

**Visitor's visas in connection with family visits.
Norwegian visa practice compared to a selection of
Schengen countries.**

Long Litt Woon, Long & Olsen

Project funded by the Norwegian Directorate of Immigration

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REPORT

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Executive Summary

1. All fifteen countries which are party to Schengen are bound by a set of common rules regarding visas. A condition in the Schengen Convention is harmonization of the visa practice among participating countries. Some European Union (EU) countries are not part of Schengen while some non-EU countries, like Norway, are part of Schengen,
2. Being part of Schengen implies that Norwegian visa regulations and practice today is not solely defined by the Norwegian Immigration Act; Norway also has to take Schengen visa rules into account.
3. The interviews conducted for this study illustrate an important analytical distinction in Schengen visa harmonization; between the harmonization of visa technicalities on the one hand and the harmonization of visa practice on the other. The process of Schengen harmonization has come further when it comes to the harmonization of visa technicalities compared to the harmonization of visa practice.
4. Local Consular Cooperation (LCC) between foreign service missions of Schengen countries at the same station plays a critical role in the process of Schengen harmonization. The quality of the Local Consular Cooperation (LCC) is dependent on many factors. For example, the institution of LCC is dependent on the level of organization and the ambitions of the Presidency. It is also vulnerable to changes in personnel at the various foreign service missions.
5. LCC in Ankara, Turkey can illustrate how it is possible to speed up the process of harmonization through working on concrete issues in sub-groups and through the exchange of local staff. Such best practices are also recommended in the EU publication "Schengen Catalogue of Recommendations and Best Practices regarding the issuing of visa".
6. All participating countries, including Norway, experience tension in balancing (various) national interests and international obligations. In the last instance, however, national laws, policies and concerns influence the development of visa practice. This applies also to Norway.
7. The question of whether Norwegian visa practice is aligned with Schengen is not easy to answer: one reason is that comparable relevant statistics are not readily available. This study has therefore also constructed an exercise utilizing three "classical visa dilemmas".

8. The Norwegian visa authorities have been criticized (by the Norwegian Parliamentary Ombudsman) for not demonstrating clearly that individual case considerations have led to rejections of visa applications. The Norwegian visa authorities have also been criticized (by non-governmental organizations) for high refusal rates for visa applications.
9. This study has therefore focused on both these issues by examining the visa practices of five Schengen countries (Norway, Denmark, Sweden, the Netherlands, Belgium) in two locations (Ankara, Turkey and Islamabad, Pakistan). Some findings are:
 - a. None of the five countries in the study have systematic routines for uncovering visa abuse. Swedish national authorities regularly (every half year) publish statistics on certain types of visa abuse for all nationalities worldwide. These statistics are sent to Swedish foreign service missions. Danish national authorities have a system whereby some categories of family visitors might be issued a visitor's visa if there is a financial guarantee. Danish statistics regarding the number of guarantees which are forfeited could to some extent be read as statistics for visa abuse.
 - b. There is no consensus regarding the definition for visa abuse – neither internally among the Norwegian visa authorities nor for Schengen as a whole. The Swedish and Danish examples above refer to different phenomena.
 - c. It seems as though persons perceived as bona fide¹ applicants by all five countries, including Norway, have the highest chance of so-called “individual case considerations”.
 - d. When applicants are *not* perceived as bona fide, countries that are employing relatively more discretionary assessments (Norway, Sweden and the Netherlands) arrive at conclusions for individual cases using all the information available, including information based on previous general experience – on the country in question, on local and regional knowledge, about the applicant's family's migration history, about the applicant's socio-profile etc. It seems as though among the countries in the study, these three countries pay most attention to so-called substantial humanitarian reasons in the processing of visa applications.

¹ In this report the term “bona fide” is used to mean cases which are clearcut and where a visa can be issued without further questions or investigations. This is the way the visa officials interviewed used the term.

- e. Denmark and Belgium have a relatively more codified visa practice compared to the three other countries in the study. In addition, the Danish and Belgian embassies only have the competency to issue visas to bona fide applicants. This means that cases which are not perceived as bona fide are sent back to the national visa authorities in Copenhagen and Brussels respectively.
- f. In Copenhagen, a codified visa practice – which is approved by the political leadership – details how various family categories are to be handled. In addition, all countries are assigned to one of four categories. Pakistan is considered “Category 1”² and Turkey “Category 2a”³. The visa practice for Category 1 countries is the strictest. The visa practice regarding which family members may visit Denmark also varies depending on the country category.
- g. In Brussels, if the general experience is that nine out of ten instances of a certain type of case have abused visa conditions, the general guiding principle is that the authorities have no way of knowing if the case before them is “a no.10”. As a rule, family visitors are treated generously, but the advice of Belgian diplomatic representations and document files in Brussels steer the final decision. Earlier abuses are taken in account; new applications from a person who has abused visas before are scrutinized closely.
- h. The Belgian visa practice has a definition of “close family” which is broader than those of the other countries in the study.
- i. Only statistics for Schengen short stay (type C) are readily available. Statistics for family visitor’s visas - a subcategory of type C - are not. This makes it difficult to study visa practice regarding family visitor’s visas.
- j. One general finding is that the refusal rates in Pakistan are on the whole higher for all countries than they are for Turkey. This applies also to Norway. This could be a reflection of Schengen harmonization regarding the e.g. perceived differences in security and immigration risk issues for the two countries.
- k. However, the Norwegian refusal rate in Ankara is “average” for the Schengen countries in this study while the Norwegian refusal rate in Islamabad is the highest. In the same vein, Sweden has a high refusal rate in Turkey but the lowest one in Pakistan while Denmark has the lowest refusal rate in Turkey but an “average” refusal rate in Pakistan. How can we go about trying to understand the critical factors which could account for such a situation?

2 “Asylum Generating Countries” (“asyllandsgruppe”)

3 “Immigration Country with Limited Reference Persons” (“immigrationslandgruppen med referencebegrænsning”)

- l. The study examines some hypotheses to account for rates of refusal. In particular,
- how the proportion of family visitor's visa applications (of Schengen C-visas) affects refusal rates,
 - how the size of the Turkish and the Pakistani diaspora in the selected countries affects refusal rates,
 - how registration routines for complete and incomplete application files affect refusal rates.
- m. After examining the statistics available, this study concludes that refusal rates at the Norwegian embassies in Ankara and Islamabad cannot be conclusively accounted for by the three hypotheses above.
- n. The "classical dilemmas" exercise revealed that there are many national factors which play a critical role in the processing of family visitor's visas e.g. regarding the definition of "close family", regarding the emphasis put on the credibility of the applicant or of the sponsor etc.
- o. In this limited exercise, Norway and Sweden are the two countries in both Ankara and Islamabad which would seem to be most "harmonized" with each other judged by the conclusions drawn at the end of the "dilemma" exercise. However, this study also shows that even between Norway and Sweden, there are critical differences e.g. in the visa policy towards siblings.
- p. In order to gain insight in "Schengen harmonization" it is necessary to understand the mechanisms which are hidden behind seemingly neutral and objective statistics. The combination of the statistical examination of the three hypotheses above and the "classical dilemma" exercise show that refusal rates are, at best, *uncertain* indicators of the degree of "Schengen harmonization" or the lack of it.
- q. Put differently, the high refusal rate at the Norwegian embassy in Islamabad does not necessarily mean that Norway is "not harmonized with Schengen". Similarly, the average refusal rate at the Norwegian embassy in Ankara does not necessarily mean that Norway is "harmonized with Schengen".
- r. The term "Schengen harmonization" needs to be further deconstructed to issues like "visa fee", "travel insurance", "visitor's visas for parents", "visitor's visas for siblings" etc and a comparison would need to be made across selected countries in order to map "Schengen harmonization" in detail. This study does

not provide such a detailed map, but it suggests some areas which might be fruitful to study further.

10. Finally, the study identifies some choices ahead for Norwegian visa authorities and politicians, and some recommendations regarding ways of going forward.

Background

The Norwegian immigration authorities have been criticized for their strict practice regarding the issuing of family visitor's visas to Norway. The Norwegian Parliamentary Ombudsman has pointed out that the Norwegian Directorate of Immigration (UDI) needs to demonstrate that the *specific* considerations in each individual case are thoroughly considered⁴. The Ombudsman is particularly concerned that UDI should not allow its *general* experience with applicants from a particular country/region to outweigh the specificities of each individual case⁵. In addition, several non-governmental organizations and the media have also criticized UDI from time to time for an unnecessarily strict visa practice by focussing on UDIs refusal rate in general or on specific, individual cases.

Since March 2001, Norway has been part of Schengen. This implies international obligations also with regard to visa practice.

The Norwegian Directorate of Immigration (UDI) has commissioned this study to examine the extent to which Norwegian visa practice is aligned with Schengen visa practice.

The aim of this report is to *describe* the Norwegian authorities' practice with regards to family visitor's visa applications by comparing Norwegian visa practice with the practice of a selection of Schengen countries. In other words, the report is not a legal study of the Norwegian Immigration Act. The focus here is how the Norwegian Immigration Act is implemented specifically with regard to family visitor's visas. In general UDI is interested in the considerations which guide practices for issuing visas in Schengen countries. In particular the question about which considerations come into play in determining the likelihood of return in connection with applications for family visitor's visas is of special interest to UDI. UDI also wants to look

4 See <http://www.sivilombudsmannen.no>, the website of the Norwegian Parliamentary Ombudsman, e.g. cases 2005/1983, 2004-1386, 2002-2159 and 2001-0834.

5 From 2004-2006, the Ombudsman received a total of 39 complaints regarding visa. (2004:14, 2005:18, 2006:7). In 2004, there was 1 complaint from Pakistan and none from Turkey. In 2005, there were 3 complaints from Pakistan and 1 from Turkey. In 2006, there were 4 complaints from Pakistan and none from Turkey.

at how humanitarian issues are considered in the visa application process in the selected Schengen countries. UDI is also interested in systematic routines and documentation of so-called visa abuse at the selected embassies.

1. Introduction

1.1 Recent immigration to Norway

The population of Norway is 4 640 219 (Statistics Norway, 1.1.2006⁶).

Since the early 1970s, the immigrant⁷ population in Norway has steadily increased.

There are 387 000 immigrants in Norway, 8.3 per cent of the population. Of these, 285 300 persons (6, 1 per cent of the population) are from what are commonly referred to as non-Western countries and 101 400 persons (2, 2 per cent of the population) are from what are commonly referred to as Western countries.

There are fifteen immigrant communities with more than 10 000 persons. The ten largest immigrant communities in Norway are from Pakistan, Sweden, Iraq, Denmark, Vietnam, Somalia, Bosnia-Herzegovina, Iran, Turkey, Serbia and Montenegro.

1.2 Entry to Norway

Norwegian authorities differentiate between visas and permits. As a general rule, visas are for short stays (max 90 days) and permits are for longer stays. The most common grounds for granting residence permits are related to work⁸ and to family reunification⁹. A visa is a document that allows the holder to enter Norway and other Schengen countries for a limited period¹⁰. Foreign nationals who wish to travel to Norway must, as a rule, have a visa¹¹.

⁶ All statistics on the population of Norway are from Statistics Norway, 1.1.2006.

⁷ A person residing in Norway with two foreign-born parents is defined as an immigrant by Statistics Norway

⁸ Even for short stays (of less than 90 days), a work permit is normally required.

⁹ Foreign students do not apply for a visa to Norway, but for an educational permit, unlike e.g. the United Kingdom.

¹⁰ This refers to visits according to §107 in the Immigration Act. For persons who have a long stay permit in Norway, entry can be given according to §112 in the Immigration Act.

¹¹ A visa is not required for nationals of countries with which Norway has signed a visa waiver agreement. Nationals of countries with a visa waiver may stay in Norway/Schengen for up to three months. The countries with which Norway has a visa waiver agreement are Andorra, Argentina, Australia, Austria, Belgium, Bermuda (BDTC passport), Bolivia, Brazil, Brunei, Bulgaria, Canada, Chile, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, El Salvador, Estonia, Finland, France, Germany, Greece, Guatemala, Hong Kong (SAR passport), Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korean Republic, Latvia, Liechtenstein, Lithuania, Luxembourg, Macau (SAR passport), Malaysia, Malta, Mexico, Monaco, Netherlands, New Zealand, Nicaragua, Panama, Paraguay, Poland, Portugal, Romania, San Marino, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, UK, Uruguay, USA, Vatican State, Venezuela.

1.2.1 Schengen short stay visitor's visa (type C)

A Schengen short stay visitor's visa (type C) for Norway and the Schengen area may be granted for up to 90 days (Immigration Regulations §§ 106 and 107) ¹².

However, visitors may not stay in the Schengen area for more than 90 days in the course of six months. UDI has a "visa calculator" on its website to help travelers plan their visit. The duration of the visa is stated on the visa sticker. The visa sticker also states the first permitted entry date and last permitted exit date.

A Schengen short stay visitor's visa (type C) visa does not entitle the holder to work or carry out any commercial enterprise during their visit.

The conditions for obtaining a visa vary depending on the purpose of the visit. A C-visa may be granted e.g. on grounds of tourism, business, music or cultural performances or family visits¹³.

The focus of this study is the Schengen short stay visitor's visa (type C) for family visits.

Most of the short stay visa applications (approximately 95%) are handled by the embassies and consulates abroad¹⁴. In other words, the Norwegian embassies and consulates abroad play an important role in the implementation of the Immigration Act.

In 2005 around 95 500 visa applications for all Schengen short stay visitor's visa (type C) were processed in total by Norwegian foreign service missions abroad

¹² In addition to the Schengen short stay visitor's visa (type C), there are national visitor's visas which are only valid for Norway alone. These may be granted for humanitarian reasons, national considerations or international obligations. In such cases, UDI decides on the application, which should be submitted to the nearest foreign service mission, as when applying for any other kind of visa. There are also so-called visas with limited territorial validity which can be given to applicants holding a travel document that is not valid for entry into certain Schengen countries. The visa granted is valid only for the countries in which the travel document is valid. Immigration regulations § 106 a.

¹³ Immigration regulations §106, 1. section.

¹⁴ Some cases are sent to UDI to be processed. For example, these could be cases which the embassies and consulates are doubtful about or cases where more information is needed. In addition, cases are also sent back to UDI if they belong to a category where the embassy does not have the competency to take a decision but is obliged to forward the application to UDI.

and by UDI. This figure includes around 9400 cases in which Norway represented the authorities of other countries.

In average, around 85 100 (89%) of all visa decisions in 2005 were positive.

According to UDI's annual publication "Facts and Figures" (2005), tourist visas accounted for the largest percentage.

The largest number of visa applications (approximately 30 000) are from tourists from Russia and a large proportion of these (more than 95%) are issued visas.

It would have been interesting for this study to get more precise statistics of the acceptance/refusal rate for family visitor's visas for all countries in general and for Turkey and Pakistan in particular. Unfortunately, such statistics are not available.

1.3 Schengen¹⁵

The Treaty of Amsterdam, which came into force on 1 May 1999, brought all aspects of EU visa policy into the legal and institutional framework of the European Union¹⁶.

EU institutions are therefore obligated to set out a number of measures to ensure uniform standards for issuing EU visas across the Union, regardless of the Member State in which they are issued.

At the same time, another protocol annexed to the Treaty of Amsterdam integrated the Schengen *acquis* (the Schengen agreements and the implementing decisions) into the European Union treaties. On the basis of this protocol the harmonization

¹⁵ The following 15 countries are part of Schengen: Belgium, Denmark, Finland, France, Greece, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Germany and Austria. The United Kingdom and Ireland are not part of Schengen. In other words, not all EU countries are part of Schengen and not all Schengen countries are part of EU.

