Establishing Identity for International Protection: Challenges and Practices

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This Synthesis Report summarises the main findings of the EMN Focussed Study on *Establishing Identity for International Protection: Challenges and Practices* undertaken by EMN National Contact Points from 25 (Member) States (**Austria**, **Belgium**, **Bulgaria**, **Cyprus**, **Czech Republic**, **Estonia**, **Finland**, **France**, **Germany**, **Greece**, **Hungary**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, **Luxembourg**, **Netherlands**, **Poland**, **Portugal**, **Slovak Republic**, **Slovenia**, **Spain**, **Sweden**, **United Kingdom** and **Norway**).

The outcomes of this study are primarily intended to inform policymakers, and other practitioners, working in the domain of international protection.

The overall purpose of this study was to provide an overview of challenges facing national authorities in their efforts to establish the identity of applicants for international protection and for the return of rejected applicants, often in the absence of (valid) documentation. It also presents an overview and analysis of national practices and identifies several best practices plus sheds light on the possible effects that the absence of (valid) documentation has on third-country nationals' application for international protection, or for the return to their (presumed) country of origin following a negative decision.

This Synthesis Report, as well as the National Contributions upon which it is based, is available from http://www.emn.europa.eu under "EMN Studies." Several of the National Contributions are also available in the Member States' national language(s), as well as in English.

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DISCLAIMER

This Synthesis Report has been produced by the European Migration Network (EMN), which comprises the European Commission, its service provider (ICF GHK-COWI) and EMN National Contact Points (EMN NCPs). This report does not necessarily reflect the opinions and views of the European Commission, EMN Service Provider (ICF GHK-COWI) or the EMN NCPs, nor are they bound by its conclusions. Similarly, the European Commission, ICF GHK-COWI and the EMN NCPs are in no way responsible for any use made of the information provided.

EXPLANATORY NOTE

This Synthesis Report was prepared on the basis of National Contributions from 25 EMN NCPs (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom and Norway) according to a Common Template[1] developed by the EMN and followed by EMN NCPs to ensure, to the extent possible, comparability.

National Contributions were largely based on desk analysis of existing legislation and policy documents, reports (including previous EMN outputs), academic literature, political debate, media articles, internet resources and reports and information from national authorities (Ministries, Border Guards and other migration regulating and law enforcement agencies), NGOs and International Organisations. Statistics were sourced from Eurostat, national authorities plus other (national) sources.

It is important to note that the comments of this Report refer to the situation in the above-mentioned (Member) States up to and including 2012 and as reflected in the contributions from their EMN National Contact Points. More detailed information on the topics addressed here may be found in the available National Contributions and it is strongly recommended that these are consulted also.

The (Member) States listed above are given in **bold** when mentioned in the Report and "(Member) States" is used to indicate the contributions from participating EU Member States plus from Norway.

EMN NCPs from other Member States could not, for various reasons, participate on this occasion in this Study, but have done so for other EMN activities and reports.

[1] Available, along with the various National Contributions, from http://www.emn.europa.eu under "EMN Studies"

EXECUTIVE SUMMARY

The EMN Focussed Study 2012 on *Establishing Identity for International Protection: Challenges and Practices* provides an overview of challenges facing national authorities in their efforts to establish the identity of applicants for international protection and for the return of rejected applicants, often in the absence of (valid) documentation. It also presents an overview and analysis of national practices and identifies several best practices plus sheds light on the possible effects that the absence of (valid) documentation has on third-country nationals' application for international protection, or for the return to their (presumed) country of origin following a negative decision.

Many (Member) States are confronted with a significant number of third-country nationals who do not provide documents substantiating their identity when they apply for international protection. Rather than presenting (valid) identity documents, applicants tend to declare their identity. When third-country nationals do present identity documents, there are often difficulties in assessing authenticity, due to the presentation of false documents and claims of multiple identities. Moreover, there are attempts to mislead authorities and/or a lack of cooperation of the applicant, which not only impedes the assessment of an application for international protection but may also severely obstruct implementation of a return decision in cases when the asylum application is rejected.

Overall, the need to establish identity is laid down in national legislation (Section 2). In the majority of (Member) States, national legislation primarily reflects the obligations and duties laid down in EU legislation. A few Member States have included more detailed provisions in their national legislation, elaborating on the methods to be used, setting out a step-by-step process.

Different types of organisations (Section 3) are responsible for the operational establishment of identity, both for applicants for international protection and for rejected applicants. These include offices in charge of deciding on asylum applications; police/law enforcement authorities; and units in charge of analysing intelligence and/or identifying forgery. (Member) States also differ with regard to the roles and responsibilities assigned to these organisations. In some, the organisation responsible for establishing identity of applicants for international protection also decides on the outcome of asylum applications, whereas in others it is distinct and independent. In a few, the situation is mixed with involvement of more than one organisation, or responsibility is shared between the office which decides on the asylum applications and other organisations. In most, the process of establishing identity is part of the procedure for deciding on applications for international protection, but responsibilities are clearly separated in nine Member States (ES, FI, IT, LT, LU, LV, PL, SI, NO – see Section 3.2). Only a small number of (Member) States (CZ, FI, NO) have developed central competence centres (Section 3.4) with advisory/support functions independent of the organisation in charge of establishing identity.

In relation to the definition of identity (Section 4.1), most Member States have not codified a legal definition, but rather have an operational definition in place, which is used for applicants of international protection, as well as for rejected asylum applicants. The definition is open-ended, involving numerous characteristics, such as first name, surname, date of birth, and citizenship. All (Member) States accept a wide range of documents (Section 4.2) in their procedures for establishing the identity of applicants for international protection, with most (Member) States distinguishing between "core" documents (e.g. passport, ID cards) and "supporting" documents which cover other forms of identity documentation. A much narrower range of documents is normally accepted by the (presumed) countries of origin if the rejected applicants have to be returned. Most emphasise that the type of documents accepted depends considerably on the country of origin. Half of the Member States (AT, BE, BG, CY, CZ, EL, IE, LT, LV, NL, PL, SI) accept copies of documents for the purposes of establishing identity, but most only recognise these as supporting documents.

The types of methods (Section 4.3) used in the process of establishing identity are mostly

comparable and include interviews, fingerprints and photographs for comparison with national/European databases, age assessment and language analysis. Whilst some (Member) States apply primarily the same methods for applicants of international protection (Section 4.3.1) and rejected applicants (Section 4.3.2), others apply a more limited range to rejected applicants. Moreover, whilst contacts with national authorities in the presumed country of origin are precluded from the range of methods permitted in the context of international protection procedures, they are considered indispensable for return procedures. (Member) States also share similar approaches on how these methods are used, both in the context of international protection as well as return.

On decision-making (Section 5), in the context of international protection, complete certainty on all aspects of identity may not be required, when, for example, the applicant is granted a group-based form of international protection (see Section 5.3.1). By contrast, a greater degree of certainty is required in the context of return procedures as "identity" is more strictly defined with citizenship constituting the most integral element of it. Therefore, a distinction can be made between identity determination/verification in relation to return, and identity attribution in the context of international protection.

Some (Member) States do not assign particular weights (Section 5.2) to the results of the different methods used for establishing identity, thereby favouring a "holistic" approach, whilst others do consider certain methods more reliable (primarily fingerprint examination and interviews). Notably, the majority of Member States do not recognise partial determination of identity: Identity is considered either verified or not verified. Nevertheless, some (Member) States do have a grading system which includes different degrees of certainty levels in the identity determination.

A deficiency of documentary evidence identifying a third-country national is not regarded as the only, decisive factor to decide on the merits of the application for international protection (Section 5.3). This is due to the fact that (establishing) identity is considered one of several elements in the assessment of a case. Nevertheless, when the grounds for application are of an individual nature, establishing the identity of an applicant can confirm the merit of the individual grounds for seeking international protection, or the applicant's country of origin. Furthermore, the decision to grant international protection is influenced by the applicant's credibility. The establishment of identity *is,* however, often a decisive factor in the context of return. To implement a (forced) return, the identity of the person concerned must be either verified or documented in a way that is accepted by the perceived country of origin. Hence, absolute verification may be required to return a rejected applicant to their country of origin.

The concluding remarks present findings from this Study that could inform the development of a (Member) State's capacity to deal with situations where applicants arrive without any valid identification documents. First, detailed provisions in national legislation elaborating on the methods and the step-by-step processes could provide guidance to the authorities responsible for establishing identity and therefore reduce cases where methods or steps are applied arbitrarily. Secondly, (Member) States can use different methods to establish identity flexibly or in combination, depending on the specific situation. Thirdly, in relation to the identity of rejected applicants, better cooperation with third countries is essential (e.g. via the Global Approach to Migration and Mobility), as well as making optimal use of existing technologies, including databases, by enhancing their functionality and ensuring better collaboration with other Member States to ensure that relevant information is made available and kept up-to-date. Finally, several measures are presented to further develop and share know-how of how to determine or attribute identity. These include: the creation of a separate module on identity under the European Asylum Curriculum - the training system of the European Asylum Support Office (EASO); development of guidelines on how to establish identity (in specific cases) when valid identity documents are missing; development of an EU-wide network of competence centres; the export of expertise on identity establishment to (Member) States carrying a high burden in the European asylum system.

1. INTRODUCTION

This Synthesis Report presents the main findings of the second EMN Focussed Study "*Establishing Identity for International Protection: Challenges and Practices*". The aim of the study is to provide an overview of important challenges facing national authorities in their efforts to establish, in the absence of credible documentation, the identity of applicants for international protection (i.e. asylum and subsidiary protection) and for the return of rejected applicants.[2] It also aims to draw together an overview of national practices in handling these challenges, while allowing for the identification of possible steps towards further (joint) actions.

The experience in many (Member) States is that a significant number of third-country nationals do not provide documents substantiating their identity when they apply for international protection, but rather declare their identity. In the period from 2007 to 2011, for example, for those (Member) States that provided statistics (i.e. **Estonia**, **Finland** (2011 only), **France**, **Latvia**, **Lithuania**, **Portugal**, **Spain**, **Sweden and Norway**), in relation to the total number of applicants for international protection, the average percentage of applicants for whom identity was not documented at the time of application ranged from 25% in **Latvia** to over 94% in **Norway** and **Sweden**. In **Lithuania**, this percentage was 42%, in **Spain** 49%, in **France** 66% and in **Portugal** 80% (see Table 1 in the Annex).

The National Contributions to this Study recognise that the situation of asylum seekers arriving on their territory without (valid) identity documents is due to a range of factors. Those who flee persecution may not have the possibility to take their identity documents with them when leaving their country of origin or the journey to Europe may result in the loss or damaging of identity documents (e.g. **Italy**, **Portugal**, **Norway**[3]). It also appears that in several cases migrants are advised to destroy their identification documents upon arriving in the EU or withhold these from authorities, in order to, among other reasons, hamper the identification process in the event of a forced return (e.g. **Belgium**, **Luxembourg**, **Spain**).

