



UDI

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EMN Synthesis Report for EMN Focused Study 2017: Challenges and practices for establishing the identity of third-country national in migration procedures – Report from Norway

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About the European Migration Network and its Norwegian Contact Point

The European Migration Network provides the main hub for gathering and spreading information in the region. The Network is supported and coordinated by the European Commission. Norway has been a member of EMN since 2010 as the only non-EU member country. The Norwegian EMN contact point (NO EMN NCP) consists of representatives of the *Ministry of Justice and Public Protection*, the *Norwegian Directorate of Immigration* and the *Institute for Social Research*. In addition to providing and spreading comparable information on migration and asylum in Europe, it is the ambition of NO EMN NCP to bring attention to the link between Norway and the EU in these politically sensitive areas.

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Executive summary

This report outlines the main challenges that Norwegian authorities meet when trying to establish the identity of applicants for international protection, rejected asylum seekers who are to be returned to their home country and those applying for legal migration channels (visas and residence permits).

International protection and return

During the last 5 years (2012 – 2016), the influx of asylum seekers to Norway fluctuated between 31150 as the peak in 2015 and 3460 as the lowest number in 2016. As only 5 - 10 percent of all applicants for international protection present a valid travel document upon registering their application, many asylum cases have to be concluded each year without any credible identity papers having been presented.

Norwegian policy makers and officials in the immigration authorities agree that the lack of credible identity documents represent a challenge to the handling of asylum applications in Norway, and can, in a worst case scenario, pose serious threats to national security and interests. However, the experience is that while less than 10 percent of the asylum seekers present credible identity documents when applying for asylum, during the asylum process many do provide some documents can serve to support their stated identity.

Norwegian authorities acknowledge and accept the fact that many asylum seekers are unable to present credible documentation confirming their identities. Many asylum seekers originate from countries where identity documentation is scarce and lacking in credibility, have never been in possession of a passport, and cannot be required to contact their home country even when a system for identity documentation exists there, because of safety issues. As a consequence, a fair number of applications for international protection have to be settled based on an overall assessment of the credibility of other information provided by the asylum seeker about his/her identity.

The two main bodies that work with establishing the identities of asylum seekers are the *National Police Immigration Service (NPIS)* and the *Norwegian Directorate of Immigration (UDI)*. NPIS is responsible for registering all asylum applications, and establishing the identities of the asylum seekers. Furthermore, NPIS is responsible for managing all forced returns from Norway. UDI is the decision-making authority in asylum cases, and will also consider the relevant identity information available.

NPIS and UDI face similar challenges when establishing identities. However, while UDI can make a decision in a case regarding international protection based on an unverified identity that has been substantiated beyond a reasonable doubt, NPIS cannot return a person by force without his/her identity having been verified and/or documented to the satisfaction of the authorities in the country of (claimed) origin. This results in different challenges for NPIS and UDI.

Common for both institutions, is that they handle a large number of cases where identity documentation is lacking, and have to use various methods and creative thinking to be able to clarify an applicant's identity. Thus officials spend a considerable amount of time investigating identities.

In the absence of credible identity documentation, Norwegian authorities have various methods available in their work to establish identities. These include standard procedure methods like manual photograph comparisons, biometric fingerprint comparisons, age assessment, interviews and language analysis.

Being a police body, NPIS officials have coercive measures at their disposal when necessary. These include arrest and remand in custody, seizure and search of the foreigner's person, belongings (including mobile phones) or dwelling. NPIS officials can also apply traditional police methods like surveillance and mapping of a person's network.

The methods used do not guarantee that an identity will be established, and in some cases the identity remains unclear.

It is important to note that the immigrant has an obligation to assist to the extent possible to clarify his/her identity. Norwegian authorities experience that a number of rejected asylum seekers refuse to assist in clarifying their identities, thereby hoping to delay or prevent the execution of the decision entailing him or her to leave Norway. It seems that many prefer staying in the country as illegal immigrants to returning to their (claimed) home country.

In order to strengthen the immigration authorities' work with establishing identities, the *National Identity and Documentation Centre (NID)* was established on the 15. November 2010. The centre is an independent administrative body, and its main tasks are to collect and process relevant information, share experience, train first line officers and to coordinate the development of methods used to establishing an individual's identity and verify documents. The centre will also assist and advise the immigration authorities on general issues and individual cases.

Visa and residence permits

Most applicants for residence permits present travel documents when applying. However, there are challenges in the verification of the validity of documents from some countries. For those who do not present credible travel documents many of the challenges concerning asylum seekers are relevant, and so are some of the methods used to clarify the applicant's identity.

Section 1: The National Framework

1.1 The Challenges and Scope of the Issue

Challenges for establishing an identity in the migration process are present in all types of cases within the migration process; international protection, return, visa and residence permits.

There are specific challenges in establishing identity in the absence of credible documentation, and below this is considered primarily within the framework of the procedures for providing international protection and for the forced return of a rejected applicant to their country of origin. In these contexts, the Norwegian immigration authorities are faced with a number of challenges in their efforts to establish the identity of asylum

seekers. However, as already indicated, the nature of the challenges is similar also with other foreigners, even if the scale is much more limited.