¹⁶ Thus integrating them into the new Title IV of the EU Treaty (visas, asylum, immigration and other policies related to free movement of persons).

measures introduced by the original Schengen signatory Member States in the field of visas are now part of the EU legislative framework (i.e. the EU *acquis*).

These measures are now fully accepted by Norway, Iceland and 13 EU Member States¹⁷. This means, for example, that Norway, Iceland and the EU Member States applying the Schengen *acquis* now issue uniform short-stay visas valid for traveling in the whole Schengen area¹⁸.

New applicants to the Union will have to fulfill these same requirements.

The Schengen Convention abolished the checks at internal borders of the signatory States and created a single external frontier, where checks for all the Schengen signatories are to be carried out in accordance with a common set of rules. The Schengen principles of free circulation of people are backed by improved and still developing security measures to ensure that the EU's internal security is not threatened¹⁹.

If a visa applicant plans to visit several Schengen countries on a single trip, the application should be submitted to the country that is the main destination of the trip. If no single country can be identified as the main destination, the application must be submitted to the country the applicant intends to enter first. Such a system obviously requires a rather uniform visa policy among the member countries.

In short, this means that citizens of EU countries and Norway and Iceland may travel freely within the Schengen area. This right also applies to foreigners who have a

17 United Kingdom and Ireland are not party to Schengen.

18 The harmonized conditions and criteria to issue uniform visas are laid down in Articles 9-17 of the Schengen Convention and specified in detail in the 'Common consular instructions' (OJ C 313, 16.12.2002, p.1)

19 The harmonized EU external border controls are defined in Article 6 of the Schengen Convention. They are further specified in the common manual on external borders, a set of operational instructions on the conditions for entering the territory of the signatory States and detailed procedures and rules for carrying out checks. A complex information system known as the Schengen information system (SIS) was set up to exchange data on certain categories of people and lost or stolen goods.

valid residence permit in one of the Schengen countries or who have a valid visitor's visa (up to 90 days) to Schengen.

For travelers, this means that passport checks and control of arrivals and departures take place when one crosses the single external Schengen border at sea, airport or land. Persons who are from non-Schengen countries are subjected to a more thorough check upon entry and exit. For example, a search in the database "Schengen Information System" (SIS) will be made to see if there are grounds to stop entry into Schengen²⁰.

1.4 Norway joins Schengen: consequences for entry to Norway

Schengen convention's article 9 is condition upon a harmonization of the visa practice among participating countries. This implies that Norwegian visa regulations and practice today is not defined solely by the Norwegian Immigration Act; Norwegian visa practice also has to take Schengen visa regulations into account.

For example, after joining Schengen, Norwegian authorities have also had to consider the immigration risk to the whole Schengen area, not only the immigration risk to Norway. The idea here is that individual member states should not "export" immigration problems to other member states.

Therefore, since March 2001, we can observe that Norwegian visa practice has undergone harmonization to Schengen directives and procedures. This has led to some changes in both rules and practice.

Some changes have been more liberal, others more restrictive.

For example, Schengen harmonization by Norwegian authorities affects persons who apply for a family visitor visa to Norway in at least two ways. On one hand, a

²⁰ Persons who have been deported earlier from Schengen because of criminal activities might, for example, be registered in SIS and therefore denied entry. Persons who are registered in SIS would not normally be issued a visa to Schengen.

Schengen visa to Norway allows the visitor to enter not only Norway, but the whole Schengen area. These changes could be seen as liberal changes.

On the other hand, in order to be more harmonized with Schengen, Norway stopped visa waivers for citizens from 10 countries: Belize, Botswana, Jamaica, Kenya, Lesotho, Mali, Namibia, Swaziland, Trinidad & Tobago and Zimbabwe.

Persons who need a visa to visit Schengen can no longer travel and rotate between staying three months per Schengen country. After being in the Schengen area for three months, they need to leave the Schengen area for three months before returning for a maximum duration of three months.

For Schengen embassies and consulates abroad, the Common Consular Instructions (CCI) is the key manual which is used to ensure harmonization of how common Schengen directives and rules to be practiced. It must be noted, however, that there are still areas open to national interpretations of Schengen directives and rules and that there is still work to be done to further harmonize Schengen visa practice.

By focusing on the degree and the areas in which Norwegian visa practice is harmonized with Schengen, this study will inevitably also reveal some of the areas where there is a potential for more harmonization with Schengen - in particular by Norway.

1.5 The development of Norwegian visa practice. Ideals.

Since the main bulk of visa applications is processed by Norwegian foreign service missions, much of the development of Norwegian visa practice takes place abroad. However, the decisions taken by various national authorities also play a critical role in the development of visa practice.

This includes decisions taken by UDI in the following cases:

- 1) If the foreign service missions have doubts about a visa application, or if a visa application is from a pre-specified group or country e.g. Afghanistan, the application is processed by UDI. The foreign service missions also forward cases to UDI which involve issues of principle which need clarification. In this case, UDI is the first administrative level to process the visa application. If the applicant is rejected and he/she appeals, the case will then be sent to the Immigrations Appeals Board (UNE). UNE is then the second and final administrative level to process the visa application.

- 2) If the foreign service mission rejects a visa application, the foreign service mission is the first administrative level to process the application. If the applicant appeals the decision, the foreign service mission first processes the appeal internally and if the application is not revoked, the case is then sent to the national capital to be processed by UDI. Here UDI is the second and final administrative level to process the visa application.

The decisions made by the the Norwegian Directorate of Immigration (UDI) and the Norwegian Immigration Appeals Board (UNE)²¹ therefore also play a critical role in the development of Norwegian visa practice.

In addition, the Ministry of Labour and Social Inclusion (AID), also issues circulars and instructions to UDI (and, by extension, foreign service missions) concerning visa processing in UDI and abroad.

²¹ The Norwegian Immigration Appeals Board (Utlendingsnemnda) is an independent quasi-judicial Appeals Board that handles appeals of rejections by the Directorate of Immigration (UDI) pursuant to the Immigration Act. Administratively, the Norwegian Immigration Appeals Board sorts under the Ministry of Labor and Social Inclusion (AID). Although the Ministry can instruct the Board through legislation, regulations, budget and general priorities, it cannot instruct the Board on interpreting the law, exercising discretion or deciding individual cases.

The Norwegian Parliamentary Ombudsman investigates complaints from citizens concerning injustice or maladministration on the part of public administration. In addition to endeavoring to prevent injustice, the Ombudsman shall also contribute towards ensuring that human rights are respected. The office of the Ombudsman aims at improving administrative agencies in general and in strengthening confidence in the public administration. As mentioned in the beginning of this report, the Ombudsman has received complaints by citizens concerning Schengen short stay visitor's visa (type C) for family visits. Therefore, the decisions made by the Parliamentary Ombudsman are also taken into consideration in the development of Norwegian visa practice.

In addition to the above actors, Norwegian foreign services missions also take into consideration visa development practice among the Schengen foreign services missions wherever they are stationed. The idea is that the so-called Local Consultative Cooperation (LCC) between Schengen member states exchanges important information e.g. about local risks and about groups and persons who have misused the visa institute. In this way, Schengen visa practice can evolve and become increasingly harmonized.

Guiding the deliberations of the foreign service missions are the Norwegian Immigration Act and the current regulations, circulars and instructions. However, as I have tried to show here, the Norwegian foreign services missions also have to take many aspects into consideration – local, national and international - when they process Schengen short stay visitor's visa (type C) applications for family visits²².

The continuing development of Norwegian visa practice is ideally envisaged as a two-way process with a close link and dialogue between the foreign service missions and the national authorities on one hand. On the other, Norwegian visa practice is also ideally envisaged as a two-way process between Norwegian authorities

²² The Norwegian visa official in Ankara listed the following eight areas which are taken into consideration during visa processing: 1) The Norwegian Immigration Act 2) CCI 3) Circulars from UDI and the relevant ministry (AID) 4) Results of appeals processed by UDI 5) Results of appeals processed by UNE 6) LCC 7) Nordic consular cooperation 8) Statistics or other information (e.g. "practice memos" about visa abuse, including non-return from UDI's visa division 9) Statistics or other information (e.g. "practice memos" from UDI's asylum division.

and Schengen institutions, directives and member states. This can be illustrated as below.

Figure 1

Two-way processes in the development of Norwegian visa practice



1.6 Norwegian visa practice. Concerns²³.

Norwegian authorities are in general concerned if there are reasons to doubt the purpose of the trip or if there are grounds to doubt the information provided in the application. In the aftermath of September 11, Norwegian authorities are also in general concerned if there are important foreign policy or security policy issues involved.

Discretionary assessments are the main tools Norwegian visa authorities employ to weigh the concerns below. All the items listed below are seen by the Norwegian visa authorities to be closely linked together.

1.6.1 "Immigration policy considerations"

"Immigration policy considerations" is given as the reason for a large proportion of visa rejections²⁴. Rejections on grounds of "immigration policy considerations" are based on a discretionary assessment that there is doubt as to whether the applicant intends to return to their country of origin when the visa expires.

1.6.2 Likelihood of return

Central to the assessment of the likelihood of return is the applicant's link to their country of origin. Relevant assessment factors in this respect may be the

²³ These are also concerns for Schengen as a whole in general.

²⁴ Immigration Regulations § 106, sixth paragraph.

applicant's marital status, age, nationality, housing, household composition, work/study situation, financial situation etc. Likelihood of return to the country of origin is seen by Norwegian authorities to be synonymous with likelihood of leaving the Schengen area after the approved visa duration.

1.6.3 "Visa shopping"

This term refers to the phenomenon of visa applicants who "shop around" for the easiest Schengen country to enter the whole Schengen area from. Schengen countries which are very lenient or lax with visa application procedures are the target of "visa shoppers". The phenomenon of "visa shopping" is also connected to the question of competence in Schengen regulations, resources available to process visa applications and the danger of corruption.

1.6.4 Danger of "visa abuse"²⁵

Norwegian authorities do not have an official definition of "visa abuse". Neither are there any reliable Norwegian statistics of this phenomenon available²⁶.

However, there seems to be consensus among the Norwegian officials interviewed for this report that the phenomenon includes at least two groups:

- Short stay visa holders who apply for asylum once they enter Schengen territory
- Short stay visa holders who overstay and who do not leave Schengen territory after the valid duration of their short stay runs out²⁷.

There is an ongoing internal discussion in UDI about whether the following groups also should be included in the phenomenon of visa abuse:

- Short stay visa holders who leave before the valid duration of their visa runs out but who have not been truthful concerning the real purpose of their visit.
- Short stay visa holders who get married during their visit and who then try to apply for family reunification without leaving the country²⁸

²⁵ "Visa avhopp", Norwegian.

²⁶ In general, this also applies to the other countries in the study.

²⁷ The visa authorities assume that these persons stay on as illegal workers in the "black economy" and if apprehended, they might apply for asylum to avoid immediate expulsion.

²⁸ As of 1.10.2006, this is no longer a legal possibility. Persons in this category have to leave Norway and apply for family reunification from their country of origin.

- Parents who are short stay visa holders who wish to prolong their visit and who now wish to apply for a “parents temporary permit” (total nine months)²⁹ without leaving the country.
- Persons who are skilled workers or specialists who are here on a short stay visa but who wish to apply for a “specialist permit” in order to stay on to work without leaving the country.

In addition to the danger of visa abuse, in order to arrive at a decision, visa authorities also have to see if there are any substantial humanitarian considerations in the case which could support the issuing of the visa despite various concerns³⁰.

The number of visa applications has increased. At the same time, the issue of immigration and integration has risen on the Norwegian political agenda. In this context, there is an inevitable tension between the traditional view of Norwegian embassies and consulates as merely a “mail box”³¹ for national immigration authorities and the competing view that pushes visa matters higher up on the priority agenda of embassies and consulates.

Norwegian foreign service missions now do not only have the role of building bridges between Norway and the country in question; they often also have the role of *guarding* the same bridges.

²⁹ This is legally possible under the Immigration Regulations §10. Regulations Concerning The Entry Of Foreign Nationals Into The Kingdom Of Norway And Their Presence In The Realm (Immigration Regulations)

³⁰ Examples of humanitarian considerations:

- Visit to close family members (e.g. a visit to your own child or other close family members)
- Visit to girl/boyfriend, fiancé(e) or spouse/partner (the relationship must be of a long-term and serious nature)
- Events/occasions (e.g. Christening, wedding, funeral or cultural/sports event)
- Serious illness or death of a close family member

2. Methodology

The methodology in this report has been steered by several factors; some are related to research design, whilst others are of a more practical nature³².

2.1 Selection of countries

UDI wanted to look at the visa practices for applications from countries from where Norway has a substantial immigrant population. UDI concentrated on countries which are seen to have a fairly high emigration potential. Then UDI limited the search to countries where the rate of visa refusal is higher than the national average of 10% for Schengen short stay C-visas. There was also an attempt to concentrate on countries which processed a more or less similar volume of Schengen C-visa applications as UDI.

These considerations led UDI to choose **Pakistan** and **Turkey**.

The Norwegian embassy in Islamabad, Pakistan has a visa portfolio of around 2500 applications p.a. and a very high rate of refusal (54%). In fact, Pakistan is the country for which the refusal rate for visa applications to Norway is highest. The Pakistani community in Norway, at 27 000 persons, constitutes the largest immigrant group in the country. Among these, over 16 000 persons with Pakistani background have naturalized³³ and become Norwegian citizens.

The Norwegian embassy in Ankara, Turkey has a visa portfolio of around 1500 applications p.a. and a rate of refusal of 25%. The Turkish community, at 14 000 is the ninth largest immigrant group in the country. Among these, 9000 persons with Turkish background have naturalized³⁴ and become Norwegian citizens.

³² It should also be mentioned here that the researcher is a social anthropologist and a former Norwegian civil servant with an area specialization in immigration and integration matters. The researcher is also an immigrant herself.

³³ Between 1977 and 2005

³⁴ Between 1977 and 2005

2.2 Selection of Schengen countries in the study.

UDI started off by considering Schengen countries which are represented by an embassy, not a consulate,³⁵ in Islamabad, Pakistan and Ankara, Turkey.

UDI wanted to include some Nordic countries because Norway has a long tradition of a deep level of cooperation with these countries.

Finland was excluded because all visa applications are dealt with locally. In other words, the national Finnish authorities are not involved in the development of visa practice abroad. Furthermore, rejections by Finnish authorities do not provide reasons for the negative decision and applicants do not have the right to appeal. Iceland was also ruled out because they are often represented by Denmark and they do not have foreign service stations with the competency to issue visas. In addition, they also have a very small volume of short stay visa applications.

Through this process of elimination, Denmark and Sweden were selected.

In the selection of the other countries, UDI ruled out large countries like France and Germany. As a basis for selection among the remaining medium-sized countries, UDI looked at the statistics regarding both the volume of visa applications and the refusal rates. Another factor which was important to UDI was the migration profile, history and humanitarian principles of the countries selected. UDI was interested in medium-sized countries which had a more or less similar migration profile, history and humanitarian principles regarding asylum, family reunification and labor migration.

UDI chose to concentrate on a few countries so that, given the limited resources available, it was possible to examine the visa practices more in depth.

³⁵The Nordic countries sometimes take on consular tasks for each other.

Because of time and resource implications on the logistical requirements of such a comparative study, UDI finally selected Belgium and the Netherlands as the additional countries for the study.

This means that only countries from Northern Europe were selected for this study.

UDI regards this study as a pilot project and UDI plans to on carry out a full scale analysis of Norway's visa practice after the NORVIS visa handling system has been in use for a couple of years, perhaps in 2009. The parameters of the main study have not been determined at this point in time, but will most likely include most Norwegian foreign missions as well as other Schengen countries in order to examine the broader spectrum of Schengen visa practice. It is expected that in time NORVIS will provide researchers with interesting statistical data, especially as data registered through NORVIS may be linked to other applications submitted by the same individuals.

