



Establishing Identity for International Protection: Challenges and Practices

2nd Focused Study 2012



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EMN FOCUSSED STUDY 2012

Establishing Identity for International Protection: Challenges and Practices

National Contribution from Greece

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

Greece, as an external border of the European Union constitutes the first entry point for thousands of undocumented migrants every year. In the context of 'mixed immigration flows', concepts of refugee and migrant are not always distinct. However, each of these categories requires separate treatment. The identification of applicants for international protection acquires in this context a major role. The establishment of a fair and efficient asylum system may be the answer for eliminating any injustices that occur against people who are entitled to international protection. Due to the large volume of inflows¹; to the chronic weaknesses in the asylum system; and the significant, direct and indirect, burden on the country, resulting from the application of Regulation (EC) No 343/2003 of the Council (the "Dublin II")² thousands of undocumented migrants and asylum seekers are trapped in Greece. The fact that the vast majority of people who request international protection in Greece do not have individual documents, for any reason, makes it even more difficult to verify their identity, their country of origin or their need for international protection when crossing borders.

In Greece, the identification of asylum seekers is part of the examination of their asylum claim. Through the personal interview, where an interpreter is present, are being verified the applicant's reliability and the accuracy of his statements. If asylum seekers do not hold or they have destroyed or eliminated their personal documents, the recording of their data is done by self-report, which happens for the majority of the submitted asylum claims. Greece has received criticism for not facilitating the access of asylum seekers in the asylum process. Particularly at the entry points where there is lack of interpreters, information and legal assistance, the right to enter the asylum procedure is not given.³ However, the identification of the asylum seekers is important, though not crucial, for the recognition of international protection. Due to the lack of reliable documents verifying the identity of the applicants for international protection, the competent administrative authorities are overcharged. The identification of applicants for international protection is left to the interpretation during the personal interview, to the procedure of taking fingerprints and photographs for comparison with national and European databases, while the process of medical

¹ In 2010 Frontex reported that 90% of recorded undocumented immigrants who enter to the EU are recorded in Greece, Morehouse, C. & Blomfield, M. (2011) *Irregular Migration in Europe*, Transatlantic Council on Migration, Migration Policy Institute, available at:

<http://www.migrationpolicy.org/pubs/TCMirregularmigration.pdf>

² Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining applications for asylum lodged in a Member State by a third country.

³ UNHCR- Office of Greece (2012) *Contribution to the discourse for Immigration and Asylum*, available at http://www.unhcr.gr/fileadmin/Greece/News/2012/positions/2012_Migration_Asyum_GR.pdf (in Greek)

examinations is used to determine the age of applicants where there is doubt, especially for the age group 17-19 years.⁴ Regarding the return to the (estimated) country of origin of applicants for international protection whose claim was rejected, in case they do not hold personal or travel documents to prove their identity, they are identified by the competent consular authorities of the presumed third country in Greece. The consular authorities are asked to recognize the applicant whose application has been rejected, as their national and issue travel documents for the realization of his return.⁵ However, it should be noted that, in many cases, the relevant consular authorities of third countries do not show intention to cooperate for the identification of suspected as nationals, and also for the procedure of their return, even in cases where they are identified.

The establishment in 2011 of the new Asylum Service constitutes an important development, as well as the establishment of the First Reception Service and the Appeal Authority; the progressive staffing of these services with trained personnel is expected improve the asylum procedure and facilitate the process of verifying the identity of applicants.

⁴ Information provided during the meeting that the author of the study had with Police Officer of the Aliens Directorate of the Ministry of Public Order and Citizen Protection on 29.07.2012 at the offices of the Asylum Department of the Aliens Directorate at the Ministry of Public Order and Citizen Protection.

⁵ op.cit.

Section 1

The National Framework

1.1 The Challenges and Scope of the issue

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 Yes, briefly outline 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)

The issue of establishing identity in the absence of credible documentation is considered as an important factor, though not crucial, within the framework of both the procedure for international protection and the forced return of an applicant whose claim was rejected to his (presumed) country of origin. However, identity is not a prerequisite for someone to ask for asylum. It is the receiving state's obligation to determine whether the applicant for international protection is really who he claims. The lack of documentation does not imply weakness to examine his asylum claim. Within the scope of the interview for the identification and the examination of the claim for international protection, the competent authorities have the obligation to investigate whether indeed the asylum seeker comes from the country that he declares, using the techniques of interview and the information they collect about the country of origin. This is achieved, among others, by imposing questions regarding the country of origin of the applicant, regarding the reason he left his country and the route he followed. The fact that the vast majority of the people who enter Greece illegally do not hold personal documents⁶ makes difficult the verification of their identity, their country of origin and their need for international protection when they cross the borders. Most of the immigrants who illegally entered the country and asylum seekers do not have reliable documents or if they have, they receive the advice of the traffickers to destroy or eliminate them, in order to make their identification difficult. From practical experience it has been found that many asylum seekers state false origin, depending to the circumstances prevailing in the states.⁷ As an example is mentioned the case of Egyptian nationals who falsely reported Syrians due to the unstable situation of the country currently. Through the interview process it was verified that their claim was false.⁸ It is mentioned that, during the past, Egyptians were declaring Iraqis or Palestinians.

