

**The office of the Commissioner General for Refugees and Stateless Persons (CGRS)** in Brussels, Belgium. The CGRS examines asylum applications and offers protection to those who run the risk of persecution or serious harm if they return to their country of origin.



# 4 Asylum and Refugee Status Determination

**T**HIS CHAPTER PRESENTS main the trends in individual asylum applications lodged in 2011, with an overview of decisions. It does not include information on mass influxes of refugees nor on those granted refugee status on a group or *prima facie* basis.<sup>55</sup>

As part of internationally recognized obligations to protect refugees on their territories, countries are responsible for determining whether an asylum-seeker is a refugee or not. This responsibility is derived from the 1951 Convention relating to the

Status of Refugees and relevant regional instruments, and is often incorporated into national legislation.

In countries where national asylum systems are not in place or where states are unable or unwilling to assess asylum claims, UNHCR may conduct refugee status determination under its mandate. This chapter includes a special section on challenges relating to UNHCR refugee status determination (RSD) operations in the context of emergencies. It also provides an overview of recent trends with respect to unaccompanied and separated children.

## Who is an asylum-seeker?

**An asylum-seeker** is an individual who has sought international protection and whose claim for refugee status has not yet been determined. ●

Although the terms “asylum” and “refugee status” are sometimes used interchangeably, asylum can only be granted by States. While UNHCR may recognize refugee status under its mandate, it cannot provide asylum.

## Responsibility for refugee status determination

In 2011, 171 countries or territories reported RSD statistics to UNHCR, as opposed to 148 in 2002. This increase is mainly due to the addition of a number of Caribbean and Pacific islands.

Of the 171 reporting countries or territories, States were solely responsible for carrying out refugee status determination in 94 countries (55%). UNHCR was the only responsible body for RSD in 54 countries (32%). A shared responsibility was reported for 23 countries (13%). This included RSD procedures implemented jointly by UNHCR and governments as well as

RSD procedures implemented in parallel by UNHCR.<sup>56</sup>

It is UNHCR's objective to strengthen states' capacity to conduct refugee status determination. Over recent years UNHCR has handed over the responsibility for assessing asylum claims to a number of states.

While in 2002 UNHCR was responsible for assessing asylum claims in 56 countries, this number had gradually dropped to 46 in 2010. In 2011, however, a reversing trend was observed with the number of countries where UNHCR conducts RSD having increased to 54.

<sup>55</sup> The decision not to record in asylum statistics people who were granted refugee status under UNHCR's mandate on a *prima facie* basis has been made to allow a direct comparison between State and UNHCR refugee status determination procedures. It should be noted, however, that UNHCR procedures that provide for refugee status recognition on a *prima facie* basis generally go beyond the mere registration of applicants and usually involve screening and interviewing to establish the nationality of the applicants, the absence of likely reasons for exclusion and the identification of specific protection needs.

<sup>56</sup> In countries where RSD is conducted either by the government or jointly by the government and UNHCR, the Office may occasionally carry out RSD under its mandate in parallel procedures for reasons related to protection and/or durable solutions.

# Unaccompanied and separated children seeking asylum

**Collecting accurate and reliable statistics** on unaccompanied or separated children (UASC) seeking asylum is critical given the special protection and assistance needs. Since 2006, UNHCR has systematically collected data on UASC claiming asylum including their age, sex and country of origin (the latter since 2007). Despite these efforts, the global number of UASC who annually submit individual asylum claims remains unknown. One of the reasons for the lack of global data on UASC relates to the lack of proper registration mechanisms in place to identify UASC who seek international protection. Where they do exist, data may not be disaggregated by sex and age. In addition, UASC may not be aware or adequately informed of the possibility to seek asylum.

**If authorities have doubts** about the age declared by the asylum-seeking child, they might initiate age assessments. However, these procedures bear a level of uncertainty and can therefore not be considered as fully conclusive. Major receiving countries of asylum-seekers such as Canada, South Africa, and the United States of America do not provide information on UASC seeking asylum. These various factors impede the collection and comparison of global data.