2.3 Project approach

The following activities were incorporated into the project approach:

- Study relevant quantitative data and other written documentation including the following:

The Norwegian Directorate of Immigration, www.udi.no

Statistics Norway, www.ssb.no

Facts and figures 2005, UDI, 2005

Annual Report, UDI 2005

The Norwegian Immigration Act

The Norwegian Immigration Regulations

Relevant circulars from UDI

The Norwegian Immigration Appeals Board, www.une.no

Annual Reports of the Norwegian Immigration Appeals Board

Integrering og mangfold i UDIs arbeid etter 1.1.2006. Handlingsplan og prosjektrapport. December 2005

Internal minutes from a Nordic Visa Meeting (26 April 2006)

The Norwegian embassy in Turkey, <http://www.norway.org.tr/>

The Norwegian embassy in Pakistan, <http://www.norway.org.pk/>

NORVIS tutorial, Computas AS, 8 February 2006

The Norwegian Parliamentary Ombudsman, www.sivilombudsmannen.no

The Institution against Public Discrimination, www.omod.no

The Treaty of Amsterdam

The European Union Treaty (Title IV on visas, asylum, immigration and other policies related to free movement of persons)

The Schengen acquis
The Schengen Convention
Common Consular Instructions on Visas for the Diplomatic Missions and Consular Posts, Brussels, 7 November 2005
EU Schengen Catalogue. Volume 3, Issuing of Visa, Recommendations and Best Practices, March 2003

The Danish Immigration Authorities, <http://www.nyidanmark.dk/da-DK/>
The Belgian Immigration Authorities, <http://www.dofi.fgov.be/fr/1024/frame.htm>
The Dutch Immigration Authorities, <http://www.immigratiedienst.nl/>
The Swedish Immigration Authorities, <http://www.migrationsverket.se/>

- Interview relevant key persons from the Norwegian visa authorities.
- Collaborate with external consultants with legal expertise related to the visa application process.
- Contact non-governmental organizations that have knowledge of persons who have applied for visitor's visas, for example, the Institution against Public Discrimination (OMOD).
- Contact the Norwegian Parliamentary Ombudsman
- Design a research tool that includes a number of cases portrayed as "classical dilemmas" which can be presented to the visa officials at the selected embassies for consideration and comment.
- Fieldwork in Pakistan and Turkey. Interview visa officials³⁶. The local employees at the Norwegian embassies were also interviewed
- Presentation of preliminary findings at roundtables in both Ankara and Islamabad to the visa officials who had been interviewed.

2.4 "Classical dilemmas"

A selection of cases which represent what can be called classical dilemmas in relation to Schengen short stay (type C) visitor's visa applications for family visits was constructed with the help of Norwegian visa officials with broad practical experience. External legal experts were also involved in the construction of the cases.

In constructing the cases, we first identified applications for short term family visits which were considered as unproblematic (bona fide) in the Norwegian

³⁶ Local employees at the Norwegian embassies were also interviewed.

visa practice. Then we identified cases which were considered clear rejections.

In between these two positions, was a grey zone with elements which triggered Norwegian officials to consider the so-called “immigration risk” of the visa applicant. We then listed the humanitarian circumstances which could make the risk tolerable³⁷ to the visa authorities and which could count in the application’s favor.

Three classical dilemma cases were then constructed from the elements of immigration risk in combination with the elements of so-called substantial humanitarian circumstances e.g. when the stated purpose for the visit is birth, marriage, death in the family, serious illness, etc.

These cases took the form of brief situational descriptions with critical information relevant to family visitor’s visas in one short paragraph. These cases were used systematically during the interviews with visa officials.

2.5 Challenges in the study

- **Statistics**

Schengen short stay visitor’s visa (type C) allows entry to Schengen countries for a variety of purposes like family visits, business, tourism, and participation in political/cultural/sports events. Schengen statistics that are available today do not differentiate between the different purposes of Schengen C- visa visits³⁸. In the Norwegian experience, a majority of the C-visa applications are for family visits, with business and tourism trailing behind. However, this is not the case for e.g. the Belgian foreign missions in Turkey and Pakistan where the family visitor’s visa applications do not form a major part of the C-visa applications.

37 The immigration risk does not disappear but the visa authorities are willing to take a large risk if there are substantial humanitarian reasons which call for it.

38 In the future, however, the Norwegian NORVIS- system will be able to provide more detailed information about Norwegian visa statistics.

In addition to the problem of the lack of comparable statistics, there is also the issue of how available statistics are registered. For example, some countries register applications which are incomplete and have missing documentation (like Norway) and some countries only register them if they are complete (like Denmark).

Furthermore, the definition of "refusal" could vary. This study has not closely examined how the various statistics here define the concept of "refusal" (e.g. whether this includes refusals after all possible appeal procedures have been exhausted).

- **"Visa abuse"**

Even though this is the main fear and concern of visa authorities, there is no harmonized Schengen definition of the phenomenon.

- **Time and resource constraints**

Collecting empirical data from different actors in several countries in different languages with different definitions of major relevant concepts also has clear logistical challenges.

3. Schengen visa practice. Still in the process of harmonization.

*“Schengen is a bunch of countries which share a common visa sticker
But which follow their own national visa policies”.*

Anonymous visa officer

The point of departure of this study builds on the assumption that Schengen rules and regulations are harmonized. Following this line of thought, it would be possible to examine if Norwegian visa practice is harmonized with, stricter or more lenient than Schengen visa practice.

However, as this chapter will demonstrate, Schengen visa practice is still *in the process* of harmonization.

Furthermore, when we speak about Schengen practice harmonization we need to separate the harmonization of visa technicalities on the one hand and the harmonization of visa practice on the other.

The selection of five countries means that the study covers one third of the Schengen members (five out of fifteen countries). However, as mentioned earlier, the selection of countries *narrows* the range of visa practices that one would expect to find among the fifteen Schengen countries. The five countries in this study constitute a group of Member States who (at least in Turkey and Pakistan), perceive themselves to have a relatively high level of information exchange on visa matters. In other words, we should expect to find some degree of “Schengen harmonization” among the five countries here.

Nonetheless, even among these five countries, there is a range of differences across some aspects of visa practice. The range of differences among this group of Member States is therefore interesting in a discussion of Schengen visa harmonization: in what areas do we observe similarities and differences and how could some of these similarities/differences be accounted for?

The approach in this chapter takes Norwegian visa practice as its point of departure. The selection of statistics and questions deemed relevant are so because they

address the ways in which Norwegian visa authorities tend to understand Norwegian practice in relation to Schengen visa practice.

All statistics in this report are approximate and, unless otherwise stated, from 2005.

3.1 Refusal rates for visa applications

HYPOTHESIS 1: Refusal rates for visa applications to the five countries in the study can give us an indication of how Norwegian visa practice is harmonized with Schengen with regard to family visitor's visas.

Ankara (2005)		
Country	Refusal rate C-visa	Refusal rate family visa
Belgium ³⁹	32%	NA ⁴⁰
Sweden	25%	32% family visa
Norway	25%	NA
Netherlands	20%	NA
Denmark ⁴¹	10% ⁴²	21% family visa

Islamabad (2005)		
Country	Refusal rate C-visa	Refusal rate family visa
Norway	54%	NA
Belgium	51%	NA
Denmark	34%	43% family visa
Netherlands	25-30% ⁴³	NA
Sweden	24%	46% family visa

40 Not available.

41 All figures for Denmark in this report are from the Danish national authorities ("Udlændingetjeneste") in Copenhagen.

42 All figures for Denmark are for persons with Turkish/Pakistani nationality no matter where in the world they have applied for their visa to visit Denmark.

43 There is a trend that the refusal rate is going up for C-visa applications to the Netherlands from the embassy in Islamabad.

Some of the selected countries, including Norway, only have general C-visa statistics available whilst others have statistics for the specific C-visa grounds (business, culture, tourism, family visit etc.).

It is therefore not possible to discuss Schengen harmonization – or the lack of it – concerning family visitor’s visas based on statistics which are available.

What can the available refusal rates for the more general “C” category suggest?

In general we see that the visa refusal rates are lower in Ankara than in Islamabad. This could be a reflection of Schengen harmonization regarding the e.g. security and immigration risk issues perceived for the two countries.

However, if we were to look at the Schengen countries more closely, we see that apart from Belgium and the Netherlands which have fairly consistent refusal rates in both Turkey and Pakistan (seen in relation to the other Schengen countries there), a Schengen member states which has a relatively high refusal C-rate for Turkey might have a low C-rate for Pakistan, or vice versa. For example, Sweden has a high refusal rate in Turkey but the lowest one in Pakistan and Denmark has the lowest refusal rate in Turkey but an “average” refusal rate in Pakistan. How can we try to understand the mechanisms which could account for such a diverse picture?

Looking specifically at Norway, we see that Norway has the highest refusal rate for C-visas among the selected Schengen countries in Islamabad but an “average” refusal rate among the selected Schengen countries in Ankara. This could be explained by many factors. For example:

- 1) the proportion of family visitor’s visa applications (among Schengen C-visas in general) is very high at the Norwegian embassy in Islamabad,
- 2) the Pakistani diaspora in Norway is much larger (both in absolute numbers and by rank) than the Turkish diaspora,
- 3) the Norwegian embassies accept and register applications which are incomplete (ie. applications which are submitted without all necessary

documentation). This affects Norwegian refusal rates in general as missing documentation could lead to a negative outcome.

This study will examine these three hypotheses more closely.

3.2 Visa applications for family visits.

By viewing family visitor's visa applications as a *percentage* of the total number of C- visas, we can rank the embassies in terms of the role of family visitor's visa applications compared to the total number of C-visas handled in all categories.

The figures in the column furthest right (Applications for Schengen short stay visitor's visa – type C- for family visits) have been obtained through a combination of ways including educated guesses by visa officials in embassies where exact figures are not easily available (Norway and the Netherlands). The other countries in this study, Sweden, Denmark and Belgium, had the statistics readily available – either at the embassies or the national authorities.

HYPOTHESIS 2: The percentage of family visitor's visas at the Norwegian embassies in Ankara and Islamabad can explain the Norwegian rates of refusal in Turkey and Pakistan.

Ankara (2005)

Country	Total visa applications, All categories	Total C-visa applications	Applications for Schengen short stay visitor's visa (type C) for family visits
Denmark	5500	3000	2200 (73% of C visas)
Netherlands	11000	8700	5000 (57% of C visas)
Sweden	1641	Approx 1650	910 (56% of C visas)
Norway	1200	900	Approx. 400 (approx 40% of C visas)
Belgium	7000	4800	2100 (43% of C visas)

Islamabad (2005)

Country	Total visa applications, all categories	Total C-visa applications	Applications for Schengen short stay visitor's visa (type C) for family visits
Norway	2500	NA	Approx. 90% of C visas
Denmark	1700	1400	1100 (78% of C visas)
Sweden	2400	1110	450 (38% % of C visas)
Netherlands	7500	5000	Approx. 30-35% of C-visas
Belgium	2500	1700	30% of C-visas

Family visitor's visas to Belgium make up 43% of C-visas in Ankara and 30% of C-visas in Islamabad. In other words, the percentage of family visitor's visa applications to Belgium in Ankara is about the same as Norway's but in Islamabad, it is half of Norway's. It would therefore be interesting to compare the refusal rates of Belgium and Norway in both Ankara and Islamabad.

The hypothesis here can be supported if the Belgian rate of refusal is about the same as the Norwegian one in Ankara and about half (or at least very much lower) than the Norwegian one in Islamabad.

A closer examination reveals that if we look at the refusal rates of C- visa applications to these two countries from applicants in Ankara and Islamabad, we see that in Ankara, Belgium is "stricter" than Norway by seven percentage points while in Islamabad, Belgian and Norwegian refusal rates are more or less the same. In other words, the Belgian case does not support the hypothesis here.

We can also approach this matter in a different way: by looking at Pakistan and Turkey separately. The country with the lowest percentage of family visitor's visas in Islamabad is Belgium (approximately 30%). However, the refusal rate for Belgium in Islamabad is 51%, almost as high as Norway's 54%. In order to support the hypothesis here, the Belgian refusal rate in Islamabad should have been among the lowest in the selection of Schengen countries in this study.

In short, this comparison between Norway and Belgium in both Ankara and Islamabad - both between and within Turkey and Pakistan - so far does not seem to lend support to the hypothesis that the high percentage of family visitor's visa applications at the Norwegian embassy in Islamabad can account for the high rate of refusal there.

In addition, we see that whilst Denmark⁴⁴ has the highest proportion of family visitor's visas among its C-visa applications in Ankara, it ended up with the lowest refusal rate in Turkey. In addition, in the Dutch case, a relatively high

⁴⁴ All statistics for Denmark are from the national visa authorities and include both the decisions taken in the foreign service missions and the authorities in Copenhagen, Denmark.

proportion of family visitor's visas is combined with a relatively low refusal rate in Ankara.

In Islamabad, the Danish embassy has the next highest proportion of family visitor's visas (after Norway) at 78% while its relative refusal rate in Islamabad is "average" at 34% for C-visas and 43% for family visas. In Islamabad, Sweden is the country with the "average" proportion of family visitor's visa applications, seen in relation to C-visa applications. The refusal rate for Sweden is the *lowest* in Islamabad at 24% C-visas and 46% family visitor's visas.

On the other hand, the "average" proportion of family visitor's visa applications at the Norwegian embassy in Ankara seems to "match" the "average" refusal rate at the Norwegian embassy in Ankara compared to the other selected Schengen countries there.

The hypothesis here seems to be supported only in the case of Norway in Ankara and Islamabad, and not in the case of the all other countries in the study.

It is not possible to draw any firm conclusions from these few observations.

However, the pattern we see for the Belgian, Danish, Dutch and Swedish visa practices in both Ankara and Islamabad - both between and within Turkey and Pakistan - do not lend support to the hypothesis that there is a correlation between the percentage of family visitor's visas and refusal rates for the other countries in the study – as there seems to be for Norway.

These observations can serve to show that the correlation between the percentage of family visitor's visa applications and the rate of refusal seems to be supported only for Norway alone.

Such observations suggest that Norway *either* is a special case in *both* Ankara *and* Islamabad, or that there are *other* factors than the proportion of family visitor's visa applications which also are important when trying to account for visa refusal rates.

3.3 The Turkish and Pakistani diaspora* in the selected countries. 1.1.2006

HYPOTHESIS 2: The larger the diaspora in the country, the higher the refusal rate for family visitors' visa because the chances for visa abusers to "hide themselves amongst their own" will be perceived by visa officials as higher.

Country	Turkish diaspora	Ranking among largest groups with immigrant backgrounds	Pakistani diaspora	Ranking among largest groups with immigrant backgrounds
Norway	14.084 ⁴⁵	9	27.675 ⁴⁶	1
Belgium	42.733 ⁴⁷	6	4.713 ⁴⁸	24
Sweden	57.551	6	6.437	39
Denmark	55.550 ₋	1	19.284	6
Netherlands ⁴⁹	339.727	1	16.862	24

The definition of diaspora here is:

- 1) persons whose country of birth is Turkey/Pakistan and
- 2) persons with two foreign born parents whose country of birth is Turkey/Pakistan.

From the table above, we see that the Pakistani community is the largest among the immigrant groups in Norway. We also know that the Norwegian refusal rates for Islamabad are high.

45 Of these, 10406 (73,9%) have Norwegian citizenship.

46 Of these, 21321 (77%) have Norwegian citizenship.

47 Only those having Turkish citizenship. The figure is more than twice as large if one includes all persons with Turkey as the country of origin. www.dofi.fgov.be (7.4.2006)

48 Only those having Pakistani citizenship of that country. The figure is larger if one includes all persons with Pakistan as the country of origin. www.dofi.fgov.be (7.4.2006)

49 The Netherlands normally operates with a broader definition of the diaspora than here. These figures are from Statistics Netherlands.

