/she is appointed a guardian. The person of confidence attends the interview with the asylum authorities in most cases, or at least when no lawyer has been appointed to assist the minor throughout the asylum procedure.

The Swiss Asylum Appeal Commission has held that an X-ray of the wrist if a person does not sufficiently determine a person's age. According to medical research a divergence of up to three years between the chronological age and the age of the bones is possible.

Female asylum seekers

The Asylum Law on the refugee definition states that "women's specific reasons for fleeing should be taken into consideration". So far, however, this provision has resulted in a very limited case law, as most gender related applications are rejected in accordance with current Swiss practice on this issue, on the grounds that persecution is not perpetrated by state or quasi-state agents.

If there are concrete indications or if the situation in the country of origin makes it possible to deduct that persecution is gender-related, the applicant is interviewed by a person of same sex.

What the reception of female asylum seekers concerns: There are no specific provisions regarding female asylum seekers. On all four FOM Reception Centres male and female are defied into their own sleeping rooms.

Health/sickness

All asylum seekers benefit from health insurance paid for by the federal authorities. Dental care is not included. In practice, the situation varies depending on the canton. In most cantons, asylum seekers are free to choose their doctor. In some, however, they are appointed to one or a group of doctors. In others, health care is provided in medical centres.

6. Legal aid

Assistance During Determination Procedure

Asylum seekers are legally entitled to state-funded free legal aid. The Swiss Constitution provides that "each person who does not have the means necessary is entitled to free legal aid provided their case has a chance of success. He/she is also entitled to free legal representation if such is necessary for the safeguarding of his/her rights." Similarly, the Federal Law on Administrative Procedure provides that legal aid may be granted if:

- the applicant does not have the necessary financial means;
- his/her appeal has reasonable chances of success; and
- the assistance of a lawyer is needed, because the case raises complex legal or factual issues.

In practice, however, almost no applicant is granted free legal aid in first instance cases, and very few during the appeal procedure. In most cases, applications for free legal aid are rejected on the grounds that the case lacks the chance of success, or because it does not involve complex legal issues. Although this restrictive practice has been questioned, it has only recently been successfully challenged.

The Asylum Appeal Commission recently decided that, the right to legal assistance exists at first instance in the asylum procedure where the case is legally complex.

Article 17 of the Asylum Act establishes that the authorities must ensure that unaccompanied minors are automatically appointed a person of confidence during the entire procedure, including prior to the substantive asylum interview.

In the case of detention, the Federal Court has ruled that destitute detainees awaiting deportation should be entitled to free legal representation when appealing against a detention order (at least after three months into detention) regardless of whether his or her particular case is sufficiently legally complex to warrant free legal representation. The decision was based on the fact that immigration detainees unlike those charged with a crime are already in detention at the time their detention is reviewed in court.

Individuals applying for other forms of protection such as temporary protection have the same access to free legal assistance and legal aid as asylum seekers applying for refugee status.

Due to the unavailability of an efficient free legal aid system for asylum seekers, most refugee assisting organisations provide some form of legal counselling free of charge. The Swiss Refugee Council coordinates the legal advice centres located in virtually all the Swiss cantons. This assistance is mostly provided for appeals before the Asylum Appeal Commission, the second and last instance in asylum proceedings.

State subsidies are not given to the organisations providing legal assistance.



*FOM Reception Centre Kreuzlingen

7. Refugee status

Refugees with asylum status

Recognised refugees with asylum status are issued with a residence permit (B-permit) valid for one year and renewable on a yearly basis. Renewal is only refused in a very limited number of cases. After five years, refugees with asylum status are entitled to a settlement permit (C-permit), valid for 10 years and renewable. Refugees with asylum status benefit from many privileges, such as free access to the labour market.

Refugees with asylum status are entitled to family reunification with members of their nuclear family (spouse and children who are minors). Reunification may also be allowed in exceptional cases with other dependent family members.

Refugees granted provisional admission

Persons who meet the conditions of Article 1A of the Refugee Convention, but are excluded from receiving asylum status under the Asylum Act, receive the status of refugees with temporary admission (réfugiés admis à titre provisoire). These refugees receive a temporary residence permit (F-permit).

Refugees with temporary admission are, in some respects, treated the same as refugees with asylum status. However, they do not receive a residence permit and a settlement permit automatically and their right to family reunion is restricted.

Under certain conditions, convention refugees with provisional admission, may apply for family reunification three years after the decision on their asylum claim. Family reunification may be refused if the refugee fails to improve his/her personal situation by declining to accept a job opportunity or gives up/loses a job through his/her own fault.