If Yes, please also indicate which of the following factors listed below contribute to

⁶ UNHCR- Office of Greece (2012) *Contribution to the discourse for Immigration and Asylum*, available at http://www.unhcr.gr/fileadmin/Greece/News/2012/positions/2012_Migration_Asylum_GR.pdf (in Greek)

⁷ see footnote n° 4.

⁸ op.cit.

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.*

Greece, constituting an external border of the European Union and because of the length of its external borders, is one of the main entry points for migrants and asylum seekers in Europe. It is estimated that nearly 90% of all illegal entries into the EU are recorded in Greece.⁹ Consequently, the Greek authorities have to examine a large number of applications, without having the necessary adequacy in infrastructure and staff to respond effectively to this new fact. Despite the funding that Greece receives by the European Refugee Fund, the EU External Borders Fund and the European Return Fund, the problems regarding adequate staff and infrastructure remain, given also the continuously increasing migration inflows. According to FRONTEX, in 2011 the reduction of the immigrant flow to Western Europe was followed by an increase at the Greek-Turkish land border. In October 2011, 9,600 immigrants were registered, which is 20% more than in October 2010. This means that the authorities have captured an average of 300 illegal immigrants a day.¹⁰ It is indicatively mentioned that only in the first quarter of 2012 and only in Alexandroupolis were recorded 2.967 undocumented migrants and asylum seekers by the border police¹¹ (when, for instance, in 2011 3.936 undocumented migrants entered Denmark, in aggregate)¹². In addition, it is recorded a significant increase in the number of immigrants from the Maghreb countries - Morocco, Algeria and Tunisia, who do not arrive in Europe crossing the Spanish maritime borders but prefer the land border between Greece and Turkey. From 1st January 2011 to 30th October 2011, in Greece 1,700 Algerians, 1,000 Moroccans and 300 Tunisians were registered, while their number in Spain was respectively 900, 200 and 1.¹³ In the vast majority of asylum cases, the recording of the applicants is made according to their statement because of the fact that they do not carry or they have destroyed any personal document.¹⁴

- *The measures used to establish an applicant's identity in the absence of*

⁹ EMMEDIA (2011) *Immigration News*, National and Kapodistrian University of Athens, Issue 1, p. 3

¹⁰ Balezdrova, A. (2011) [Frontex: Every day 300 illegal immigrants are registered on the Greek-Turkish border](#), GRReporter, 16.11.2011, available at:

http://grreporter.info/en/frontex_every_day_300_illegal_immigrants_are_registered_greekturkish_border/5460

¹¹ Chantzimichali E. (2012) *Undocumented migrants and asylum seekers- Experiences from the police border departments*, Presentation at the 3rd National Conference of Travel Medicine, KEELPNO, available at www.geomed.gr/downloads/download.html?id=12 (in Greek)

¹² Denmark sees large increase of asylum seekers, available at <http://www.unhcr.se/en/media/baltic-and-nordic-headlines/2012/july/27-31-july-2012.html>

¹³ Balezdrova, A. (2011) [Frontex: Every day 300 illegal immigrants are registered on the Greek-Turkish border](#), GRReporter, 16.11.2011, available at:

http://grreporter.info/en/frontex_every_day_300_illegal_immigrants_are_registered_greekturkish_border/5460

¹⁴ Papadaki Gioti O. and Papadaki E. (2010) *The policy of managing migration flows in Europe and Greece* available at

http://www.prd.uth.gr/sites/GS_RSAI/CONFERENCE_MAY2011_SITE/PAPERS_MAY2011_PDF_CD/PAPADAKI_GIOTI_O_PAPADAKI_E_43.pdf (in Greek)

credible documentation are resource-intensive.

When there is no credible evidence for the identity of the applicant (neither basic nor supporting documents), the authorities have to face an additional administrative burden for the verification of identity. In addition, it becomes necessary to create infrastructure for the identification of applicants, such as laboratories for the verification of the authenticity of the documents and fingerprinting, and training of staff of competent authorities. The documentation / verification of the identity of applicants for international protection is a process that takes place during the whole process of the examination of the asylum application, especially during the interview in the presence of an appropriate interpreter, when is tempted to verify the credibility of the applicant and the accuracy of his statements.