Knowing the identity of those residing on Norwegian territory is of outmost importance, as immigrants with uncertain identities may, in a worst case scenario, pose a threat to national security and interests. Uncertain or false identities can facilitate crimes, illegal immigration, document fraud and identity theft. Establishing identity is also a prerequisite for an active and successful return regime of those illegally present in Norway, and is therefore a priority in the work with immigration and asylum cases in Norway.

In general there are two main challenges for establishing identity in the migration process:

- Lack of guidelines and cooperation in tackling fraud, partly because many different authorities are involved.
- Lack of efficient systems for registration and exchange of information on cases and the scope of fraud, including needed statistical reporting

International protection

The lack of credible ID-documents from asylum-seekers represent a challenge to the regulation of immigration to Norway. However, the experience is that while less than 10 % of the asylum-seekers present credible ID-documents when applying for international protection, many do provide some documents that can support their stated identity. Norwegian authorities acknowledge and accept the fact that many asylum seekers are unable to present credible documentation confirming their identities. Many originate from countries where ID-documentation is scarce and lacking in credibility, and they cannot be required to contact their home country even when a system for identity documentation exists, because of safety issues. As a consequence, a fair number of applications for international protection have to be settled on an overall assessment of the credibility of other information about identity provided by the asylum seeker. In a large number of cases where ID-documentation is lacking the authorities have to use various methods and creative thinking to be able to clarify the applicant's identity. Thus officials spend a considerable amount of time investigating identities. In the absence of credible ID-documentation, Norwegian authorities have various methods available in their work to establish identities cf. Section 2.2.

The total number of applicants for international protection who have not documented their identity by presenting a travel document at the time of lodging the application has been relatively high for many years, with a peak at the mass influx situation in 2015. This has created a strong demand for the use of several methods to establish identity, for example language analysis and DNA-tests. A considerable number of the applicants in 2015 stated they were unaccompanied minors, increasing the need for performing age assessments. During the mass influx in 2015 a considerable share of the applicants from Iraq and Syria presented travel documents, increasing the need for document control. All these factors increased the demand for use of resources for ID-verification by the Immigration authorities, both when using the different methods, for investigations and in the decision-making. In 2016, the Norwegian Directorate of Immigration (UDI), the National Police Immigration Service (NP) and the National Police Directorate evaluated their performance during fall 2015 and winter 2016, including the ID-work. In addition, the Norwegian ID-centre evaluated the ID-work done during this period of considerable more asylum seekers than ever before.

The share of asylum cases where no credible documentation is available has been fairly constant. We have experienced that the proportion of asylum seekers holding identity

documents depends on the nationalities of the asylum seekers. Among asylum seekers originating from countries in Eastern Europe, Russia and other countries that issue identity documents, the percentage of those presenting credible documentation is higher than for asylum seekers from other countries.

Norway also receives a large number of asylum seekers claiming to be citizens of countries that issue ID-documentation without having issuance procedures that do meet the quality standard required for trustworthy documents. In addition, it is an issue that many asylum seekers are registered with different identities in different European countries, and some even change their claimed ID-characteristics (name, date and place of birth and/or nationality) while their case is being processed in Norway. In addition, many asylum seekers and rejected asylum seekers do not cooperate in clarifying their own identity, thus complicating the asylum and return processes.

Furthermore, many asylum seekers and rejected asylum seekers do not cooperate in clarifying their own identities. While some issues, like the ones mentioned above, are similar for the case processing of asylum applications and return related work, there are also some differences. According to the Immigration Act Sections 83 and 93 all foreign nationals have to assist in clarifying their identity to the extent that the immigration authorities require. However, an asylum seeker is not required to contact his/her home country in a manner that may conflict his/her need for protection. In such cases, the Norwegian authorities have to rely to a large degree on the identity information presented by the asylum seeker. As observed by the preparatory works to the new Immigration Act Norwegian authorities have to accept that not all asylum seekers who are granted protection in Norway are able to document their identity, hence the applicants must be given the benefit of the doubt.

In cases of return, the identity of the returnee must be completely verified and accepted by the authorities of the (claimed) country of origin, either by a valid and credible passport, or by the Interpol or the authorities in the home country. The Norwegian authorities cannot return a failed asylum seeker (or any other illegal immigrant) by force if his/her identity has not been verified.

The methods applied when establishing the identity of a (former) asylum seeker are resource-intensive and time consuming, and in cases of forced return often require cooperation with the alleged country of origin. Many of these countries do not have satisfactory routines for answering a verification request issued by Norwegian authorities, making the verification time consuming. Some countries have a policy of not assisting in verifications at all, making the establishing of identity especially difficult.

Finally, some countries have changed their policies on verifying and/or receiving their own citizens in return, making conditions for cooperation more difficult.

Visa and residence permits:

Most applicants for residence permits present credible travel documents when applying. However, there are challenges in the verification of documents from some countries, and that they have been issued to the person presenting them, especially:

- Technically genuine travel-/security documents issued based on false breeder-/source documents.
- Technically genuine documents issued outside of the official channels.

- Low security breeder-/source documents with low degree of protection against forgery, low degree of consistency in production and issuance.

