



## **Establishing Identity for International Protection: Challenges and Practices**

### **National Contribution from Norway**

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#### **About the European Migration Network and its Norwegian Contact Point**

The European Migration Network provides the main hub for gathering and spreading information in the region. The Network is supported and coordinated by the European Commission. Norway has been a member of EMN since 2010 as the only non-EU member country.

The Norwegian EMN contact point (NO EMN NCP) consists of representatives of the *Ministry of Justice and Public Protection*, the *Norwegian Directorate of Immigration* and the *Institute for Social Research*. In addition to providing and spreading comparable information on migration and asylum in Europe, it is the ambition of NO EMN NCP to bring attention to the link between Norway and the EU in these politically sensitive areas.

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## Executive summary

This report outlines the main challenges that Norwegian authorities meet when trying to establish identities of applicants for international protection and rejected asylum seekers who are to be returned to their home country.

During the last 5 years, the influx of asylum seekers to Norway have fluctuated between 6 528 as the lowest number in 2007 and 17 226 as the peak in 2009. As only 5 - 10 percent of all applicants for international protection present a valid travel document upon registering their application, several asylum cases have to be determined each year without any credible identity papers having been presented.

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

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

The two main bodies that work with establishing identities are the *National Police Immigration Service (NPIS)* and the *Norwegian Directorate of Immigration (UDI)*. NPIS is responsible for registering all asylum applications, and establishing the identities of the asylum seekers. Furthermore, NPIS is responsible for coordinating all forced returns from Norway.

UDI is the decision-making authority in asylum cases, and will also investigate identity information.

NPIS and UDI face similar challenges when establishing identities. However, while UDI can make a decision in a case regarding international protection based on an unverified identity which is substantiated beyond a reasonable doubt, NPIS cannot forcefully return a person without his identity having been verified and/or documented. This results in different challenges for NPIS and UDI.

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

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

Being a police body, NPIS have coercive measures at their disposal when necessary. These include arrest and remand in custody, seizure and search of the foreigner's person, belongings

or dwelling. NPIS can also apply traditional police methods like surveillance and mapping of a person's network.

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

It is important to note that the immigrant has an obligation to do whatever necessary to clarify his/her identity. Norway experiences that a number of rejected asylum seekers refuse to assist in clarifying their identities, thereby hoping to evade the decision entailing him or her to leave Norway. It seems that many prefer staying in the country as illegal immigrants to returning to their home countries.

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

# 1 The National Framework

## 1.1 The Challenges and Scope of the Issue

Establishing identity in the absence of credible documentation is here considered both within the framework of the procedures for providing international protection and for the forced return of a rejected applicant to their country of origin. In these contexts the Norwegian immigration authorities are faced with a number of challenges in their efforts to establish the identity of asylum seekers.

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

The overall challenge is that only a small number of asylum seekers present a valid travel document or other credible identity documents upon application. Although the proportion of asylum seekers holding credible travel documents or other identity documentation increases during the case processing procedure, only 5 - 10 percent of all asylum seekers present credible identity documentation when registering their asylum application.

A significant proportion of all asylum seekers claim to originate from countries where identity documents in general are scarce and lacking in credibility. For example, one of the main asylum seeking nationalities to Norway are (alleged) Somalis. Somalia issues few or no documents at all, and the documents that do exist are not credible, making the identity clarification complicated and time consuming.

Norway also receives a large number of asylum seekers claiming to be citizens of countries that issue identity documentation, but have issuance procedures that do not meet the quality standard required for trustworthy documents.

In addition, it is also an issue that many asylum seekers are registered with different identities in several European countries<sup>1</sup>, and some even change their claimed identity characteristics (name, date of birth and/or nationality) during their case processing in Norway.

Finally, many asylum seekers and rejected asylum seekers do not cooperate in clarifying their own identities, thus complicating the asylum and return processes.

While some issues, like the ones mentioned above, are similar for both case processing of asylum applications and return related work, there are also some differences.