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

The fact that the identification is realized through the interpretation during the interview, especially in the border areas of the country, it is not easy to find interpreters able to cover all the needs for interpretation, depending on the language spoken by the applicants. Consequently, the lack of adequate interpretation complicates the procedure of the identification of applicants. During the last two years, the coverage of the needs for interpretation is realized through the use of trained interpreters of the NGO METADRASI, either physically or via teleconference.

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

As mentioned above, the basic method of identification is the personal interview held in presence of an appropriate interpreter. However it is not always possible to cover all the needs for interpretation arising, depending on the language spoken by the applicants. This fact complicates further the decision- making on applications for international protection.¹⁵

➤ ***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.***

Regarding the return of third-country nationals whose claim for international protection was rejected, and only in case they do not hold travel or other documents that prove their identity, they are identified by the competent consular authorities of the presumed third country of origin in Greece. The consular authorities are asked to recognize the applicant whose claim has been rejected as their national and to issue travel documents to realize his return.¹⁶ However, in many cases, the relevant consular authorities of third countries do not show willingness to cooperate in the identification of the applicants whose claim was rejected as their nationals, and also for their return, even in cases where they are identified. The process of issuing a travel

¹⁵ see footnote n° 4.

¹⁶ op.cit.

document by the consular authorities of countries of origin is also followed by the International Organization for Migration under the Voluntary Repatriation Program, which is conducted in cooperation with the Ministry of Public Order and Citizen Protection / Greek Police and the Office of the UN High Commissioner for Refugees (UNHCR) in Greece and co-financed by the European Return Fund.

➤ ***Other (Member) State specific factors***

- A large number of undocumented immigrants in Greece deliberately destroy their travel documents, mainly on the advice of traffickers.
- A large number of third country nationals who entered Greece illegally abuse the right to asylum, since there are no reasons in their home countries supporting their claim and yet apply for international protection.
- A significant number of third country nationals who entered Greece illegally avoid to apply for asylum in Greece (remaining, therefore, illegally in the country), so if they manage to travel to another Member State of the European Union they will not be returned to Greece under the Dublin II Regulation
- The increased inflows of asylum seekers in Greece are disproportionate to the size of the country and its administrative capabilities.

If No, 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.***

N/A

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)
<u>Total Number</u> of applicants for international protection	25113	19884	15928	10273	9311	Source: Ministry of Public Order and Citizen Protection ¹⁷ . According to figures from the UNHCR in 2010 and 2011, the five major nationalities of asylum seekers were Pakistanis, Georgians, Bangladeshi, Afghans and Chinese. ¹⁸ There is a gradual downward trend in the number of applications for international protection. This trend can be explained by the fact that a significant number of third country nationals avoid to apply for asylum in Greece (remaining therefore illegally in the country), so if they manage to travel to another Member State of the European Union they will not be returned to Greece under the Dublin II Regulation. Another explanation is that there are taken measures for the containment of immigration by sea from Africa and the Middle East ¹⁹ ; and the limited access to the asylum procedure ²⁰ .

¹⁷ According to the competent department of the Ministry of Public Order and Citizen Protection, there are no recordings related to documentation or non-identification of applicants or the returns / deportations of rejected asylum seekers.

¹⁸ UNHCR (2011) *Asylum Levels and Trends in Industrialized Countries- Statistical overview of asylum applications lodged in Europe and selected non EU countries*, available at <http://www.unhcr.org/4e9beaa19.html>

¹⁹ “Reduction of asylum applications”, 30th March 2011, available at: <http://neoskosmos.com/news/el/node/13477> [in Greek]

Number of applicants for whom <u>identity</u> was not documented at the time of application						
Number of applicants for whom <u>identity was wholly or partially established</u> 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 <u>Positive Decisions</u>	215	413	166	165	587	Source: Ministry of Public Order and Citizen Protection ²¹ . In the total number of positive decisions for all years are included positive decisions on past requests. The Presidential Decree 90/2008 provided an independent and of decisive competence Commission in the second degree. So, those who had been wronged in the first degree were vindicated in the second. In 2009 was adopted the Presidential Decree 81/2009, which abolished the second instance of the processing of asylum claims. This may explain the decrease of positive decisions in 2009 and 2010 compared to 2008, as well as the fact that the majority of applicants were coming from countries as Pakistan, Bangladesh and Georgia and invoked economic reasons. ²² The increase of positive decisions in 2011 is explained by the reform of the national asylum system by the Greek state and the adoption in 2010 of the National Action Plan on “Reforming Asylum

²⁰Delithanasi, M. (2011), *Increase in asylum rates*”, Kathimerini, 18.06.2011, available at: http://news.kathimerini.gr/4dcgi/_w_articles_ell_1_18/06/2011_446209 [in Greek]

²¹ According to the competent department of the Ministry of Public Order and Citizen Protection, there are no recordings related to documentation or non-identification of applicants or the returns / deportations of rejected asylum seekers.