From the table above, we see that the Turkish community is an important immigrant group in Denmark and the Netherlands. What then are the refusal rates for Denmark and the Netherlands for the selected Schengen embassies in Ankara?

The rates for the Netherlands (20%) and Denmark (10%) are among the *lowest* among the selected countries in Ankara, thus *not* lending support to the hypothesis that the size of the diaspora leads to higher refusal rates.

In Pakistan, Sweden is the country with the lowest ranking Pakistani diaspora (no.39). However, the Swedish refusal rate is "average" compared to the other countries. In Pakistan, Belgium and the Netherlands are the other countries with low ranking Pakistani diaspora (no 24 in both Belgium and the Netherlands). However, the Belgian refusal rate in Pakistan is relatively high (51%), while the Dutch refusal rate is relatively low (25-30%).

In Islamabad, the country with the *largest* Pakistani diaspora, Norway, had the *highest* refusal rates. However, in Ankara, the countries with the largest Turkish diasporas, Denmark and the Netherlands, had the *lowest* refusal rates.

The correlation between diaspora size and refusal rate does not hold either when we look at the countries with the *smallest* Pakistani diaspora (Belgium, the Netherlands and Sweden with refusal rates of 51%, 25-30% and 24% respectively).

This suggests that the correlation between the size of the diaspora and refusal rates is a weak one.

3.4 Registration routines

Norwegian authorities accept and register files as soon as an application is made.

This routine includes files with missing documentation. An incomplete file is one that is waiting for further documentation. If the missing documents are not produced within a grace period, Norwegian authorities go ahead and process the application. This routine could contribute to higher refusal rate as the missing documents could be deemed as central in the visa application.

Conversely, countries which only register complete applications (like Denmark) could be assumed to have “weeded out” some of the “weak” applications which could have led to negative results. Following this line of reasoning, their refusal rates would then be lower than countries like Norway.

HYPOTHESIS 3: Administrative routines regarding the registration of files affect the Norwegian rate of refusal in both Ankara and Islamabad.

Country	Registration routines in ANKARA	Registration routines in ISLAMABAD
Norway	Register incomplete files	Register incomplete files
Sweden	Register incomplete files	Register, but applicants are informed that lack of documents can lead to negative result
Netherlands	Register incomplete files. Applicants are given two weeks to complete the application. If the application is not completed by this time, the application will be rejected	Incomplete files: applicants are given 10 days to provide missing documents. If documents are not produced within this period, the application will be turned down ⁵⁰ .
Belgium	Register incomplete files	Applicants with incomplete files are told that this will have a negative effect on their application. If they wish to proceed with the application, they need to sign a declaration that they are aware of the consequences ⁵¹ .
Denmark	Only complete files are registered	Incomplete files are not registered. Local employees are obliged to inform potential applicants if their chances are judged to be weak before applying.

⁵⁰ However, the applicant has the possibility to appeal – and enclose the missing document in the appeal

⁵¹ Embassy might decide to interview applicant in a few cases. No standard list of questions. Done by expats with translators. Applicants provide proof of family ties if they think it is applicable. The family registration certificate from the National Database and Registration Authority (NADRA) is not necessarily a required document. Applicants are generally not asked to provide family tree. Passport and documents generally kept at embassy.

All countries except Denmark accept incomplete files but they all have different “grace periods” within which an applicant has to produce the missing documentation.

We see from this overview that Denmark is the only country among the selected countries in the study which neither accepts nor registers incomplete files as a general rule in both Ankara and Islamabad. However, the Danish refusal rate is the highest in Ankara and second highest in Islamabad.

From the interviews, it was also clear that local interviews at some embassies used a standardized interview form whilst others did not. Some required certain documentation that is not requested by others e.g. a family tree is required by the Norwegian embassy while others e.g. the Dutch embassy, do not require the same level of detailed information about the family of the applicant.

From this table it also seems as if registration routines in Islamabad are, on the whole, “stricter” than in Ankara for all the selected countries. However, we cannot draw a direct correlation between registration routines and refusal rates. Denmark’s refusal rates in both Ankara and Islamabad are not significantly lower than the refusal rates of the other countries in this study. Of course this does not mean that there is no connection whatsoever between registration routines and refusal rates; it only means (once again), that this area is too complicated and the available statistics too poor to be able to draw this type of (simplistic) conclusion.

After examining these three hypotheses by comparing visa practice among the selected Schengen countries in Ankara and Islamabad, this study finds that it is difficult to conclusively account for the refusal rates at the Norwegian embassies in Ankara and Islamabad by referring to 1) the proportion of family visitors visa applications, 2) the size of the Turkish/Pakistani diaspora in Norway or 3) the Norwegian registration routine that accepts and registers incomplete files alone.

However, *other* factors which have not been examined in this study may have contributed to the Norwegian refusal rates in both Ankara and Islamabad.

This study also concludes that refusal rates are, at best, *uncertain* indicators for Schengen "harmonization" or the lack of it.

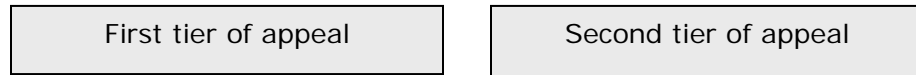
3.5 Refusals: Appeal procedures and cost. An overview. Islamabad, 2005.
HYPOTHESIS: The more generous the appeal procedure the higher the numbers of appeals.

Country	Reasons for refusal	Appeal procedure	Cost
Norway	Reasons for refusals are given in English. Information on how to appeal is provided in English.	Initially, appeals are directed to the relevant embassy. If unsuccessful, they can then be sent to the national authorities. In 2005, there were 603 appeals from Pakistan and 93 appeals from Turkey.	Free
Denmark	Reasons for refusal are given in both English and Danish.	Decisions may be appealed directly to the national authorities. In 2005, there were 189 appeals from Pakistan and 120 appeals from Turkey.	Free if applicant appeals directly to national authorities. Costs 1000 rupees if the embassy sends the appeal.
Netherlands	Reasons for refusal are given in Dutch. Information on how to appeal is provided in English ⁵² .	Everyone has the right to make an official objection. This can only be done to the national authorities. The embassy stays completely out of this procedure and awaits the decision. If the objection is declared legitimate / well-founded, he/she has the right to make an official appeal.	Free
Sweden	Reasons for refusals are not required by Swedish law, but the embassy provides reasons in English.	Decisions cannot be appealed but the applicant might ask for a review of their case. About twenty cases per year.	Free
Belgium	Reasons for refusal are given in English and one of the national languages. Information on how to appeal is also provided.	Appeal procedure is complicated and time consuming for the applicant. Very few people appeal. Most applicants consider that it is much easier to re-apply.	Appeal procedure is costly for the applicant.

⁵² At the Dutch embassy in Ankara, information on how to appeal is provided in Turkish.

This overview of the rules and procedures in Islamabad shows that there could be a direct link between generous appeal procedure and costs in Norway and the number of appeals the Norwegian authorities have to handle.

3.5.2 Results of appeals in the Norwegian system. Turkey and Pakistan.



2005

Country	Positive result	Negative result	Positive result	Negative result
Pakistan	53	59	21	582
Turkey	9	30	19	74

In this table, we see the results of appeals that have been filed by Pakistani and Turkish applicants after first receiving a negative outcome. As mentioned earlier, Norway has two tiers of appeal. Those who receive a negative outcome after the first tier of appeal may appeal at the second tier. This table shows that a few applicants do finally manage to get visas issued after exhausting the two possible tiers of appeal.

Even though the study lacks comparable statistics from the other countries the above table has been included for the sake of general interest.

3.6 Outsourcing. An overview.

Islamabad

Country	Outsourced services	Cost
Belgium	Private firm (Fedex) provides information about visa applications and application forms. Private firm also returns passport when application process is completed	450 rupees from Islamabad, 850 rupees the rest of Pakistan.
Netherlands	Option of using private firm (Fedex) to return passport from embassy when application process is completed ⁵³	400 rupees
Norway	No outsourced services	NA
Denmark	No outsourced services	NA
Sweden	No outsourced services ⁵⁴	NA

Among the countries in this study in Islamabad, the Belgian embassy currently outsources the most services. A few of the other embassies have plans to outsource more services.

53 The Dutch embassy in Islamabad is going to outsource the making of appointments with the embassy, information to applicants and collection of the complete visa application file in 2007. The cost will be 850 rupees.

54 Due to the increasing number of student visa applications, the Swedish embassy in Islamabad is planning to outsource some visa application services for this category in 2007.

3.7 Financial guarantees and sponsors/reference persons⁵⁵. An overview.

Country	Can guarantee be enforced?	Sponsors/reference person
Denmark	Yes. Reference persons to certain categories of visitors might be given the opportunity to guarantee the sum of 52 000 Dkr (2005) which can be forfeited if there is evidence of visa abuse.	Reference person contacted also for short stay visas. Detailed guarantee system for certain groups/countries.
Belgium	Yes. Sponsors must pay for the plane ticket and the daily cost of keeping the visitor at a Detention Center before his deportation.	Critical for private visits. Many rejections because sponsor cannot meet fixed monetary demands for guarantee. Different rates required for different visitor categories. Lower rates for family members ⁵⁶ than for others ⁵⁷ .
Netherlands	Officially yes. However, no cases known to the embassy in Islamabad.	Reference person has to go to local city hall to invite and fill in guarantee form to cover any costs. Income slip the last three months of reference person needed. Applicant needs to show financial situation in homeland to demonstrate local ties.
Norway	Officially yes. In reality, unsure. Has never been tested in a court of law. If an applicant has sufficient financial means, there is no need for a sponsor.	Sponsor not crucial. Applicant in focus. More lenient policy regarding financial means towards parents than other family visitors.
Sweden	No	Sponsor not crucial. Applicant in focus. More lenient policy regarding financial means towards parents than other family visitors.

The legality of the guarantee which is required by visa authorities in Norway has never been tested in a court of law. The function of the guarantee seems therefore unclear – both to the visa authorities and to the applicants and their

⁵⁵ The sponsor is the person who financially guarantees for the visa applicant. The reference person is the person whom the visa applicant wishes to visit. In some countries, like Norway, both terms refer to the same person (the person whom the visa applicant wishes to visit). In others, like Denmark, someone else (ie. not the person whom the visa applicant wishes to visit) might sponsor and put up the financial guarantee for the reference person.

⁵⁶ Belgian definition of family includes both so-called first and second degree family members.

First degree family: parents, children, parents-in-law, spouse's children from previous partnership.

Second degree family: grandparents, spouse's grandparents, grandchildren, siblings, brothers/sisters-in-law.

⁵⁷ Invitation letter from sponsor in Belgium in 90% of cases The other 10% can prove that they have independent financial means to travel. Sponsor in Belgium could be someone else with financial means, not necessarily the person who will be receiving the visitor.

reference persons in Norway. By way of contrast, in Denmark, the financial guarantee can be used as a way of allowing some applicants with “weak” cases to visit Denmark. As mentioned earlier this possibility does *not* apply to countries in Category 1 in the Danish visa system (like Pakistan). However, Turkey is classified in a category in the Danish visa system which opens for such a possibility. In Denmark, the financial guarantee has a clearer function. It does not open for entry to Denmark for all “weak” cases (and it does not open for those without financial means), but it allow visits for some cases.

The above overviews regarding refusals, outsourcing and financial guarantees and the actual role of the sponsors in visa applications show that there is a wide range of national visa practices among the selected Schengen countries.

If more time and resources had been available for this study, it would have been interesting to examine if there is a correlation between refusal rates and visa systems with strict guarantees which can be enforced (Denmark and Belgium) on the one hand and refusal rates and visa systems with lax guarantees which in reality cannot be enforced on the other (Norway, Sweden, and perhaps the Netherlands).

3.8 “Visa abuse”

The critical question all visa officers face is to find out if the visa applicant is actually going to leave Schengen when the valid duration of the visa runs out. *Leaving* Schengen does not necessarily have to mean *return* to the country where the visa application was filed. However, all the embassies interviewed equated “leaving” Schengen with “returning” to the country of origin.

As mentioned earlier, there is no consensus regarding the definition of visa abuse in the Norwegian administration. Not surprisingly, this is also the case among the countries in this study.

Some acts which are defined as “visa abuse” in one country are not regarded as such in another country. For example, applying to prolong family visits e.g. because of illness is allowed in Belgium and definitely not defined as an instance of “visa

abuse". This also applies to the application to change short stay family visits to long stays in Belgium for e.g. study, family reunion or other humanitarian reasons. In Denmark, applying to change a short stay family visit visa to family reunification is only counted as "misuse" the *second time* this happens (not the first). In Sweden, it is also possible to prolong short stay family visits (even up to two consecutive periods) without being branded as a case of "visa abuse".

This means that it is also difficult to measure the phenomenon of "visa abuse" among the countries in the study. Furthermore, statistics and other systematic documentation do not exist. This also means that effective routines⁵⁸ and procedures⁵⁹ to uncover "visa abuse" are not in place.

Another interesting observation in this area is that foreign service missions seem to be waiting for information and statistics from the national authorities e.g. about asylum seekers who have previously held short stay visitor's visas, while the national authorities seem to be waiting for information and statistics from the foreign service missions e.g. about non-return of short stay visa holders.

The Swedish foreign service missions were the only ones in the study which regularly receive systematic statistics on the cases Swedish authorities define as "visa abuse". However, it was also pointed out that no connection is made between these numbers and the specific cases; in other words, Swedish visa officials do not know e.g. exactly which visa applicant applied for asylum. There was no guarantee either that the numbers sent by central Swedish authorities were comprehensive.

58 As an exception among the countries in this study, the national authorities in Sweden regularly provide their embassies and consulates with statistics of "visa abuse" ("avhopsstatistik", Swedish). Here "visa abuse" is limited to two groups:

- Short stay visa holders who apply for asylum once they enter Schengen territory
- Short stay visa holders who overstay and who do not leave Schengen territory after the valid duration of their short stay runs out.

59 Several member states mentioned that they had occasionally asked some visa holders to report back to the embassy upon return. Unfortunately, none had any systematic records of visa holders who actually did report back as requested.

3.8.1 Experiences reported by the foreign service missions in Ankara and Islamabad

What is possible to document regarding the broad and vague phenomenon of “visa abuse”? Even though there are no statistics or other systematic documentation of visa abuse, all the foreign service missions interviewed reported some common experiences of irregularities in connection with permits, but not necessarily with short stay visas. This picture is confirmed by interviews with the Nordic Police Liaison Officer in Islamabad.

Location	Experiences reported by the foreign service missions of irregularities in general (ie. not specifically in connection with short stay visas)
Ankara, Turkey	<p>Older European women who marry younger Turkish men after summer holidays in Antalya, Turkey.</p> <p>Turkish men stay married to European women for the number of years it takes to qualify for permanent settlement in Europe. Divorce follows when permanent settlement in Europe is secured. The men then marry a Turkish wife and apply for family reunification.</p>
Islamabad, Pakistan	<p>Widespread forgery of documents reported. Forged documents (bank account statements etc) also from bona fide applicants with strong financial backgrounds who wish to prevent insight into their private financial situation.</p> <p>Stolen visa stickers.</p> <p>“Loan” of bank statements to strengthen visa applications.</p> <p>Various scams in connection with visits in connection with culture and sports events.</p> <p>Some high ranking Pakistani officials and politicians involved in visa irregularities.</p> <p>IT technology has opened up for new forms of irregularities and fraudulent behavior.</p> <p>Organised crime, narcotics smuggling and trafficking.</p>

False documents were reported as being a widespread problem, especially in Pakistan. The following table can sum up the various forms of this problem (highlighted in grey):

Types of documents

Genuine document, Correct information	Genuine document, Incorrect information
False document, Correct information	False document, Incorrect information

Nordic Police Liaison Officers are usually senior personnel with broad experience of police work from the Nordic countries and abroad. They usually have a good network of contacts both in their home countries and in the countries where they operate. The cooperation between the Liaison Officers and the Visa Sections of the Nordic embassies play an important role in understanding the emigration strategies of the local applicants and of identifying trends among them, in particular irregular and even illegal activities.