Moreover, when third-country nationals do provide identity documents as part of their application for international protection, many Member States are confronted with difficulties in assessing authenticity (e.g. **Austria**, **Belgium**, **Finland**, **France**, **Greece**, **Netherlands**), with false documents (e.g. **Ireland**, **Netherlands**, **Portugal**, **Spain**, **Sweden**, **United Kingdom**), and with multiple identities (e.g. **Bulgaria**, **France**, **Netherlands**, **United Kingdom**). In some cases (as reported by **France**, **Norway**), this may be due to the (lack of) administrative structures of the country that the applicant originates from. In some third countries (e.g. Somalia, Haiti), the authorities responsible for issuing identity documents may not have the human, financial and technical capacity to issue documents of the quality standards set by the EU, or to do this for all its citizens. In quite a few cases, Member States are also confronted with a lack of cooperation on the part of the applicant (e.g. **Luxembourg**, **Norway**) or an attempt to mislead the authorities. **France** and the **United Kingdom** are, for example, currently confronted with an increase in the number of applicants who damage or otherwise alter their fingerprints which creates substantial difficulties or delays in identifying an applicant and investigating whether the applicant has lodged multiple applications in either this and/or another Member State.

These issues evidently limit the authorities' ability to assess the validity of the applicant's claims

[2] See also other relevant EMN Studies: "*EU Programmes and Strategies fostering Assisted Return to and Reintegration in Third Countries (2009)*", "*Reception, Return and Integration policies for, and numbers of, Unaccompanied Minors (2009)"*, "*the Different National Practices concerning granting of non-EU Harmonised Protection Statuses (2009)*". All Studies are available at the EMN website (http://www.emn.europa.eu) under "EMN Studies".

[3] Here, reference is made to those National Contributions which specifically mentioned this issue. However, it is very likely that other EU Member States share this, or a similar, experience. This comment is applicable to all listings of Member States in the Introductory Section of this Synthesis Report.

and to make decisions in these cases, resulting in lengthy procedures (e.g. **Italy** and **Norway**) and resource-intensive procedures (reported by the majority of (Member) States).

Consequently, they also present a challenge for effectively implementing the Common European Asylum System (CEAS) which requires *inter alia* Member States: "*to verify the identity of the applicant in order to produce a legally correct decision based on the facts and circumstances in the individual case*." This in turn affects one of the CEAS' primary objectives, i.e. to treat all asylum applicants equally, independently of where in the European Union they (first) lodged their application. The newly introduced provisions on identity under the second generation[4] asylum legislative instruments reflect increasing recognition of the crucial importance of identity in both asylum decision-making, as well as for return decisions and implementation. For example, Article 4 paragraph 2 (b) of the *Recast Qualification Directive 2011/95/EU*[5], introduces a duty for Member States to assess the identity of asylum applicants. In a similar vein, Article 13 of the *Commission's Proposal for a recast of the Asylum Procedures Directive*[6] imposes an obligation upon applicants to cooperate with the competent authorities with a view to establishing their identity. Further information on relevant provisions is outlined in Section 2 "*Relevant national and EU legislation*."

Prior to the (recast) Qualification Directive 2011/95/EU, none of the first generation asylum legislative instruments stipulated any obligation on applicants or duty for Member States to establish the identity of an asylum applicant. As a result, Member States may differ significantly in how they deal with applicants for international protection whose statements regarding their identity are not supported by valid documentary evidence. Firstly, differences may exist regarding the methods (e.g. biometric analysis) that the responsible authorities can (or have to) use to obtain other evidence to support (some of) these applicant's statements and, ultimately, their capacity to draw a conclusion on the degree of identity determination. This is investigated in Section 3 "*Institutional Framework*" and Section 4 "*Methods for Establishing Identity*." Secondly, differences across the (Member) States may also exist in decisions that the responsible national authorities take regarding applicants for international protection whose identity is regarded as having been determined to a certain degree only, and the basis for those decisions. Section 5 "*Decision-making Process*" provides insights in the broad principles underlying this process in the (Member) States.

The study also addresses the challenges associated with identity determination in the context of the return of rejected applicants for international protection, i.e. those who receive a negative decision, or who have exhausted or abandoned the procedure for international protection. This group will be referred to in short as "rejected applicants" for international protection. It is widely recognised that an efficient return policy, for persons whose applications for international protection are rejected, is needed in order to safeguard the integrity of the common asylum procedure. However, these returns are often complicated by the fact that rejected applicants for international protection do not hold (valid) identity documents. In the absence of valid proof of identity, the authorities responsible for executing returns have to request travel documents for the applicant from his/her (declared) country of origin. Cooperation with third countries, including in the context of readmission agreements, affects success in this regard, as argued by nearly all Member States and Norway.

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4 EU asylum rules are often distinguished between "first generation" legislative instruments, adopted between 1999 and 2005, and "second generation" legislative instruments, which refer to the modifications to the existing acquis adopted (or proposed) more recently. The "second generation" instruments aim to resolve the continuing discrepancies among Member States in the treatment of asylum seekers and their applications for international protection. They were agreed by the European Council in the context of the 2009 Stockholm Programme and are currently the subject of a number of legislative proposals.

5 Council Directive 2011/95/EU http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:337:0009:0026:EN:PDF with implementation deadline 21st December 2013. DK, IE, and UK have opted-out and are not bound by the provisions of this Directive.

6 SEC (2009) 1376, http://ec.europa.eu/home-affairs/news/intro/docs/110601/319/1_EN_ACT_part1_v12[1].pdf

2. RELEVANT NATIONAL AND EU LEGISLATION

This section outlines those provisions in national legislation which stipulate the process for the establishment of identity in EU Member States and Norway including, where relevant, the link to EU legislation. Overall, the establishment of identity is laid down in national legislation in most (Member) States. However, national legislation primarily reflects the obligations and duties laid down in EU legislation, although it is not elaborately defined. A few Member States have included more detailed provisions in their national legislation, elaborating the methods and a step-by-step process. In the following analysis it should be borne in mind that **Ireland** and the **United Kingdom** opted for the adoption and application of the Asylum Procedures Directive and the Qualification Directive, while **Denmark** opted out. **Denmark**, **Ireland** and the **United Kingdom** opted out of the recast Qualification Directive and the Return Directive. **Norway** is only party to the Return Directive.[7]

2.1 International Protection

Most (Member) States have laid down (part of) the process for the establishment of identity in national legislation in relation to applicants for international protection (**Austria**, **Belgium**, **Bulgaria**, **Cyprus**, **Czech Republic**, **Germany**, **Estonia**, **Greece**, **Hungary**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, **Netherlands**, **Slovak Republic**, **Spain**, **Norway**). The extent, however, to which national legislation does this, differs. In some (Member) States, the relevant provisions in national legislation predominantly reflect EU legislation (setting out the obligations and duties imposed on the responsible authorities and/or the applicant). In other (Member) States, more detailed national provisions exist, which stipulate the specific methods and steps to be undertaken, and the order in which to do so. The following subsections present a thematic overview of the relevant provisions laid down in national legislation.

2.1.1. Obligation of applicants to cooperate with the authorities

All Member States and Norway, in line with the Asylum Procedures Directive,[8] the Qualification Directive[9] and the recast Qualification Directive,[10] impose an obligation on the applicant to submit all documents (e.g. passports) which may be relevant to substantiate their application. Furthermore, national legislation in **Estonia**, **Germany**, **Italy**, **Luxembourg** and **Spain** explicitly stipulate the duty of the applicant to cooperate in the proceedings, in line with the Commission's Proposal for a recast Asylum Procedures Directive.[11]

2.1.2. Right of the competent authorities to search the applicant

The competent authorities in most (Member) States,[12] following also the Asylum Procedures Directive, have the right to search the applicant and the items he/she carries with him/her in order to obtain information on, for example, the country of origin, travelled route and any information indicating first, last name, date, place of birth and residence address.

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[7] An overview of opt-ins and EU acquis in which **Norway** participate is available at the EMN website (http://www.emn.europa.eu) under "Asylum and Migration Policy Factsheets"

[8] Council Directive 2005/85/EC: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:326:0013:0034:EN:PDF

[9] Council Directive 2004/83/EC: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:HTML

[10] Council Directive 2011/95/EU: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:337:0009:0026:EN:PDF

[11] SEC (2009) 1376, http://www.europarl.europa.eu/registre/docs_autres_institutions/commission_europeenne/sec/2009/1376/COM_SEC%282009%291376_EN.pdf

[12] Except for **France** which has chosen not to implement this provision in national law.

2.1.3. Possibility to prioritise/accelerate the asylum procedure in cases where the applicant has misled authorities

In some Member States (e.g. **France**, **Hungary**, **Luxembourg**, **Slovenia**), national legislation, again in accordance with the Asylum Procedures Directive, provides for the possibility to prioritise/accelerate the asylum procedure in cases where the applicant has misled the authorities by presenting false information/documents concerning his/her identity/nationality; has not produced any information establishing his/her identity; and in cases where the applicant has destroyed his/her identity papers in bad faith.

2.1.4 Investigating and establishing identity

Following submission of documents and search of the applicant, most Member States (**Austria**, **Belgium**, **Bulgaria**, **Czech Republic**, **Germany**, **Estonia**, **Greece**, **Finland**, **Hungary**, **Ireland**, **Italy**, **Lithuania**, **Luxembourg**, **Latvia**, **Netherlands**, **Poland**, **Slovak Republic**), although not explicitly laid down in EU legislation, impose an obligation to investigate/establish an applicants' identity. Whereas national legislation in **Austria** refers to the obligation to "investigate" identity, other Member States' legislation (**Germany**, **Ireland**, **Italy**, **Latvia**, **Luxembourg**, **Netherlands**, **Poland**, **Slovak Republic**) stipulate the obligation to "determine" or "establish" identity.

2.1.5 Legislation outlining methods for establishing identity

Beyond these basic duties and rights, most of which are laid down in EU legislation and therefore common to all participating (Member) States, several Member States have more detailed provisions in their legislation, including the specific methods to be applied (**Belgium**, **Cyprus**, **Estonia**, **Germany**, **Hungary**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, **Luxembourg**, **Netherlands**, **Poland**, **Slovenia**, **Spain**), as well as describing the specific steps to be undertaken and by which authority (**Belgium**, **Hungary**, **Ireland**, **Italy**, **Luxembourg**, **Netherlands**). Whilst **Finland** and **Lithuania** have not codified the process as such in legislation, they have developed guidelines setting out the procedure step-by-step. The **Netherlands** has, in addition to detailed legislation, further elaborated the process in guidelines, as well as in work instructions. More detailed information can be found in Section 4.

Several (Member) States' legislation states, in accordance with Article 4 of the recast Qualification Directive (implementation deadline in 2013), that, the identity of the applicant should be taken at face-value if certain requirements are met, for example, the applicant having made a genuine effort to substantiate their application. (Member) State authorities are not allowed to contact authorities in the presumed country of origin. Their own national diplomatic posts in the presumed country of origin may exceptionally be contacted concerning issues like authentication of documents, however under no circumstances may information be revealed concerning the application for international protection.

2.1.6. Fixed terms for the establishment of identity

None of the (Member) States seem to have set a fixed term for the establishment of identity. Indeed, as emphasised by **Italy**, EU legislation does not stipulate such a fixed term. It may thus be argued that this affects one of the aims of the Asylum Procedures Directive of reducing the time between the lodging of the claim and decision on it, as well as the status of limbo that the applicant may then find him/herself in.

2.2 Return Procedure

With regard to return procedures, most Member States (**Austria**, **Belgium**, **Bulgaria**, **Estonia**, **Germany**, **Greece**, **Hungary**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, **Luxembourg**, **Netherlands**, **Poland**, **Slovak Republic**, **Slovenia**, **United Kingdom**) have laid down, to a certain extent, the obligation to establish identity in national legislation, although this differs significantly.