²² see footnote n’4.

						System and Management of Migration Flows" (implemented in cooperation with the European Commission), which contributed to the effective functioning of the institutions empowered to examine asylum applications, especially in the second degree.
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>	20684	22188	14190	3353	9175	Source: Ministry of Public Order and Citizen Protection ²³ . In the total number of refusals for all years are included negative decisions on past requests. This explains the fact that negative decisions in 2008 exceed the total number of requests in the same year. The reduction in the number of negative decisions in 2010 is depended on the number of the claims examined that year, according to the capability of the authorities ²⁴ . The increase in the number of refusals in 2011 is due to the clearance of the "back-log", launched by the Greek government in 2010 under the three-year National Plan of Action on 'Reforming Asylum System and Management of Migration Flows' (2010 -2013) presented to the European Commission in August 2010 and implemented in collaboration with it.

²³ According to the competent department of the Ministry of Public Order and Citizen Protection, there are no recordings related to documentation or non-identification of applicants or the returns / deportations of rejected asylum seekers.

²⁴ see footnote n'4.

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) ²⁵ <u>Returns undertaken</u> of all rejected applicants						
Number of (Forced) ²⁶ Returns of rejected applicants whose identity had to be established at the time of return						
Number of (Forced) ²⁷ 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						

²⁵ While the scope of this Focussed Study (with respect to Returns) includes only the forced return of rejected applicants, it is acknowledged that distinguishing between forced and voluntary returns in official statistics may not be possible. Where possible, do make this distinction.

²⁶ Idem.

²⁷ Idem.

1.3 Relevant EU and National Legislation

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

If Yes, 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.

The process used to determine identity within the procedure for international protection is provided in the Presidential Decree (P.D.) 114/10, (GG A-195/22.11.2010) Uniform procedures for identification to aliens and stateless refugee status or subsidiary protection (in compliance with Directive 2005/85/EC), which repealed the provisions of the P.D. 61/1999, 90/2008, 81/2009 and the article 5 of the p.d. 220/2007. Furthermore, the process is provided under N.3907/2011 Law (GG A-7/26.01.2011) "Establishment of Asylum Service and First Reception Service, Adaptation of Greek legislation to the provisions of Directive 2008/115/EC" on common rules and procedures in Member - States for returning illegally staying third-country nationals "and other provisions" and under the adopting Presidential Decree adopting uniform procedures for identification to aliens and stateless refugee status or subsidiary protection in compliance with Directive 2005/85 / EC Council "on minimum standards on procedures in Member States for granting and withdrawing refugee status» (L 326/13.12.2005).²⁸.

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

If Yes, 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.

The process used to determine identity within the procedure for the forced return of rejected applicants is the same process that is used to determine identity within the procedure for international protection. However, only in case that the applicant whose claim was rejected does not hold travel or other documents, his identification is realized by the competent consular authorities of the presumed country of origin in Greece.

1.4 The institutional framework at national level

Which national authorities have the operational responsibility for establishing the

²⁸ The public consultation is completed, but has not been passed by the Council of State yet, available at <http://www.opengov.gr/ytp/?p=722> [in Greek]

identity of applicants for international protection?

The Law N.3907/2011²⁹ published in the Government Gazette A-7/26.01.2011 establishes the Asylum Service and defines its tasks and responsibilities. The Asylum Service reports directly to the Minister of Public Order and Citizen Protection and has local jurisdiction extending throughout the Greek Territory. Its responsibilities include, among others, the receipt and examination of applications for international protection and to rule over them in the first degree.

It is also responsible for the information of applicants for international protection on the process of their asylum applications, and on their rights and obligations under it. Furthermore, its mission is to support the planning and policy-making in the country with regard to the granting of asylum or other forms of international protection, and to monitor and evaluate the implementation of this policy. In addition, the Service has the authority to gather information and assess the economic, social and political situation in the countries of origin of foreigners and to constantly monitor developments in these countries, in cooperation with competent for this purpose other Greek or foreign authorities, especially in the context of relevant international agreements. It is also responsible for the supply of applicants for international protection with legalizing documents and travel documents, according to the law, for the completion of applications for family reunification of refugees and for the facilitation of applicants in terms of the hosting conditions, in cooperation with other competent bodies.