For those who do not present credible travel documents many of the challenges concerning asylum seekers are relevant, and so are some of the methods to clarify the applicant's identity.

1.2 Relevant National legislation

For other applicants than those applying for international protection section 10-2 in the Immigration Regulation determines an obligation for the applicant to present a travel document, or an equivalent identity document issued by the authorized national authorities, when applying for a Norwegian residence permit. For those who apply for international protection there is an obligation according to Section 93 in the Immigration Law to present a passport or other travel document that he or she is in possession of.

According to the Norwegian immigration regulations, section 8-12, documentation of identity is needed before a permit for protection or on humanitarian grounds can be granted. It is required, as a general rule, that the foreign national produce documentation to substantiate his/her identity, unless the stated identity is most probably correct and it is impossible to produce an original valid passport or other equivalent identification documents. This is also the case if the person concerned cannot be required to contact the authorities of his/her country of origin.

As a general rule, the process to consider an application is not regulated. The NPIS has been given the responsibility and the power to investigate the identity of those individuals who no longer have a legal residence in Norway. In doing so, NPIS officials are given effectively the same means as the regular police in Norway. There are, however, several restrictions when performing that task, mostly related to extraordinary investigative measures.

According to Section 36 of the Norwegian Immigration act, a foreign national who has been granted asylum or a refugee travel document by a foreign state or through international cooperation, is regarded as a refugee in the identity present by his or her travel document. For most practical purposes this applies to documents issued by the UNHCR. Any previous ID-determination made shall not be overruled unless it is obviously wrong or there are other concrete reasons for doing so.

According to the same law, Section 64, a foreign national who has been granted refugee-status, is also granted a refugee travel document for travel outside Norway, provided no special reasons argue against it. If the refugee has travel documents issued by a foreign state, this right applies only where Norway is obliged under an international agreement to issue travel documents for refugees.

Norway, under the obligation of confidentiality, cannot forward information about individuals to the authorities of other countries, for use in the processing of cases concerning border control, visas, rejection, expulsion or protection

The legislative basis for the procedures used to determine identity within the procedure for international protection and/or return has been changed since the 2013 EMN Study on 'Establishing identity'. This was done partly in order to stem for the surge of asylum seekers

coming to Norway, but mainly in order to make more applicants come forwards with their identity documents or to clarify their identity.

1.3 The institutional framework at national level

The institutions involved in the migration procedures depend on many variables, i.e. from where the application has been submitted and what kind of residence permit the applicant has applied for.

Foreign Service Missions

Receives and considers applications for visa and residence permits which are submitted from applicants residing abroad, and have the responsibility to clarify the applicant's identity. This consists mainly of control of person and documents, recording biographic and biometric information, and in some cases interviewing applicants, or checking the stated identity against a register, e.g. contacting the issuing authority in the country of origin (verification). In many countries, the control of the person's identity is done by an external service provider.

Police

Local police authorities receive and consider applications for visa and residence permits submitted from Norway, and mostly have the same responsibilities as the Foreign Services Mission to clarify the applicant's identity, except that they usually do not carry out verifications.

National Police Immigration Service (NPIS) is responsible for registering all asylum applications, and establishing the identity of the asylum seeker, including control of person and documents and recording of biographic and biometric information. Furthermore, PU is responsible for coordinating all forced returns from Norway.

Offices in charge of legal migration, permanent residence permits and citizenship (Norwegian Directorate of Immigration (UDI) and Immigration Appeals Board (UNE))

UDIs main responsibility is to make decisions in such cases. For a permit to be granted UDI has to establish the identity of the applicant based on the ID-information, -documents and – controls/investigations provided. In a few cases UDI itself will initiate additional investigation of an identity, for example an interview or verification, before making a decision.

In cases where the applicant has appealed a negative decision made by UDI, UNE will mainly have the same functions and responsibilities as UDI. In many cases UNE may conduct a hearing of the applicant's appeal in which his/her identity may be one of the issues.

Office in charge of Asylum/refugees (Norwegian Directorate of Immigration (UDI) and Immigration Appeals Board (UNE))

UDI carries out asylum interviews where identity is one of the issues. UDI also investigates the identity of applicants. If a permit has been granted UDI registers the established identity of the applicant based on the ID-information, -documents and – controls/investigations provided in the case. In some cases, UDI itself will initiate additional investigation, for example verification or language test or medical age assessment, before making a decision.

UNE will in these cases mainly have functions and responsibilities corresponding to those in residence permit cases.

Border guards

Border guards main responsibility is in the identification chain is control of person and documents at entry points at the border.

Identity Resolution Centre (Norwegian ID-Centre)

The Norwegian ID-Centre is an independent administrative body under the Norwegian Police Directorate. The remit of the Norwegian ID-Centre is to strengthen and support the immigration authorities and the police in their ID work - such as establishing the identity of new arrivals to the country or foreign nationals applying for residency. This includes evaluating their identity work. The recommendations of the Norwegian ID-Centre assist the authorities in cases of applications for residency, and deportation, where deportees do not possess a residency permit for Norway. The centre's work in the field of identity is also of benefit in the general effort to combat crime.