2.2.1. Contacts with presumed countries of origin

Some Member States (**Austria**, **Estonia**, **Latvia**, **Slovak Republic**) solely stipulate the obligation to return illegally staying third-country nationals and the rights and duties that authorities have when implementing a return decision. For example, all participating Member States and Norway, in line with the Return Directive (2008/115/EC), refer to the fact that third-country nationals without regular status cannot be returned when identity cannot be established. The legislation in some Member States (**Austria**, **Italy**, **Luxembourg**) imposes an obligation on the authorities to contact relevant diplomatic representation for the purpose of obtaining a travel document in case the third-country national does not possess any documents. For example, in **Austria**, the *Aliens Police Act* stipulates the duty to remove a person against whom a return decision, expulsion or an exclusion order has been issued and constitutes the legal basis for contacting embassies in order to request travel documents.

2.2.2. Legislation outlining methods for establishing identity

In a number of Member States (**Belgium**, **Estonia**, **Germany**, **Hungary**, **Italy**, **Latvia**, **Lithuania**, **Luxembourg**, **Netherlands**, **Poland**, **Slovenia**), legislation includes more detailed provisions concerning the process for establishing identity, by setting out which methods can be applied, as well as the specific steps to be undertaken. Besides their legislative provisions, **Belgium** and **Netherlands** have developed guidelines which include the operational steps to be taken during the identification process. More detailed information can be found in Section 4.

3. INSTITUTIONAL FRAMEWORK FOR ESTABLISHING IDENTITY

This section presents the types of organisations with operational responsibility for establishing the identity of (rejected) applicants for international protection, the division of responsibilities when several organisations are involved and the existence and role of central competence centres in the process.

3.1 Types of organisations involved

Tables 2 and 3 in the Annex provide an overview of the organisations with operational responsibility for establishing the identity of applicants for international protection in EU Member States and Norway. Three types of organisations can be identified.

1. Offices in charge of deciding on asylum applications, usually located within the national immigration service but in some cases located within the law enforcement authorities or in an independent agency (e.g. **Austria**'s Federal Asylum Office or the Department of Asylum and Migration Policy of **Czech Republic**).

2. Police/Law enforcement authorities, especially border guard services and units in charge of analysing intelligence and/or identifying forgery within the police (e.g. **Belgium**'s Central Squad against Forgery of the Federal Police or **Latvia**'s State Border Guard).

3. Other organisations, independent of both the asylum offices and the law enforcement authorities, that provide a supporting role, usually in the analysis of forensic intelligence but

also in other ways (e.g. training, provision of expert advice, etc.). In certain (Member) States, these support services are provided by:

- Scientific institutes (e.g. **Estonia**'s Forensic Science Institute[13])
- General administration offices (e.g. **Germany**'s Federal Office of Administration)
- Central competence centres for issues related to the determination of identity and/or verification of documents (e.g. **Finland**'s National Bureau of Investigation Forensic Laboratory[14] or **Norway**'s National Identity and Documentation Centre). The central competence centres may be separate bodies or units within a relevant authority.

With regard to the role and responsibilities that (Member) States have allocated to (a combination of) these three types of organisations, three scenarios can be discerned. In the first scenario (applied in **Bulgaria**, **Estonia**, **Finland**, **Hungary**, **Portugal**, **Slovenia**, **Sweden**), the organisation responsible for establishing the identity of applicants for international protection is the same organisation that decides on the outcome of asylum applications. In most cases, this organisation is located within the (Member) State's immigration and asylum service (e.g. **Bulgaria**, **Cyprus**, **Hungary**, **Portugal**, **Sweden**, **United Kingdom**), although, in some cases, it is part of the (Member) State law enforcement structures (**Estonia**).

In the second scenario (applied in **Finland**, **Latvia**, **Lithuania**, **Luxembourg**, **Italy**, **Poland**), the organisations responsible for establishing the identity of applicants for international protection are independent from the office in charge of deciding on the outcome of asylum applications. In **Finland**, for example, the Police and the Finnish Border Guard are responsible for collecting personal data and establishing identity of applicants for international protection, whereas the outcome of the latter's applications for asylum is decided by the Finnish Immigration Service.

In the third scenario, the situation is mixed with more than one organisation having operational responsibility for the process of establishing the identity of applicants for international protection. In some of these cases, the responsibility for establishing the identity of applicants lies with the office for deciding on the asylum application (usually located within the immigration service[15]) with other organisations providing a supporting role (**Austria**, **Belgium**, **Germany**, **Greece**, **Ireland**).

In other cases under this third scenario, the responsibility for establishing the identity of applicants is shared between the office which decides on the asylum applications and other organisations, including law enforcement authorities and other organisations. Each of these organisations is usually in charge of a different stage, or aspect, of the process of establishing identity. One particular division of labour is for the office in charge of deciding on the outcome of the asylum application to focus on verifying the identity of the applicants, with the police focusing on verifying the authenticity of the identity documents (**Czech Republic**, **Spain**).

Another division of labour identified under the third scenario is for the relevant law enforcement structures to focus on establishing the identity of asylum seekers upon arrival (and registering them), with the office in charge of deciding on the outcome of asylum applications responsible for investigating the identity of applicants once the asylum application process is underway. This is the case in **France**, **Netherlands**, **Slovak Republic** and **Norway**. For **Norway**, it is respectively the Norwegian Police Immigration Service (NPIS) and the Norwegian Directorate of Immigration

[13] However, due to the low number of asylum applications, the Forensic Institute has not provided assistance to date.

[14] This Bureau is responsible for the technical verification of ID documents.

[15] Whereas in most aforementioned (Member States) the responsible office for deciding on applications for international protection is located within the immigration service, in **Belgium** the responsible authority (CGRS) constitutes an independent organisation.

(UDI) carry out these functions.

In addition, **Norway** has also set up a National Identity and Documentation Centre (NID) which complements the responsibilities of NPIS and the decision making bodies (first and second instance) in a number of areas (see more on this below), including supporting efforts to establish the identity of applicants for international protection in difficult cases. Similarly, in **France**, prefectures first establish "biometric identity" when the applicant lodges the application for international protection, whilst its Office Français de Protection des Réfugiés et Apatrides (OFPRA) establishes civil identity when deciding on the application for international protection.

3.2 Establishing the identity of asylum applicants as part of the decision making process

In 16 (Member) States, the offices in charge of deciding on the application for asylum are primarily responsible for the process of establishing identity, or participate in this process (i.e. share responsibility with other organisations). Responsibilities for establishing identity and for deciding on the outcome of asylum applications are separated in nine (Member) States (**Finland**, **Italy**, **Latvia**, **Lithuania**, **Luxembourg**, **Poland**, **Slovenia**, **Spain** and **Norway**).

Separating responsibilities for establishing identity and deciding on asylum applications may help contribute to effective decision-making by allowing the institutions concerned to specialise in carrying out their particular function. On the other hand, separate responsibilities may not allow as much flexibility in the process of establishing identity. In (Member) States where, for example, the office in charge of determining the outcomes of asylum applications participates in the process of establishing identity there may be more opportunity to investigate the most relevant aspects of identity to the particular case and for resolving issues arising from contradictory information.

The choice of institutional arrangements does not seem to determine the extent to which the organisations in charge of establishing the identity of applicants for international protection are authorised to access EU databases holding identity information about third-country nationals (e.g. EURODAC, SIS II, VIS). Direct access to all or most of these EU databases is available to the officials responsible for establishing identity in 17 out of 21 (Member) States that provided information about this. The only (Member) States where direct access is not allowed are **France**, **Germany**, **Slovenia and Spain**, where the officials responsible for establishing the identity of applicants for international protection can nevertheless liaise directly with the officials who do have direct access to these databases.

3.3 Establishing the identity of rejected asylum applicants for return: organisations involved

(Member) States also vary in terms of whether the same organisations are responsible for establishing the identity of asylum applicants and of rejected asylum applicants. In nine (**Belgium**, **Estonia**, **Italy**, **Latvia**, **Lithuania**, **Poland**, **Portugal**, **Sweden**, **United Kingdom**) out of the 25 (Member) States, responsibility for establishing the identity of asylum applicants and for establishing the identity of rejected asylum applicants for return lies with the same organisations.

In the 17 (Member) States (**Austria**, **Bulgaria**, **Cyprus**, **Czech Republic**, **Germany**, **Greece**, **Finland**, **France**, **Hungary**, **Ireland**, **Luxembourg**, **Netherlands**, **Slovak Republic**, **Slovenia**, **Spain**, **Sweden**, **Norway**) where responsibility for establishing the identity of rejected asylum applicants lies with different organisations, this is with:

- Specialised units within the police (**Czech Republic**, **Greece**, **Hungary**, **Slovak Republic**, **Slovenia**, **Spain**, **Norway**), some of whom are supported by other law enforcement agencies (**Austria**, **Finland**), or by Repatriation Units within the immigration services (**Ireland**).

- Specialised units within the immigration services (**Bulgaria**, **Cyprus**, **Germany**, **Luxembourg**) or other relevant authorities (**France**, **Netherlands**[16]), which in some cases are supported by law enforcement agencies (in the case of **France**, **Germany**, **Luxembourg**).

and these organisations have a system of sharing information nationally with those establishing identity of asylum applicants in most cases.

Keeping the two processes of identity establishment (for asylum applicants and for rejected asylum applicants) separate may facilitate effective decision-making by permitting the relevant organisations to focus on the types of information that matter most for each process. It might also provide a greater guarantee of objectivity in the treatment received by asylum applicants, since the organisations involved in establishing the identity of asylum seekers will not also have to meet targets in respect of returns. On the other hand, with separate institutions, there may be a risk of duplicating each other's work. In (Member) States where the processes are organised separately, it is therefore crucial to ensure effective cooperation and information sharing between the organisations involved.

3.4 Central Competence Centres

A small number of (Member) States (**Czech Republic**, **Finland**, **Norway**) have developed central competence centres with advisory / support functions that are independent of the organisations in charge of establishing the identity of asylum applicants and/or rejected applicants. The central competence centres provide the following services:

- Advisory services
- Development of methods
- Training of frontline officers
- Support with difficult cases
- Development of own databases for genuine and false documents[17]
- Use of the database iFADO (iPRADO for checking false ID documents)[18]
- Use of the EDISON system[19]
- Forensic analysis of documents (by means of its own forensic document unit).

(Member) States that do not have a central competence centre as such often provide the above-listed services through specialised units within the law-enforcement structures (**Austria**, **Belgium**, **Cyprus**, **Estonia**, **Greece**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, **Netherlands**, **Slovakia**, **Slovenia**, **Spain**), within the immigration service in charge of deciding on the outcomes of asylum applications (**Portugal**, **Sweden**, **Slovenia**, **Spain**), within the executive agency responsible for the operational implementation of asylum and migration policy (**United Kingdom)**, or attached to other relevant authorities (**Poland**).

[16] In the **Netherlands**, this is the responsibility of the Repatriation and Departure Service of the Ministry of Security and Justice.

[17] Except in the case of the **United Kingdom**, where the central competence centre(s) do not have their own database or genuine documents; and in the case of Norway, where the central competence centre(s) do not have their own database for false documents.