The Law N.3907/2011 further establishes the First Reception Service. It is an independent service which reports directly to the Minister of Public Order and Citizen Protection and has local responsibility throughout the Greek Territory.³⁰ The First Reception Service is constituted by the Central Agency, the First Reception Centers (KE.P.Y.) and the emergency mobile or stable First Host Units (Regional Services) which report to in the Central Office.³¹ The Centers and the First Reception Units are organized in functionally distinct teams; among others, a verification team is provided, which is responsible for the identification and for finding other information on of third countries nationals entering the country.³²

The operation of these services was inaugurated on 1st of March 2012. However, they are in transition to the full exercise of their functions. Therefore, until the beginning of the functioning of the Asylum Service, responsible for the receipt of applications for international protection, namely to grant refugee status or subsidiary protection and the examination of asylum applications (interviewing and decision-making) is the Greek Police. The responsibilities of the Greek Police include, also, the examination of the applications for humanitarian status under Article 28 of the P.D. 114/2010, the examination of applications for refugee family reunification and the examination requests under the Dublin II Regulation.

²⁹ N.3907/2011 Act (Gov. A-7/26.01.2011) "Establishment Asylum Service and First Reception Service, Adaptation of Greek legislation to the provisions of Directive 2008/115/EC" on common standards and procedures in Member States - States for returning illegally staying third-country nationals "and other provisions".

³⁰ cit Chapter II, Article 6.

³¹ cit Article 8.

³² cit Article 10.

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

The Greek Police has the operational responsibility for establishing the identity of applicants for international protection who have to forcibly return to their (presumed) country of origin. The Greek Police has a number of responsibilities relating to foreigners, including the examination of asylum applications (taking the interview and decision-making), the issuance and execution of decisions of administrative expulsion, and the execution of expulsion decisions.³³

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

Yes.

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

Central Authority is the Department of Immigration of the Headquarters of the Greek Police, which is under the Ministry of Public Order and Citizen Protection; to which comes under the Department of Political Asylum. The Greek Police are responsible for carrying out the return of asylum seekers whose claim has been rejected. Regarding the verification of the authentication of documents as part of the procedure of the provision of international protection, responsible is the Criminal Investigations Directorate of the Greek Police Headquarters, under the Ministry of Public Order and Citizen Protection.³⁴

If Yes:

- ***Has the centre developed its own database / reference base for***
 - ***genuine documents? Yes.***³⁵
 - ***false documents? Yes.***³⁶
- ***Does it make use of the database iFADO (iPRADO)³⁷ for checking false ID documents? Yes.***³⁸

³³ For more information on the responsibilities of the Greek Police regarding foreigners see http://www.astynomia.gr/index.php?option=ozo_content&perform=view&id=3712&Itemid=646&lang=

³⁴ see footnote n'4.

³⁵ op.cit.

³⁶ op.cit.

³⁷ [PRADO](#) Public register of authentic identity and travel documents online

³⁸ see footnote n'4.

- *Does it make use of the EDISON³⁹ system? Yes.*⁴⁰
- *Does its tasks involve:*
 - *Advisory services? Yes.*⁴¹
 - *Development of Methods? Yes.*⁴²
 - *Training of frontline officers? Yes.*⁴³
 - *Support with difficult cases? Yes.*⁴⁴
- *Does it have a forensic document unit? Yes.*⁴⁵

If No, i.e. your (Member) State does not have a central competence centre, what other institutions / systems are available to provide advisory services/other forms of support to officials responsible for establishing the identity of applicants for international protection?

N/A

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. Border crossings points are equipped properly for the operation of the new information system on visas (VIS), the equipment supplied was funded by the European External Borders Fund, while are organized relevant training seminars for the personnel⁴⁶. Officials working in the Department of Fingerprinting of Criminal Investigations Directorate have access to the application associated with the EURODAC. At entry points the responsible officers have access to applications related to their tasks, e.g. systems used at authorized passport control points.⁴⁷

If No, 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?

N/A

³⁹ EDISON Travel Documents System

⁴⁰ see footnote n° 4.

⁴¹ op.cit.

⁴² op.cit.

⁴³ op.cit.

⁴⁴ op.cit.

⁴⁵ op.cit.

⁴⁶ EMN (2012) *Annual Policy Report 2011 - Final Report*, Greek Republic-Ministry of Interior, Centre for European Constitutional Law, p. 50.

⁴⁷ see footnote n°4.

Section 2

Methods for Establishing Identity

2.1 Definition and Documents required for establishing identity

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

The Greek legislation contains no definition of "identity" in relation to applicants for international protection and the return process; neither the EU acquis does contain such a definition. As identity of the asylum seeker is defined his name, surname, father's name, mother's name, full date of birth, his tribe (if coming from a country where there are tribes) and the native language. This arises from practice.

What types of documents and other information 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.