The Norwegian ID-Centre has developed its own database for genuine and false documents and have country information on several countries where there are special challenges for establishing applicant's identity. The centre also has a forensic document unit and provides a.o advisory services, training of frontline officers, and support with difficult cases.

Section 2: Methods for establishing identity

2.1 Definition and documents required for establishing identity

There is no legal definition of «identity» in the migration process. There is however an operational definition of identity in a Norwegian Directorate of Immigration (UDI) circular concerning registration, assessment and changing of information about identity in cases pursuant to the Immigration Regulation:

“A set of characteristics that, together, define a unique reference to a specific person. For citizens of Norway, and several other countries, the information on identity consists of the information included in a passport: name, date of birth, place of birth, gender and citizenship. For citizens of other countries, it will be necessary to include additional features for a unique identification, i.e. ethnicity, clan and a parent's name (usually the father's).”

The immigration authorities in Norway accept several types of documents as (contributing to) establishing the identity for the different immigration categories? For example:

- Official travel documents: Passports, ID cards;
- Other documents: birth certificates, driving licence, divorce certificates, marriage licences, qualification certificates, house books etc.;

For *applicants for international protection* official travel documents will contribute to establish the identity; however only national passports are normally sufficient for establishing the identity. For *applicants for visa and residence permits* the main rule is that a passport is required. ID cards that are accepted as travel documents may replace a passport. In *family migration cases*, applicants who come from a country that do not issue valid passport, or

applicants who may not contact the authorities in their country of origin because of fear of persecution, are exempted from the requirement of a passport.

The other above-mentioned documents will contribute to establishing the identity in asylum cases (and as a supportive document), but for the most part not solely. In *family migration cases* a birth or marriage certificate is required for applicants from most countries. Other documents may be required. Which type of other documents that are required varies with the applicant's nationality. These documents are mostly used as supporting documents and are never enough to establish an identity. Failing to present a required document may lead to a rejection. These certificates will, however, not be accepted as (contributing) to establish the identity in *considering applications for visitors visa and remunerated activities*. For *applications for study purposes* a birth certificate is required for applicants under the age of 18.

For *the return process* each country has different requirements to documentation in order to accept their own citizens. The type of documents accepted will vary between different countries, and vary over time. Each and every documents mentioned above could "contribute to establishing" or "establish" identification of a person in the country of origin, depending on the country in question

In Norway there are major issues concerning determination of the authenticity (or genuineness) of documents, especially:

- Technically genuine travel-/security documents issued based on false breeder-/source documents.
- Technically genuine documents issued outside of the official channels (fraudulently obtained, stolen blanks etc.)
- Low security breeder-/source documents with low degree of protection against forgery, low degree of consistency in production and issuance and lack of references.

The immigration authorities consider it of utmost importance to combat the use of fraudulent documents in the migration process and there are national guidelines for the control by the relevant authorities of identity of person and ID-documents in the various migration procedures:

- UDI circular RS 2012-009 *Registration, consideration and changing of ID-information in cases according to the Law on Immigration* (In Norwegian only)
- UDI circular RS 2011-014 *Control of persons and checks of original ID-documents in connection with applications for visas and residence permits.*

In addition, UDI has several guidelines for internal practices for portfolios of migration procedures and/or nationalities concerning i.e. methods for controlling ID and the assessment of ID-documentation and –information. The National Police Directorate has issued the following circular 2012/005 on responsibilities for determining identity – The National Police work on protection (asylum), identification and expatriation of foreigners under the Immigration Act. In addition, The National Police Immigration Service (NPIS) uses a set of internal guidelines to carry out identification/identity tasks. These internal guidelines are not available to the public. The National Police Directorate and the Ministry on Foreign Affairs have issued guidelines for respectively Local police authorities and Foreign Service Missions on how to perform person-ID and document control.

Forged documents detected in connection with applications for visa and residence permit are most commonly detected by embassies (90 per cent), and by the Norwegian ID Centre (10 percent: in family reunion cases). Cases reported by the Norwegian ID Centre would be submitted by the police, the Norwegian Directorate of Immigration (UDI) or a Norwegian embassy. Few of the reporting agencies specify in which situation the forged documents were detected, and the agencies do not report document fraud in a way that make the reports available for statistics. As a result, Norway do not have statistics on fraud detected in connection with application for protection (asylum seekers), but it is assumed that the majority of cases is detected by the National Police Immigration Service (NPIS).

When considering whether the applicants stated identity is **probable**¹, and in addition has submitted documentation on his/her identity the authorities only accept valid passports and other official travel documents valid for travel to Norway, cf. table of travel documents (Council 7193/11 and 7789/10). If the applicant cannot be requested to present valid travel documents because of the applicant's need for international protection or if his/her country of origin does not produce such documents, the Norwegian authorities can, in exceptional cases, accept other types of documents to decide that the applicant's identity has been documented, for example national ID-card (from countries outside EU).

When considering whether the applicant's identity is probable the migration authorities also can accept documents that are not considered as sufficient to consider that the applicant has submitted documentation on his/her identity, for example a driving license, national ID-card (from country outside EU), ID-card for students, birth- and marriage certificates, and proof of citizenship.