[18] Except in the case of the **United Kingdom**

[19] Except in the case of the **United Kingdom**

4. METHODS FOR ESTABLISHING IDENTITY

This section considers how the (Member) States understand the concept of identity within asylum and return procedures. It then provides an overview of the types of documents that are accepted for establishing identity in relation to international protection and return procedures, the methods that are used in the absence of credible documentation, and the rationale associated with these methods. The analysis is used to highlight best practice for establishing identity.

4.1 Defining identity

Table 4 in the Annex captures whether (Member) States have laid down a definition of identity in national legislation or, in the absence of it, an operational definition. In addition, it maps the main elements of these definitions.

Only **Belgium** and **Latvia** have laid down a specific definition of identity in national legislation in relation to procedures for international protection. However, 17 (Member) States (**Austria**, **Czech Republic**, **Estonia**, **France**, **Germany**, **Greece**, **Hungary**, **Italy**, **Luxembourg**, **Netherlands**, **Poland**, **Portugal**, **Slovak Republic**, **Sweden**, **Spain**, **United Kingdom**, **Norway**) have an operational definition of identity in place. An open-ended approach to defining identity seems to be preferred in the context of procedures for international protection, with identity understood as encompassing numerous characteristics which come together in a unique way to identify an individual (**Estonia**, **Italy**, **Latvia**, **Netherlands**, **Spain**, **Norway**). These operational definitions include first name, surname and date of birth. Citizenship (e.g. **Czech Republic**, **Netherlands**, **Poland**, **Sweden**, **Slovak Republic**), nationality (e.g. **France**, **Hungary**, **Netherlands**, **Poland**, **Spain**, **Norway**) and place of birth (e.g. **France**, **Germany**, **Netherlands**, **Spain**, **Norway**) feature prominently in several practical definitions of identity in the context of the procedures used to establish the identity of applicants for international protection.

With the exception of **Austria**, **Czech Republic**, **Germany**, **Finland** and **Spain**, the legal or operational definitions of identity mapped in Table 4 in the Annex and described above are also used with regard to the return of rejected applicants. **Germany** stresses that, as a general rule, the identity of rejected asylum seekers is only considered to be sufficiently verified to execute return if the identity has been proven by official travel documents. Similarly, in **Finland**, establishing the citizenship of a rejected asylum seeker is considered a pre-requisite for executing his or her return. While **Austria**, **Belgium**[20] and **Czech Republic** have laid down a definition of identity in national legislation, **Austria** comments that this legal definition does not influence the outcome of a return procedure as identity is in practice defined within the context of cooperation with the concerned country of origin.

4.2 Documents required for confirming identity

All (Member) States accept a wide range of documents in the context of procedures for establishing the identity of applicants for international protection (see Table 5 in the Annex). However, most (Member) States distinguish between 'core' documents, which normally include passports, identity cards or other internationally recognised travel documents, and 'supporting' documents, which cover other forms of identity documentation. Exceptions include **Austria**, **Italy** and **United Kingdom**, where such a distinction does not seem to be made. Several (Member) States specify that "any other" document is accepted as 'supporting' evidence of identity (**Belgium**, **Bulgaria**, **Cyprus**, **Czech Republic**, **Greece**, **France**, **Hungary**, **Latvia**, **Lithuania**, **Luxembourg**, **Netherlands**, **Poland**, **Slovak Republic**, **Slovenia**, **Spain**). Others provide examples of the range of documents that are accepted, including birth, marriage, divorce and qualification certificates (e.g.

[20] **Belgium** has laid down a definition of an identified "non-national."

Cyprus, **Czech Republic**, **Ireland**, **Slovak Republic**, **Spain**), residence permit cards, seafarer's discharge books, record of service on a ship and return certificates/permits (e.g. **Estonia**), trade union cards, supporting letters (e.g. **Ireland**), as well as identity cards for students and driving license (e.g. **Slovak Republic**, **Spain**, **Norway**).

A much narrower range of documents are normally accepted by the (presumed) countries of origin if the rejected applicant for international protection has to be returned. All countries of origin accept a valid passport or other travel document. However, most (Member) States (e.g. **Belgium**, **Germany**, **Estonia**, **Finland**, **France**, **Netherlands**, **Portugal**, **Slovenia**, **Spain**, **Sweden**, **United Kingdom**, **Norway**) noted that the type of documents accepted in fact depends considerably on the country of origin. **Sweden** notes that the variation in type of documents required by the (presumed) country of origin also depends on the type of return procedure, with birth certificates accepted as 'core' documentation if the return is assisted.

Twelve (Member) States (**Austria**, **Belgium**, **Bulgaria**, **Cyprus**, **Czech Republic**, **Greece**, **Ireland**, **Latvia**, **Lithuania**, **Netherlands**, **Poland**, **Slovenia**) accept copies of documents for the purposes of establishing identity, although in the case of **Belgium**, **Bulgaria**, **Czech Republic**, **Greece**, **Lithuania**, **Netherlands** and **Slovenia** copies are only recognised as supporting documents. In the case of the **Slovak Republic**, copies are accepted by the Migration Office (responsible for decision-making on applications for international protection), but the Border and Aliens Police (responsible for return) only accepts copies as supporting material, whilst national Courts vary in their approach, with some accepting copies and others returning cases for review that relied on copies of documents for establishing identity.

4.3 Methods used to establish identity in the absence of credible information

A wide range of methods for establishing identity is in use across the (Member) States in the context of international protection and return procedures. As Table 6 (methods used in context of international protection procedures) and Table 7 (methods used in context of return procedures) in the Annex indicate, over eight different methods of establishing identity in the absence of credible identity information are used, including:

- Language analysis;
- Age assessment;
- Comparison of finger prints with national or EU databases;
- Comparison of photographs with national or EU databases;
- DNA analysis;
- Interviews;
- Consultations with country liaison officers based in the (presumed) countries of origin;
- Coercive methods, including forced searches of the applicant's property.

In addition, some (Member) States are preparing to introduce iris scan technology into their procedures for establishing identity (**Italy**) or are considering it (e.g. **Ireland**).

4.3.1 Methods for establishing identity in international protection procedures

The types of methods that (Member) States use in the process of establishing the identity of applicants for international protection are mostly similar. All (Member) States conduct interviews

with the applicant for international protection, most (Member) States[21] take his/her fingerprints for comparison in national and European databases, undertake age assessment when doubt arises about the age of an applicant who claims to be a minor, and conduct language analysis (except for **Cyprus**, **Slovak Republic**,[22] **Slovenia** and **Spain**). Most (Member) States (**Belgium**, **Bulgaria**, **Germany**, **Greece**, **Finland**, **Hungary**, **Ireland**, **Italy**, **Luxembourg**, **Latvia**, **Netherlands**, **Poland**, **Portugal**, **Slovak Republic**,[23] **Sweden**,[24] **United Kingdom**, **Norway**) use photograph(s) of the asylum seeker for comparison with national databases. Some (Member) States compare these with the records of European databases (**Bulgaria**, **Germany**, **Finland**, **Hungary**, **Italy**, **Luxembourg**, **Netherlands**, **Poland**, **Slovak Republic**, **Norway**).

(Member) States also share a similar approach on *how* these methods are used as part of the process of determining the identity of asylum seekers. Conducting an interview / interviews with the applicant for international protection is obligatory or standard practice in 24 Member States and Norway; only in **Poland** is it optional.[25] Taking fingerprints for comparison with national and European databases is obligatory or standard practice in most (Member) States; only **Slovenia** does not have a national database to compare fingerprints, whilst in **Luxembourg** the practice of comparing the applicant's fingerprints with national databases is optional.[26] In most (Member) States, age assessment is undertaken when there is doubt about the age of an applicant who claims to be a minor.

Of the 17 (Member) States that use photographs for comparison with national database(s), 12 Member States and Norway have this as a standard or obligatory practice. In only four (**Belgium**, **Netherlands**, **Portugal**, **United Kingdom**) is this an option. Of the nine States comparing photographs with European databases, all, except for **Portugal**, do this by default.

Similarly, DNA analysis is only drawn upon in exceptional circumstances, i.e. to establish family affiliation, in the 12 Member States (**Austria**, **Bulgaria**, **Estonia**, **Greece**, **Finland**, **Italy**, **Lithuania**, **Latvia**, **Netherlands**, **Spain**, **Sweden**, **United Kingdom**) and **Norway** that have this possibility. Only in **Luxembourg** is DNA analysis optional and only applied to applicants who are involved in judicial proceedings.

A more varied picture emerges regarding language analysis, which is an optional method to establish the identity of applicants for international protection in more than half of the Member States (**Austria**, **Belgium**, **France**, **Finland**, **Germany**, **Hungary**, **Latvia**, **Lithuania**, **Luxembourg**, **Netherlands**, **Poland**, **Portugal**, **Sweden**, **Slovak Republic**,[27] **United Kingdom**), a standard practice in another three (**Bulgaria**, **Ireland**, **Italy**) and **Norway**, and obligatory in **Greece**. Conversely, **Slovenia** and **Spain** do not provide for the possibility of language analysis.

On the *order* in which the methods are applied, some Member States (**Belgium**, **Hungary**, **Ireland**, **Italy**, **Luxembourg**) lay this down in legislation, while in others (**Finland**, **Lithuania**, **Netherlands**) the relevant authorities (also) adopted their own internal guidelines. For example, in addition to legislation setting out the procedural division of duties and responsibilities, guidelines in **Netherlands** also describe a standardised step-by-step procedure for the identification, registration,

[21] Except for **France** where comparison of fingerprints in a national database does not take place.
[22] Though language analysis was conducted on several occasions in the context of a pilot project, it is not an established practice.
[23] **Slovak Republic** uses photographs solely in combination with fingerprints.
[24] In **Sweden**, the comparison of photographs is carried out manually on a case-by-case basis.
[25] Interviews are generally optional and solely obligatory for data verification purposes by the Office for Foreigners in **Poland**.
[26] In general though, fingerprints of persons aged 14 or above are run against such databases.
[27] Language analysis has been applied in the context of a pilot project, but it is not an established/common practice in the **Slovak Republic**.

modification, and determination of personal data. Furthermore, the **Netherlands** has also drafted so-called "work instructions"[28] for relevant civil servants. Of particular importance are the IND[29] Work Instructions concerning the investigation method, as well as Work Instructions concerning the decision methodology.

While the sequencing of the methods varies across (Member) States, some general patterns can be identified. All (Member) States tend to begin with a questionnaire which elicits personal information from the applicant. In most (Member) States this is followed by photographs and fingerprints and inserting these into European databases for comparison. Only after these biometric procedures are completed, is the applicant invited to attend one or more interviews, the results of which are evaluated against country of origin information. **Ireland** appears to give more priority to interviews: after an applicant completes the questionnaire, he/she is immediately invited to attend an initial interview, then a more detailed interview, following which the applicant's story is evaluated against country of origin information.

4.3.2 Methods used in the (forced) return of rejected applicants

In general, a similar range of methods is used for the establishment of identity in return procedures as for asylum procedures (see Table 7 in the Annex). In some (Member) States (e.g. **Norway**, **Sweden**) the results obtained during the asylum process can be used.