Temporary protection

In accordance with the Asylum Law, "Switzerland can provide temporary protection to people in need of protection for as long as they are exposed to a serious general danger, in particular during a war or civil war as well as in situations of generalised violence". If an asylum seeker belongs to such a group of people, the asylum application will not be dealt with further for the time being. There is no appeal against the decision on this suspension of proceedings. Exception: only if an asylum seeker should obviously be granted asylum their application will be decided at this stage.

All persons who belong to this group will be allocated to a canton and issued with an ID card (S-permit). Such a person can remain in Switzerland until the situation in his/her country of origin has in the opinion of the Swiss government improved.

Persons under temporary protection are entitled to family reunification with members of their nuclear family (spouse and children who are minors). Reunification may also be allowed in exceptional cases with other dependent family members.

Provisional admission - complementary protection

A form of complementary protection, called provisional admission, may be granted if, following the rejection of an asylum application, the enforcement of the removal order is deemed technically impossible, is not allowed under international law or is not "reasonable". Provisional admission does not hold any status under international law but provides an alternative measure to an unenforceable expulsion order.

According to the Asylum Law, provisional admission may also be granted for humanitarian reasons in cases of serious personal plight when an application for asylum has been pending for more than four years. In 2001, the Swiss Asylum Appeal Commission laid down the criteria for provisional admission on humanitarian grounds. The criteria are: good social, cultural and labour integration, circumstances in the

home country, age, sex, health, behaviour and the situation in relation to children at school. Each individual application for provisional admission is examined thoroughly, and the threshold for achieving provisional admission is high.

A provisional admission is renewable (F-permit). Access to work is seriously limited and social benefits are equivalent to those of an asylum seeker, which is between 20 and 50 percent below common standards. Once allocated to a canton it's not possible to move to another canton.

People with provisional admission have no right to family reunification according to Swiss asylum legislation. However, under the Federal Council's Order Limiting the Number of Aliens (OLNA), persons with provisional admission may under certain restrictive circumstances ask for a humanitarian residence permit.

If a residence permit (B-permit) is granted, Article 39 of the OLNA allows, under certain conditions, family reunification for nuclear family members (husband/wife, minor children). This is, however, subject to a stable residence and employment situation. The applicant has to also ensure that his/her financial means are sufficient to support the family and that firm arrangements are made for the care of children.

Quota refugees

According to Article 56 of the Asylum Law, the Federal Council may grant asylum to groups of refugees. In the eighties and early nineties, based on decisions of the Federal Council after consultation with UNHCR, Switzerland received an annual contingent of refugees. Since 1995 no quota refugees have been received in Switzerland. There is no long-term agreement with UNHCR on quota refugees.

8. Final rejection and deportation

Final rejection

If a negative decision at first instance is not appealed or the appeal is rejected, the person is notified by decree informing them of the outcome of their claim and requiring them to leave the country voluntarily within a specified time limit, generally 8 weeks. The consequences of staying in the country beyond the time limit are specified, as is the canton responsible for enforcing the removal. The Federal Office, upon request, can extend the time limit by 1 to 3 months, and in exceptional circumstances by 6 months. The conditions for extension are not specified. If the rejected asylum seeker originates from a country to which it is not possible to return him/her, the decree may include an alternative measure to expulsion.

Failure to leave the country voluntarily within the specified time limit normally results in the enforcement of the expulsion order by the police. Cantons are responsible for this and, in general, co-operate between themselves to enforce orders (for instance when a rejected applicant stays in a canton, which is not the one responsible for his/her expulsion). Detention for the purpose of enforcing the expulsion order is allowed. We found out that not all cantons are reluctant to fulfil their part of enforced repatriation (French and Italian part of the country)

If it is not feasible to enforce the expulsion order, or if removing the alien is not allowed under international law or not "reasonable", the FOM may, grant a temporary admission permit in the form of a provisional admission.

Under Article a provisional admission may also be granted in cases where expulsion would cause extraordinary hardship, where the asylum procedure has taken more than four years before the final rejection was made. Elements such as the integration of the applicant in Switzerland, his/her family situation and the school situation of his/her children, if any, are taken into consideration. Cantons are able to apply for provisional admission to be granted to a rejected asylum seeker, if they consider that the above requirements are met. In practice, only those rejected asylum seekers, who have a family, who are very well integrated and who are financially independent, have a chance to obtain a provisional admission. The likelihood of single, younger asylum seekers obtaining a provision admission are very low, unless they have spent a critical amount of their youth and education in Switzerland.

