EMN FOCUSSED STUDY 2012

Establishing Identity for International Protection: Challenges and Practices

National Contribution from (Member) State[1]

Disclaimer: The following responses have been provided primarily for the purpose of completing a Synthesis Report for the above-titled EMN Focussed Study. The contributing EMN NCPs have provided information that is, to the best of their knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of an EMN NCPs' Member State.

Top-line 'Factsheet'   **(National Contribution)**   **[Executive Summary**   **(Synthesis Report)]**
National Contribution (one page only)   *Overview of the National Contribution – drawing out key facts and figures from across all sections of the Study, with a particular emphasis on elements that will be of relevance to (national) policymakers.*
Synthesis Report (up to 3 pages)   *Executive Summary of Synthesis Report: this will form the basis of an EMN Inform, which will have EU and National policymakers as its main target audience.*

Section 1   **The National Framework**   *(National Contribution: Maximum 6 pages, excluding statistics)*

The <u>Synthesis Report</u> will provide the reader and policymakers, in particular, with insights into the scale and scope of the issue at national and EU level, evidenced by statistics. It will present an overview of which (Member) States consider, in the absence of credible documentation, the establishing of identity of applicants for international protection and for those applicants who have to be forcibly returned an issue and why. It will hence identify the extent to which (particular) challenges are shared across (Member) States.

It will subsequently analyse the extent to which the process for establishing identity in those cases is laid down in legislation across (Member) States, and the institutional framework for this process. Differences in the capacity that (Member) States have available to meet the challenges (e.g. in terms of being able to draw on expertise, access databases, or have a legal basis for using certain methods) will be drawn out.

1.1 <u>The Challenges and Scope of the issue</u>

Is the issue of establishing identity in the absence of credible documentation considered an issue within the framework of the procedure for:

a) international protection?; and

b) the forced return of a rejected applicant to their (presumed) country of origin?

If <u>Yes</u>, <u>briefly outline</u> for either or both of the two cases above, the main issues, challenges and difficulties within your (Member) State (e.g. no identification documents, false documents, multiple identities, applicants from certain third countries)

[Insert response here]

If <u>Yes</u>, please also indicate which of the following factors listed below contribute to the issues. Please support your answers with reference to statistics (e.g. those presented under Question 1.2 below), research or any other sources of information (e.g. media debates, case-law, policy documents, practitioners' views).

➤ *The volume of cases where no credible documentation is available to substantiate an applicant's identity is considered to be large and/or growing.*

[Yes/No plus Source for Response]

➤ *The measures used to establish an applicant's identity in the absence of credible documentation are resource-intensive.*

[Yes/No plus Source for Response]

➢ *The measures used to establish identity are not always successful.*

[Yes/No plus Source for Response]

➢ *Decision-making on applications for international protection is difficult due to the fact that measures used to establish identity are not always successful.*

[Yes/No plus Source for Response]

➢ *A significant proportion of rejected applicants for international protection cannot be returned to their country of origin due to the fact that measures used to establish identity are not always successful.*

[Yes/No plus Source for Response]

List the countries of (claimed) origin for which establishing identity is particularly difficult, (i) when considering asylum applications; (ii) for implementing return

➢ *Other (Member) State specific factors*

[Outline plus Source for Response]

If <u>No</u>, please provide reasons why the question of establishing identity in the absence of credible documentation is not considered an issue within the framework of the procedure for:

  a) *international protection; and*

  b) *the forced return of a rejected applicant to their (presumed) country of origin.*

[Insert responses here]

1.2 Statistics on the Scale of the Issue

Please provide, to the extent possible, the following statistics (with their Source) along with, if necessary, an explanatory note to interpret them if, for example, the statistics provided are partial, had to be estimated (e.g. on the basis of available statistics that differs from the below, or of first-hand research) or if they reflect any particular trends (e.g. a change in policy, improved methods of establishing identity, a change in the country of origin of applicants or of rejected applicants, etc.) If statistics are not available, please try to indicate an order of magnitude. Where available, statistics from Eurostat should be used and presented annually covering the period between 2007 and 2011 inclusive.