As a main rule, copies of documents are not accepted as proof of identity, but can in certain cases be considered in an overall assessment of whether an applicant's identity is probable. The major issues when **determining the veracity (or genuineness) of documents** are that travel documents, and other identity-documents, have to have been issued in accordance with the relevant country's legislation and procedures for issuing such documents. The credibility of the information (contents) in documents must also be considered. Credibility is related to the extent to which the documents in question have been issued on the basis of registered and verifiable information and in accordance with satisfactory procedures. To be able to consider this, the Norwegian authorities are depending on accurate and relevant information on such legislation and procedures. The *Norwegian Country of Origin Information Centre (Landinfo)* has issued several country reports with relevant information on the issuing of documents in countries from Norway receives many asylum-seekers. The immigration authorities also receive this kind of information from several other sources, for example Norwegian foreign service missions and immigration authorities in other countries.

2.2 Methods used in the absence of documentary evidence of identity in the asylum/return procedure

Language analysis

With applicants for international protection a language analysis is often combined with a knowledge test where the applicant is asked about geography, culture, politics and history of

¹ For the grading structure used to indicate the degree of identity establishment see section 3.1

the (claimed) country or region of origin. This knowledge test is part of the standard procedure for applicants for international protection, to establish whether the applicant has the geographic origin she/he has claimed.

A language analyse is part of a standard practice when necessary to contribute for establish the identity. The National Police Immigration Service initiates the language tests from a private service provider. UDI has developed and maintain a list of countries where applicants claiming to originate from them are routinely subjected to a language analysis/knowledge test. In addition, applicants claiming to originate from other countries than those pre-defined may be subjected to a language test if the immigration authorities suspect that the person has given false information about his/her country of origin. The obligation to participate in a language test is included in the Immigration Act sections 83 and 93, cf. Immigration Regulations section 17-7 first paragraph letter h.

Age assessment to determine probable age

An age assessment is obligatory, when necessary to contribute to establish the age of a claimed UAM applicant. This assessment has been based on:

- a report with a medical age assessment based on X-ray examination of both dental and skeletal development,
- information from persons who have observed the applicant
- other relevant available information.

The medical assessment included both a ‘best estimate’ of the actual age, based on the findings, and an assessment of the precision of that estimate.

A decision of the most probable age is made at the same time as a decision is made on the need for protection, but the two decisions are independent. Most medical age assessments are made when it is suspected that the real age is higher than the stated age, but they are also made when it is suspected that the stated age is too high.

Although a medical age assessment does not alone establish the age of an UAM, there has been discussions in Norway about the quality of the medical age assessment tests. Therefore, Norwegian Health Authorities have started work in order to improve how such assessments are made from the test results. In mid-2017 a new procedure for this was presented, and UDI started using the results at the end of 2017. The Health Authorities plan to update the new procedures as new results from relevant research become available.

Fingerprints for comparison with National and European databases

Comparisons with national and European databases are standard procedure with applicants for international protection above the age of 14. This is done by the National Police Immigration Service.

Statistics for 2016 shows that 12 % of asylum applicants to Norway where registered with their fingerprints in the VIS (395 hits for 361 asylum seekers who were granted a Schengen-visa) while for the first quarter of 2017 as much as 24% of the asylum seekers (151 hits for 145 asylum seekers with a Schengen-visa) were registered in the VIS.

Photograph comparison with National and European databases are currently not used in Norway.

Iris scans for comparison with National and European databases are not used in Norway

DNA analysis: Applicants for international protection and sponsors may be requested to undergo DNA testing if it is necessary to establish whether a claimed family relationship exists. This only applies if the other information in the case fails to provide a basis for establishing the family relationship with reasonable certainty.

Interviews to determine probable country and or region of origin (or other elements of identity, such as faith and ethnicity): Applicants for international protection are usually subject to several interviews to determine their identity as well as their need for protection, except when applications are examined pursuant to the Dublin II Regulation. An interview to determine elements of identity is required in all cases (subject to age limits). Both the National Police Immigration Service and the UDI undertake such interviews. For UDI the questions are incorporated in the interview for establishing the need for international protection.

Identity related paper and e-transactions with the private sector (e.g. bank) are used, optionally and only in rare cases, by the National Police Immigration Service. All searches are enshrined indirectly in Law.

Identity related e-transactions in connection with social media are examined as part of standard practice. Both the National Police Immigration Service and the UDI make such searches. All searches are enshrined indirectly in Law. Since 2014, Norwegian authorities have used social media in order to facilitate the establishing of an applicant's identity, as traditional methods, e.g. fingerprinting, language tests etc., have not been deemed sufficient. Although information in social media in general have a low evidence value, the amount of information has proven useful when combining the information.

Smartphones and other digital devices: Norwegian law enforcement/immigration authorities can confiscate (temporarily or permanently) such devices and access their content in their efforts to establish or verify an identity. This procedure is optional and is done by the National Police Immigration Service. All searches are enshrined indirectly in Law.

Other methods: When considered necessary Norwegian Foreign Service Missions and / or cooperating countries within the Schengen framework are contacted. All searches are enshrined indirectly in Law or international regulations.