Return

On completion of their asylum proceedings, the majority of asylum seekers have to leave Switzerland because their asylum application has been rejected. But other foreigners who are staying in Switzerland illegally may also be issued with a removal order. For those concerned, this decision often marks the end of a dream, and their Swiss acquaintances often fail to understand why no exception could be made in this particular case. However, deportation orders that can no longer be appealed against must be enforced consistently, for only in this way can people be prevented from circumventing immigration provisions with an asylum application. Whereas a proportion of the rejected persons duly leave Switzerland as ordered, the majority (about 60%) depart independently and go underground.

Return Assistance

Return Assistance is offered by the FOM and implemented in conjunction with its partners the Swiss Agency for Development and Cooperation (SDC), the International Organization for Migration (IOM), the cantons and relief organisations.

The service of Return Assistance reflect five areas:

1. Return Counselling Services

The Return Counselling Services are contact point for asylum seekers and persons in the sphere of asylum wishing to learn more about Return Assistance. In the case of a definite negative decision on asylum, the Return Counselling Service applies for the corresponding individual Return Assistance at the FOM

2. Individual Return Assistance

Individual Return Assistance is tailored to meet the specific needs of the returnee and can include the organisation of the travel including transfers up to the place of domicile, individual project, initial financial aid, cost for medical care and vocational training.

The reinstatement fee is CHF 1000 (€ 629,-). For an individual reintegration project in case of accommodation, housing, income generating and vulnerable cases there is an extra fee of CHF 3000 (€1887,-)

3. Programmes Abroad

Programmes Abroad encourage the return and reintegration of certain groups of people. These programmes are temporary and can include measures in Switzerland as well as in the country concerned. The financial assistance in these cases are CHF 2000 (€ 1258,-) for adults CHF 1000 (€ 629,-) for minors and in case of an individual project assistance CHF 5000 (€ 3145,-). These programmes can also be applied for within the FOM Reception Centres.

The country specific programmes which were running in May 2006 were: DR Congo, Angola, Nigeria, Balkans vulnerable persons, Guinea, Sierra Leone, Mali, Burkina Faso, Iraq, Armenia, Algeria, Morocco, Tunisia, Libya, Mauritania and Georgia.

4. Structural Assistance

Structural Assistance as a partial measure of Programmes Abroad benefits the corresponding countries, the native population and returnees alike. Structural assistance is financed by the FOM and implemented by the SDC. Typical Structural Assistance projects are, for instance, the construction of school buildings or hospitals, the creation and mediation of jobs or the resettlement of internally displaced persons.

5. Training Courses

Asylum seekers need for training is fulfilled both by cantonal return-oriented training courses as well as placement in appropriate structures in the homeland.

Anyone in the sphere of asylum can apply for Return Assistance. Even officially recognised refugees can receive return assistance if they wish to remigrate to their native countries. The granting of return assistance is tied to certain requirements. In particular, persons whose deadline specified for leaving the country has expired, persons who have become delinquent, persons who behaved improperly during their asylum proceedings, and those whose applications have been dismissed without entering into the substance of the case, are exempt from return assistance.

Return Assistance can be applied for at the Return Counselling Service of the respective canton of residence. The canton determines the responsible body of sponsorship for return counselling. Counselling is noncommittal and confidential. Whoever calls upon this service does not thereby commit to return; counselling has no influence on a pending decision on asylum.

Another instrument in the Return Assistance is REZ (Rückkehrhilfe ab EmpfangZentren) in which a person can apply for return assistance within the FOM reception centre during their asylum proceedings. A person is entitled for a financial assistance of CHF 500 (€ 315), and CHF 250 (€ 158) for minors. The REZ return assistance is a pilot-project.

Since the start of REZ 543 individuals returned to their home country (mostly European countries like Bulgaria, Bosnia and Georgia). The aim for 2006 is to repatriate at least 700 persons from the reception centres on a voluntary basis with the help of REZ.

What amazed us, is the fact that the whole return assistance is organized, staffed and run by the FOM. According to the popularity of outsourcing within the FOM organisation, you would expect that return assistance would be outsourced too. Switzerland is an IOM member state since 1951 and the IOM is a partner in the Return Assistance. Nevertheless you would think an independent body as the IOM can handle the whole Return Assistance on their own.