**The available data indicate** that 17,700 individual asylum applications were lodged by UASC in 69 countries in 2011. This constituted about 4 per cent of the total number of asylum claims lodged in those countries, and was consistent with the percentage

observed in 2009 and 2010 (4% each). In absolute terms, however, the number of UASC seeking asylum increased compared to 2010 (15,600 claims in 69 countries), consistent with the overall increase in the global number of asylum-seekers recorded. Europe received 13,300 or three-quarters of the 17,700 UASC claims. Sweden and Germany registered the greatest number of UASC asylum claims in Europe, with 2,700 and 2,100 UASC claims respectively. Belgium and the United Kingdom were other important recipients of UASC applications, with 1,600 and 1,300 UASC claims. Outside Europe, Kenya and Indonesia were among the most significant destination countries for UASC, with 1,200 and 580 asylum claims.

**The available information** indicates that 5,200 unaccompanied or separated children were recognized in 2011 as refugees or granted a complementary form of protection. Despite a significantly higher number of UASC applications, this figure was lower than in 2010 (5,400 positive grants) and 2009 (7,700 positive grants). Europe accounted for 58 per cent of all positive decisions rendered in 2011.

**The available information** on the country of origin of UASC confirmed the trend observed in previous years with mainly Afghan and Somali children applying for asylum. These two nationalities accounted for almost half of all UASC claims in 2011. ●

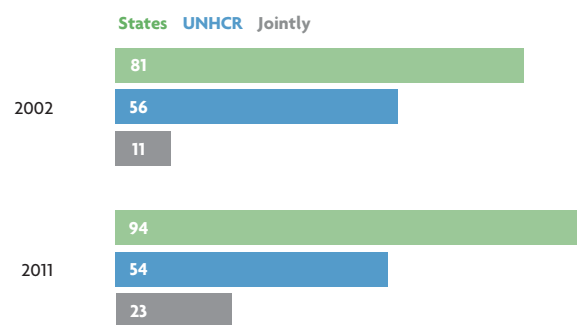
## Global trends

### APPLICATIONS

During 2011, some 876,100 individual applications for asylum or refugee status were submitted to Governments or UNHCR offices in 171 countries or territories. This constituted a 3 per cent increase compared to the previous year (850,300 claims) and was in line with increases observed in industrialized countries in 2011.<sup>57</sup> Of the provisional total of 876,100 asylum claims, an estimated 738,200 were initial applications<sup>58</sup> lodged at first instance while the remaining 137,900 claims were submitted at second instance, including with courts or other appellate bodies.<sup>59</sup>

Fig. IV.1

## Responsibility for refugee status determination | 2002-2011



UNHCR offices registered some 98,800 individual applications out of the provisional total of 876,100 claims in 2011, slightly more than the previous year (96,800). The Office's share in

the global number of applications registered remained stable at 11 per cent.

Europe remained the primary destination for asylum-seekers with 423,100 individual asylum claims registered. It was followed by Africa (216,700).<sup>60</sup> These two regions accounted for 48 and 25 per cent respectively of all claims. The Americas and Asia registered 128,500 and 91,800 individual claims respectively, and Oceania received 15,900 asylum-seekers. Figures include applicants who were

<sup>57</sup> For a detailed analysis of asylum trends in industrialized countries, see *Asylum Levels and Trends in Industrialized Countries, 2011*, UNHCR Geneva, March 2012, available at: <http://www.unhcr.org/statistics>.

<sup>58</sup> Despite the fact that statistical reporting on new asylum-seekers has improved in recent years, in particular in Europe, it should be borne in mind that the data for some countries include a significant number of repeat claims, i.e. the applicant has submitted at least one previous application in the same or another country.

<sup>59</sup> Statistical information on outcomes of asylum appeals and court proceedings is under-reported in UNHCR statistics, as this type of data is often not collected by States or not published separately.

<sup>60</sup> The geographical regions used are those of the United Nations Statistics Division, Department of Economic and Social Affairs, New York <http://unstats.un.org/unsd/methods/m49/m49.htm>.

unsuccessful at first instance, and subsequently filed an appeal.