2.3: Methods used to verify the identity third-country nationals in other migration procedures

Documents

As a main rule an applicant for an authorization to stay or residence permit have to present an official travel document. These documents shall be controlled by either the Foreign Service Missions or the local police in Norway, cf chapter 2.1

The immigration Regulations § 8-12 provides certain exemptions for an applicant who may be granted a residence permit on strong humanitarian grounds. These are the conditions:
The stated Identity is most probably correct, and

(a) the foreign national's country of origin lacks a functioning central administration, or it is

impossible for other reasons to produce an original valid passport or other equivalent identification documents that provide adequate evidence of the foreign national's identity, or

(b) in the interests of the applicant's safety, the person concerned cannot be required to contact the authorities of his/her country of origin.

The principle in this clause is extended also to family migration cases. Family migration applicants from Somalia are exempted from this obligation because Somalia is deemed to lack a functioning central administration. Family Migration applicants from Eritrea who may receive a derived refugee status in Norway are exempted in accordance with the principle in b)

Fingerprints and photographs for comparison with National and European databases

For *short stay visas* both fingerprints and photographs are compared with National and

European databases as a standard practice. For *residence permits for family reasons*

fingerprints are as a general rule not compared with these databases, but this may be done in

some cases after a residence permit has been granted. For *residence permits for study reasons*

or *the purposes of remunerated activities* there is presently no comparison of fingerprints and photographs with National and European databases.

Norway are planning to compare both fingerprints and photographs with National databases for all types of residence permits in the future. Norwegian immigration authorities are working on proposals for new legislation and on acquiring the necessary technology.

DNA analysis:

Applicants for residence permits for family reasons and sponsors may be requested to undergo DNA testing if it is necessary to establish whether a family relationship exists. This only applies if the other information in the case fails to provide a basis for establishing the family relationship with reasonable certainty.

Interviews to determine probable country and or region of origin (or other elements of identity, such as faith and ethnicity):

Applicants for residence permits for family reasons and sponsors from certain countries are interviewed for i.e. to determine their identity as well as their family relation. Either the Foreign Service Missions or the local police conduct such interviews.

Section 3: Decision-Making process

3.1: Status and weight of different methods and documents to determine identity

General

In general the results of some methods are given more weight than others by the decision makers, for example has results from fingerprinting been given most weight in asylum cases. This is partly laid down in practice guidelines. In most residence permit cases the submission of a valid travel document is given most weight. In some cases, when no travel document has

been submitted or the travel document has low evidence value, other methods can be given the same or higher weight, for example verification, interview and/or fingerprints.

There should be consistence between the results obtained from the use of the methods. In order to establish an identity for applicants for international protection, in Norway it will normally be sufficient for the identity to be considered “probable”. Some identity elements will have a fairly low evidence value, compared to others. E.g. a language test has lower evidence value than fingerprints when establishing identity.

In Norway there are two levels used for grading identity in the decision-making process in UDI for asylum, legal migration, and all other residence cases:

- i) “Probable ID” - More than 50 % probability that the ID the applicant has stated is correct.
- ii) “Not probable ID” - Less than 50 % probability. This grade is used when it is considered that the ID the applicant has stated is not likely to be correct.

In addition, a decision has to be made whether the applicant has submitted documentation on his/her identity. As a main rule this means that the applicant has presented a passport or other valid travel document.

These levels for grading identity are included in the decision and registered in all cases when a permit is granted, and in some cases when the application has been rejected.

Applicants for international protection

As previously stated, only 5-10 percent of asylum seekers initially present a valid and credible travel document, when applying for international protection. Although the proportion increases during the case processing period, most asylum applications are decided without proper identity documentation.

As stated above Norwegian authorities do accept that some applicants have legitimate reasons for leaving their home country without having identity documentation, and that the situation in the country of origin, and/or safety issues prevents the applicant from contacting the home country. In these cases, the decision making authority have to make an overall assessment of the credibility of the asylum seeker’s need for protection, taking several aspects into consideration.

Not succeeding in establishing an applicant’s identity may to a certain extent make the consideration of his/her application for international protection more difficult. However, the decision on the application for protection is based on an overall examination of all available information in the individual case. In some cases, the application is rejected because the applicant’s identity cannot be established, in other cases the applicant is nevertheless granted international protection. In order to establish an identity for an applicant for international protection, it will normally be sufficient for the identity to be considered “probable”. Some identity indicators will have a fairly low evidence value, compared to others. E.g. a language test provides weaker evidence than fingerprints for establishing identity. Fingerprinting has to

be given more weight in asylum cases. This is partly laid down in practice guidelines.

Particular challenges are associated with asylum seekers from Somalia and other countries where the possibility of obtaining credible documentation is poor or non-existent, and where it is difficult to carry out verification procedures, e.g. Somalia, Ethiopia, Eritrea, Nigeria and Iraq.

Norway is at the outskirts of the Schengen area. Most asylum seekers arriving in Norway have travelled through Europe by land, and only a small number arrive directly by plane. During their travel through Europe, those wanting to hide their identity have been able to do this.

Return

Sometimes measures to establish identity are unsuccessful, making it difficult for the NPIS to return the person in question by force.