3.8.2 Asylum seekers from Turkey and Pakistan. 2001-2006.

Asylum seekers from Pakistan to the selected Schengen countries. 2001-2006.

	2001	2002	2003	2004	2005	2006
Belgium	237	177	341	308	222	160
Denmark	151	63	36	81	39 ⁶⁰	31
Netherlands	106	77	84	66	82	117
Norway	186	216	92	48	33	26
Sweden	115	62	85	77	70	61

Asylum seekers from Turkey to the selected Schengen countries. 2001-2006.

	2001	2002	2003	2004	2005	2006
Belgium	900	970	618	561	453	380
Denmark	130	111	108	84	47	39
Netherlands	1,4	638	414	338	289	341
Norway	204	257	235	149	111	67
Sweden	458	696	733	445	423	305

<http://www.unhcr.org/statistics.html>

The table here shows figures for asylum seekers in general, *not asylum seekers who had come to Schengen on a short stay visa specifically*. Statistics are generally not available for short stay visa holders who apply for asylum for most of the selected countries in this study. However, Norway⁶¹ and Sweden⁶² had some statistics available.

⁶⁰ This is the figure from the statistics office at the Danish visa authorities. The figure from IGC is 40.

⁶¹ Norway: 1 case of c-visa holder who applied for family reunification. In addition, D-visa interviews reveal that some applicants have previously applied for asylum in other Schengen countries.

⁶² Half-yearly reports from the Swedish Migration Board. 2005 (1), show that 11 from Ankara and 8 from Istanbul were "visa abusers". According to Swedish authorities, this includes visa holders who apply for asylum or residency on other grounds. The embassy just receives statistics, not information about the persons in question. These numbers are the numbers reported to the statistics unit. They are not comprehensive and the numbers could be higher.

It must be noted that it is possible to apply for asylum in *another* country than the country for which one holds a valid visa. It is assumed that most asylum seekers probably do.

EUROSTAT compiles statistics on Dublin requests i.e. requests between countries that an asylum application should be processed in another country. One common occasion for a Dublin request is when a person with a visitor's visa applies for asylum in another country. This country then files a Dublin request that the asylum application be processed by the country that issued the visitor's visa in the first place. For this study it has not been possible to analyze these statistics.

When the Schengen database VIS comes into use with biometric data, it will be possible, in principle, to identify persons who apply for asylum under a different identity from the one for which one obtained a visa to a Schengen country.

3.8.3 Expulsions from Norway. 2005

There are several grounds on which persons may be expelled from Norway. One of the grounds is having grossly or repeatedly contravened one or more provisions of the Immigration Act or evading the execution of any decision which means that the person must leave Norway. Unlawful residence and unlawful work are examples of contravening the Immigration Act.

Preliminary statistics from 2006 show that a total of 805 persons were expelled from the whole of Norway because they contravened provisions of the Immigration Act. Of these 19 persons were from Pakistan and none from Turkey.

According to the visa officials interviewed, many cases of "visa abuse" are discovered by chance, not through systematic routines.

3.8.4 Follow up

One way of getting to grips with the phenomenon of "visa abuse" is perhaps to *deconstruct* the phenomenon and focus on those issues that Norwegian authorities are most concerned about. Then it would be easier to channel efforts

into creating routines to uncover the specific issue and to document it more systematically.

If this is not done, there will always be the danger of “lumping together” all “negative” issues, whether or not it is actually an issue for short stay family visits.

Fraudulent behavior like false information, forged bank statements, forged marriage certificates, letters of invitation etc risk being “lumped together” with illegal, criminal activities like organized crime, trafficking, forced marriage, corruption etc. There is also the risk that traditional customs which are not illegal in Norway but which are not socially popular with the majority e.g. arranged marriage, “cousin marriage” are also “lumped together” with fraudulent behavior and criminal activities.

The term “visa abuse” needs to be deconstructed to issues like “from family visa holder to asylum seeker” etc. for useful comparisons to be made. This chapter has examined some areas which might be fruitful to study more. This is no easy task as some of these phenomena are entwined and entangled with each other. If there were good statistics available of the most relevant aspects of “visa abuse”, such deconstruction is not that pressing. However, when the phenomenon of “visa abuse” is vague but looming in the minds of visa officials, then it should be a priority to try to get to grips with its most significant aspects.

Similarly, the term “Schengen harmonization” needs to be deconstructed to issues like “visa fee”, “travel insurance”, “visitor’s visas for parents”, visitor’s visas for siblings” etc for useful comparisons to be made.

3.8.5 Future plans

Norway

Recent developments in common computer systems now allow the Norwegian foreign service missions to look up the national registers of foreigners⁶³ and the Central

63 Utlendingsbasen (UDB)

Population Register⁶⁴ which lists the current registered home address of all persons in Norway. The Norwegian Directorate of Immigration's new system for the processing of visa applications, NORVIS, is a data system available to the police, immigration authorities and the Norwegian foreign service missions. NORVIS will also give the police better possibilities for control at the border⁶⁵. The Norwegian authorities plan to connect NORVIS to the Schengen Visa Information System (VIS).

Schengen

The Schengen Visa Information System (VIS) is a system for the exchange of visa data between Member States. It represents one of the key initiatives within the EU policies aimed at supporting stability and security. VIS shall improve the administration of the common visa policy, the consular cooperation and the consultation between central consular authorities in order to prevent threats to internal security and 'visa shopping', to facilitate the fight against fraud and checks at external border checkpoints and within the territory of the Member States, to assist in the identification and return of illegal immigrants. In principle, VIS should make it possible to increase the quality of border control and uncover more cases of "visa abuse".

Simultaneously, VIS will benefit bona fide travelers by improving the procedures for issuing visas and for checks. In theory, more control can also allow more liberal visa practice vis á vis visa applicants who do not abuse the conditions of the visas issued to them. For example, the Schengen Convention opens for the possibility for member states to issue multiple entry visas (of max 90 days for a period of 6 months) which are valid for a total of five years⁶⁶.

⁶⁴ Folkeregisteret

⁶⁵ The Swedish system for the processing of visa applications, WILMA, is connected to the IT-system of the Swedish Airport Police and to all police stations in Sweden. In other words, it is possible even today, for Swedish visa officials to see entries and exits of a specific individual to/from Sweden – if they have been registered by the police.

⁶⁶ CCI, part V 2.1. However, for most countries, this is not the normal practice. In Norway, the maximum period for a multiple entry visa is one year.

3.9 Local Consular Cooperation (LCC). The driver of the harmonization of Schengen locally.

Understanding the nature of the local consular cooperation (LCC) is important in order to understand how the Norwegian visa application process functions in practice.

In both Ankara and Islamabad, all the countries in the study were in contact with each other both formally and informally.

The foreign service missions of the Nordic countries have a specially close relationship.

Ankara

In general, the form and content of LCC meetings varies with respect to e.g. the number of meetings per year, the inclusion/exclusion of a clear agenda with the meeting invitation, the distribution of the minutes from the meeting etc.

In general, visa practice has not been a topic that has been on the agenda for LCC Ankara meetings nor the Nordic meetings. However, visa technicalities are often discussed. According to the informants spoken to in this study, the focus has tended to have been on the varying refusal rates in the Schengen countries. There is also interest in being on the lookout for sudden rises in the numbers of visa applications because this could be an indication of so-called "visa shopping" – whereby news that a particular embassy or consulate is more lenient in visa processing might lead to applicants rushing there.

Informants in Ankara reported an increase in harmonization of visa technicalities in certain areas (common form, standardized mini-list of required documents, standard fee, stamps and stickers, travel insurance). However, they also underlined that all national authorities are still central in influencing visa practice. In short, Schengen visa harmonization has not led to substantial changes in the way in which applications are evaluated or assessed by the national visa authorities.

Rather than broad Schengen harmonization across all countries in the study at the same time, it seemed that changes in the ways in which applications are evaluated have taken place in *bilateral, ad hoc relations*. For example, the Norwegian visa official learnt about the Turkish tax authority (SKK) website⁶⁷ from a Greek colleague and the Danish visa official learnt about it from the Norwegian official. Another example comes from the Dutch embassy which utilized the German script as its point of departure in information to be given to potential applicants from the outsourcing provider. Perhaps paradoxically, here we have an example where privatization has led to more harmonization between two Schengen countries.

In October 2005, there was a Schengen initiated evaluation of the Nordic countries' visa practice in Ankara. This involved a fairly lengthy process whereby the countries were given a questionnaire to fill in and were given time to make suitable changes before the evaluation mission arrived. Several officials from the Norwegian national authorities visited Ankara prior to the Schengen evaluation mission. There are detailed official reports from the Schengen evaluation mission for each Nordic country⁶⁸.

There was a general consensus that the value of the LCC meetings had improved since the Nordic Schengen evaluation mission. Several informants described the model for working sub-groups as both concrete and useful. There have been two such groups so far: on travel insurance and on the list of required documents. It must be mentioned that working in sub-groups also provides participants with the opportunity to get to know each other better, making it easier for more bilateral contact and cooperation. This is in line with previous Schengen recommendations.

Islamabad

There was consensus among the visa officials interviewed that LCC in Islamabad was not optimal. In particular there was dissatisfaction regarding the lack of Schengen harmonization concerning national visas and visa with limited territorial validity. The form, content and number of LCC meetings was dependent, as in

⁶⁷ This website enables the Embassies to print the complete work history of tax paying applicants.

⁶⁸ In these reports, there is also a section dedicated to Schengen harmonization through the LCC.

Ankara, on many factors. Visa matters tend to be on the agenda when technical or practical changes e.g. travel insurance, photographs etc. were to be discussed.

As in Ankara, the LCC meetings in Islamabad can also be rather large with agendas covering European Union, consular matters (like forced marriage, prisoners etc), administrative matters (like outsourcing) and Schengen visa issues. There is a separate Anti-Fraud meeting in addition to LCC meetings. These could also be rather large meetings.

As in Ankara, the quality of the LCC meetings in Islamabad is also dependent on the character, mentality and goodwill of the acting local Presidency or the individual in charge of visa sections. In addition, there is also the question of resources. It was mentioned that understaffing is a problem for some missions.

There was also consensus that the cooperation between the selected countries in this study was good. Personal relationships make it easy to contact each other for information. In both Ankara and Islamabad, previous rejections for a Schengen visa from one embassy were regularly checked and often also led to a rejection of the visa application. This could be seen as a sign of Schengen harmonization.

Stricter instructions on better and more efficient local cooperation from the Schengen council could speed up the Schengen harmonization process further.

4. How the selected Schengen countries responded to the “classical dilemmas”

4.1 The “classical dilemmas”

As mentioned earlier, a selection of cases which represent what can be called “classical dilemmas” in relation to visitor’s visa applications was constructed with the help of Norwegian visa officials who have broad practical experience. The idea was that this could be an approach which could complement the examination of refusal statistics. As the study has shown so far, there are clear limits to what a “pure” statistical approach can demonstrate. There are many variables underlying seemingly “neutral” statistics.

Here are the cases which were presented to all the visa officials interviewed in this study.

<p>1 Female, 40-50 years</p> <ul style="list-style-type: none"> • Wishes to visit niece in Norway/Schengen • Niece was born and bred in Norway/Schengen, but has visited Turkey/Pakistan several times and has visited aunt during visits home • Niece is going to get married • Applicant is married • 4 children, all living in Turkey/Pakistan • 60-day visa • Housewife • Will travel alone, husband and children will not accompany her • Husband has a “normal” job with “normal” pay. 	<p>2 Male, 20-30 years</p> <ul style="list-style-type: none"> • Wishes to visit girlfriend (ethnic Norwegian) in Norway/Schengen • Girlfriend is a Norwegian/Schengen citizen • Applicant is unmarried • No children • 30-day visa • Works as an IT-consultant. Has a letter from his employer documenting that he is entitled to 30 days holiday 	<p>3 Male, 40 years old</p> <ul style="list-style-type: none"> • Wishes to visit brother in Norway/Schengen • Brother is planning to celebrate his 50th birthday • Other siblings: 1 in the UK, 2 others in Turkey/Pakistan • Married • 3 children • 14 day visa • Breadwinner in the family. Businessman with his own company • Will travel alone. Wife and children will not accompany him. Owns house in poor region of Turkey/Pakistan
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Naturally, all the persons interviewed in Ankara and Islamabad felt that it was difficult to conclude in any confident manner as the case descriptions were too brief and incomplete. And when they finally did so, they did this with many qualifications.

The results of these interviews need to be seen in this light.

However, all the visa officers interviewed sportingly shared their thoughts regarding their main concerns in each case. This provided the study with interesting data regarding the focus of how family visitor's visas are processed by the different foreign service missions in Turkey and in Pakistan.

Danish and Belgian foreign service missions only have the competency to issue visas to bona fide applicants. Any application which is not considered bona fide is sent back to the national capitals to be processed. Therefore, interviews were also conducted in Copenhagen and Brussels with visa officials who would have received such applications from Ankara and Islamabad. In this way we were able to get reactions to the "classical dilemmas" from representatives from all the countries in this study.

One striking finding was that Danish and Belgian officials in Copenhagen and Brussels respectively did *not* think that these three cases were problematic at all. They arrived at their conclusions swiftly and confidently and some also asked me when I was going to present them with the "real dilemmas". We should not forget, though, that these cases were *not* perceived as bona fide cases by the Danish and Belgian foreign service missions in Ankara and Islamabad; without exception, they all chose to "send back" the dilemmas to their respective national authorities.

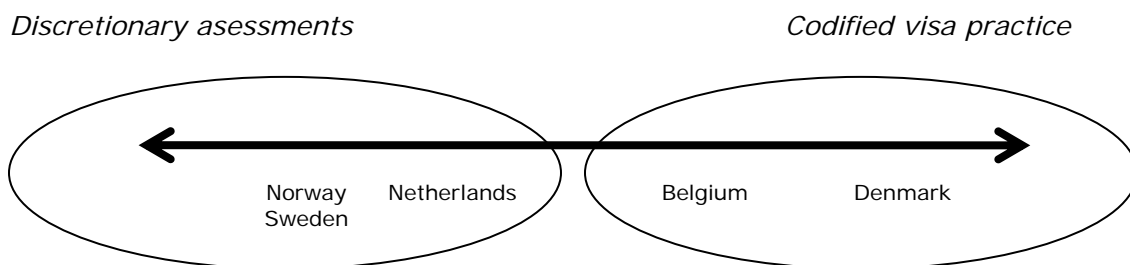
On the other hand, Sweden and the Netherlands, in addition to Norway which designed the dilemmas, weighed the factors "for" and "against" and had many issues, questions and concerns they needed answers to in order to arrive at a conclusion⁶⁹. It was my impression that these three countries also spent more time evaluating so-called "humanitarian reasons"⁷⁰ (serious illness, wedding etc) than Belgium and Denmark. It is therefore characteristic that the quote "*visa processing is not an exact science*" came from a visa official from one of these three countries.

69 According to UNE's Annual Report from 2004, the goal is not to issue a visa or to reject a visa application. The goal is to arrive at a "correct and good conclusion", given the current rules, laws and regulations.

70 According to UNE's Annual Report from 2004, Norwegian visa authorities first examine if the criteria to issue a visa is fulfilled. If yes, the visa is issued. If no, visa authorities will then examine if there are substantial humanitarian factors which could turn the result in the applicant's favor anyway.