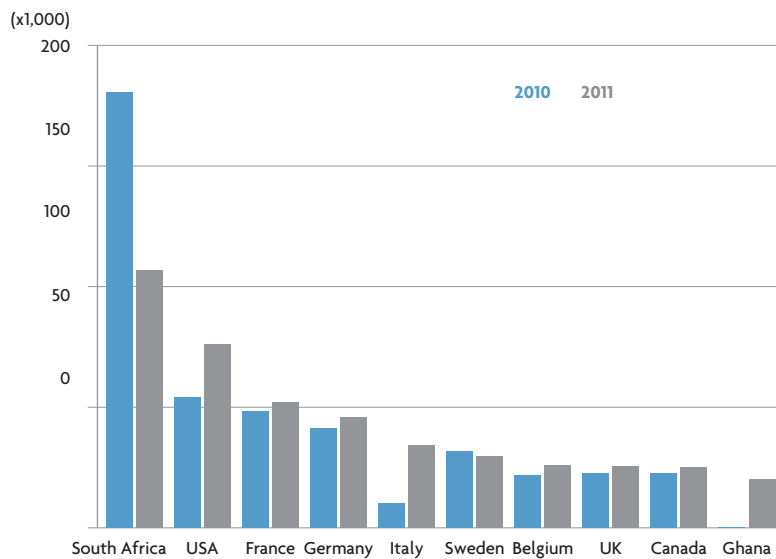
With close to 107,000 new asylum claims registered in 2011, South Africa was the top destination for new asylum-seekers for the fourth successive year, accounting for almost one-tenth of all individual applications worldwide. Although the 2011 figure was 69 per cent lower than in 2010 (180,600 claims), it was twice that of 2006 when a mere 53,400 individuals had sought international protection there. Between 2006 and 2011, South Africa registered more than 816,000 new asylum applications, making it by far the top destination for asylum-seekers for this six-year period. Zimbabweans accounted for more than half of claims submitted in South Africa during this period – close to half a million asylum applications. In 2011, Zimbabweans again accounted for half of all asylum claims registered in South Africa (51,000 applications).

The United States of America received an estimated 76,000 asylum claims in 2011.<sup>61</sup> This number represented an increase of 40 per cent in 2011 over 2010 (54,400). Asylum-seekers from China (+20%), Mexico (+94%) and India (+241%) primarily accounted for this increase. Almost half of all asylum claims in the country were lodged by asylum-seekers from China (26%), Mexico (14%), or El Salvador (7%).

France was the third largest recipient of asylum claims in 2011 (52,100),

Fig. IV.2

**Main destination countries for new asylum-seekers | 2010-2011**



recording an 8 per cent increase compared to 2010 (48,100) – the fourth consecutive yearly rise. The increase was partly due to a doubling of the number of asylum claims from Armenians: from 1,800 in 2010 to more than 3,600 claims in 2011. Similarly, asylum claims from citizens of Côte d'Ivoire during the same period tripled, from 530 in 2010 to almost 1,700 in 2011. The Russian Federation was the top country of origin of asylum-seekers in France, with some 4,000 asylum claims registered in 2011, followed by the Democratic Republic of the Congo (3,800 claims) and Armenia (3,600 claims).

Germany was the fourth-highest ranking country for new asylum-seekers in 2011, with more than 45,700 registered asylum claims. This was an 11 per cent increase compared to 2010 (41,300 claims), and the highest since 2003 (50,600 claims). The increase in 2011 was partly the result of higher numbers of asylum-seekers from Afghanistan (+32%), the Syrian Arab Republic (+77%), and Pakistan (+202%). Afghanistan was also the top country of origin of asylum-seekers in Germany, with 7,800 claims registered in 2011. On average, three out of ten applications in the country were lodged by Afghans.