Asylum seekers without identity papers

Asylum seekers often conceal or destroy their personal documents before submitting their application in order to deceive the authorities about their identity, but also about their age and nationality so as to make any deportation impossible. If asylum seekers on whom a deportation order has been served do not co-operate in the procurement of substitute travel documents, cantonal authorities often find it impossible to obtain these papers. The competent foreign representation may also aggravate co-operation for a wide variety of reasons, such as legal bases, conflicts of interest or bureaucracy.

Some countries absolutely refuse to readmit rejected persons within their borders. In such cases, the only options that remain are negotiations at the highest level or certain possibilities of exerting pressure. In recent years, Switzerland has concluded readmission agreements with many countries in order to facilitate the removal of rejected persons. By applying appropriate measures, the FOM does its utmost to ensure that the asylum seekers produce their papers.

Detention

Airport applicants may be held in the transit zones of Zürich and Geneva airports until the FOM makes a decision on entry. The decision must be made within 15 days from submission of the application. If entry is denied, the applicant may appeal the decision to the Asylum Appeal Commission, which must render its decision within seven days. Applicants can thus be held in the airport for a maximum period of 22 days.

According to the Aliens Law, people may be detained to ensure the implementation of a removal decision. Under certain circumstances, asylum seekers may be taken into preparatory detention, even if a formal decision on their removal has not been taken yet. A preparatory detention may be transformed into deportation detention once a decision on the deportation or removal has been made.

In accordance with the Aliens Law, the Swiss Aliens Police may detain asylum seekers if, for example:

- they pose a threat to public order or national security;
- they entered Switzerland against a previously issued entry ban and cannot be removed immediately; or
- they refuse to reveal their identity, several requests for asylum under several identities are submitted or they fail to follow instructions without any reason.

The main reason asylum seekers are detained is that there are serious indications that they might abscond following a removal decision. The detention period is limited to a maximum of three months during the asylum determination process, and for an additional maximum period of nine months if the asylum seeker has already received a negative first instance decision and deportation proceedings have started. After an initial maximum period of 96 hours, detained applicants must be referred to a court for a review of the detention measure and its extension. The decision of the court can be challenged to a cantonal Administrative Court (in most cantons) and, if upheld, to the Federal Tribunal. According to Federal law, a detainee has the right to inform someone about his or her detention but the asylum seeker usually has to make his/her own efforts to find a lawyer. In practice, the authorities do use detention as an option in the case of rejected asylum seekers. As said before: practice varies from canton to canton.

Cessation and Withdrawal

In 1996, Switzerland withdrew refugee status from people from Poland, Hungary and Czechoslovakia. In 2000, refugee status for Bulgarians was also withdrawn.

Recently, the Asylum Appeals Commission withdrew the asylum status of a refugee from Kosovo due to the fact that he had returned to Kosovo on several occasions and lived there for a longer period. The Commission however, stated that the situation in Kosovo had not improved sufficiently to allow a general withdrawal.



*Detention centre at Basel

9. Social conditions for asylum seekers & provisionally admitted persons

Accommodation

Upon arrival in the country, asylum seekers are referred to one of the four Federal Reception Centres run by the Federal Office for Migration in Chiasso, Basel, Vallorbe and Kreuzlingen. There they submit a formal application for asylum, undergo a medical check-up and undergo a preliminary interview. The stay in the reception centres is compulsory except in relation to minor asylum seekers who already live - under another legal status - in Switzerland. According to the FOM, the average time spent in the registration centres is twenty days.

The conditions of reception are laid down a decree ("Verordnung des EJPD zum Betrieb der Empfangsstellen") covering the running of reception centres. It contains regulations regarding medical treatment, reception, access and exit-rules. Article 8 of the Decree provides that asylum seekers are only permitted to leave the reception centres between 7am and 5pm if they have obtained permission to leave. Permission may be denied if the asylum seeker's presence is necessary for the implementation of an asylum or deportation procedure.

In addition:

- Telephones should be available to asylum seekers;
- Asylum seekers should have unrestricted communication with their legal representative;
- At the centres, asylum seekers should have free access to lists of legal advisers;
- Messages and post from legal representatives should be forwarded to the asylum seeker.

The Federal Tribunal has been critical of the fact that asylum seekers have no possibility of appeal against the, in most cases oral, decisions taken by the staff of the centre not to permit a person to leave. In order to guarantee that the freedom of movement of asylum seekers is guaranteed, the Federal Tribunal has proposed that the Decree should be amended to include an appeals procedure and that an appeals body should be established.