A proportion of rejected asylum seekers, though not a significant number considering the total body of applicants, cannot be returned because his/her identity cannot be established.

According to the Immigration Act, Section 83, all immigrants, including asylum seekers, are obliged to contribute to establishing their identity. While asylum seekers generally are exempt from the obligation to contact their home country in order to obtain proper identity documents, those with a final negative decision may be required to make such contact. As some asylum seekers falsely claim to originate from countries with a higher percentage of decisions leading to a residence permit than is the case for their true country of origin, the work to establish correct nationality is demanding.

According to NPIS experiences, those who effectively refuse to assist in clarifying his or her identity, and intentionally try to hide who they are, are the most difficult to return.

In the absence of identity documents, it is particularly difficult to return persons originating from the Maghreb countries, most other African countries, and countries from the former Soviet Union. Certain Middle Eastern countries, like Iraq and Iran, are also problematic. NPIS experiences that many rejected asylum seekers are unwilling to assist in establishing their identities, and would rather stay in Norway as illegal immigrants than returning to their home country. After receiving a decision obliging him/her to leave Norway, many disappear before the NPIS can arrest and deport them after the deadline for return has expired. As Norway has been less affected by the economic crisis in Europe than other countries, jobs are still available on the irregular job market, even if that market is limited by the extensive and effective labour market regulations in Norway. This may act as an incentive to stay in Norway as an irregular immigrant instead of contributing to the clarification of the identity and return to the home country.

Applicants for visa or residence permits

In most residence permit cases the submission of a valid and credible travel document is given most weight. In some cases, when no travel document has been submitted or the travel document has low evidence value, other methods can be given the same or higher weight, for example verification, interview and/or fingerprints.

3.2: Decisions taken by the competent authorities on the basis of the outcomes of the identity management procedures

The outcome of the procedure to establish the identity of the applicant for international protection does not, in principle, influence the decision to recommend either ‘grant international protection,’ ‘refuse international protection’ or ‘defer decision’. The surge in the number of asylum applicants/ irregular migrants in 2015 did not in the long run make the decision-making process more difficult for national authorities, but did so temporarily during the high influx.

The decision in a case examined on its merits, depends on whether the applicant has sufficiently substantiated his/her claim to international protection, a humanitarian situation or having a particular connection to Norway. This may or may not be the case, independently of whether the applicant’s identity is established as ‘documented’, ‘probable’ or ‘not probable’.

The main rule is that international protection should not be granted to applicants who do not have “documented” or “probable” identities. (cf. 3.1.) An exception occurs if the applicant’s claims are considered plausible that s/he fulfills the requirements to be recognized as a refugee. This may be the case if the applicant’s nationality is determinant for the decision and the applicant’s claims of nationality is considered plausible while other identity characteristics are considered “not probable” (cf. 3.1). Such decisions are made after an examination of all available information in the individual’s case; hence there is no standard weighting of the identity determination as such (unless a valid travel document is presented cf. 2.1).

To obtain a residence permit on humanitarian grounds the applicant must document his/her identity, as a rule. When no valid passport has been presented, a residence permit may be granted with certain limitations until a passport has been presented. Such limitations include not having the right to family reunification or access to Norwegian language classes, and having to remain in the asylum reception centre until s/he can provide a valid passport. There are a few exemptions also from this requirement, however.

The importance of having established the applicant’s identity depends somewhat on the other aspects of the case. If the applicant’s claims are manifestly unfounded regardless of his/her identity, not much weight is given to establishing his/her identity as part of asylum proceedings. However, to do so will be crucial for an effective return.

If the authorities receive new information about the identity of a foreign national who has been granted a permit, they will examine whether this represents a different identity. If they consider the previous identity to have been false, the permit shall, as a main rule, be revoked.

For *return* the outcome of identity establishment does influence a recommendation to ‘defer’ return, and the results of the work to establish identity during the process to consider the application for international protection, are made available to the authorities preparing forced return.

Residence permits are normally not granted if the identity is not made probable. An exception may be made when strong humanitarian grounds require that a permit has to be granted. A residence permit that does not provide the right to a permanent residence permit is then granted. This type of permit is mostly given to persons who live together with small children in Norway. A residence permit that provides the right of permanent residence may be given if the applicant later is able to make his identity probable by for example presenting travel documents which confirm his/her claimed identity.

Section 4: Databases and data procedures

4.1: Legal framework – Data procedures and databases

In Norway the identity determination/verification authorities do have Memoranda of Understanding (MoUs) and/or other agreements in place for the sharing of personal with several agencies, travel companies and organisations:

Other agencies/departments:

It is possible to retrieve data from The National Population Registry (folkeregister), the National tax registry, National Employment registry, National student loan registry and Labor Inspection agency. This is mostly for the purpose of considering an application for a residence permit.

Carriers

It is possible to retrieve API (Advanced Passenger Information)

Authorities in other countries

In asylum cases (residence permits) search is made in Schengen’s SIS, VIS and Eurodac databases. For background information on international documents the Norwegian ID-Centre has a MoU with the Immigration and Naturalization Service of the Netherlands regarding: 1) a computerized document information system in support of migration control (DISCS), and 2) the sharing of country specific identity related information (ID Database). The Norwegian ID-Centre is also in the process of finalizing similar understandings (Corporation Agreements) regarding the sharing of country specific identity related information with other countries, both in Europe and overseas.