Any kind of documents that the applicant for international protection might carry are being accepted by the authorities, which examine their authenticity. Core documents for verifying the identity of applicants for international protection are the passports or travel documents of any kind (national passports, diplomatic passports, service passports, collective passports and surrogate passports including children's passports), the identities of any kind (including temporary and military IDs). Supporting documents are copies of the above documents, driving licenses, birth certificates, the divorce certificates or any document stating the name and surname of the applicant, the father's and mother's name, his date and place of birth.⁴⁸

What types of documents are accepted by national authorities in the (presumed) countries of origin if those applicants for international protection have to be returned, 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.

By the competent authorities of the Greek state are accepted all the above mentioned documents.⁴⁹ Documents accepted by the Greek state are those prevailing in the

⁴⁸ Information provided during the meeting that the author of the study had with Police Officer of the Aliens Directorate of the Ministry of Public Order and Citizen Protection on 29.07.2012 at the offices of the Asylum Department of the Aliens Directorate at the Ministry of Public Order and Citizen Protection.

⁴⁹ op.cit.

Greek legal order, e.g. documents certifying that the foreign authority that issued them was indeed competent to issue them (stamped with Hague seal or where not applicable, the signature of the issuing institution is validated by the territorially competent consular authority).

The issue of documents accepted by the authorities of the (presumed) countries of origin, concerns the foreign jurisdictions and the answer should be sought in the law of the (presumed) countries of origin. Under international law, passports held by foreigners are recognized by the embassies.

2.2 Methods used in the absence of documentary evidence of identity⁵⁰

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) Language analysis to determine probable country and/or region of origin?

- Applicants for international protection:
Yes, obligatory. It is applied through the interpretation during the personal interview.
- Return of rejected applicants for international protection:
Yes, obligatory. It is applied through the interpretation during the personal interview.

ii) Age assessment to determine probable age

- Applicants for international protection:
Optional, applies in cases of doubt, where the age of unaccompanied minors

⁵⁰ The responses to Section 2.2. are based on information collected during the meeting of the author of the study with Police Officer of the Aliens Directorate of the Ministry of Public Order and Citizen Protection on 29.07.2012 at the offices of the Asylum Department of the Aliens Directorate at the Ministry of Public Order and Citizen Protection.

cannot be determined based on interviews conducted by the competent authorities. According to the Article 12 of Presidential Decree 114/2010⁵¹ (Article 17 of Directive 2005/85/EC) "competent authorities to examine may use medical examinations to determine the age of unaccompanied minors." The type of test normally applied is the X-ray of clavicle and wrist or dental radiography. The determination of age is significant given that the Greek legislation does not exempt minors from detention measures, though it provides special care for them and their transferring to appropriate accommodation structures as soon as possible. According to Article 13 of Presidential Decree 114/2010, "the competent authorities shall avoid the detention of minors. Minors who have been separated from their families and unaccompanied minors are detained only for the time necessary to secure referral to appropriate facilities for minors. The Greek legislation provides that minors should be detained separately from adults.

- Return of rejected applicants for international protection:
Same as for applicants for international protection.

iii) Fingerprints for comparison with National and European databases

National Database

- Applicants for international protection:
Yes, obligatory.
- Return of rejected applicants for international protection:
Yes, obligatory.

European databases

- Applicants for international protection:
Yes, obligatory.
- Return of rejected applicants for international protection:
No, there is no such European database.

iv) Photograph for comparison with National and European databases

National Database

- Applicants for international protection:
Part of standard practice.
- Return of rejected applicants for international protection:

⁵¹ Presidential Decree (P.D.) 114/10, GG A-195/22.11.2010 Uniform procedures for identification to aliens and stateless refugee status or subsidiary protection (in compliance with Directive 2005/85/EC http://www.et.gr/idoocs-nph/search/pdfViewerForm.html?args=5C7QrtC22wGyK2xFpSwMnXdtvSoClrL8vnZOzRHI6VJ5MXD0LzQTLWPU9yLzB8V68knBzLCmTXKaO6fpVZ6Lx3UnKI3nP8NxdnJ5r9cmWyJWelDvWS_18kAEhATUkJb0x1LIdQ163nV9K--td6SIuderlNSJPeUUXHDQifNTITABSG9HUcvOV-KDIK1YyK1X [in Greek]

Part of standard practice.

European databases

- Applicants for international protection:
No, there is no such European database.
- Return of rejected applicants for international protection:
No, there is no such European database.

v) Iris scans for comparison with National and European databases

National Database

- Applicants for international protection:
No.
- Return of rejected applicants for international protection:
No.

European databases

- Applicants for international protection:
No.
- Return of rejected applicants for international protection:
No.

vi) DNA analysis

- Applicants for international protection:
This method is used in cases of application of the Dublin Regulation (outbound requests) focusing on unaccompanied minors to be reunited with family members. Should the family of the minor is found living in another country; the DNA analysis is conducted to verify the family relation. After the procedure the minor returns to the country of residence of the family. There is no legal basis; such administrative practice is followed in collaboration with NGOs.
- Return of rejected applicants for international protection:
No.