Cantons accommodation centres

Most asylum seekers are accommodated in collective centres established by the cantons and run by ORS Service or local welfare organisations. Families are usually provided with private accommodation. Furthermore, the stay in the cantons' centres is compulsory unless the asylum seeker has family or friends who are able to take complete financial responsibility. Where this is the case, the asylum seeker may be allowed to live outside the centre.

Cantons receive a lump sum from the federal authorities for the accommodation of asylum seekers. This amounts to CHF 11.60 (€ 7,40) per day and per person. The lump sum is paid for collective as well as for private accommodation.

Financial assistance

The cantons are responsible for social assistance and financial support of asylum seekers and provisionally admitted persons. Besides accommodation, destitute asylum seekers and persons provisionally admitted receive a daily pocket money allowance of CHF 3 (€ 1,90). In most cantons, they are allowed to cook for themselves in the centres and receive a food allowance, the amount of which varies between CHF 8 (€5,10) and CHF 10 (€6,30) per day, and may vary from one canton to another. Free clothing is also provided.

Whenever possible and suitable, assistance is provided in kind. Financial support is administered by the cantons, but is ultimately paid for by the federal authorities. After an initial period on the centres, families and persons who are allowed and who have been able to find work may be given the permission to leave the centre and stay in private accommodation (see "Work" below). If they must further rely on state support, they will receive about the same amount as above.

In order to cover the financial support granted to asylum seekers in terms of food, clothing, transport and pocket money, cantons receive a lump sum from the federal authorities of CHF 16 (€ 10,30) per person and per day. In addition, the federal authorities also pay for the health insurance provided to all asylum seekers (see under "Health" below).

Work

Asylum seekers are not allowed to take up employment within the first three months of the submission of their asylum claim. If an initial negative decision on the application is made during this period, the canton may extend the prohibition of work for another three-month period. After this period, the cantons can grant permission to work on a discretionary basis. This is always done with consideration of the canton's current economic situation. In practice, work permits are mostly granted for jobs in farms or restaurants. As far as other sectors of the employment market are concerned, the cantons consider that nationals have priority over any available jobs.

Asylum seekers who work must transfer 10% of their salary to a so-called "security bank account", in order to secure the reimbursement of the financial assistance granted, costs of the asylum procedure as well as any expulsion costs which might occur at a later stage. If after the deduction of all costs a surplus remains on the account, this sum will be reimbursed to the asylum seeker if he/she either gets residence permission (as refugee or on humanitarian grounds) or if he/she leaves Switzerland.

Language tuition

Depending on their Canton of residence, asylum seekers may have the opportunity to follow language courses in the first three months of their stay in Switzerland. Such courses are set up by the respective cantons with the financial support of the federal authorities.

School attendance

In accordance with the Swiss federal constitution, the cantons must set up a sufficient number of primary classes for all children staying on their territory. This also applies to children of asylum seekers, who attend the normal school system until the age of 16. Those children who do not speak the language may attend special language classes for the first year. In some cantons, attendance at these classes is compulsory.

The federal authorities support the cantons by financing education and employment programmes. The authorities can also support the social, vocational and cultural integration by making financial contributions but in practice, unfortunately, some Cantons do not do so. Some communities also deny schooling for children as long as they are living in transit centres. This is against the law, but it is difficult for asylum seekers to oppose it, as parents do not want to have trouble with the authorities as they fear disadvantaging their asylum application. In individual cases, it is possible to place the family in another community, where the children can attend school.

Childcare

Childcare is under the jurisdiction of the cantons. Employed asylum seekers receive child allowances for the children staying with them in Switzerland. Child allowances for children living abroad are not paid until the asylum seeker is recognised as refugee or receives a temporary admission.

Freedom of residence/movement

Asylum seekers and provisional admitted persons are not permitted to leave Switzerland during the asylum procedure. In principle there are no restrictions on the freedom of movement within Switzerland. However, when allocating an asylum seeker to a canton, the FOM or the canton's authority can assign him/her to specific accommodation, in general in a collective centre. Furthermore, the cantonal authority can restrict the freedom of residence/movement for aliens who do not have residence or settlement permission and who disturb or endanger public security, especially in connection with illegal narcotics.

10. Social conditions for refugees

Housing

The cantons are responsible for the settlement of recognised refugees, unless they earn more than the social minimum. In most cantons, refugees are accommodated in private homes.

Freedom of movement/residence

Recognised refugees with asylum status obtain a residence permit from the canton where they reside. Theoretically, it is possible to change the canton. However, for refugees who have no income other than social benefits it is hardly possible to change, as the canton where they wish to move must accept to take over responsibility for their social aid. In practice, a canton will only accept a refugee if the refugee has found employment in that canton. Refugees with asylum are free to travel abroad.