**TABLE IV.1 New and appeal applications received | 2009 - 2011**

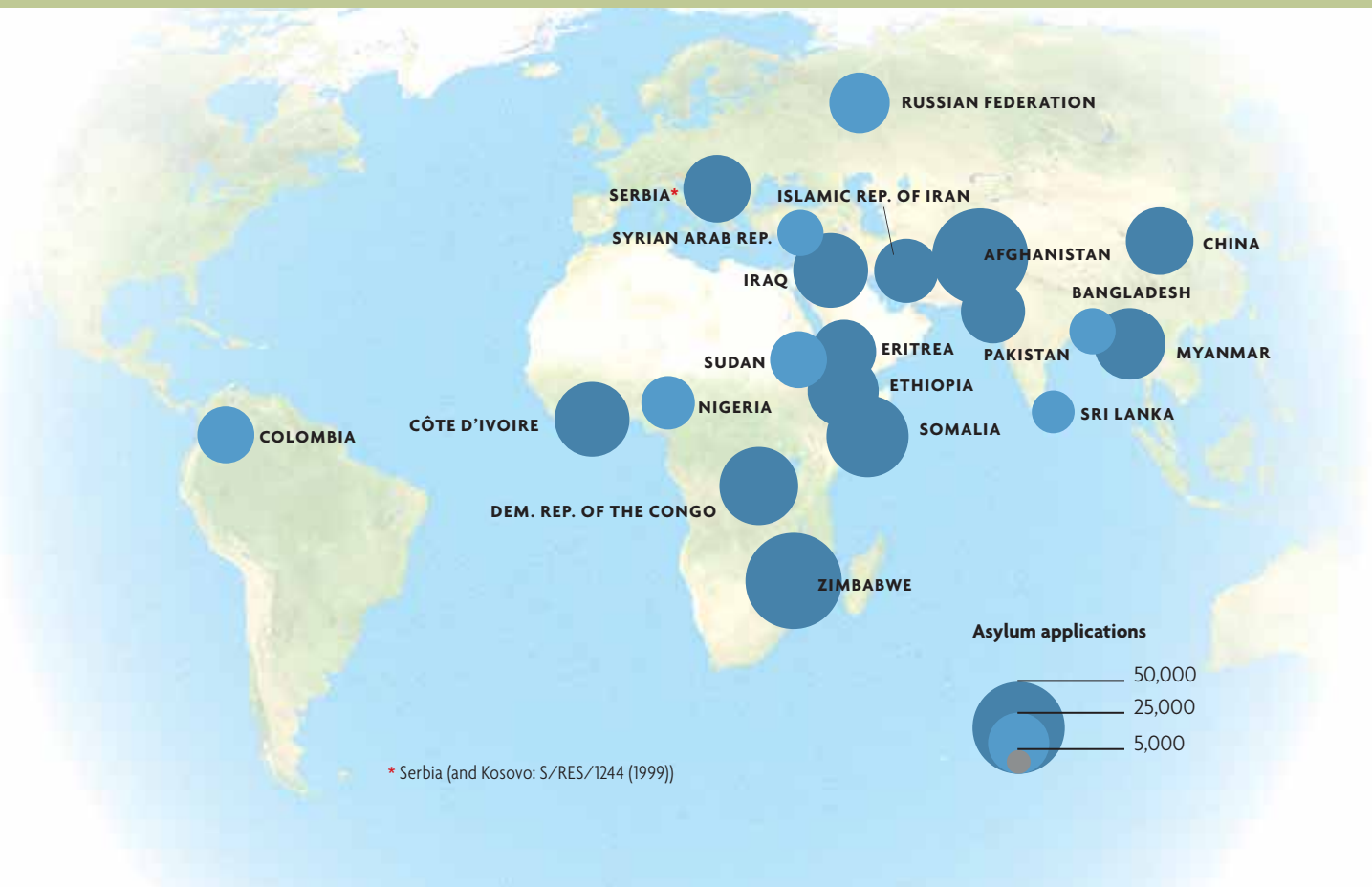
	2009	2010	2011
States*	803,300	747,300	745,600
UNHCR	119,100	96,800	98,800
Jointly**	26,000	6,200	31,700
<b>Total</b>	<b>948,400</b>	<b>850,300</b>	<b>876,100</b>
% UNHCR only	13%	11%	11%

**Notes**

\* Includes revised estimates.

\*\* Refers to refugee status determination conducted jointly by UNHCR and the governments.

<sup>61</sup> Estimated number of individuals based on the number of new cases (38,520) and multiplied by 1.4 to reflect the average number of individuals per case (Source: U.S. Department of Homeland Security); and number of new "defensive" asylum requests lodged with the U.S. Executive Office of Immigration Review (22,060, reported by individuals).