A possible explanation could lie in the fact that Norwegian, Swedish and Dutch visa officials are vested with *relatively* large discretionary powers⁷¹ (compared to Danish and Belgian officials) whilst Danish and Belgian visa officials in foreign service stations and in the respective national capitals are more bound by a *relatively* more codified visa practice. On a *continuum*, the five countries could be placed in the following order in relation to each other.

4.2 Discretionary assessments vs codified visa practice. A continuum.



In Belgium and Denmark, the codified visa practice has the following characteristics:

1. clarity
2. transparency
3. political anchorage

Like a visa system where visa officials have large discretionary powers, a codified visa practice can also be experienced as unjust and unfair by visa applicants. However, unlike the system in Norway, Sweden and Netherlands, the visa authorities in Denmark and Belgium can point to their political leadership who carry the burden of responsibility for the codification of the visa practice. In Norway, for example, UDI is often the target of public dissatisfaction and frustration - partly because they cannot shift the "blame" to the political leadership in the same way as Danish and Belgian visa authorities seem to be able to.

⁷¹ Norwegian visa officials have the right and the obligation to use discretionary assessments. However, visa officials have a framework to work within. In other words, their discretionary power is not absolute and free. Norwegian visa officials are not to make pragmatic decisions; they have to adhere to overarching principles e.g. protection of the asylum institute. (UNE)

A visa practice that employs discretionary assessments as a key tool is by definition characterized as having room for legal interpretation. Here there is a real danger that the criteria for decisions finally taken are perceived as shrouded and unclear.

The five countries in this study have been placed on a continuum *in relation to each other*. In other words, this study does not suggest that the Norwegian visa practice is not at all codified. In fact we can identify clear elements of “codified practice” in Norwegian visa regulations and Norwegian “visa practice memos”. In addition, since 2005, the Ministry of Labor and Social Inclusion has the authority to instruct UDI on visa practice. There are also clear boundaries which limit the room for discretionary assessments by Norwegian visa officials.

However, while the boundaries for what visa officials cannot cross while making discretionary assessments are clear, it is unclear *how discretionary assessments are made within the defined boundaries*. As the administrative aim is similar treatment of similar cases, this is a key question which needs to be elaborated by the Norwegian visa practice which is not as codified compared to the Belgian or Danish one.

Countries in this category which are obliged to give reasons for visa application rejections, for example Norway⁷², have the challenge of having to pinpoint the exact reasons for decisions that have been made based on “a total evaluation” and on “individual case merit”.

If Norway also was obliged to pinpoint the exact reasons for *positive* decisions made *in appeals* (i.e. not in all visa decisions) by Norwegian national authorities (UDI or UNE) at the first tier of appeal⁷³, then the danger of non-transparent criteria for visa decisions taken can be avoided.

From the perspective of potential visa applicants, the main advantage of the Danish and the Belgian systems of a more codified visa practice is that of *predictability*. The Danish visa authorities in Copenhagen report that since the current system came into place, the number of complains has also gone down. This does not necessarily mean that the Danish system is “better” or “fairer” than the ones

72 Sweden, for example, is not obliged to do so.

73 Reasons are given in the grant letter at the second tier of appeal if the result is positive.

employed by Norway, Sweden and the Netherlands. However, as long as Norway does not consistently inform the public about the criteria regarding visa decisions – either positive or negative – in a manner that is easy to understand, then, from the perspective of the public, it will seem as though UDI and Norwegian politicians “hide” behind a “black box” which is impossible to gain insight in.

Since part of UDI’s reason to commission this study was motivated by criticism, one way of meeting such criticism is increasing transparency in visa processing in general and for family visitor’s visas in particular.

See table on next page.

4.3 The “results” of the “dilemma” exercise.

ANKARA	CASE 1	CASE 2	CASE 3
NORWAY	Probably Yes but only for 30 days	Probably Yes if the relationship is documented to be serious.	Depends on the applicant's job situation. If satisfactory, YES
SWEDEN	Probably Yes (for 60 days)	Probably Yes. Most people in this situation would have applied for a long stay – which probably would be approved.	Probably YES
NETHERLANDS	Probably Yes	Yes if the applicant has a good job and has traveled before.	Depends on the brother's financial situation. If satisfactory, YES
DENMARK	NO	If applicant has higher education, documentation that the couple has known each other at least a year is required (letters, photos, telephone bills etc). If OK, no financial guarantee needed. If the applicant has low education, he may come if there is a financial guarantee.	Yes NB YES EVEN IF BROTHER IN UK IS REFUGEE
BELGIUM	YES	YES	YES
ISLAMABAD	CASE 1	CASE 2	CASE 3
NORWAY	NO	NO	Maybe. Depends.
SWEDEN	YES, if the financial situation is OK	Probably NO Most people in this situation would have applied for a long stay – which probably would be approved.	More NO, than YES. 14 days fits the purpose of the visit.
NETHERLANDS	YES	Forward to national authorities in the Netherlands High risk for illegal stay because applicant is young, male, can work anywhere with IT background Easier if he was going to visit a sibling, not girlfriend.	If all information is checked to be OK, YES
DENMARK	NO	NO	NO
BELGIUM	YES	YES	YES

ANKARA	Y: 4 N: 1	Y: 3 N: 2	Y: 3 MAYBE: 2
ISLAMABAD	Y: 3 N: 2	Y: 1 N: 4	Y: 2 MAYBE: 1 N: 2
TOTAL	Y: 7 N: 3	Y: 5 Maybe: 1 N: 4	Y: 5 MAYBE: 3 N: 2

It must be noted that all informants who had answered “maybe” or “no” were willing to approve a visa application if the applicant could demonstrate previous visits to Schengen which were conducted according to plan (duration, purpose etc).

If we were to focus *only* on the “results” of this exercise, we might draw the following conclusion: In Ankara, Norway tended to be most harmonized with Sweden and the Netherlands in its approach to the three “classical dilemmas” whilst in Islamabad, Norway tended to be most harmonized with Sweden and Denmark in its approach. However, the dilemma exercise revealed some *other aspects* which of visa practice which are interesting for this study.

The exercise revealed that all the Schengen countries in the study have *different* areas which they emphasize in the review of visa applications. In other words, even when compared to Sweden, the only country among the selected countries that ends up with the closest “results” as Norway in both Ankara and Islamabad, the dilemma exercise reveals that the Norway and Sweden have slightly different national policies⁷⁴ in some respects, e.g. towards siblings.

One important factor which does play a role in how the dilemma exercise was handled by the various visa officials is their own personal experience and knowledge. Special competence about the society and the culture of the country is important; the more the visa official knows, the easier it is for him/her to analyze, evaluate and to process a visa application. This study did not have the capacity to evaluate the skills of the visa officials interviewed.

1. **Norway** focuses on the applicant’s situation. Closeness of family ties between applicant and reference person affects the application outcome positively. Relatives beyond the immediate nuclear family e.g. siblings are generally refused visas. The applicant needs to demonstrate a good financial situation. Non-abuse of previous travel to Schengen is viewed positively.

74 A Nordic seminar which looked at the visa practices of Norway, Sweden, Denmark, Finland and Iceland recently (26 April 2006) showed that despite the differences in organizational structure and guidelines for visa development between the countries, statistics for the acceptance and refusal rates for visa applications in general (not family visitor’s visas in particular) from two countries could be said to be similar. (UDI seminar documentation, 26 April 2006)

2. **Sweden** focuses on the applicant's situation. Closeness of family ties between applicant and reference person affects the outcome positively. In Islamabad, siblings are not *á priori* rejected visas (about half the visa applications from siblings are approved and the other half are rejected). The applicant needs to demonstrate a good financial situation. Non-abuse of previous travel to Schengen is viewed positively.

3. **Denmark** focuses on the financial situation of both applicant and sponsor. Country category⁷⁵ has implications for which family members may visit and whether "weak" cases may be allowed to visit if someone guarantees for the trip.
 - In 2005, Pakistan was considered a "category 1" country ("Asylum Generating Country"). The visa practice towards this group is the strictest among the four country categories⁷⁶. Only spouses, children under 18 years and parents may be considered for visits in this category. For this category, "weak" applicants do *not* have the opportunity to offer a financial guarantee.

 - In 2005, Turkey was considered a "category 2a" country ("Immigration Country With Limited Reference Persons") by Denmark. The visa practice towards this group is more lenient than towards "category 1" countries. As a "category 2a" country, spouses, children under 18 years, parents and fiancées who can document one year of contact with each other may be allowed to visit. In addition, siblings, nieces and nephews under 18 years, friends and "sponsored children" may also be considered. "Weak" applicants may have the opportunity to offer a financial guarantee. In 2005, a total of 215 persons from Turkey were issued visitor's visas when they provided financial guarantees. Of these 42 persons forfeited their financial guarantees (approx. Dkr 52 000) when they did not uphold the conditions of the visitor's visa.

75 Denmark operates with four country categories. The list is reviewed annually, resulting in some countries being assigned new categories. The relevant Ministry reviews the list on the basis of a set of criteria including figures for asylum etc.

76 The four categories are: 1) asylum group (Afghanistan, Iraq, Iran, Pakistan, Serbia and Montenegro, Somalia, Sudan and stateless Palestinians: special requirements apply to Iraqi and Somali citizens.) 2) Immigration group whose applicants are required to hold a certain connection to an individual living in Denmark 3) Immigration group whose applicants are not required to hold a certain connection to an individual living in Denmark: 4) Tourist country group. http://www.nyidanmark.dk/en-us/coming_to_dk/visa/when_is_visa_granted/private_or_tourist_visits.htm

Whether or not closeness of family ties between applicant and reference person affects outcome of visa application positively partly depends on which country category the applicant is from. Non-abuse of previous travel to Schengen is viewed positively. Clear “expectation management” of potential applicants⁷⁷. Money guaranteed can be forfeited.

4. **The Netherlands** focuses on the financial solvency of the sponsor, not the applicant. Closeness of family ties does not necessarily affect outcome e.g. siblings are not automatically denied visits. Non-abuse of previous travel to Schengen is viewed positively.
5. **Belgium** focuses on the financial solvency of the sponsor, not the applicant. Family visits are generally approved. Definition of family includes: parents, children, parents-in-law, spouse’s children from previous partnership, grandparents, spouse’s grandparents, grandchildren, siblings and brothers/sisters-in-law. Compared to the other countries in the study, the definition of family here is broadest. Non-abuse of previous travel to Schengen viewed positively.

Having a codified visa practice does not mean that the visa authorities in Denmark and Belgium do not have any dilemmas. They have *other* dilemmas than the ones the three cases presented.

⁷⁷ “Expectation management” refers to communication that sets the expectations of, in this cases, potential applicants, at a realistic level. For example, Danish information about short stay visas to potential applicants in Pakistan (“category 1 country”) clearly states the three groups to whom family visitor’s visas as a general rule are only issued: spouse permanently residing in Denmark, parent permanently residing in Denmark if the applicant is under 18 years of age, child permanently residing in Denmark. Applicants are also informed that the 2700 rupee fee is non-refundable. Local employees do not use a standardized interview form. The family registration certificate from the National Database and Registration Authority (NADRA) is a required document.

For example, a typical dilemma for the Danish national visa authorities in Copenhagen is the following:

Applicant's date of birth 20.01.1957; nationality: Turkish; occupation: none; unmarried. Applicant has never previously traveled to Denmark/the Schengen area.

Applicant wishes to visit his sister in Denmark.

The Danish visa authorities will generally issue visas to applicants from Turkey (as a so-called Danish category 2 country) who wish to visit siblings in Denmark if they have sufficient ties to the country of origin e.g. if the applicant is married or/and the applicant has a "good" job connected to his tertiary education and has children in the country of origin.

In the above case, the Danish visa authorities do not view that the applicant has sufficient ties to Turkey because of his age and the fact that he neither has any children nor a proper job. In addition, he has not previously visited Denmark or the Schengen area. In other words, the Danish visa authorities will conclude that there is a risk that the applicant might not return to Turkey when the duration of his visa runs out. In such a case, the applicant's sister would be given the opportunity of providing a financial guarantee of Dkr 53.268 kr. (2007 rates). If she does not have the money herself, she is given the opportunity to find someone else who is willing to provide the guarantee. When this is done, the visa will be issued to the applicant.

A typical dilemma for the *Belgian national visa authorities in Brussels* is the following situation:

The Belgian authorities are aware of the phenomena of elderly people who, because they want to avoid the hassle of applying for family reunification, apply instead only for a short stay. However, once they are in Belgium, they apply to change their short stay visa to family reunification in Belgium – which is permitted by Belgian law. Many of these elderly people have no family in Pakistan or Turkey to look after them. And even though the Belgian authorities know that “9 out of 10 cases” will end up as applications for family reunification, they face a dilemma when dealing with such cases. According to Belgian national officials, they have “no way of knowing if the case before them is case number 10”, or someone who in fact is going to return. According to Belgian national officials, in such cases, they cannot reject the visa applications if these are “technically correct”.

Is the above reasoning by the Belgian authorities the type of evaluation the Norwegian Parliamentary Ombudsman wishes to find in UDI’s considerations? Is this the only way how UDI can demonstrate to the Norwegian Parliamentary Ombudsman that individual considerations, not only general ones, have been taken? What other alternatives are available to UDI?

How then can Norway and the other Schengen countries follow CCI – the Schengen “bible” – in its clear instructions regarding the examination of visa applications and decisions taken⁷⁸. *“If there is any doubt as to the authenticity of the papers and supporting documents submitted, including doubt as to the veracity of their contents, or over the reliability of statements collected during interview, the diplomatic mission or consular post shall refrain from issuing the visa (page 26).”*

The same chapter in CCI states very clearly that it is the responsibility of Member States to detect applicants who are seeking to immigrate to the Schengen area using grounds such as family visits as a pretext. The CCI also advises Member States to be “vigilant” about so-called “risk categories”. It seems that UDI is

⁷⁸ Chapter V, Common Consular Instructions on Visas for the Diplomatic Missions and Consular Posts, Brussels, 7 November 2005.

caught in the middle of a tension between the Norwegian Parliamentary Ombudsman on one side and national obligations to Schengen on the other.

However, as this study has shown, national obligations to Schengen are met in a wide range of ways by the five countries in the study.

5. To what extent is Norwegian visa practice aligned with Schengen visa practice?

As it has been demonstrated here, “Schengen harmonization” is a phenomenon that can be examined from many different angles. However, there is also an issue concerning *expectations* on the part of potential applicants that Schengen is in fact harmonized. One frustrated potential visa applicant at an embassy in Islamabad exclaimed “*How come you all have different rules when you are all part of Schengen?*”

On one hand, we could say that Norwegian visa practice is aligned with Schengen visa practice because we observe that all the Schengen countries in the study, including Norway, have significantly higher rates of refusal for visa applications from Pakistan than from Turkey. In addition, in the various overviews presented here, we note too that measures in Pakistan are in general more “strict” than in Turkey. However, this is a very general observation and perhaps is of limited use for any kind of serious discussion regarding visa practice.

Assuming that there are valid reasons for observing a *range* of refusal rates, the question this raises is *how different* can harmonized refusal rates be; how high can the highest rate of refusal be and how low can the lowest rate of refusal be before we can say that that particular country does not have a harmonized visa practice with Schengen? This is not an easy question to answer. In the final instance, this might also be a political question.

When we examine the refusal rates between the selected Schengen countries in Turkey and Islamabad we observe that Norway has an average rate of refusal in Turkey, but the highest rate of refusal among the selected countries in Pakistan. Does this mean that Norway is harmonized with Schengen visa practice in Turkey but not in Pakistan?

It is not possible on the basis of the limited empirical basis of this study to draw such a conclusion.