Refugees with temporary admission do not have a cantonal residence permit. Their right to change canton derives from their right to be treated equally with other foreigners. Refugees with temporary admission can therefore change canton if they are not reliant on social aid and have a secured employment in the new canton.

Integration programme

The Federal government, for the first time in 2001, provided funds to the Swiss Refugee Council (OSAR) for the implementation of refugee integration projects. Projects aim at facilitating and creating a mutual understanding between Swiss citizens and refugees. Other projects work on shared common values and try to create positive conditions for the participation of refugees in Swiss society.

Refugees may also benefit from special programmes designed to improve their integration into the labour market. These programmes, which are generally set up on an individual basis, differ greatly depending on the cantons.

Financial assistance

The responsibility for social assistance and financial support to recognised refugees has been transferred to the cantons. Swiss citizens and recognised refugees are entitled to the same benefits. The amounts granted vary depending on the cantons. The level of welfare granted is essentially determined by the flat rate contributions provided by the Federal government. The cantons may however grade social benefits in accordance with a bonus system. Refugees receive a monthly sum each to cover basic expenses. The average amount is CHF 20 (€12,60) per day and person.

Refugees also receive an average amount of CHF 12,50 (€ 7,80) per day and person for accommodation and special payments in case of special needs. Additionally, they can receive a one-time payment for furniture of CHF 3,000 (€1887,-) for the first person in a family and CHF 1000 (€629,-) for each further person.

Immediately after they have been granted asylum, all refugees over 16 years of age receive a single payment of CHF 3250 (€2044,-) in order to attend language courses provided by private organisations. Payments of CHF 3000 (€1887,-) are also made for integration courses

Work

Refugees with asylum and with temporary admission may take up employment and receive work permits without restrictions. They may also participate to integration programmes designed to improve their access to work. In practice, it is difficult for refugees with temporary admission to find employment as many employees refrain from employing them due to their "temporary" status

Health Services

All refugees are insured against sickness and accident.

Language tuition

Refugees are entitled to language tuition in a national language (German, French or Italian), depending on the language spoken in the canton.

Access to the adult education system

Refugees have to pay the same fees as Swiss citizens to attend university or other tertiary courses. Usually, they are also entitled to receive cantonal scholarships for attending university if they meet the entry requirements. Some cantons do not grant scholarships to refugees with provisional admission.

School attendance

There is unrestricted access to the Swiss school system. Refugee children have to attend the national school system until they are 16. In practice, they are treated like other foreign children. Schooling is under the regime of the Canton, therefore, the regulations may differ in detail (integrative classes, etc.).

Mother tongue tuition

Mother tongue tuition is generally not available.

Swiss citizenship

A refugee who has been resident in Switzerland for at least 12 years may apply for Swiss citizenship. Recognised refugees with asylum status are initially issued with a residence permit (B-permit) valid for one year and renewable on a yearly basis. Renewal is only refused in a very limited number of cases. After five years, recognised refugees are entitled to a settlement permit (C-permit), valid for 10 years and renewable. Refugees with provisional admission get a permit F (provisional admission) that is valid for one year and renewable on a yearly basis. They do not have the right to a settlement permit, but can apply for it after 10 years of sojourn in Switzerland.

In some cantons foreigners have the right to vote on regional matters.

11. Social conditions for persons under temporary protection

Accommodation

Persons under temporary protection are provided with accommodation in centres as for asylum seekers. In cases of larger influx, as was the case with Kosovo Albanians in 1999, some people were accommodated, on an emergency basis, in anti air-strike bunkers.

Financial assistance

Persons under temporary protection receive the same financial assistance as asylum seekers during the first five years of their stay in Switzerland. After that, they receive the same assistance as refugees.

Work

Persons under temporary protection are not allowed to work for the first three months of their stay in Switzerland. After that they can receive permission to work from the Canton, if the situation in the labour market and the economy are favourable.

Access to adult education

Persons under temporary protection are not entitled to university scholarships or scholarships for other tertiary courses. In practice, those with temporary protection will not have access to adult education because of the temporary nature of their stay in Switzerland.

Language Tuition

Persons under temporary protection are entitled to language tuition in a national language (German, French or Italian), depending on the language spoken in the canton.

School attendance

Education is compulsory for the children of persons under temporary protection.

Mother tongue tuition

Mother tongue tuition is generally not available.