In Italy, following significantly increased numbers of new asylum applicants in 2008 (30,300 claims), many of them arriving by sea, the number of people requesting international protection there declined to a five-year low in 2010 (10,000 claims). In 2011, however, this trend was reversed with an estimated 34,100 asylum applications registered (+240%). This figure,

**TABLE IV.2** New asylum claims lodged in top-10 UNHCR offices\* | 2011

Country	Total
Turkey	16,000
Malaysia	15,700
Yemen	5,400
Egypt	5,200
Jordan	4,600
Tunisia	4,500
Indonesia	4,100
India	4,000
Cameroon	2,900
Syrian Arab Republic	2,700

**Note**

\* Excluding appeal/review claims.

linked to a large extent to upheaval in North Africa in 2010-2011, constituted an all-time record for Italy, making it the fifth largest recipient of asylum claims worldwide in 2011. Nigeria remained the main country of origin of asylum-seekers, with 6,200 claims registered (up from 1,400 a year earlier), followed by Tunisia (4,600 claims) and Ghana (3,100 claims). Other important destination countries for asylum-seekers were Sweden (29,600), Belgium (26,000), the United Kingdom (25,500), Canada (25,000),<sup>62</sup> and Ghana (20,100).

In 2011, UNHCR offices registered 80,100 new individual applications for refugee status and 18,700 on appeal or for review. The office in Turkey received the largest number of new requests (16,000). Malaysia received the second largest (15,700 new claims), followed by Yemen (5,400), Egypt (5,200), Jordan (4,600), and Tunisia (4,500). Among the countries listed in *Table IV.2*, Offices in Turkey, Jordan, Yemen, Egypt and Tunisia faced an increase in applications while those in Malaysia, Cameroon and the Syrian

Arab Republic experienced a decrease. In India and Indonesia, levels remained relatively stable. The top five receiving UNHCR offices registered 59 per cent of all new individual asylum claims registered by the organization in 2011. Moreover, four-fifths of UNHCR's refugee status determination work (in terms of applications received) was concentrated in 10 countries.

Events related to the 'arab spring', in particular in Libya and the Syrian Arab Republic, placed significant pressure on UNHCR's RSD operations in the Middle East and North Africa as well as Turkey. These operations had to respond not only to the protection needs arising from the large-scale influxes of Libyans and Syrians, but also to increased numbers of asylum-seekers and refugees from third countries residing or transiting in Libya and the Syrian Arab Republic, in addition to on-going influxes from other neighbouring countries. On-going conflict in the East and Horn of Africa continued to result in large scale influxes

<sup>62</sup> Source: Immigration and Refugee Board (IRB) Canada.

of Somalis and Ethiopians to Yemen, while insecurity inside the country contributed to increased numbers of asylum-seekers on the territory approaching UNHCR.

The highest number of new asylum claims filed by individuals with UNHCR, or with States, originated from Zimbabwe (52,500), Afghanistan (43,000), Somalia (35,900), Côte

d'Ivoire (33,000), the Democratic Republic of the Congo (31,500), Myanmar (29,800), and Iraq (29,100). [See map 4].

As in previous years, these figures conceal the fact that certain nationalities tend to cluster in a limited number of countries. For instance, 9 out of 10 Zimbabwean asylum claims were lodged in South Africa. Almost half of all Afghan asylum claims were lodged

either in Turkey (7,900) or Germany (5,800). Similarly, half of all Somali asylum requests were submitted in South Africa (10,000), Sweden (4,000), and Uganda (4,000). Even though asylum-seekers from Côte d'Ivoire sought protection in almost 90 countries, 7 out of 10 requested refugee status either in Ghana (18,000 claims) or in Togo (5,200 claims).

**TABLE IV.3 Substantive decisions taken | 2009 - 2011**

UNHCR regions	2009	2010	2011
States	512,300	512,800	518,000
UNHCR	69,200	61,100	52,600
Jointly*	21,000	5,200	6,500
<b>Total</b>	<b>602,500</b>	<b>579,100</b>	<b>577,100</b>
% UNHCR only	11%	11%	9%

**Note**

\* Refers to refugee status determination conducted jointly by UNHCR and the governments.