Most (Member) States conduct interviews (except for **Ireland**, **Sweden**); take fingerprints for comparison in national databases (except for **Cyprus**, **Ireland**, **Slovenia**) and European databases (except for **Cyprus**, **Greece**, **Slovenia**) and undertake age assessment when doubt arises in the age of the returnee who claims to be a minor (except for **Austria**, **Cyprus**, **Hungary**, **Ireland**, **Netherlands**, **Sweden**). Most (Member) States use photographs for comparison with national databases (except for **Austria**, **Cyprus**, **Czech Republic**, **Ireland**, **Lithuania**, **Netherlands**, **Slovenia**, **Sweden**) and many (Member) States also use these for comparison with European databases (**Bulgaria**, **Germany**, **Estonia**, **France**, **Hungary**, **Italy**, **Luxembourg**, **Poland**, **Portugal**, **Slovak Republic**, **Spain**, **Norway**). The majority of (Member) States conduct language analysis (**Austria**, **Belgium**, **Bulgaria**, **Estonia**, **Germany**, **Greece**, **Finland**, **Italy**, **Latvia**, **Luxembourg**, **Netherlands**, **Portugal**, **Spain**, **United Kingdom**, **Norway**).

Several (Member) States (**Austria**, **Greece**, **Finland**, **Hungary**, **Ireland**, **Netherlands**, **Slovak Republic**, **Slovenia**, **Spain**) apply a more limited range of methods to establish identity than those used in international protection procedures. This is particularly apparent in relation to language analysis: whereas **France**, **Hungary**, **Ireland**, and **Lithuania** do conduct language analysis with respect to applicants for international protection, this method is not applied to rejected asylum seekers who are to be returned. Contacts with national authorities in the (presumed) country of origin are also precluded from the range of methods permitted in the context of asylum procedures, but are considered indispensable in the context of return procedures. One reason for the more limited range of methods might relate to stricter demands for documenting identity in the case of return. Establishing identity in the context of a return procedure is also more likely to include coercive methods than in the context of asylum procedures (although they are not excluded from the latter).

Whether (Member) States apply such methods as a standard, obligatory or optional practice to establish the identity of rejected applicants is similar to how they are applied in respect of asylum applicants. For instance, in most (Member) States, it is obligatory or a standard practice to conduct

[28] Immigration and Naturalisation Service Work Instructions No. 2010/14 on decision methodology and No. 2010/10 on the investigation method to be used during the application for international protection.
[29] Immigration and Naturalisation Service (IND)

interviews and to carry out age assessments when doubt arises about the age of a rejected applicant who claims to be a minor. Of the 16 (Member) States that use photographs for comparison with national database, ten have this as a standard or obligatory practice and of the eleven (Member) States who compare photographs with a European database, only one (**Portugal**) applies it as an optional method. Language analysis is likewise an optional method for nearly half of the (Member) States, a standard practice in **Bulgaria** and **Italy** and obligatory in **Greece**. On the other hand, comparing fingerprints with national and European databases is optional in a larger number of (Member) States in respect of rejected applicants (**Finland**, **Luxembourg**, **Netherlands**, **United Kingdom)** than in respect of asylum applicants.

As an example of the specific steps to be undertaken, in **Belgium**, a so-called vade-mecum sets a good practice by describing the specific procedures to be followed. First, authorities must check whether the decision to detain the person in question satisfies legal requirements. Secondly, authorities must check which procedure must be followed, i.e. conventional identification procedure, a Dublin take-charge request or a bilateral take-charge request. Next, information will be analysed to try to establish the identity and nationality of the person concerned. For such purposes, national legislation obliges the taking of fingerprints and photographs. In case the returnee cannot provide any valid documentation, the competent diplomatic authorities will be contacted with a view of obtaining a laissez-passer. Similarly, the *Aliens Act Implementation Guidelines 2000* in the **Netherlands** also sets out the procedure to be used if the third-country national does not possess a valid travel document or does not possess any identification documents at all. National legislation in **Germany** (as specified in section 49, *German Residence Act*) imposes an explicit obligation to establish and verify the identity of a third-country national who is under an obligation to leave, after which the procedure is set out in terms of the different methods to be applied.

5. DECISION-MAKING PROCESS

This section considers whether (Member) States give different weights to the results from the different types of methods used for identity establishment on the basis of their reliability. It also considers the influence of the result from establishing identity on outcomes of asylum applications. The Section starts with an analysis of how the varying degree to which an identity has to be determined, within the context of international protection versus the return of rejected applicants, affects (the process leading up to) decision-making in these two procedures.

5.1 Attribution and Determination of Identity

In the context of return procedures, "identity" is more strictly defined, with citizenship constituting the most integral element of it (see Section 4.1). A greater degree of certainty as regards the establishment of identity is to be attained, firstly, because (Member) States are bound by the principle of *non-refoulement* laid down in the Geneva Convention and, secondly, because, in the framework of their request for travel documents, (Member) States are dependent on the demands for information set by the concerned country of origin.

By contrast, complete certainty on all aspects of identity may not be required for international protection, for example, when the applicant is granted a group-based form of international protection (see Section 5.3.1).

Therefore, a distinction can be made between identity determination/verification in relation to return, and identity attribution in the context of international protection.

This distinction also affects the steps that (Member) States take, and consider necessary, to establish identity. Section 4, for example, outlined that in several (Member) States a more limited range of methods and documents can be used in the context of return. With regard to international

protection, approaches adopted in some (Member) States reflect the consideration of identity attribution. In **Austria**, for example, every applicant for international protection is given a "procedural identity" during international protection proceedings, which does not necessarily reflect the "true" identity of the applicant and which does not have a binding character. Respecting the principle of free consideration of evidence, every document may be accepted as contributing to the establishment of this identity, or its alteration. The ultimate decision regarding the applicant's need for protection is made on this last/changed identity. A similar process is described in **France**, **Italy** and **Poland**. In the **Netherlands** and **United Kingdom**, the applicant is given two opportunities to correct and confirm information (e.g. name, date of birth) recorded by the case worker. New information can be factored into the protection consideration at any time, which is considered to allow for a better informed decision. This may be considered a good example of how Member States approach the difficulties in establishing identities of asylum seekers, to achieve optimal organisation and fair treatment of applicants.

5.2 Weight of different methods to determine identity and grading systems

Some (Member) States prefer not to assign particular weights to the results of the different methods for establishing identity, favouring instead a "holistic" approach where the weighting of methods is decided on a case-by-case basis. This is the case in **Hungary**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, **Luxembourg**, **Netherlands**, **Slovak Republic**, **Slovenia**, **Spain** and **Sweden** where all methods are considered to have merits. Likewise, in the **United Kingdom**, the methods used the most depend, on a case-by-case basis, on the characteristics of the applicant that are in doubt..

Other (Member) States do consider certain methods to produce more reliable results than others. However, among these (Member) States there is not one main preferred method in use, as the choice differs and may further also differ between international protection and return. The (Member) States do not attach specific numerical weights in the form of percentages or a score to the different sets of methods they employ to establish identity to reflect the (relative) importance of each method.

Nevertheless, the methods of identity determination that are given the highest weight in terms of reliability of results are fingerprint examination and interviews. This is illustrated in the Figure below, which shows that more weight is given to fingerprint examinations (and other biometric methods) in **Austria**, **Czech Republic**, **Estonia**, **Germany**, **Poland**, **Portugal**, **Sweden**, **United Kingdom** plus to interviews in **Austria**, **Belgium**, **Estonia**, **France**, **Finland Greece**, **Poland**, **Portugal**).

Figure 1: The methods attributed most weight in the Member States[30]

Interview	Biometric identification	Holistic Approach[31]
Austria Belgium Estonia[32] France Finland Greece Poland Portugal	Austria Czech Republic[33] Estonia[34] Germany Poland Portugal Sweden United Kingdom	Hungary Italy Latvia Lithuania Netherlands Slovak Republic Slovenia Luxembourg Ireland Bulgaria Spain Norway.

For example, in **Austria**, fingerprints and DNA analysis are considered to have high reliability in comparison with age assessments or photographs, and interviews are also given much weight. **Portugal** also considers fingerprints as the most reliable and interviews as the most informative ways of identity check. In **Belgium**, interviews are the most important and often the only tool to establish identity for applicants of international protection; comparison of fingerprints often produces decisive results in return procedures. Similarly, **Germany**'s main method is also to compare fingerprints with relevant databases. On the other hand, **Bulgaria** places the largest weight on valid ID and documentation that the applicant provides.

With regard to grading systems, the majority of Member States (**Austria**, **Belgium**, **Estonia**, **Greece**, **Finland**, **Italy**, **Latvia**, **Lithuania**, **Luxembourg**, **Portugal**, **Slovak Republic**, **Slovenia**, **Spain**, **Sweden**, **United Kingdom**) use only two different levels of identity determination: identity is considered either verified or not verified, i.e. there is no partial determination of identity. **Belgium**, **Finland** and **Slovak Republic**, for instance, do not have an extensively described grading structure to denote the degree of identity determination of applicants for international protection or persons subject to a forced return. The reason for this seems to be that:

- In some cases, more weight is given to other factors, such as the genuineness of fear of persecution or country of origin, than to identity;
- The "benefit of doubt" may be granted to the applicant on his/her account of the need for seeking asylum.

Hence, either identity is determined in cases where an applicant's statements are accepted or not determined when the person's statements are rejected. This appears to be the predominant approach in most (Member) States.

On the other hand, five (Member) States (**Czech Republic**,[35] **Germany**, **Hungary**, **Netherlands**, **Poland**) and **Norway** do seem to have a grading system in place.

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30 These are Member States' preferred methods of establishing identity of an applicant for international protection. For the return process, the person's ability to present travel documents is often decisive, as identifying nationality may sometimes suffice to implement return.

31 A holistic approach is understood to mean that the (Member) State does not assign particular weights to the different methods for establishing identity which are applied to all (rejected) applicants, but rather decides which methods to use on a case-by-case basis.

32 In relation to applicants for international protection: in case (false) identity documents are not consistent with the applicant's statements, more weight is attached to statements.

33 The Czech Republic attaches greater weight to objectively verifiable information than statements made by the applicant.

34 This is so, only in relation to return.

35 In the case of the **Czech Republic** this grading system is only applied with regard to the establishment of identity in relation to return.

- In the **Czech Republic**, the DAPS uses a grading system for the establishment of identity for detained third-country nationals. Under this grading system, the verification of identity data is either "verified," "unverified," or "under investigation."

- In **Germany**, language analysis conducted for the purposes of establishing the region of origin may be graded. Experts grade the determination of nationality of the person as "certain," "highly probable", "may also be allocated to the following country of origin", "…..as well as to the following country of origin", "the analysis conducted excludes the following regions as possible regions of origin" and "the analysis conducted does not allow a definite allocation."

- In the **Netherlands**, the Identification and Labelling Protocol (PIL) includes a table representing eight levels of identification depending on the type of documents submitted by the applicant. The highest identification level is assigned when a personal identification document (national passport or an EU identity document), as well as non-identifying personal documents (e.g. a birth certificate or marriage certificate), are provided. If these documents are absent and the identification is based solely on the asylum seeker's own statement, this results in the lower level in the hierarchy. The grading structure does not, however, influence the decision on international protection or return.

- In **Poland**, the authority responsible for establishing the identity of applicants for international protection (i.e. the Polish Border Guard) uses a grading system, which divides applicants into five categories: "identity fully documented"; "identity confirmed/determined"; "identity confirmed/determined partially"; "identity unconfirmed/undetermined"; "identity impossible to confirm/determine."