International organizations:

- UNHCR – agreement on information in connection registration and preliminary establishment in re-allocation (asylum cases)
- IOM – agreement on information in connection with applications for voluntary return (VARP)

4.2: Data procedures and databases

Several types of personal data about individuals are collected and stored in national databases in Norway within the framework of the various migration procedures:

Asylum procedure; biographic, biometric (fingerprints, photo)

Return procedure; **biographic, biometric (fingerprints, photo)**

Legal migration channels:

- › Applications for short-stay visas; **biographic, biometric (photo)**
- › Applications for long-stay visas/ residence permit for study, work and family purposes; **biographic, biometric (photo, fingerprints and, in some applications for family reunification; DNA)**

All biographic data as well as facial photos are stored in the Immigration Database. Fingerprints are stored in a dedicated Immigration file in the national AFIS (Automatic Fingerprint Identification System). The Immigration file has its own set of access procedures. In addition, we also collect and store the individual's signature for use on residence permit cards and asylum cards.

4.3: Use of databases in the Screening process

The identity-related databases are managed by the different national authorities in Norway involved in migration processes.

The *national population register* is managed by the tax administration;

The *national entry/exit system* is managed by the police;

The *Eurodac National Access Point* is managed by the immigration authority;

The *VIS National Access Point* is managed by the immigration authority;

The *SIS II National Access Point* is managed by the police

The *national biographic and biometric databases* are managed by the immigration authority

Immigration authority in this context is The Norwegian Directorate of Immigration.

The Norwegian Immigration authorities consider that there are some data elements that the authorities would consider useful, but are not yet collected or stored. This concern in particular a central Schengen entry/exit registration, and information about lost and stolen documents (SIS II and Interpol) and about European Electronic ID.

4.4. Recent and planned developments

Norway has several planned developments concerning the processing of personal data within the framework of migration-related procedures and databases on national level.

Firstly, Norway is in the process of establishing systematic collection of fingerprints of third-country citizens, age 6 and up, applying for residence or short-term visa permits in Norway. This is in line with an amendment to the Immigration act in 2016. For this purpose, the Immigration authorities will establish its own national fingerprint and facial photo databases in the cross sectoral ABIS system (Automated Biometric Identification System), and start using facial recognition and fingerprint identification.

Secondly, in 2018 Norway will start to register facial photos suitable for facial recognition and fingerprint identification in the ABIS. Existing facial photos and fingerprints will be exported to the ABIS. The project aims to establish an identity locked to the relevant biometric identifier. The goal is to ensure that a third country citizen will be registered with only one identity in Norway.

In addition there are several other relevant ongoing projects:

- There is currently an ongoing project between the tax authorities, the police and the Directorate of Immigration to look at the possibility of tagging all persons in the National Population Registry with a unique identity, locked to their biometric identifier.
- Registration in the immigration authorities' registers reflecting a grading of the confidence in the registered identity (also to name and date of birth), e.g. whether an applicant has submitted documents, and whether certain ID- related investigations have been made and the results of these.
- National standard/guidelines for Identity proofing.
- IDeAlt is a very complex ID program within the police for capturing and storing biometrics, exchange of pKI, issuing passports and National ID cards and equipment/systems for reading of e-documents.

Section 5: Debate and evaluation

Many of the (actual or planned) measures described above are currently being debated in Norway. A possible/planned measure are a publicly informal suggestion made by the director of Norwegian Tax administration to establish searches between the foreigner's/immigration database and the national passport registry to establish that a new ID is unique. This information will be marked on a person's registration in the National Population Registry (folkeregister).

The data protection authorities have assessed several of the planned measures, for example the marking a person's ID as unique in the National Registry (folkeregister). Not yet commented on is the suggestion to ensure the uniqueness of an identity by cross search, as this so far is only an informal suggestion.

Section 6: Conclusions drawn from the national contribution

This report outlines the main challenges faced by Norwegian authorities when establishing the identity of an applicant for international protection, and when implementing return for rejected asylum seekers, in the absence of credible identity documentation.

A main challenge concerning asylum seekers is that most asylum seekers arriving in Norway have little or no identity documentation at all. Although several asylum seekers provide some identity relevant documents during the case processing procedure, there is no guarantee that the true (national) identity has been established. Falsified and imposter documents are widely available, and many documents do not meet the quality standard required for them to be credible.

In order to establish identity in absence of credible documentation, Norwegian immigration authorities have a variety of methods at their disposal. These include fingerprints- and manual photo comparison, interviews, age and language analysis, as well as coercive methods and police methods available to NPIS. A considerable amount of resources is also used for cooperation with other countries' authorities. Use of new methods for establishing identity, such as the examination of activities in social media and access to smart phones and other electronic devices, are increasing. There are plans to increase the systematic collection and use of biometrics, including photo comparison, and improve the identity management architecture and data sharing. Both existing and planned methods are relevant also for the establishment of identity when considering applications for residence permits, especially when the applicants do not present travel documents or these have low value as evidence for identity.