However, the comparison between Norway and the selected Schengen countries in both Ankara and Islamabad suggests that:

- In Ankara, the country with the highest percentage of family visitor's visa applications (Denmark) also has the *lowest* rate of refusal for C-visas among the five countries. The Danish refusal rate for family visitor's visas specifically in Ankara is 21 %. Among the hypotheses examined, this study looked more closely at refusal rates on the one hand and the percentage of family visitor's visas on the other. The comparison between Denmark (highest percentage of family visitor's visas in Ankara) with Norway (highest percentage of family visitor's visas in Islamabad) *suggests that the Norwegian rate of refusal in Pakistan cannot be accounted fully for by the percentage of family visitor's visas in Islamabad*. In addition, as mentioned earlier, the country with the *lowest* share of family visitor's visa applications in Islamabad is Belgium (approximately 30%). However, the refusal rate for Belgium in Islamabad is 51%, almost as high as Norway's 54% (these are rates for C-visas, since statistics for family visitor's visas are not available from Norway or Belgium).
- In Denmark, Turks are the largest immigrant group. This has not led to a high refusal rate for visitor's visas from Turkey. As mentioned earlier, the Danish rate of refusal in Ankara is 10% for C-visas and 21% for family visas (2005). The comparison *suggests that the Norwegian rate of refusal in Pakistan cannot therefore be accounted for fully by the fact that Pakistanis are the largest immigrant group in Norway*.
- Denmark does not register incomplete visa applications delivered at its foreign service missions. This fact could account for the low Danish rate of refusal in Ankara. However, this cannot account for the Danish rate of refusal in Islamabad, where the refusal rate is average compared to the selected countries in this study. In addition, the hypothesis that the routines for the registration of files accounts for the differences in refusal rates cannot be supported when we see that both the missions of the Netherlands and Sweden in Islamabad have lower rates of refusal than Denmark in Islamabad. This leads us to believe that routines for the registration of applications cannot alone have an effect on refusal rates. In short, this *suggests that the Norwegian rate of refusal in Pakistan*

cannot therefore be fully accounted for because Norway registers incomplete files.

However, this could mean that the Norwegian visa practice in Islamabad could be explained by *other* factors which have not been examined in this study.

In other words, we cannot conclude that Norwegian visa policy in Islamabad is not aligned with Schengen visa policy from the above observations alone. Similarly, even though the Norwegian refusal rate is “average” in Ankara, we cannot conclude here that Norway is aligned with Schengen visa practice in Turkey.

More detailed study is needed in order to draw such conclusions⁷⁹.

Most certainly, as mentioned earlier, refusal rates are, at best, an uncertain indicator of “harmonization” or the lack of it. The aim of the Norwegian visa office in Islamabad cannot be to strive to arrive at an “average” rate of refusal. Many factors can lead to visa refusal rates being high or low.

For example, the highly detailed, codified and transparent Danish visa practice can dissuade persons who have “weak” visa applications from using time and resources to file an application. This could be an explanation of the relatively low(er) Danish rates of refusal.

By examining what lies behind seemingly “objective” rates of refusal, we observe that there are many national interpretations, emphases etc that play an important role. The definition of which family members qualify for a more lenient examination and which family members *á priori* are “disqualified” is also a key issue here. For example, Norway has a strict policy *vis á vis* siblings in *both* Turkey and Pakistan which is not shared by the other countries in this study. While Denmark shares the same strict policy *vis á vis* siblings in Pakistan, in Turkey, the Danish policy is more lenient because Turkey is a “category 2 country” in the codified Danish visa system. Turkish siblings are not turned down as a rule by the Danish visa authorities.

⁷⁹ For example, in the form of a calibration of the outcomes of a set of selected visa applications to be handled by the visa examination procedures of all selected Schengen countries. Such an approach should be accompanied by more qualitative research to gain insight in the mechanisms that lead to the different visa outcomes.

In short, on the one hand, we have the Danish system which is “country-category sensitive” and which is “stricter” towards Pakistanis than towards Turks. On the other hand, we have the Belgian definition which is very encompassing and the Norwegian definition which is generally only limited to the immediate nuclear family.

Another important factor here is the role of the sponsor/reference person. Some countries are more concerned about the credibility of the sponsor/reference person and others (like Norway) are more concerned about the credibility of the applicant.

As mentioned earlier, the national factor is still a major influence in the development of visa practice for all countries in the study. National laws, rules, guidelines, computer systems, mission competencies, routines for organizing the details for visa processing, bureaucratic traditions and ideals etc are still relevant factors which affect visa practice.

All countries show harmonized practice vis á vis applicants who can demonstrate that previous travel to Schengen has taken place according to the terms of the visa issued. Such behavior is “rewarded” by all the countries here when a new visa application is filed.

However, even on this topic of previous travel to Schengen, we can also observe how the different countries employ different national interpretations: for some countries, legal previous travel *in the region* would count positively in the applicant's favor, for others, like Norway, this fact is not so important.

5.1 Imagining a harmonized Schengen visa practice

Perhaps it could be useful at this juncture to try to imagine what a harmonized

Schengen visa practice would look like. Several of the visa officers interviewed came up with suggestions regarding what a harmonized Schengen visa practice could be:

- Common Schengen/Nordic office in Ankara and Islamabad where all applicants can get information, file their applications, collect their passports etc.
- Common Nordic consul in Kabul
- Common Schengen definition of "visa abuse"
- Common Schengen routines to uncover and to document "visa abuse"
- Improved Schengen system to control entry and exits from Schengen

6. Some choices ahead for Norway

This report started by stating why the Norwegian visa authorities commissioned this study: criticism by the Norwegian Parliamentary Ombudsman and other parties.

6.1 Connecting immigration and integration or keeping them separate?

As a sovereign nation, Norway has a legitimate right to control its borders. As part of Schengen, Norway must also do this with Schengen concerns in mind. Norwegian visa practice is focused on *uncovering potential visa abuse*. The context is one where visa officials

- Do not have reliable information about entry to and exit from Schengen (unlike e.g. Australia where updated information on arrivals to and departure from its borders are available at any given time).
- Are stationed in countries where there are many examples of irregular and illegal activities with the sole aim of gaining entry to the Schengen area.
- Are stationed in countries where the emigration potential is high.
- Have no sure technique of identifying the visa applicants who are *really* going to abide by the conditions of a short stay visitor's visa for family visits.

It is often pointed out that visa matters in general are situated in an area of tension between different interests. On the one hand, the visa requirement is an important instrument regarding internal security and the fight against illegal immigration. On the other hand, the visa requirement also affects aspects of international relations like trade and industry. Foreign service missions have no easy task striking the right balance. When it comes to the specific issue of family visitor's visas, there is an *additional* balance that needs to be taken into account: the connection between immigration and integration. UDI has itself summed up the reasons for drawing the connection between immigration policy and integration policy⁸⁰.

Uncovering potential visa abuse is important not only because Norway needs to control its own as well as Schengen's external borders, but also in order to build public confidence in Norwegian immigration institutions. The important question here is not *why*, but *how*.

⁸⁰ Integrering og mangfold i UDIs arbeid etter 1.1.2006. Handlingsplan og prosjektrapport. Avdeling for faglig strategi og koordinering, desember 2005.

To the rejected visa applicant *who has all intentions of fulfilling the conditions* for a short stay visitor's visa for a family visit to Norway, the fact that the vast majority of visa applications (approx. 90%) are actually successful feels irrelevant⁸¹. The rejection feels unjust to both the applicant and the reference person. Seen from their view, it is unfair that they should be "punished" because others have abused the conditions for visitor's visas previously.

The potential visa applicant is put in a situation where he is seen as a potential visa abuser - unless the opposite can be documented. The burden of proof is on the visa applicant. The rejected visa applicant wants to know what he needs to do to fulfill the requirements to obtain a visitor's visa. However, UDI is often not perceived as being forthcoming with such information. For example, when UDI rejects a visa application for family visits because of "insufficient ties to the country of origin", it would be useful, from the perspective of the rejected applicant, to be informed regarding what it would take to make the ties "sufficient"⁸².

Norwegian visa practice is mainly focused on uncovering potential visa abuse, not on *uncovering honest intentions and enabling legitimate family visits*. Is it possible for Norwegian visa practice to do the latter? Some suggestions on how this could be done from the visa officials interviewed are: more information about reference persons and more thorough interviews of short stay visa applicants. In Denmark, the reference person is contacted also in the case of short stay family visits. The more information UDI has about an applicant, the less UDI needs to rely on general experience and case profiling.

Is it possible to have a visa practice that has a "double track" with a *parallel* focus on both *uncovering potential visa abuse* and *uncovering honest intentions and enabling legitimate family visits*? The best reason for aiming for such a practice is that there are *single cases* today where "visas are issued to persons who should

81 As mentioned earlier, included in this figure are the approximately 30 000 applications from Russia of which around 98% lead to a positive result. Exact figures for family visitor's visas, both acceptance and refusals, would be more relevant for UDI to quote here.

82 Dutch visa officials in Ankara e.g. have advised homosexuals to use the Turkish family registration form (NUFUS) to prove that they are not married. They have also advised Turkish farmers to keep tickets from agricultural sales to prove their income.

not be allowed to enter the country and denied persons who should be allowed to visit Norway”, as a high ranking Norwegian official put it. Even though these are cases which might be exceptions to the rule, the question for Norwegian visa authorities and Norwegian politicians must be: how can we avoid such a situation?

How could the national authorities in Norway go about developing a visa practice with such a parallel focus? Perhaps the current visa facilitation agreements between the European Union and Russia and between Norway and Russia can provide inspiration for such a development? Similar European arrangements with the Ukraine and with Moldova are also interesting here. Such agreements twin both visa facilitation and return agreements. In other words, nationals of e.g. Russia can be easily sent back to Russia (which is in the interest of the EU and of Norway) and they can be given visa fee waivers etc (which is in the interest of Russia). Is it possible to negotiate similar agreements with, in this case, Turkey and Pakistan? In this context it is relevant to note that both Turkey and Pakistan actually have control over their borders and the national authorities have information and statistics about departures and arrivals. If Schengen does not have such information and statistics readily available, it may make sense to increase cooperation with sending countries which are of interest to Schengen. Norwegian police authorities have already started an initiative to cooperate more with their Pakistani colleagues. Perhaps one could expand and build on this contact between the two countries?

6.2 Transparency or non-transparency?

Part of the criticism that UDI faces from the public can be reduced by having a more transparent visa practice. Both Sweden and Denmark regularly publish “practice memos” which sum up the current visa practice vis á vis specific countries. This is a step which can increase public understanding and perhaps also acceptance for different policies towards different countries. The provision of statistics or other documentation regarding visa abuse can increase understanding for the necessity of a strict visa practice vis á vis a particular country. UDI can improve public relations further by helping the public understand how concepts like “immigration policy considerations”, “likelihood of return” and the “risk of visa abuse” are operationalized by the authorities.

However, it should be noted that even with such measures, UDI cannot avoid criticism, but some of the criticism UDI faces can be mitigated through a more open information policy.

When UDI claims that a certain visa routine or practice is “because of Schengen”, the public has a right to know the specific Schengen legal reference or be given a description of Schengen visa practice in the specific area. In this way, UDI can also build public confidence in its mandate and the manner in which it works. In sum, the public needs to understand that the issuing of visas is an area where national interests need to be aligned with Schengen. On the other hand, Norwegian politicians (and UDI) need to understand that the issuing of visas is an area where decisions made have consequences for the climate for integration in Norway.

6.3 Discretionary assessments or codified visa practice?

The question of discretionary assessments or codified visa practice is not an either/or issue. Even the relatively more codified visa practices of Denmark and Belgium have elements of discretion e.g. the dilemmas quoted by the Danish and Belgian visa authorities and even the visa practices more inclined towards discretionary assessments like Norway have elements of “codified practice”.

This study has shown the situation of Belgian and Danish visa officials who have a relatively more codified practice to refer to, and the situation of Norwegian, Swedish and Dutch officials - when faced with the same common visa cases. Central to the question here are also the issues of effectiveness, fairness and equal treatment.

This study will not recommend *either* discretionary assessments *or* codified visa practice. This is a matter not for UDI to decide, but for Norwegian politicians. It is probably more precise to say that discretionary assessments or codified visa practice are not mutually exclusive choices, but a matter of degree along a continuum.

It is possible that the Norwegian system of discretionary assessments can be further strengthened by improving the ties between UDI and the foreign service missions. When the distance between UDI and the foreign service missions is big and if the guidelines are unclear, then the foreign service missions are the ones which have to "front" unpopular decisions as far as local applicants are concerned.

However, in general, a system like the one we have in Norway allows politicians to "hide behind" unclear guidelines for visa practice, leaving UDI to "front" unpopular decisions. In the last instance, it is a political question whether Norwegian politicians want to continue to let UDI "front" the unpopular decisions - which have to be made sometimes.

7. Recommendations

This chapter sums up some of the logical extensions of topics discussed earlier. It also lists recommendations suggested by the visa officials interviewed.

This study is aware that there is a lot of effort which is currently going on both nationally and internationally to further Schengen visa harmonization. Nevertheless, recommendations regarding processes which are already in the pipeline have also been included here to underline the needs and concerns of the visa officials in the field.

This chapter does not include calculations of what the recommendations will demand in terms of resources.

Recommendations to the Norwegian Directorate of Immigration (UDI)

Information from UDI to visa attachés at Norwegian foreign service

missions

- 1) "Visa abuse" needs to be deconstructed into clearly defined and therefore more manageable categories.
- 2) Routine feedback from UDI about the various categories of "visa abuse" to foreign service missions.
- 3) Routine feedback from UDI about asylum cases from different nationalities (Who are they? Who has been granted asylum? What are their profiles? Where are they from etc?)
- 4) Routine feedback (e.g. annually) from UDI about appeals which overturned Embassy decisions, with explanatory comments.
- 5) The analysis from UDI should have clear conclusions regarding whether UDI wants visa practice to be adjusted and how. Should the embassies continue to work as before or should the visa practice be changed? Make sure that UDI is clear about the grounds on which an appeal is accepted. What is the new information which UDI has considered? Reasons for a decision should not only be restricted to refusals. Reasons should also be given for positive results – if appeals are accepted by embassy, UDI or UNE. This is most relevant for decisions taken at the first tier of appeal as such reasons are given at the second tier of appeal.

- 6) Practice Memos ("PRAKSISNOTATER") from both UDI's visa division and asylum divisions should be distributed to the foreign service missions as a routine when they are updated.
- 7) The new migration portal for Norwegian embassies and consulates should not only allow visa officials from Norwegian foreign service missions all over the world to contact each other easily but also include examples of best practice. It should also include the evaluations from the Norwegian Parliamentary Ombudsman and the Immigration Appeals Board (UNE).
- 8) UDI should communicate to embassies and consulates in a manner which facilitates implementation. Embassy and consulate staff have varying backgrounds. Very few have a legal background. Many find the legal language from UDI a challenge.
- 9) Nordic ambassadors meetings should continue to have visa rules and practice on the agenda. The ambassadors who are most engaged and knowledgeable should continue to communicate with the other Heads of Missions.

Interviews

- 10) The visa attachés should interview some categories of Schengen C-visa applicants beyond the standard interview by local employees in order to collect more information about the applicants. The more information there is, the better the grounds for evaluation. This will, however, demand more resources at the foreign service missions.
- 11) In humanitarian cases, consider also interviewing the reference person in Norway in order to combine narratives of both applicant and reference person. The more information there is, the better the grounds for evaluation. This will, however, demand more resources.

Routines and procedures at the Norwegian embassies and consulates

- 12) Consider a Handbook with detailed information about how to handle visa cases (cf. Swedish, Danish and Dutch examples) in order to standardize Norwegian visa practice globally.
- 13) Develop standardized interview guides for the local employees at the embassy in Ankara (cf. Swedish and Danish measures at Ankara embassies)
- 14) Provide explicit information to parents that they are entitled to a 9 month stay in Norway to visit children. This will prevent frustration when they want to extend

their stay of 3 months and are turned down because they “misuse the visa institute”.