- **Norway** also uses a grading system when a resident permit is granted or the determination of identity is important for the conclusion regarding the need for protection. The applicants are placed in three different categories, depending on the documentation they present to the relevant authorities during the asylum process: "documented identity;" "probable identity;" and "not probable identity."

5.3 Influence of identity establishment on outcome of cases

5.3.1 International Protection

In most (Member) States (**Belgium**, **Czech Republic**, **Germany**, **Estonia**, **Finland**, **France**, **Greece**, **Ireland**, **Italy**, **Lithuania**, **Luxembourg**, **Latvia**, **Netherlands**, **Slovak Republic**, **Slovenia**, **Spain**, **Sweden**, **United Kingdom**, **Norway**), the establishment of identity is not regarded as the only, decisive factor to decide on the merits of the application for international protection. This is due to the fact that (establishing) identity is considered one of several elements in the assessment of the case. In situations where the person comes from a region of on-going conflict, or has personal circumstances which result in a fear of persecution, he/she may be given international protection in the absence of a firmly established identity (e.g. a temporary residence on humanitarian grounds in the **United Kingdom**).

Nevertheless, when the grounds for application are of an individual nature, the applicant's identity is thought to be closely linked to the grounds for applying for protection. Given such circumstances, establishing the identity of the applicant can confirm the merit of the individual grounds for seeking international protection, or the applicant's country of origin. Hence, personal data, such as name, date of birth and photograph, play a more important role in cases where the applicant has presented individual grounds for international protection.

Furthermore, in most (Member) States, the decision to grant international protection is influenced by the credibility of statements made to authorities by the applicant. Credibility is an important factor influencing the decision on international protection in most (Member) States and the assessment of identity may add to the overall assessment of the credibility of the applicant. In **Belgium**, **France**, **Greece**, **Ireland** and **Slovak Republic**, the demonstration of trustworthiness by the applicant is considered more important than presenting documents. Some decisions taken in the **Slovak Republic** from 2007 to 2009 in relation to such applications show that credibility has a high value in the decision making process.[36]

Conversely, the credibility of the applicant is affected in circumstances where the applicant is found to have withheld important information, provided false information or decided not to cooperate with the authorities. During the process of establishing identity, issues of credibility may arise and influence the decision-making process. In the **Netherlands**, for example, an important element for the assessment of credibility relates to travel/identity/nationality documents. In case the absence of documentation can be attributed to the applicant, the burden of proof placed on the applicant is greater and statements must contain strong and convincing elements demonstrating the necessity for international protection. Similarly, in **Austria**, unwillingness to cooperate in the establishment of the applicant's identity has a negative impact on the outcome of the decision. A lack of credibility may result in rejection of the application as patently unfounded, as well as revocation of the protection already granted, if such behaviour is discovered after the case has been closed.

5.3.2 (Forced) Return

The identity question is often decisive regarding the possibility for return. To implement a forced return, the identity of the person concerned must either be verified (by the country of return) or documented (with valid passport or travel document) in a way accepted by the perceived country of origin. Hence, absolute verification may be required to return a rejected applicant to the country of origin. Forced return is not possible without identification of the rejected applicant and the outcome of the return procedure is mainly dependent on the decision of the respective country of origin to accept a rejected applicant. **Ireland**, for example, refers to international obligations regarding the practice of non-refoulement, meaning that establishment of an individual's nationality (if not identity) is required for decision-making in forced return cases. In cases related to a forced return and where the *Zambrano ECJ judgment*[37] may apply, a return decision can only be deferred following verifiable DNA evidence.

Although identity verification is required to initiate the return process, not all third countries require absolute verification to accept their nationals whose application for protection is rejected. In **Belgium**, the experience is that African countries in particular will set much store by the outcome of the interview they conducted with the person concerned. The presence of reliable identity and travel documents is often decisive, as most countries of origin request a person identified by nationality, surname, first name and date of birth. Exceptionally, determining the nationality of the rejected applicant may suffice to launch the return process. In **Greece**, for example, return may take place even with partial identity even though personal data about the applicant has not been absolutely verified. On the other hand, in **Italy**, identification does not affect the decision on forced

[36] There are a few case studies of decisions made in the Member State in its National Report.

[37] Judgment of the Court (Grand Chamber) of 8 March 2011. Gerardo Ruiz Zambrano v Office national de l'emploi (ONEm); http://curia.europa.eu/juris/liste.jsf?language=en&num=C-34/09, in which the ECJ held that: "Member States are precluded from refusing a third country national upon whom his minor children, who are European Union citizens, are dependent, a right of residence in the Member State of residence and nationality of those children, and from refusing to grant a work permit to that third country national, in so far as such decisions deprive those children of the genuine enjoyment of the substance of the rights attaching to the status of European Union citizen".

return, as this procedure may be started only with an attribution of identity.[38]

6. CONCLUSIONS

This EMN Focussed Study highlights, for the first time, the possible effects that having no (valid) documentation has on third-country nationals' access to the asylum procedure and, ultimately to international protection, or on return to their (presumed) country of origin in case of a negative decision. In these closing remarks, an overview of relevant aspects arising from the findings of the Study is presented which may serve to inform the further development of a Member State's capacity to deal with such situations and also to ensure compliance with EU-wide and international standards of procedures for international protection.

Whilst extensive statistics do not exist, experience in the (Member) States suggests that the absolute verification of the identity of the applicant, who could not produce (valid) documentation (e.g. a (valid) ID or passport) at the time of lodging the application for international protection, is often not possible. Instead, a practical approach seems to be to have an "attribution of identity," rather than an absolute determination of identity. This means that some (Member) States attribute a "procedural identity" to applicants for international protection, or may establish an "initial identity" attributed to the applicant at the time of lodging his/her application which can change in the course of the asylum procedure. In this way, authorities in the (Member) States responsible for the processing of asylum applications demonstrate how they adapt to the difficulties in establishing identity, both in terms of optimal organisation and in the fair and equal treatment of asylum applicants.

Lack of documentary evidence for the identity of a third-country national is not considered a valid ground to reject his/her application for international protection from the outset. This is laid down in EU and national law and reflects the basic assumption that those fleeing persecution may not be able to take their identity documents with them at the time of departure, or retain these in the course of their journey. In most (Member) States, the verification of the identity of an applicant who was unable to produce documentation at the time of lodging the application for international protection, is not regarded as a decisive factor in relation to the merits of the application. Instead, (establishing) identity through documentation is considered only as one of several elements in the assessment of the case and, depending on the protection status(es) for which the applicant applies or may be considered to qualify, evidence of *specific* elements of identity (e.g. nationality, geographical origin, ethnicity, in combination with country of origin information) may suffice.

(Member) States have generally responded to the challenge of (rejected) asylum applicants without valid identity documentation by enhancing and using a range of methods used to determine identity, drawing, for example, upon state-of-the-art technology (e.g. biometric analyses) and sophisticated databases of identity-related data. Where fingerprints and photographs fail to identify an applicant, alternative methods may be applied, such as interviews containing knowledge-tests tailored to the presumed country of origin, and language tests conducted by experts. Furthermore, (Member) States often apply a combination of methods to the same case, either to triangulate information (i.e. having data confirmed by different methods/source to increase its validity) or based upon the view that all types of data can contribute to establishing identity. Some have had the benefit of being able to draw upon the expertise of an (independent) central competence centre.

Establishing the identity of rejected applicants is also crucial to the implementation of an efficient and effective return policy and, ultimately, to safeguard the integrity of the EU's asylum systems. A third-country national cannot be returned when identity is not adequately established. The process is

[38] "Procedure for attribution of identity is carried out before the Territorial Commission decides on recognition of international protection. Hence, no specific checks are carried out after a denial [of international protection], as it is supposed that identification already took place during the preliminary administrative procedure" (page. 31 of Italian National Contribution)

further complicated by the more strict demands made by receiving third countries, with most of these requiring a person to be formally identified by nationality, surname, first name and date of birth and with a significantly narrower range of documents accepted. Whilst it is common practice to contact the relevant diplomatic representation or authorities in the presumed country of origin for the purpose of obtaining a travel document, this is not always successful. For example, (the absence of) readmission agreements and/or good cooperation with third countries' diplomatic representations in the (Member) State or authorities at home play a key role, affecting the level of identity verification that the (Member) State authorities have to achieve in order to return presumed citizens. The lack of cooperation on the part of the returnee, or their attempt to mislead authorities (e.g. alteration of fingerprints, destruction of ID documents), may also severely obstruct the implementation of the return decision.

Whilst a common picture has emerged on the type of methods that (Member) States apply in the process of establishing the identity of applicants for international protection, significant differences exist in the way these methods are implemented in practice and can be used flexibly or in combination in relation to specific situations or cases. This may also be because the procedures used may be both resource-intensive (both human and financial) and lengthy. Having greater commonality across the EU in approaches and outcomes to establishing the identity of an asylum applicant can contribute to achieving the aims of the CEAS, notably to treat all applicants for international protection within the EU equally.

In order to further develop and share know-how across the EU to determine or attribute identity within the framework of international protection and return procedures and, ultimately, increase the overall quality of the process and consistency of the outcomes, specific measures might include:

- the creation of a separate module on identity in the European Asylum Curriculum;[39]
- the development of common guidelines on how to establish identity (in specific cases) when valid identity documents are missing;
- the development of an EU-wide network of competence centres to share best practice and exchange know-how;
- the sharing of expertise on identity establishment in particular to those Member States carrying a high burden in terms of the asylum system;
- more consistent preparation and sharing of relevant statistics in order to more fully understand and assess the extent of the phenomenon, such as establishing from which third country(ies) the (Member) States have common experiences in relation to the (lack of) identity documentation.

A further aspect in relation to the more formal establishment of identity for the return of rejected applicants is for better cooperation with third countries, within the context of the Global Approach to Migration and Mobility and as part of the wider dialogue on return-related matters with third countries. Such dialogue might, for example, also include exchange of information on the documentation used by (Member) States and by third countries to establish identity. In addition, making optimal use of existing technologies, including databases, to exchange information between Member States may also serve to facilitate return procedures.

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[39] The EAC (http://easo.europa.eu/support-expertise/training-quality) is the core training tool managed and developed by EASO. EAC is a training system designed mainly for asylum officials throughout the EU, covering all aspects of the asylum procedure in interactive modules by combining online e-learning format and face to face sessions, providing both theoretical and practical approach to training.