	2007	2008	2009	2010	2011	Additional Information (e.g. Source, caveats, reasons for trends, top five nationalities, with numbers for total applicants – see below Table also)
Total Number of applicants for international protection						
Number of applicants for whom identity was not documented at the time of application						
Number of applicants for whom identity was wholly or partially established during the asylum process thereby allowing the relevant authorities to reach a particular decision on international application (e.g. grant, refuse, defer)						
Total Number of Positive Decisions						
Total Number of Positive Decisions						

for applicants whose identity was not documented at the time of application						
Total Number of Positive Decisions for applicants whose identity was considered sufficiently established by the decision-making authorities						
Total Number of <u>Negative Decisions</u>						
Total Number of Negative Decisions for applicants whose identity was not documented at the time of application						
Total Number of Negative Decisions for applicants whose identity was not considered by sufficiently established by the decision-making authorities						
Total number of (Forced)[2] <u>Returns undertaken</u> of all rejected applicants						
Number of (Forced)[3] Returns of rejected applicants whose identity						

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[2] While the scope of this Focussed Study (with respect to Returns) includes only the <u>forced return of rejected applicants</u>, it is acknowledged that distinguishing between forced and voluntary returns in official statistics may not be possible. Where possible, do make this distinction.

had to be established at the time of return					
Number of (Forced)[4] Returns of rejected applicants whose return could not be executed as their identity was not considered to be sufficiently established by the authorities of the (presumed) country of origin					

If desired, and it cannot be fitted in the Table, add further details concerning particular trends and/or notable aspects of the statistics provided.

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[3] Idem.

[4] Idem.

1.3 <u>Relevant EU and National Legislation</u>

Is the process to be used to determine identity within the procedure for <u>international protection</u> laid down in legislation?

If <u>Yes</u>, briefly specify which legislative documents, including their link to relevant EU acquis, regulate the process of identity determination in relation to the procedure for international protection.

Where possible, please refer to your National Contribution to the Organisation of Asylum and Migration Policies in the EU, rather than repeating the information here.[5]

[Insert response here]

Is the process to be used to determine identity within the procedure for the forced <u>return of rejected applicants</u> laid down in legislation?

If <u>Yes</u>, briefly specify which legislative documents, including their link to relevant EU acquis, regulate the process of identity determination in relation to the forced return of rejected applicants.

Where possible, please refer to your National Contribution to the Organisation of Asylum and Migration Policies in the EU, rather than repeating the information here.[6]

[Insert response here]

1.4 <u>The institutional framework at national level</u>

Which national authorities have the operational responsibility for establishing the identity of applicants for <u>international protection</u>?

[Insert response here]

Which national authorities have the operational responsibility for establishing the identity of applicants for international protection who have to (be) forcibly <u>return(ed) to their (presumed) country of origin</u>?

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[5] If however the level of detail is highly relevant, by shedding light on, for example, which elements of identity should be evidenced, what methods can or should be used to do so, what weight is to be given to the outcomes of the use of these methods, etc., it would be useful to insert the information directly in the Template.

[6] Idem.

[Insert response here]

Does your (Member) State have a <u>central competence centre</u> for issues related to the determination of identity and/or verification of documents?[7]

[Yes / No]

If Yes, what issues does the centre cover:

-issues relating to the determination of identity in respect of the procedure for granting international protection OR in respect of the procedure for executing the return of rejected applicants) OR in respect of both of these procedures

-issues relating to the verification of documents in respect of the procedure for granting international protection OR in respect of the procedure for executing the return of rejected applicants OR in respect of both of these procedures

[Insert response here]

If <u>Yes</u>:

- *Has the centre developed its own database / reference base for*

  ➤ *genuine documents? [Yes/No]*

  ➤ *false documents? [Yes/No]*

- *Does it make use of the database iFADO (iPRADO)[8] for checking false ID documents? [Yes/No]*

- *Does it make use of the EDISON[9] system? [Yes/No]*

- *Does its tasks involve:*

  ➤ *Advisory services? [Yes/No]*

  ➤ *Development of Methods? [Yes/No]*

  ➤ *Training of frontline officers? [Yes/No]*

  ➤ *Support with difficult cases? [Yes/No]*

- *Does it have a forensic document unit? [Yes/No]*

If <u>No</u>, i.e. your (Member) State <u>does not have</u> a central competence centre, what other institutions / systems are available to provide advisory services/other forms of

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[7] This may be a separate body (as in Norway) or a unit within a relevant authority.
[8] PRADO Public register of authentic identity and travel documents online
[9] EDISON Travel Documents System

support to officials responsible for establishing the identity of applicants for international protection?

[Insert response here]

Are the officials responsible for determining the identity of applicants for international protection authorised to access EU databases holding identity information about third-country nationals (e.g. EURODAC, SIS II, VIS, etc.)?

[Yes/No]

If <u>No,</u> are the officials responsible for determining the identity of applicants for international protection authorised to liaise directly with the officials who do have access to these databases?