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

- Applicants for international protection:
Part of standard practice.
- Return of rejected applicants for international protection:
Part of standard practice.

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

➤ Applicants for international protection:

No.

➤ Return of rejected applicants for international protection:

As part of standard practice for cases, where it is necessary, Greek authorities contact with the consular authorities of the presumed country of origin, to recognize the rejected applicants as their nationals and issue travel documents.

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

No method can be completely trustworthy in its entirety. The systems provided by Community legislation are applied, adapted to the needs and capacities of the Greek authorities. The most widely used method is that of the personal interview in the presence of an interpreter and the analysis of language through the interpretation during the interview.

Section 3

Decision-making Process

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.

As mentioned in Part 2 of this report, the main method used for the determination of the identity of the applicants for international protection is the interview given by the applicant, as defined in Article 10 of Presidential Decree 114/2010⁵² Uniform procedures for identification to aliens and stateless refugee status or subsidiary protection in compliance with Directive 2005/85/EC⁵³. The result of the interview is crucial to the outcome of the claim. The interview is conducted with the assistance of an interpreter, able to ensure the necessary communication, so that the applicant is able to confirm the facts stated in his application and to give explanations, particularly regarding his accurate identity, the lack of passport or other official travel document, the exact route he followed to enter Greek territory and the reasons which forced him to leave his country of origin or habitual residence- in the case of stateless person for protection- and asked international protection. The personal interview is conducted by officer of the national competent authority who is charged particularly with this duty.⁵⁴ The interview is a process of identification through the interpretation. It is a semi-structured interview⁵⁵, during which an lawyer can be present, if the applicant requests so. In cases of unaccompanied minors, the interview is conducted in the presence of a legal guardian, usually representative of a non-governmental organization⁵⁶, defined by the Juvenile Prosecutor and, where not available, by the territorially competent Prosecutor.⁵⁷

Is a “grading” structure or spectrum used to denote the degree of identity determination (e.g. from “undocumented,” over “sufficiently substantiated” or “has

⁵² Presidential Decree (P.D.) 114/10, GG A-195/22.11.2010

⁵³ Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, available <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:326:0013:0034:EL:PDF>

⁵⁴ According to Law No. 3938/2011 Article 17 § 2 the interview may be conducted also by civilian employees of graduate level serving in the relevant departments of the Ministry of Public Order and Citizen Protection.

⁵⁵ Specific questions are posed, but the officer that conducts the interview may submit other questions in order to verify the identity of the applicant, his reliability and the validity of his claim.

⁵⁶ see footnote n'4.

⁵⁷ PD 220/2007 (GG A 251/13.11.2007) «Adaptation of Greek legislation with the provisions of Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers (EEL 31/6.2.2003) 'Article 19, paragraph 1. Until the appointment of a legal guardian for the minor, the Juvenile Prosecutor or the territorially competent Prosecutor is acting as a temporary legal guardian.

the benefit of doubt” to “fully documented and verified”)? If Yes, outline what this is.

The aim is to verify the credibility of the applicant and determine his identity. There is no grading structure, however, the officer who conducts the interview explains in his report why he considers the applicants’ claims credible or not. The officers conducting the interview take into account the personal or general circumstances surrounding the claim. There are cases where the applicant is unfit or unable for reasons beyond his will to participate in the interview and therefore the interview is not objectively possible.⁵⁸ Such cases are, for example, cases of torture victims or minors. Failure to participate in the interview must be attested by relevant medical or psychological certificate from a public hospital. The absence of a personal interview in such cases does not adversely affect the decision of the determining authority, however, the authorities take into account all the elements, such as the identification of age.⁵⁹

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

The new Asylum Service has no practical experience, as it has not started functioning yet. Whether a “grading” structure will be set up in the future is something that currently cannot be answered.

3.2 Decisions taken by competent authorities on basis of outcomes of identity establishment

3.2.1 For the consideration of the application for international protection

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”?

Identity is not a prerequisite for someone to ask for asylum. Since the possession of a valid identity document is not a prerequisite for filing an asylum application, asylum seekers have the right to ask for international protection with a simple statement of their identity. Therefore, the identity, as set in the investigation, does not affect the outcome of their application.

*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?*

In order to make an overall decision, the identification is an important factor. However, failure to identify the applicant does not necessarily lead to a rejected decision. While conducting the interview, the applicant is required to explain the

⁵⁸ P.D. 114/2010 GGA-195/22.11.2010 Article 10, par. 2b.