ANNEX

Table 1: Number and proportion of applicants for international protection whose identity was not documented at the time of application 2007 - 2011

Member State	Indicator	2007	2008	2009	2010	2011	Total
Estonia	Total Number of applicants for international protection	15	15	40	35	65	170
	Number of applicants for whom identity was not documented at the time of application	7	2	17	13	22	61
	Percentage of applicants for whom identity was not documented at time of application	47%	13%	43%	37%	34%	36%
Spain	Total Number of applicants for international protection	7 664	4 517	3 007	2 744	3 422	21 354
	Number of applicants for whom identity was not documented at the time of application	2 732	2 697	1 838	1 379	1 749	10 395
	Percentage of applicants for whom identity was not documented at time of application	36%	60%	61%	50%	51%	49%
France	Total Number of applicants for international protection	35 520	42 599	47 686	52 762	57 337	235 904
	Number of applicants for whom identity was not documented during the procedure	23 088	27 689	31 114	34 295	37123	156 559
	Percentage of applicants for whom identity was not documented at time of application	65%	65%	65%	65%	65%	65%
Latvia	Total Number of applicants for international protection	34	51	52	61	335	533
	Number of applicants for whom identity was not documented at the time of application	13	18	10	42	50	133
	Percentage of applicants for whom identity was not documented at time of application	38%	35%	19%	69%	15%	25%
Lithuania	Total Number of applicants for international protection	480	540	449	503	527	2 499
	Number of applicants for whom identity was not documented at the time of application	214	221	212	135	256	1 038
	Percentage of applicants for whom identity was not documented at time of application	45%	41%	47%	27%	49%	42%
Portugal	Total Number of applicants for international protection	224	163	141	162	277	967
	Number of applicants for whom identity was not documented at the time of application	180	130	110	130	220	770
	Percentage of applicants for whom identity was not documented at time of application	80%	80%	78%	80%	79%	80%
Sweden	Total Number of applicants for international protection	36 205	24 860	24 194	31 819	29 648	146 726
	Number of applicants for whom identity was not documented at the time of application	34 033	23 866	22 984	29 910	26 980	137 772
	Percentage of applicants for whom identity was not documented at time of application	94%	96%	95%	94%	91%	94%
Norway	Total Number of applicants for international protection	6 528	14 431	17 226	10 064	9 053	57 302
	Number of applicants for whom identity was not documented at the time of application	6 136	13 854	16 365	9 058	8 238	53 651
	Percentage of applicants for whom identity was not documented at time of application	94%	96%	95%	90%	91%	94%

Table 2: Organisations responsible for establishing identity in international protection procedures in EU Member States and Norway

Member State	Type of organisations involved	Division of tasks	Different entity is responsible for deciding on applications?
Austria	Federal Asylum Office (MoI) Criminal Intelligence Service (Police Records Department)	The Federal Asylum Office: carries overall responsibility for establishment of identity. Criminal Intelligence Service: supports FAO and transfers biometric data into national and European databases and performs dactiloscopic verification through experts.	No, the Federal Asylum Office assesses the application and carries responsibility for establishment of identity.
Belgium	Immigration Office (The Asylum Directorates) and the Office of the Commissioner General for Refugees and Stateless Persons Police (Central Squad against Forgery of the federal Police)	Immigration Office: responsible for the registration of the application, takes fingerprints and runs them against national and European databases. CGRS: responsible for in-depth interview on all aspects of the application The Police: verifies document authenticity	No, decisions are taken by the CGRS
Bulgaria	State Agency for Refugees		No: the State Agency is also responsible for decision-making on international protection claims.
Cyprus	The Asylum Service		No: the Asylum Service decides on applications for international protection.
Czech Republic	Department of Asylum and Migration Policy Police of the Czech Republic	DAMP: performs verification of identity Police of the Czech Republic	No: DAMP establishes identity and decides on applications for international protection
Estonia	Police and Border Guard Board (International Protection Unit) Estonian Forensic science Institute	1. The PBGB (Travel Document Evaluation centre) evaluates documents The Forensic Institute provides forensic expertise in criminal cases	No
Germany	Federal Office for Migration and Refugees Federal Criminal Police Office Federal Office of Administration	FOMR: tasked to establish identity Federal Criminal Police Office: comparison of fingerprints in databases Federal Office of Administration: comparison of photos in national databases	No: FOMR caries overall responsibility to establish identity and decides on applications for international protection.
Greece	Asylum Service (First Reception Service) Criminal investigations Directorate	Responsible: Asylum Service Supported by: criminal investigations directorate of the Greek police	No
Finland	Police Finnish Border Guard	Both are responsible for collection of personal data	Yes, decisions on international protection are taken by the Finnish Immigration Service

Member State	Type of organisations involved	Division of tasks	Different entity is responsible for deciding on applications?
France	Prefectures Asylum Department of the General secretariat for Immigration and Integration French Office for Protection of Refugees and Stateless Persons (OFPRA)	Prefectures establish biometric identity when application is lodged and after verification OFPRA is responsible for establishment of civil identity. Asylum Department checks the initial results of the prefecture and reports back to the relevant prefecture.	No; OFPRA decides on applications for international protection
Hungary	Office of Immigration and Nationality		No
Ireland	Refugee Applications Commissioner	Refugee Applications Commissioner is supported by different organisations who conduct verification of documents, such as An Garda Síochána, or the Garda Technical Bureau, the Garda National Immigration Bureau.	No
Italy	Immigration Office of the competent Police Headquarter		Yes; Territorial Commission for the recognition of international protection decides on applications
Latvia	State Border Guard		Yes; Office of Citizenship and Migration Affairs
Lithuania	State Border Guard service Police	Both institutions receive applications and collect all available documentation, conduct initial interview and examine fingerprints/photograph in databases	Yes: Migration Department decides on applications for international protection
Luxembourg	Judicial Police	Judicial Police: conduct all procedures necessary to establish identity, including, for example, bodily search, fingerprints, photograph, interview. Some documents may, in doubt, be transferred to the Expertise Document Section of the Airport Control Service for verification of documents.	Yes, decisions on international protection are taken by the Directorate of Immigration
Netherlands	the Aliens Police the Seaport Police the Royal Netherlands Marechaussee the IND the Central Agency for the Reception of Asylum Seekers (COA) the Municipal Civil Registrars	The IND carries responsibility for establishment of identity, however, the Aliens Police, Seaport Police, Royal Netherlands Marechaussee are responsible for initial identity investigation, personal identification and initial registration whereas COA checks asylum seekers' fingerprints in reception facilities on a weekly basis. The Civil registrars enter personal data in Municipal Personal Records Database.	No: the IND decides on applications for international protection and carries responsibility for the establishment of identity as well.
Poland	Border Guard Office for Foreigners	The Border Guard carries responsibility for the establishment of identity The Office for Foreigners verifies information/data collected by the Border Guard	Yes: the Office for Foreigners decides on applications for international protection.
Portugal	Immigration and Borders Service (Asylum and Refugees Office of the)		No

Member State	Type of organisations involved	Division of tasks	Different entity is responsible for deciding on applications?
Slovak Republic	Migration Office Border and Aliens Police The institute of Forensic Science of the Police Force Regional courts Bratislava and Kosice, and the Supreme Court	Police: collects personal data and issues a transportation document required for admission to a reception centre. Migration Office: conducts interviews. The Institute of Forensic Science: comparison of fingerprints National courts : review decision on identity	No: Migration Office decides
Slovenia	Migration and Naturalisation Directorate Police	Police: establishes preliminary identity Migration and Naturalisation Directorate: carries responsibility for the establishment of identity during the application for international protection	Yes: the Migration and Naturalisation Directorate also decides on the application for international protection.
Spain	Asylum and Refuge Office General Commissariat for Alien Affairs and Borders (National Police Force)	Asylum and Refuge Office responsible for establishing identity General Commissariat for Alien Affairs and Borders responsible for verifying documents	No: the Spanish Asylum and Refuge Office completes the examination of the file and after the proposal, the final decision is formally taken and signed by the Minister of the Interior.
Sweden	Swedish Migration Board		No
United Kingdom	Home Office		No
Norway	NPIS UDI	NPIS carries responsibility for recording documented or declared identity when registering the application UDI makes decisions on international protection, but also investigates the identity of applicants	Yes: UDI decides on applications for international protections

Table 3: Organisations responsible for establishing identity in return procedures in EU Member States and Norway

Member State	Organisation responsible for the establishment of identity in return procedures	Different from the organisation responsible for establishment of identity in procedures for international protection?	If yes, do the organisations (mutually) share information?
Austria	Responsible: Aliens Police Office Supported by: Federal Police Headquarters	Yes	Yes
Belgium	Responsible: Identification Cell of the Immigration Office	No	No
Bulgaria	Responsible: The migration directorate Supported by: in cooperation with Ministry of Foreign Affairs, State Agency for Refugees etc.	Yes	Yes
Cyprus	Responsible: Aliens and Immigration Service Supported by: (they adopt the decision of the Asylum Service who decided on identity during application for international protection	Yes	Yes
Czech Republic	Responsible: Alien Police Service	Yes	Yes
Estonia	Responsible: Police and Border Guard Board (Migration Surveillance Bureau)	No	No
Germany	Responsible: Foreigners authorities Supported by: Federal Police authorities	Yes	Yes
Greece	Responsible: Greek Police	Yes	Yes
Finland	Responsible: Helsinki Police Department Supported by: Finnish National Bureau of Investigation (competence centre) for the technical verification of documents.	Yes	Yes
France	Responsible: the prefectures Supported by: Judiciary Police Officers	Yes	Yes
Hungary	Responsible: Alien Police Department	Yes	Yes
Ireland	Responsible: the Garda National Immigration Bureau Supported by: Repatriation Unit in INIS (responsible for organisation of return) cooperates with relevant consulates in third countries. The An Garda Siochiana checks authenticity of documents.	Yes	Yes
Italy	Responsible: Immigration Office of the competent Police Headquarter Supported by: Territorial Commission for the recognition of international protection	No	No

Member State	Organisation responsible for the establishment of identity in return procedures	Different from the organisation responsible for establishment of identity in procedures for international protection?	If yes, do the organisations (mutually) share information?
Latvia	Responsible: the State Border Guard	No	No
Lithuania	Responsible: the State Border Guard and Police (implement decision taken by the Migration Department who decides on rejection for international protection and indicates the country to which one is to be expelled.	No	No
Luxembourg	Responsible: Directorate of Immigration Supported by: Judicial Police (authenticity of documents)	Yes	Yes
Netherlands	Responsible: Repatriation and Departure Service Supported by: IND	Yes	Yes
Poland	Responsible: Border Guard	No	
Portugal	Responsible: Immigration and Border Service (Regional Directorate)	No	No
Slovak Republic	Responsible: Border and Aliens Police	Yes	Yes
Slovenia	Responsible: the Police (the Centre for Foreigners) Supported by: national forensic laboratory	Yes	Yes
Spain	Responsible: National Police Force	Yes	Yes
Sweden	Responsible: Swedish Migration Board Supported by the Police (for forced returns)	Yes	Yes
United Kingdom	Responsible: joint responsibility of the Home Office, UK Border Agency, UK Border Force	No	No
Norway	Responsible: Norwegian Police Immigration Service (NPIS)	Yes[40]	Yes

[40] NPIS record the documented or declared identity when registering the application. UDI makes the identity decision when deciding on the application.

Table 4: Definition of identity used in EU Member States regarding applicants for international protection & return: Type of definition and main content

Member State	Legal definition	Practical definition	First name	Surname	Pseudonym	Date of birth	Place of birth	Sex	Nationality	Address	Document details [41]	Other
Austria	No	Yes	✓	✓		✓		✓				Country of origin
Belgium	Yes[42]											
Bulgaria	No											
Cyprus	-	-										
Czech Republic	No	Yes	✓	✓		✓			✓	✓ [43]		
Estonia	No	Yes[44]	✓	✓		✓	✓	✓	✓		✓	
Germany	No	Yes[45]	✓	✓		✓	✓	✓	✓	✓ [46]		Country of origin; marital status; ethnic origin; religious affiliation
Greece	No	Yes	✓	✓		✓						Father's name; mother's name; language; tribe
Finland	No											
France	No	Yes	✓	✓		✓	✓		✓			Kinship and family composition
Hungary	No	Yes[47]	✓	✓	✓	✓	✓	✓	✓			Mother's name and 1st nationality
Ireland	No											

[41] This includes: serial number; country of issue; etc.