[Insert response here]

<u>**Section 2**</u>

<u>**Methods for Establishing Identity**</u>

<u>*(National Contribution*</u>*: Maximum 8 pages)*

The <u>Synthesis Report</u> will provide an overview of the types of documents that are required for establishing identity (preferable in Table format), of the methods that can/should be used in the absence of credible documentation (preferably in Table format), and the relative weight that is given to the outcomes of the methods used (Table or narrative, depending on the responses given) across the (Member) States.

2.1 <u>**Definition and Documents required for establishing identity**</u>

What <u>definition (if any) of identity</u> is used with regard to (a) applicants for international protection and (b) for the return process.

[Insert response here]

What <u>types of documents and other information</u> do authorities in your (Member) State accept as (contributing to) establishing the identity for applicants of international protection? For example:

- *Official travel documents: Passports, ID cards;*

- *Other documents: birth certificates, divorce certificates, marriage licences, qualification certificates, etc.*

Where possible, please indicate whether copies are accepted by relevant authority(ies) and which type of documents are considered by the national authorities as core or supporting documents. Also indicate the major issues faced concerning determining the veracity (or genuineness) of documents.

[Insert response here]

What types of documents are accepted by national authorities in the (presumed) countries of origin if those applicants for international protection have to be <u>returned</u>, because they have received a negative decision, exhausted or abandoned the procedure? Please illustrate any differences between the documents accepted by the authorities of the (presumed) countries of origin and the documents accepted by the relevant authorities of your (Member) State.

[Insert response here]

2.2 <u>**Methods used in the absence of documentary evidence of identity**</u>

The aim of this section is to investigate, for cases where aspects of the applicant's statements regarding his/her identity are not supported by documentary evidence, which methods are used by the competent authorities in the (Member) State to check the credibility of the applicant's statements. In the boxes below, a list of methods is provided. For each method listed, please indicate

   (a) whether it is used within the framework of the procedure for international protection and/or the procedure to forcibly return rejected applicants, or have exhausted or abandoned the procedure for international protection;

   (b) whether the method is obligatory (i.e. enshrined in law), whether it is part of standard practice (i.e. used in most cases but not enshrined in law) or whether it is optional (i.e. not enshrined in law and used in some cases only). The rationale for selecting some methods as obligatory or optional may relate to national legislation, outlined in Section 1.2 (which the (Member) State can refer to in their replies);

Do national authorities make use of:

i) <u>Language analysis</u> to determine probable country and/or region of origin?

   ➢ Applicants for international protection:

   [Yes/No, obligatory, part of standard practice or optional]

   ➢ Return of rejected applicants for international protection:

   [Yes/No, obligatory, part of standard practice or optional]

ii) <u>Age assessment</u> to determine probable age[10]

   ➢ Applicants for international protection:

   [Yes/No, obligatory, part of standard practice or optional. If Yes, briefly describe what for and under what conditions.]

   ➢ Return of rejected applicants for international protection:

   [Yes/No, obligatory, part of standard practice or optional. If Yes, briefly describe what for and under what conditions.]

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[10] EMN NCPs are asked to update the information provided through the EMN Comparative EU Study on Unaccompanied Minors. EMN (2010), *Policies on Reception, Return and Integration arrangements for, and numbers of, Unaccompanied Minors*, European Migration Network, May 2010. The EMN Synthesis Report, as well as the 22 National Reports upon which the synthesis is based, are available from http://emn.sarenet.es/Downloads/prepareShowFiles.do;?directoryID=115.

***iii) Fingerprints* for comparison with National and European databases**

National Database

➢ Applicants for international protection:

[Yes/No, obligatory, part of standard practice or optional]

➢ Return of rejected applicants for international protection:

[Yes/No, obligatory, part of standard practice or optional]

European databases

➢ Applicants for international protection:

[Yes/No, obligatory, part of standard practice or optional]

➢ Return of rejected applicants for international protection:

[Yes/No, obligatory, part of standard practice or optional]

***iv) Photograph* for comparison with National and European databases**

National Database

➢ Applicants for international protection:

[Yes/No, obligatory, part of standard practice or optional]

➢ Return of rejected applicants for international protection:

[Yes/No, obligatory, part of standard practice or optional]

European databases

➢ Applicants for international protection:

[Yes/No, obligatory, part of standard practice or optional]

➢ Return of rejected applicants for international protection:

[Yes/No, obligatory, part of standard practice or optional]

***v) Iris scans* for comparison with National and European databases**

National Database

➢ Applicants for international protection:

[Yes/No, obligatory, part of standard practice or optional]

➢ Return of rejected applicants for international protection:

[Yes/No, obligatory, part of standard practice or optional]

European databases

➤ Applicants for international protection:

[Yes/No, obligatory, part of standard practice or optional]

➤ Return of rejected applicants for international protection:

[Yes/No, obligatory, part of standard practice or optional]

vi) DNA analysis

➤ Applicants for international protection:

[Yes/No, obligatory, part of standard practice or optional. If Yes, briefly describe what for and under what conditions.]