**DECISIONS**

Available data indicate that some 577,100 decisions on individual asylum applications were rendered during 2011. UNHCR staff adjudicated 52,600, or 9 per cent of the total – a slightly lower share than in 2010 (11%). In 10 countries, some 6,500 substantive decisions were taken in joint UNHCR and state procedures. All these figures exclude cases which were closed for administrative reasons<sup>63</sup> without a decision on the substance. In 2011, at least 192,500 cases were closed without substantive decisions issued to applicants.

Some 216,500 asylum-seekers were recognized as refugees (172,500) or given a complementary form of protection (44,000) in the course of 2011. This number includes an estimated 21,100<sup>64</sup> individuals whose initial negative decisions were subsequently overturned at the appeal or review stage. For countries where the percentage of decisions overturned at the appeal stage is particularly high, this may indicate deficiencies in their asylum procedures.

Some 360,700 claims were rejected on substantive grounds. This number includes negative decisions at the first instance, which may be subject to ap-

peal. Asylum-seekers rejected at first and second instances may have been counted twice.

At the global level (UNHCR and state asylum procedures combined), the refugee recognition rate (RRR) was estimated to be 30 per cent of all substantive decisions taken during 2011, while the total recognition rate (TRR) was 38 per cent. These rates are similar to those of 2010 (30 per cent for RRR and 39 per cent for TRR). Global recognition rates remain indicative, as some states have not reported the relevant data. The real proportion of positive decisions is probably slightly higher than these rates, as decisions for those rejected on appeal may have been counted twice. Among the main receiving industrialized countries, where states are responsible for conducting refugee status determination, Switzerland and Finland had the highest TRR at the first instance in 2011 (72% and 67%, respectively). Among the countries listed in Table IV.2, TRRs in 2011 were above 50 per cent. Jordan was the only exception, with a TRR of 39 per cent. Both rates were below those of 2009 (38 per cent for RRR and 47 per cent for TRR).

Among the main countries of origin of asylum-seekers in 2011, the TRR for persons from Eritrea, Myanmar, Somalia and Sudan were highest, at over 80 per cent at the first instance. Recognition rates were also high for asylum-seekers from Côte d'Ivoire (69%), the Democratic Republic of the Congo (61%), Iraq (61%), the Islamic Republic of Iran (60%), China (56%), the Syrian Arab Republic (56%), and Afghanistan (53%). In contrast, the TRR for asylum-seekers from Zimbabwe, the top country of origin of asylum-seekers in 2011 worldwide, was only 5 per cent.

By the end of the year, some 895,000 individuals were awaiting decisions on their asylum claims. This figure includes people at any stage of the asylum procedure; however, the real magnitude of undecided asylum cases is unknown, as many countries do not report this information.

<sup>63</sup> Decisions also qualified as "non-substantive" may result from, the death of the applicant, no-show for interview, withdrawal or abandonment of the application, or the determination that another country is responsible for the claim (e.g. in the 'Dublin II' procedure in Europe).

<sup>64</sup> This figure is likely to be substantially higher as significant numbers of decisions rendered by States at the appeal or review stage of the asylum procedure are not available.

## In focus: Implementing individual refugee status determination procedures in emergency and other special operations

### RESPONDING IN EMERGENCIES

UNHCR is regularly called upon to respond to large-scale displacement crises through the implementation of emergency protection operations. In situations of sudden large-scale outflows of refugees across international borders, caused by conflict or other disasters, refugee status determination (RSD) activities have traditionally formed only one part of comprehensive and complex protection and assistance responses. In these contexts, UNHCR and governments have traditionally relied upon group approaches to RSD for populations considered to be in need of international protection.

Recent years have witnessed significant changes in displacement patterns, evidenced by the increasingly mixed composition of migration flows, as well as protection environments, characterized by the increasing prominence of national security concerns in state responses to displacement. While these changes have had an impact on all aspects of the protection and assistance activities undertaken by UNHCR and its partners, they have increasingly required the implementation of individualised ap-

proaches to RSD procedures as part of emergency protection operations, in particular in situations of mass influx.