- 15) Consider the placement of more Nordic Police/Customs Liaison officers in more countries. Consider ways of increasing the cooperation between the Police/Customs officers and the visa sections of the Nordic embassies.

Information from Norwegian authorities to potential applicants

- 16) Take steps to ensure that all authorities (e.g. UDI, embassies and consulates, police) give the same information to potential applicants:
- a. The website of UDI has fewer detailed requirements than the website of the Ankara embassy. This creates delay and frustration.
 - b. Local police who issue the guarantee form (“garantiskjema”) do not give the same information as the website of the Ankara embassy.

Non-return

- 17) Make registering non-return as part of the visa process.
- a. Adding non-return as a column in the Norwegian electronic system NORVIS. In this way, statistics will automatically be collected from institutions as different as the police, the asylum division and others.
 - b. If UDI decides that embassies and consulates should ask applicants to report back, then there should be a systematic collection of statistics.
 - c. If UDI decides that embassies and consulates should ask applicants to report back, then applicants should be properly informed (why are they asked to report back, what are the consequences if they do/do not etc)

Competence of Norwegian embassies and consulates in visa matters

- 18) More consistent recruitment regarding the qualifications of persons handling the visa function at embassies and consulates
- 19) Training of officials handling visa function at embassies and consulates e.g. interview techniques.
- 20) Make it possible for visa attachés (especially new attachés) to be visited by experts from the Visa Division in UDI
- 21) Organize a pool of visa experts at the Visa Division in UDI who could advise Norwegian embassies and consulates in visa matters. Make the visa experts

known to the Foreign Ministry in order to facilitate contact from embassies and consulates.

- 22) Make it possible for visa attachés to spend one week at the Visa Division in UDI.
- 23) Intensify internships at embassies and consulates by staff from the UDI-system (minimum three weeks)
- 24) Consider the short term exchanges also of mid-level managers ("mellomleder") from the UDI-system at embassies and consulates
- 25) Consider the short term exchanges of trainees and mid-level managers between all the relevant visa authorities (UNI, UNE, AID, the Police authorities) in Norway
- 26) More than 1 visa attaché in selected embassies
- 27) More trainees and temporary staff in peak seasons
- 28) Build institutional memory on visa matters. How can UDI make sure that competence is passed on to new visa attachés in a system of non-overlap?

Guarantees

- 29) The Norwegian system of guarantees in connection with family visitor's visas should be examined further to find ways of making it into a more effective tool with a clear function to the visa authorities.

Recommendations regarding how to speed up the Schengen harmonization process

- 30) Further develop sub-group model of working concretely towards further harmonization.
- 31) Further develop the exchange of local employees between Nordic/Schengen countries at selected foreign service stations. Perhaps create common arena for networking and information exchange between local employees. ("It is always easier to phone someone to ask for information if you have met before").
- 32) Pilot a common Nordic Schengen office at a selected foreign service station.
- 33) Pilot a local secretariat for LCC at a selected foreign service station. Some small foreign service missions do not have the resources to take responsibility for LCC duties.
- 34) Consider a common Nordic Consul in Kabul.
- 35) Consider a common Schengen office at a selected foreign service station where all applicants can get information, file their applications etc
- 36) Consider a common Schengen definition for "Visa abuse"

- 37) Consider the sub-working group model (from Ankara) in Islamabad.
- 38) Consider regular “calibrating exercises” with a selection of Schengen countries where foreign service missions in a selection of countries are asked to process the same visa applications. Such an approach should be accompanied by qualitative analysis in order to gain insight in the mechanisms that lead to different visa outcomes. Analysis and discussion of the results of such an exercise could contribute to furthering the Schengen harmonization process.

REFERENCES

- The Norwegian Directorate of Immigration, www.udi.no
Statistics Norway, www.ssb.no
Facts and figures 2005, UDI, 2005
Annual Report, UDI 2005
The Norwegian Immigration Act
The Norwegian Immigration Regulations
Relevant circulars from UDI
The Norwegian Immigration Appeals Board, www.une.no
Annual Reports of the Norwegian Immigration Appeals Board
Integrering og mangfold i UDIs arbeid etter 1.1.2006. Handlingsplan og
prosjektrapport. December 2005
Internal minutes from a Nordic Visa Meeting (26 April 2006)
The Norwegian embassy in Turkey, <http://www.norway.org.tr/>
The Norwegian embassy in Pakistan, <http://www.norway.org.pk/>
NORVIS tutorial, Computas AS, 8 February 2006
- The Norwegian Parliamentary Ombudsman, www.sivilombudsmannen.no
www.omod.no
- The Treaty of Amsterdam
The European Union Treaty (Title IV on visas, asylum, immigration and other policies
related to free movement of persons)
The Schengen acquis
The Schengen Convention
Common Consular Instructions on Visas for the Diplomatic Missions and Consular
Posts, Brussels, 7 November 2005
EU Schengen Catalogue. Volume 3, Issuing of Visa, Recommendations and Best
Practices, March 2003
- The Danish Immigration Authorities, <http://www.nyidanmark.dk/da-DK/>
The Belgian Immigration Authorities, <http://www.dofi.fgov.be/fr/1024/frame.htm>
The Dutch Immigration Authorities, <http://www.immigratiedienst.nl/>
The Swedish Immigration Authorities, <http://www.migrationsverket.se/>

Oppsummering

1. Alle femten land som deltar i Schengen er bundet av et felles Schengen regelverk med hensyn til visa. En forutsetning i Schengen konvensjonen er harmonisering av visa praksisen blant de deltakende land. Noen EU land er ikke en del av Schengen, mens noen ikke-EU-land, som Norge, er en del av Schengen.
2. Deltakelse i Schengen innebærer at norsk visum regelverk og praksis ikke bare bestemmes av norsk utlendingslov; norsk visum praksis må også ta hensyn til Schengen visum praksis.
3. Intervjuene i dette studiet viser et viktig analytisk skille i Schengen harmoniseringen; mellom harmonisering av visumtekniske aspekter som reiseforsikring etc på den ene siden, og harmonisering av visum praksis på den andre. Schengen harmonisering har kommet lengre med hensyn til harmonisering av visumtekniske aspekter.
4. Det lokale konsulære samarbeidet (Local Consular Cooperation eller LCC) mellom Schengen utenriksstasjoner har muligheten til å påvirke Schengen harmoniseringsprosessen. Kvaliteten av LCC er avhengig av mange faktorer. For eksempel er LCC som institusjon også personavhengig; endringer av personell på utenriksstasjonene kan påvirke LCC.
5. LCC i Ankara, Tyrkia kan vise hvordan det er mulig å framskynde harmoniseringsprosessen gjennom a) arbeid på konkrete temaer i arbeidsgrupper og b) utveksling av lokalansatte (for en halv eller en hel dag). Slik beste praksis er også anbefalt i EU-publikasjonen "Schengen Catalogue of Recommendations and Best Practices regarding the issuing of visa".
6. Alle Schengen land, inkludert Norge, befinner seg i spenningsfeltet mellom (ulike) nasjonale interesser på den ene siden og internasjonale forpliktelser på den andre. I siste instans ser det ut som om nasjonale lover, forvaltningstradisjoner, organisering av visumforvaltningen etc påvirker utviklingen av visum praksis i stor grad. Dette gjelder også Norge.
7. Spørsmålet om norsk visum praksis (på feltet familiebesøksvisum) er harmonisert med Schengen er ikke lett å svare på: sammenlignbar statistikk er ikke lett tilgjengelige. Dette studiet har derfor i tillegg konstruert en øvelse med tre "klassiske dilemmaer" som ble brukt i forbindelse med intervjuene. Målet med dilemma-øvelsen er å få fram andre typer empiri f eks resonnementer, vurderinger, vektlegginger for å forstå mekanismene som ligger bak tallene bedre.

8. Utlendingsdirektoratet (UDI) har blitt kritisert for ikke å ha demonstrert tilstrekkelig individuell saksbehandling (av sivilombudsmannen) og for de høye avslagsprosenten av enkelte nasjonaliteter (av frivillige organisasjoner).
9. Dette studiet har derfor fokusert på en bred sammenlignende studie som også tar for seg begge disse aspektene. Noen funn er:
 - a. Ingen av de fem landene (Norge, Sverige, Danmark, Belgia og Nederland) i studiet har systematiske rutiner for å avsløre visumavhopp. Svenske myndighetene publiserer visa avhopp-statistikk hvert halvtår for alle nasjonaliteter. Denne statistikken sendes alle svenske utenriksstasjoner. Danske myndighetene har et system hvor noen utvalgte grupper av familiemedlemmer kan få besøksvisum hvis det stilles en finansiell garanti. Til en viss grad kan dansk statistikk over antall garantier som faktisk blir løst ut av myndighetene leses som statistikk for visumavhopp.
 - b. Det er ingen konsensus med hensyn til definisjonen av visumavhopp – hverken internt i UDI eller blant Schengen-landene i dette studiet. De svenske og danske eksempler overfor refererer seg også til ulike fenomener.
 - c. Det ser ut som om personer som oppfattes som bona fide⁸³ søkere av alle fem landene, inkludert Norge, har størst sjanse for å få individuell saksbehandling.
 - d. Når det gjelder søkere som ikke umiddelbart oppfattes som bona fide, bruker land som anvender et større grad av administrativ skjønnsvurdering - som Norge, Sverige og Nederland – tilgjengelig informasjon basert på tidligere generell erfaring – om landet søkeren kommer i fra, lokal/regional kunnskap, søkerens familiehistorie med hensyn til migrasjon, søkerens sosio-økonomiske profil etc. for å komme fram til en konklusjon. Det kan se ut som om det er disse landene som vier mest hensyn til humanitære velferdsgrunner i saksbehandlingen.
 - e. Danmark og Belgia har en relativt mer kodifisert visumpraksis sammenlignet med Norge, Sverige og Nederland. I tillegg har deres utenriksstasjoner kun kompetansen til å utstede visum til bona fide søkere. Dette innebærer at saker som ikke oppfattes som bona fide er

83 I rapporten brukes begrepet "bona fide" slik alle informantene brukte det – til å vise til visumsaker som var uproblematisk og hvor visum kunne utstedes.

sendt tilbake til de respektive nasjonale myndigheter i København og Brussel for behandling.

- f. Den kodifiserte danske visumpraksis er meget detaljert og tydelig med hensyn til f eks hvilke familiemedlemmer fra hvilke land som kan få besøksvisum til Danmark og på hvilke betingelser. Hvert år vurderes delingen av alle landene (i verden) i fire kategorier. Kategori-plasseringen vedtas til syvende og sist av den politiske ledelsen. For eksempel er Pakistan i 2006 klassifisert som "kategori 1" ("asyllyandsgruppe") og Tyrkia "kategori 2a" ("immigrationslandegruppen med referencebegrænsning") . Visumpraksisen overfører søkere fra kategori 1 er den strengeste av alle kategorier. Visumpraksis med hensyn til familiebesøk er avhengig av kategorien som landet søkeren kommer fra er plassert i.
- g. I Belgia finner vi en annen måte å praktisere en kodifisert visumpraksis på; hvis erfaringen i f eks ni av ti saker i en viss type sak er visumavhopp, den generelle betraktningen er at man har ingen måte å vite om saken som nå foreligger er en "nr.10". Familiebesøk behandles som regel generøst, men anbefalingene fra utenriksstasjonene og saksmappen i Brussel styrer den endelige beslutningen. Nye visumsøknader fra tidligere "visumavhoppere" vil bli gått gjennom meget nøye.
- h. Belgisk visumpraksis ser også ut til å være den som anvender den bredeste definisjon av "nærfamilie" blant landene i dette studiet.
- i. Det var bare mulig å skaffe statistikk for Schengen short stay (type C) visum. Statistikk for familiebesøksvisum – en underkategori av C-visum – var ikke lett tilgjengelig. Dette gjorde det vanskelig å fokusere kun på familiebesøksvisum i studiet.
- j. Et generelt funn (mht Schengen short stay C- visum) er at avslagsprosenten er høyere for alle Schengen land i Pakistan enn for Tyrkia. Dette kan være en refleksjon av Schengen harmonisering mht hvordan f eks sikkerhets- og innvandringsrisiki vurderes for begge landene.
- k. På den andre siden, hvis vi ser nærmere på avslagsprosenten for Schengen short stay C-visum for både Tyrkia og Pakistan, ser vi et annet, mer komplisert bilde. Den norske avslagsprosenten i Ankara representerer en "gjennomsnitt" blant de utvalgte Schengen landene i Tyrkia mens den

norske avslagsprosenten i Islamabad er den høyeste blant de utvalgte Schengen landene i Pakistan. På samme måten, Sverige har den høyeste avslagsprosenten i Tyrkia, men den laveste i Pakistan. Danmark har den laveste avslagsprosenten i Tyrkia, men en gjennomsnittsavslagsprosent for Pakistan. Hva er det som ligger bak slike tall?

- l. Dette studiet ser nærmere på noen hypoteser som forklarer avslagsprosenten nærmere:
 - Hvordan andelen familiebeøksvisumsøknader (av Schengen C-visumsøknader) påvirker avslagsprosenten,
 - Hvordan størrelsen på den tyrkiske og pakistanske innvandrerbefolkningen i landene påvirker avslagsprosenten,
 - Hvordan registreringsrutiner for ferdige og uferdige søknader påvirker avslagsprosenten.
- m. Dette studiet konkluderer at hypotesene ovenfor ikke kan forklare den norske avslagsprosenten i Ankara og Islamabad.
- n. "Dilemma-øvelsen" viste at det er mange nasjonale faktorer som spiller en viktig rolle i behandlingen av familiebeøksvisum f eks definisjon av "nærfamilie", vektleggingen av søkerens situasjon vs vektlegging av referansepersonens situasjon etc.
- o. I dette begrenset studie ser vi at Norge og Sverige er de to land i både Ankara og Islamabad som er mest "harmonisert" mht konklusjonene til "dilemma-øvelsen". På den andre siden, viser dette studie at selv blant Norge og Sverige er det forskjell f eks visumpolitikk overfor søsken.
- p. Kombinasjonen av en nærmere statistisk undersøkelse og "dilemma-øvelsen" viser at avslagsprosenten er usikre indikatorer for Schengen harmonisering eller mangel på sådan. For å forstå Schengen harmoniseringsprosessen bedre, trenger vi å forstå mekanismene bak tilsynelatende nøytrale og objektive statistikk bedre.
- q. Med andre ord den høye avslagsprosenten hos den norske ambassaden i Islamabad betyr ikke nødvendigvis at Norge ikke er harmonisert med Schengen. På samme måte, den gjennomsnittlige avslagsprosenten hos den norske ambassaden i Ankara betyr ikke nødvendigvis at Norge er harmonisert med Schengen.
- r. Begrepet "Schengen harmonisering" trenger å bli dekonstruert dvs brytet ned til enkelttemaer som f eks visumavgift, reiseforsikring, visum for

søsknen etc før en sammenligning er mulig. Man kan da kartlegge hvorvidt landene er harmonisert eller ikke langs enkelte aspekter ved "Schengen harmonisering". Dette studiet viser at det er noen aspekter som er relevante for en slik kartlegging.

- s. På samme måte trenger begrepet "visumavhopp" å bli dekonstruert og brytet ned til enkelttemaer som f eks personer med korttids familiebesøksvisum som søker asyl i Norge/Schengen, personer som ikke forlater Norge/Schengen etter fristen etc. Per i dag er begrepet visumavhopp for vagt og for bredt. Når man ikke er enige om en definisjon, er det også vanskelig å dokumentere og avsløre fenomenet.
10. Til slutt inneholder denne rapporten noen veivalg for norske myndigheter og politikere. Rapporten inneholder også noen anbefalinger.