⁵⁹ op.cit. par.6

reasons for leaving the country of origin, the reasons why he cannot return there, and the reasons for wanting to remain in Greece. The questions asked during the interview concern the conditions in the (estimated) country of origin, the difficulties the applicant experienced in the past, the difficulties his family members experienced or persons in a similar situation. The questions also concern, the difficulties which may face the applicant in case, he is forced to return to his country of origin and the causes of these difficulties. All information gained during the interview process is taken into account and the credibility of the applicant is assessed.⁶⁰

3.2.2 For the return 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”?

Regarding the return to their country of origin of the applicants whose claim was rejected, the outcome of the identity establishment influences a recommendation to “defer return”. The Greek authorities, once they have established (even partially) the identity of the person to be returned, contact with the consular authorities of the country of origin. Once the identity of the applicant is confirmed by the consular authorities, launches the process for their return.

In addition, the authorities responsible for the execution of the return may make a reasoned decision to postpone the return for a reasonable time, taking into account the specific circumstances of each case and in particular: a) the physical or mental condition of a third country national and b) technical reasons, such as lack of transportation or lack of strong verification of the identity.⁶¹

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

Yes. There is only one folder for each applicant. The service which manages both procedures is one and for each applicant for international protection only one folder is created.⁶²

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.

After the rejection of the applicant for international protection, the Greek authorities contact with the consular authorities of the country of origin. The consular authorities

⁶⁰ see footnote n’4.

⁶¹ N.3907/2011 Act (Gov. A-7/26.01.2011) "Establishment Asylum Service and First Reception Service, Adaptation of Greek legislation to the provisions of Directive 2008/115/EC" on common standards and procedures in Member States - States for returning illegally staying third-country nationals "and other provisions", Article 24, par. 2 and 3.

⁶² see footnote n’4.

are initially asked to recognize the unsuccessful applicant as their national and after his recognition launches the process for issuing travel documents for his return.⁶³

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.

N/a

⁶³op. cit.

Section 4

Conclusions

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?

The developments observed in the past fifteen years regarding immigration in Greece are very intense. These developments clearly changed the position of Greece in the geopolitical map, giving it a place among the migrants' receiving countries, even though it has historically been a country of emigration. This change raises a series of institutional and demographic, social, economic and political changes, one of which is the intensification of the asylum procedure. The Dublin II Regulation in its current form, obstructs disproportionately the Member States of the first line, located at the external borders of the EU, such as Greece. The large and disproportionate pressure on Greece and the other countries of first reception makes it imperative to ensure a more equitable sharing of the burden, based on the principle of solidarity between the EU Member States.

The vast majority of migrants and asylum seekers arriving in Greece do not have reliable legal documents or individual documents as proof of identity. This makes the identification of applicants for international protection (and unsuccessful applicants) a considerable challenge for the Greek authorities. As indicated in the sections of the study, the identification of asylum seekers is part of the procedure of the examination of their claims. Through the personal interview, with the presence of an appropriate interpreter, are verified the applicant's reliability and the accuracy of his statements. However, it is not always possible to find suitable interpreters to meet all the needs for interpretation which arise, particularly in border areas. Rare, non-widely used languages or dialects spoken in limited areas often cannot be met by the interpretation. In Greece there are no private companies in which transcripts of asylum seekers can be sent to analyze the language and determine the probable country or region of origin⁶⁴. This fact, combined with the trend of asylum seekers to give false information about their identity and the poor infrastructure of the Greek asylum system is an obstacle to fair and objective consideration of asylum claims. In addition, the abuse of the right to apply for asylum by a large number of undocumented immigrants, coming from countries, the situation in which cannot support the asylum claim, creates additional administrative burden for the Greek authorities. The disengagement of the asylum process from the Greek Police by the establishment of the independent Asylum Service and First Reception Service is a positive development for the reform of the asylum system in Greece. The establishment of the Asylum Service is the outcome of long-acting and lobbying at national and international level, and is supported by the EU under the National Action Plan on "Management of Migration Flows and Asylum System Reform" submitted by

⁶⁴ Language Analysis for the Determination of Origin: used in Netherlands by the Dutch Immigration Service and the private company De Taalstudio (www.taalstudio.nl)

the Greek Government in the summer of 2010 and which constitutes the country's commitment.⁶⁵

The expansion of cooperation with the other Member States of the European Union, both in terms of expertise and training and at practical level, can contribute to the improvement and development of methods of identification and reduce the pressure on the Greek authorities due to the volume of the inflows.

⁶⁵ UNHCR- Office of Greece (2012) *Contribution to the discourse for Immigration and Asylum*, available at http://www.unhcr.gr/fileadmin/Greece/News/2012/positions/2012_Migration__Asylum_GR.pdf (in Greek)

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