Events related to the 'arab spring', in particular the uprisings in Libya and the syrian arab republic, placed significant pressure on UNHCR's operations in the middle east and north africa as well as europe. In response to large-scale population outflows from Libya, UNHCR and its partners were required to implement significant emergency protection operations at the Egyptian and Tunisian borders. In the midst of the evacuation of 210,000 migrant workers leaving Libya, UNHCR had to establish significant individual RSD and resettlement operations in the desert for fleeing third-country nationals.

At the Egyptian border, UNHCR registered 1,900 asylum-seekers, in addition to the 5,200 newly registered asylum-seekers in the urban operation in cairo, transforming Egypt into unhcr's fourth largest RSD operation in 2011, in terms of new asylum applications registered. At the Tunisian border, UNHCR registered 2,900 asylum-seekers, in addition to 1,600 newly registered asylum applicants in the urban operation in Tunis. This elevated Tunisia, which had tradition-

ally registered very limited numbers of asylum-seekers, into unhcr's ninth largest RSD operation in 2011. The complexity of the emergency RSD operation in Tunisia as a result of the variety of nationalities and claims registered, presented significant challenges to the development and implementation of individual RSD procedures as well as the overall protection response implemented by unhcr and its partners.

The swift implementation and effective management of individual RSD procedures, including the establishment of the physical and technical infrastructure required to process the high volume of asylum applications registered was essential for the implementation of the emergency resettlement operations in Egypt and Tunisia.<sup>65</sup> In addition to hosting the emergency operations at their borders, both countries provided temporary protection to tens of thousands of Libyans.

### FIELD SUPPORT

A particular challenge for UNHCR in this context was the identification and fast deployment of sufficient numbers of qualified RSD and support staff to establish and maintain the required processing capacity in the emergency.

<sup>65</sup> See Chapter III for more details on emergency resettlement activities in Egypt and Tunisia in 2011.

## Recognition rates

In the absence of an internationally agreed methodology for calculating recognition rates, UNHCR uses two rates to determine the proportion of refugee claims accepted during the year.

**The Refugee Recognition Rate** divides the number of asylum-seekers granted Convention refugee

status by the total number of substantive decisions (Convention status, complementary protection, and rejected cases).

The **Total Recognition Rate** divides the number of asylum-seekers granted Convention refugee status and complementary form of protection by the total

number of substantive decisions (Convention status, complementary protection, and rejected cases). Non-substantive decisions are, to the extent possible, excluded from both calculations. For the purpose of global comparability, UNHCR only uses these two recognition rates and does not report rates calculated by national entities. ●



At the height of the emergency, the border operations comprised more than 30 RSD staff as well as several dozen support staff for tasks such as registration, counselling, interpretation, and it.

In 2011, UNHCR was also called upon to implement several special individual RSD operations to ensure the protection of persons of concern in contexts where particular political sensitivities or other considerations presented obstacles to the direct engagement of states in the RSD procedures. The most significant challenges

**During the uprising and armed conflict in Libya in 2011,** hundreds of thousands of people, including a significant number of migrant workers, fled to Tunisia and Egypt. Ghanaian migrant workers wait in the no man's land between Libya and Sallum, Egypt.

were posed by the on-going special operation implemented by UNHCR in Iraq to process applications for international protection submitted by some 3,200 residents of the former camp Ashraf which hosted exiled members of the people's mujahedin of the Islamic Republic of Iran. UNHCR has

faced unprecedented challenges in the development and implementation of this special operation, in view of strict security requirements surrounding the operation as well pressures to implement timely solutions for this group. In this operation, too, the identification and fast deployment of sufficient numbers of qualified protection and support staff to establish and maintain the required processing capacity presented a particular challenge.

The requirement to implement an unprecedented number of individual RSD procedures in emergency and other special operations created particular challenges for UNHCR in 2011. Such operations are a feature of the landscape of modern mass displacement and UNHCR is undertaking a series of initiatives to enhance its preparedness and capacity to develop and implement context-specific individual RSD procedures in emergency and other special operations. ■