➤ Return of rejected applicants for international protection:

[Yes/No, obligatory, part of standard practice or optional. If Yes, briefly describe what for and under what conditions.]

vii) Interviews to determine probable country and or region of origin (or other elements of identity, such as faith and ethnicity)[11]

➤ Applicants for international protection:

[Yes/No, obligatory, part of standard practice or optional]

➤ Return of rejected applicants for international protection:

[Yes/No, obligatory, part of standard practice or optional]

viii) Other (please describe, e.g. type of co-operation with or contacts in third countries), related to

➤ Applicants for international protection:

[Yes/No, obligatory, part of standard practice or optional]

➤ Return of rejected applicants for international protection:

[Yes/No, obligatory, part of standard practice or optional]

If possible, outline briefly the rationale behind the method(s) indicated above used in your (Member) State, e.g. why some method(s) been used in preference to others,

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[11] This would depend on the elements included in your national definition of "identity" used within the procedures covered by this Study. See Section 2.1.

is there a hierarchy or order of methods followed, any research conducted providing evidence of the method's reliability.

[Insert response here]

Section 3

Decision-making Process

(*National Contribution*: Maximum 3 pages)

The Synthesis Report will describe how the different methods are combined to establish an identity and how the outcomes of attempts to establish identity are then used in making a decision on international protection and forced return. To the extent possible, the Synthesis Report will draw out commonalities and differences across (Member) States.

3.1 Status and weight of different methods to determine identity

On the basis of the information gathered by the methods outlined in Section 2, how then is a decision on identification made, e.g. are some methods given more weight on their reliability than others; does there need to be consistency between the results from some of the methods used? Briefly outline whether the results from the different methods will have different status and/or will be given different weights, and whether this is laid down in legislation, policy or practice guidelines.[12]

[Insert response here, including making any distinction between international protection and the return process]

Is a "grading" structure or spectrum used to denote the degree of identity determination (e.g. from "undocumented," over "sufficiently substantiated" or "has the benefit of doubt" to "fully documented and verified")? If Yes, outline what this is.

[Insert response here, including making any distinction between international protection and the return process]

Are any future measures considered with regard to setting up or further elaborating a "grading" structure? If Yes, outline what these are.

[Insert response here, including making any distinction between international protection and the return process]

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[12] 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, not only in the methods they can or should use, but also in the weight they give to the outcomes of some methods. The aim, therefore, is to highlight these differences, should they exist.

3.2 <u>Decisions taken by competent authorities on basis of outcomes of identity establishment</u>

3.2.1 For the consideration of the application for <u>international protection</u>

What are the potential decisions that can be taken by the competent authorities where identity has been established (even partially) to inform the overall decision taken? For example, does the outcome of identity establishment influence a recommendation to "grant international protection," "refuse international protection," "defer decision"?

[Insert response here]

How important is establishing identity relative to other factors used in making an overall decision? For example, if identity cannot be established, does this de facto lead to a rejected decision? Are other factors such as gender, suspected country of origin, given more weighting than identity determination in some cases?

[Insert response here]

3.2.2 For the <u>return</u> to country of origin

What are the potential decisions that can be taken by the competent authorities where identity has been established (even partially) to inform the overall decision taken? For example, does the outcome of identity establishment influence a recommendation to "defer return"?

[Insert response here]

Are the results of the work to establish identity during the international protection process available for work to prepare for forced return?

[Yes/No]

If 'yes': please describe the type of supplementary steps that may be needed with respect to identity documentation before the authorities in the receiving country are prepared to accept the return.

[Insert response here]

If 'no': please describe the type of steps that may be needed with respect to identity documentation before the authorities in the receiving country are prepared to

accept the return.

[Insert response here]

Section 4

Conclusions

(*National Contribution*: Maximum 2 pages)

The Synthesis Report will outline the main findings of the Study and present conclusions relevant for policymakers at national and EU level.

With regard to the aims of this Focussed Study, what conclusions would you draw from your findings? What is the relevance of your findings to (national and/or EU level) policymakers?

[Insert response here, including making any distinction between international protection and the forced return process]