

SWITZERLAND⁶⁵⁸

1. Statistical Data

There are no sources providing estimates as to the number of Palestinians living in Switzerland today.

Palestinian asylum-seekers who claim to come from Palestine are registered in official statistics under the category of “nationality and continent unknown” (“*Staat und Kontinent unbekannt*”/“*nationalité inconnue*”). This category is used because these asylum-seekers come from an area that is not recognized by the Swiss government.⁶⁵⁹ Other Palestinians are categorized by the nationality of the country in which they last resided before arriving in Switzerland (for example, Jordan or Syria).

Forty-two Palestinian refugees were recognized as refugees in Switzerland between 1998 and 2003.⁶⁶⁰

2. Status of Palestinians upon Entry into Switzerland

As in the case of other asylum-seekers, Palestinians in Switzerland may submit their applications for asylum to one of the reception centers of the Federal Office for Refugees. They are provided with an “*N-permit*” for asylum applicants, which is valid for the duration of the asylum procedure. They are allocated to a Canton and accommodated in a collective center.

3. Refugee Determination Process: Refugee Status

Applications for asylum are considered by the Federal Office for Refugees, and by the Swiss Asylum Appeal Commission at appeal level, on the basis of the revised Asylum Law of 26 June 1998 (Swiss Asylum Law). Article 3 of the Swiss Asylum Law provides:

1. Refugees are considered to be any persons who, in their country of nationality or country of former residence, are exposed to or have a well-founded fear of being exposed to serious prejudices for reasons of race, religion, nationality, membership of a particular social group or political opinion.
2. Regarded as serious prejudices are in particular threats to life, physical integrity or freedom, as well as measures that amount to an unbearable

psychological pressure. Reasons for fleeing specific to women must be taken into consideration.

Asylum-seekers who do not fulfil the above-mentioned criteria are also not entitled to apply for any complementary form of protection.

3.1 Article 1D in Refugee Status Determination

There is no reference to Article 1D of the 1951 Refugee Convention in the Swiss Asylum Law. However, the 1951 Refugee Convention, which entered into force in Switzerland on 21 April 1951, is directly applicable in Swiss law, like other international treaties to which Switzerland is party. Its provisions, including Article 1D, may therefore be taken into consideration in asylum cases.

In practice, asylum cases involving Palestinians are dealt with by the Swiss authorities solely on the basis of Article 3 of the Swiss Asylum Law and without any assessment of Article 1D. What is relevant for the authorities, therefore, is whether Palestinian asylum-seekers are at risk of being persecuted in their former country of residence. BADIL is not aware of any cases in which Article 1D of the 1951 Convention was considered by the authorities.

4. Refugee Determination Process: Outcome

Asylum-seekers who are recognized as refugees on the basis of Article 3 of the Swiss Asylum Law are entitled to stay in Switzerland (Article 2 of the Swiss Asylum Law). Recognized refugees who are granted asylum will be issued with a residence permit (B-permit) valid for one year and renewable on a yearly basis. After five years, refugees are entitled to a settlement permit (C-permit), valid for 10 years and renewable.

Jurisprudence

Some Palestinians have been granted refugee status in Switzerland on the basis of Article 3 of the Swiss Asylum Law. However, many applications for asylum submitted by Palestinians have been rejected by the authorities on the basis that there was no well-founded fear of persecution in the applicant's country of former residence.

5. Return – Deportation

Following a final negative decision, the applicant is required to leave Switzerland voluntarily (Article 44 of the Swiss Asylum Law). Failure to leave the country voluntarily within the specified time normally results in the enforcement of an expulsion order by the police.

The Federal Office for Refugees undergoes a single analysis of each asylum application. If there are no asylum grounds and the asylum application is rejected, the Federal Office will analyse whether return is admissible, reasonable and technically possible. If these three conditions are fulfilled, return will be executed. Return deportation is usually carried out.⁶⁶¹

Provisional admission (“*admission provisoire*”) may be granted if the enforcement of the expulsion order is deemed technically impossible (“*Unmöglichkeit*”), is not allowed under international law (“*Unzulässigkeit*”) or is not “reasonable” (“*Unzumutbarkeit*”) (Article 44 of the Swiss Asylum Law).⁶⁶²

Rejected Palestinian asylum-seekers have been granted provisional admission on the basis that expulsion was technically impossible. In the case 2002/17 of 19 August 2002, for example, the Asylum Appeal Commission granted a female Palestinian from Lebanon⁶⁶³ provisional admission because she did not possess any travel documents and the Lebanese authorities would most likely not allow her to return to Lebanon. The Commission stated that if an expulsion order remains impossible to carry out for one year after an expulsion decision was made, and that situation is expected to continue for an unknown period, provisional admission should be granted.⁶⁶⁴

Palestinians (and others) granted provisional admission, are denied many of the rights granted to recognized refugees. They are entitled to an F-permit valid for one year, and their situation will be re-examined every 12 months. The permit is withdrawn if the situation in the country of nationality or of former residence improves. The F-permit does not hold any status under international law and it does not provide the right to residence in Switzerland. Rather, the permit represents an alternative to an unenforceable expulsion order. In principle, the F-status can last indefinitely, along with its restrictions (for example, the affected person’s place of residence is restricted, travel abroad is impossible, access to work is seriously limited and family reunification is very difficult). Social benefits, however, are equivalent to those of asylum-seekers.

6. Temporary protection

In accordance with Article 4 of the Swiss Asylum Law (“*Octroi de la protection provisoire*”), temporary protection can be provided to people in need of protection for as long as they are exposed to a serious general danger, in particular during war or civil war, as well as in situations of generalized violence. This provision has not been applied to Palestinians.

7. Protection under the Statelessness Conventions

Switzerland is party to the 1954 Stateless Convention, but not to the 1961 Stateless Convention. Persons recognized as stateless persons by the Swiss government have the right to obtain travel documents for stateless persons. They are also entitled to the same welfare assistance as recognized refugees. However, they will continue to hold the N or F permits that they held before applying for the recognition of stateless status. Since Switzerland ratified the 1954 Stateless Convention in 1972, only a small number of applicants have been recognized as stateless persons (less than 80 persons).⁶⁶⁵ BADIL is not aware of decisions involving stateless Palestinians.

8. Reference to Relevant Jurisprudence

Decisions by the Federal Office for Refugees are not published. Decisions by the Swiss Asylum Appeal Commission are available in French, Italian or German (often with a summary in English) on the Commission's web site <http://www.ark-cra.ch>.

One relevant case by the Swiss Asylum Appeal Commission is its decision 2002-17 of 19 August 2002 regarding provisional admission (see above).

9. Links

The Federal Office for Refugee: <http://www.bff.admin.ch>

The Swiss Asylum Appeal Commission: <http://www.ark-cra.ch>

Organization suisse d'aide aux réfugiés: <http://www.sfh-osar.ch>