[42] Article 1, Aliens Act, 14° identified non-national: every non-national who (1) is in possession of a valid travel document, a valid passport or a valid identity card, or (2) was recognised as a subject by the national government of his country, and who declared to be agreeable to being issued with a laissez-passer, or (3) who comes under the category of nationalities the minister can issue a laissez-passer for.

[43] "Address of last permanent residence"

[44] Act on Granting International Protection to Aliens Article 13^3 and Identity Documents Act Article 9: http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=XX00013K1&keel=en&pg=1&ptyyp=RT&tyyp=X&query=rahvusvahelise+kaitse and http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X30039K12&keel=en&pg=1&ptyyp=RT&tyyp=X&query=isikut+t%F5endavate+

[45] As deduced from personal data recorded as part of the application for asylum and German Asylum Procedure Act requiring speech analysis to determine country of origin.

[46] "Place of habitual residence"

[47] With regard to process of establishing identity

Member State	Legal definition	Practical definition	First name	Surname	Pseudonym	Date of birth	Place of birth	Sex	Nationality	Address	Document details 41	Other
Italy	No	Yes	✓	✓	✓	✓	✓	✓	✓	✓		
Latvia	Yes[48]											
Lithuania	No											
Luxembourg	No	Yes	✓	✓		✓				✓	✓ [49]	
Netherlands	No	Yes	✓	✓		✓	✓	✓	✓	✓		Family relation with other TCNs
Poland	No	Yes	✓	✓		✓	✓	✓	✓		✓	Country of origin
Portugal	No	Yes	✓	✓		✓			✓			"As a min."
Slovak Republic	No	Yes	✓	✓		✓			✓			
Slovenia	No											
Spain	No	Yes	✓	✓		✓	✓	✓	✓			
Sweden	No	Yes[50]	✓	✓		✓			✓			
United Kingdom	No	Yes	✓	✓		✓		✓			✓	
Norway	No	Yes	✓	✓		✓	✓		✓			Potentially: clan affiliation age, family ties, civil status.

[48] "Totality of natural persons' data, physical characteristics and parameters which allows detaching this person precisely from another natural person" (Biometric data processing systems law, Art.1, Par.3).

[49] The practical definition used by authorities includes: official government issued driver's license or identification number, government passport number, or employer or taxpayer identification number, unique electronic identification number.

[50] Based on established practice with regard to applications for Swedish citizenship.

Table 5: Types of documents accepted as (contributing) to the establishment of identity in asylum procedures

Member State	Passport/other ID	Birth certificate	Marriage licence/ divorce certificate	Qualification certificate	Clarifications and other documents?
Austria	✓	✓	✓	✓	Every document may contribute to the establishment of identity
Belgium	✓	✓	✓		Core documents include passport/ID, all other documents (e.g. also driver's license, death certificate) are accepted as supporting material.
Bulgaria	✓	✓			Any document is acceptable as long as it is issued in accordance with the law of the country of origin and wherein a visa can be affixed.
Cyprus	✓	✓	✓	✓	Any kind of identity document is accepted though much more weight is given to official documents i.e. passports, ID cards, birth certificates, marriage licences, divorce certificates, qualification certificates, military ID card, driver's license. Other documents constitute supporting material.
Czech Republic	✓	✓	✓	✓	Core documents include passport/ID/ travel documents. Other documents (birth certificate, marriage, divorce and/or qualification certificate) are accepted if issued in Czech Republic. They are, however, not considered crucial as they lack a photograph.
Estonia	✓				Additional core documents accepted include: residence permit card, temporary travel document, seafarer's discharge book, travel document for refugee, certificate of record of service on ship, certificate of return and permit of return. Other documents (e.g. driver's license, birth certificate, marriage license) are supporting documents.
Germany	✓	✓	✓		Identification papers (passport or ID card) offer absolute certainty, provided there is an established registration system in the country of origin. The following documents are also taken into consideration: family register, driving licence, certificate of marriage or birth.
Greece	✓	✓	✓	✓	Any kind of document is accepted, with passports, travel documents and ID card (e.g. also military ID card) as core documents and other documentation (e.g. driver's license, birth certificate, divorce certificate) as supporting documents.
Finland	✓	✓	✓		Core document include passport/ID, travel documents issued by Finnish Ministry of Foreign Affairs and driver's licenses, with birth and marriage certificates accepted on a case-by-case basis.
France	✓	✓	✓	✓	"Proof of civil identity" may be achieved by any means.
Hungary	✓	✓	✓	✓	Travel document or other document by which it is possible to infer identity/nationality (e.g. party membership).
Ireland	✓	✓	✓	✓	Core documents include passports or other equivalent identification documents. Other referenced documentation such as birth and divorce certificates, marriage licences and other certificates such as qualification certificates, trade union cards and supporting letters, are considered as contributing towards building up an individual's identity.
Italy	✓	✓	✓	✓	Legal definition of "ID docs": (a) it must contain a picture; (b) must have been issued by competent authorities in IT or other countries; (c) are on paper, magnetic or electronic support. Documents accepted are: ID cards, safe-conducts, visas, certificates, party cards,

Member State	Passport/other ID	Birth certificate	Marriage licence/ divorce certificate	Qualification certificate	Clarifications and other documents?
					etc.
Latvia	✓	✓	✓	✓	Passport and ID cards are accepted as core documents (visas and residence permits are also accepted), whilst all other documents (e.g. birth certificates, marriage licences, qualification certificates, court decisions, party cards) are considered supporting documents.
Lithuania	✓	✓	✓	✓	All documents submitted by an asylum seeker are considered as relevant.
Luxembourg	✓	✓	✓	✓	Core documents include passport, ID card, with all other types of documents (e.g. birth certificate, marriage license, divorce certificate, driver's license, military record, military card, qualification certificate, journal extracts) are treated ad supporting material. Copies can be submitted, but generally the authorities require originals.
Netherlands	✓	✓	✓	✓	Any kind of identity document is accepted though much more weight is given to official documents for example passports, ID cards, birth certificates etc.
Poland	✓	✓	✓	✓	Core documents include ID card, passport, travel document, or other doc containing a photograph and considered authentic, while birth, marriage and other certificates are accepted as supporting material.
Portugal	✓	✓			
Slovak Republic	✓	✓	✓	✓	Passport or ID card constitute core documents, and other documents (e.g. birth, marriage and divorce certificates, qualification certificates, membership cards) serve as supporting material.
Slovenia	✓				A third-country national can prove his/her identity with a travel document, identity card, passport, residence permit or any other public document issued by a state authority which includes a photograph.
Spain	✓	✓	✓	✓	Any document is accepted as supporting an applicant’s identity claim
Sweden	✓	✓	✓	✓	Passport or ID card constitute core documents, with birth certificates, laissez-passers, alien's passports issued by other state than Sweden, marriage licences, qualification certificates, airline tickets, etc. as supporting material.
United Kingdom	✓	✓	✓	✓	Applicants are expected to produce their passport or anything else available to establish their identity, nationality and means of entry to UK.
Norway	✓	✓	✓		Core documents include passport and ID card, other documents, such as driving license, ID card for students, birth and marriage certificates, proof of citizenship are considered as supporting material.

Table 6: Overview of different methods used in the (Member) States for establishment of identity in procedures for international protection

Member State	Language analysis	Age assessment	Fingerprints Nat. Database	Fingerprints EU Database	Photograph Nat. Database	Photograph EU Database	Iris scan Nat. Database	Iris scan EU Database	DNA	Interview
Austria	✓	✓	✓	✓					✓	✓
Belgium	✓	✓	✓	✓	✓					✓
Bulgaria	✓	✓	✓	✓	✓	✓			✓	✓
Czech Republic	✓ [51]	✓	✓	✓						✓
Cyprus		✓	✓	✓						✓
Estonia	✓	✓	✓	✓					✓	✓
Germany	✓	✓	✓	✓	✓	✓				✓
Greece	✓	✓	✓	✓	✓				✓	✓
Finland	✓	✓	✓	✓	✓	✓			✓	✓
France	✓	✓		✓						✓
Hungary	✓	✓	✓	✓	✓	✓				✓
Ireland	✓	✓		✓	✓					✓
Italy	✓	✓	✓	✓	✓	✓			✓	✓
Latvia	✓	✓	✓	✓	✓				✓	✓
Lithuania	✓	✓	✓	✓					✓	✓
Luxembourg	✓	✓	✓	✓	✓	✓			✓ [52]	✓
Netherlands	✓	✓	✓	✓	✓				✓	✓

[51] Although language analysis has not been used in international protection procedures in the Czech Republic, this method can be used according to national law. Obstacles to the use of this method are connected with the mandatory approval by the applicant for international protection to use this method. Hence, practical obstacles exist as to the effective use of this method.

[52] Only in criminal proceedings.

Member State	Language analysis	Age assessment	Fingerprints Nat. Database	Fingerprints EU Database	Photograph Nat. Database	Photograph EU Database	Iris scan Nat. Database	Iris scan EU Database	DNA	Interview
Poland	✓	✓	✓	✓	✓	✓				✓
Portugal	✓	✓	✓	✓	✓	✓			✓	✓
Slovak Republic		✓	✓	✓	✓	✓				✓
Slovenia				✓						✓
Spain		✓	✓	✓					✓	✓
Sweden	✓	✓	✓	✓					✓	✓
United Kingdom	✓	✓	✓	✓	✓				✓	✓
Norway	✓	✓	✓	✓	✓	✓			✓	✓

Table 7: Overview of different methods used in EU Member States to establish identity in return procedures

Member State	Language analysis	Age assessment	Fingerprints Nat. Database	Fingerprints EU Database	Photograph Nat. Database	Photograph EU Database	Iris scan Nat. Database	Iris scan EU Database	DNA	Interview
Austria	✓		✓	✓						✓
Belgium	✓	✓	✓	✓	✓					✓
Bulgaria	✓	✓	✓	✓	✓	✓				✓
Cyprus										✓
Czech Republic		✓	✓	✓						✓
Estonia	✓	✓	✓	✓	✓	✓			✓	✓
Germany	✓	✓	✓	✓	✓	✓				✓
Greece	✓	✓	✓		✓					✓
Finland	✓	✓	✓	✓	✓					✓
France		✓	✓	✓	✓	✓				✓
Hungary			✓	✓	✓	✓				✓
Ireland				✓						
Italy	✓	✓	✓	✓	✓	✓				✓
Latvia	✓	✓	✓	✓	✓				✓	✓
Lithuania		✓	✓	✓					✓	✓
Luxembourg	✓	✓	✓	✓	✓	✓			✓ [53]	✓
Netherlands	✓		✓	✓						✓
Poland		✓	✓	✓	✓	✓				✓
Portugal	✓	✓	✓	✓	✓	✓				✓
Slovak Republic		✓	✓	✓	✓	✓				✓
Slovenia		✓		✓						✓
Spain	✓	✓	✓	✓	✓	✓				✓
Sweden	✓	✓	✓	✓						
United Kingdom	✓	✓	✓	✓	✓					✓
Norway[54]										✓

[53] Only in criminal proceedings.
[54] Same methods as those indicated for **Germany**.