According to the Immigration Act Sections 83 and 93 all foreign nationals have to assist in clarifying their identity to the extent that the immigration authorities require. However, an asylum seeker is not required to contact his/her home country in a manner that may conflict his/her need for protection. In such cases, the authorities have to rely to a large degree on the identity information presented by the asylum seeker. According to the preparatory works to the new Immigration Act Norwegian authorities have to accept that not all asylum seekers

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<sup>1</sup> This may be the result of a deliberate attempt to hide a true identity or avoid the Dublin Procedure, a consequence of different transcriptions of names and/or date of birth, or the result of incomplete or incorrect registrations in Norway or the other country.

who are granted protection in Norway are able to document their identity, hence the applicants must be given the benefit of the doubt.

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

The volume of cases where no credible documentation is available has been fairly constant. We experience that the proportion of asylum seekers holding identity documents correlates with the nationalities of the asylum seekers. Among asylum seekers originating from countries in Eastern Europe, Russia and other countries that issue identity documents, the percentage of those presenting credible documentation is higher than for asylum seekers from other countries.

The proportion of asylum seekers holding identity papers upon the initial registration has fluctuated between 5 – 10 percent in all the last five years.

Immigration officials spend a considerable amount of their time investigating immigrants' identities. Many asylum seekers fail to cooperate in this, thus making the work even more resource intensive than it needs to be.

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

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

## **Measures and methods used to establish identity**

### Applicants for international protection

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

As stated above Norwegian authorities do accept that some applicants have legitimate reasons for leaving their home country without having identity documentation, and that the situation in the country of origin, and/or safety issues prevents the applicant from contacting the home country.

In these cases, the decision making authority have to make an overall assessment of the credibility of the asylum seeker, taking several aspects into consideration.

Not succeeding in establishing an applicant's identity may to a certain extent make the consideration of his/her application for international protection more difficult. However, the decision on the application for protection is based on an overall examination of all available information in the individual case. However, in some cases the application is rejected because the applicant's identity cannot be established, in other cases the applicant is granted international protection, cf. section 3.2.

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

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

### Return

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

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

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

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

In the absence of identity documents, it is particularly difficult to return persons originating from the Maghreb countries, most other African countries, and countries from the former Soviet Union. Certain Middle Eastern countries, like Iraq and Iran, are also problematic.

NPIS experiences that many rejected asylum seekers are unwilling to assist in establishing their identities, and would rather stay in Norway as illegal immigrants than returning to their home country. After receiving a decision obliging him/her to leave Norway, many disappear before the NPIS can arrest and deport them after the deadline for return has expired. As Norway is less affected by the economic crisis in Europe than other countries, jobs are still available on the irregular job market. This may act as an incentive to stay in Norway as an irregular immigrant instead of contributing to the clarification of the identity and return to the home country.

## 1.2 Statistics on the Scale of the Issue

	2007	2008	2009	2010	2011	Additional information
Total number of applicants for international protection	6528	14431	17226	10064	9053	Top 5 2011: Somalia (2216), Eritrea (1256), Afghanistan (979), Russia (365), Iraq (357)
Share of applicants for whom <u>identity</u> was not documented at the time of application	94 %	96 %	95 %	90 %	91 %	
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)	N/A	N/A	8072	6999	4379	
Total number of <u>positive decisions</u>	2934	3052	4508	5331	4050	Top 5 2011: Somalia (1205), Eritrea (1143), Afghanistan (541), Ethiopia (195), China (185)
Total number of positive decisions for applicants whose identity was not documented at the time of application	Statistics not available					
Total number of positive decisions for applicants whose identity was considered sufficiently established by the decision-making authorities	N/A	N/A	4412	4740	3889	

	2007	2008	2009	2010	2011	Additional information
Total number of <u>negative decisions</u>	2095	4390	6196	7673	3813	Top 5 2011: Afghanistan (615), Iran (286), Eritrea (276), Russia (236), Ethiopia (220)
Total number of negative decisions for applicants whose identity was not documented at the time of application	Statistics not available					
Total number of negative decisions for applicants whose identity was not considered by the decision-making authorities to have been sufficiently established	N/A	N/A	969	814	336	
Total number of (forced) <u>returns undertaken</u> of all rejected applicants	2187	2326	3343	4615	4744	
Total number of (forced) returns of rejected applicants whose identity had to be established at the time of return  Total number of (forced) returns that could not be executed as the identity was not sufficiently established to be accepted by the (presumed) country of origin	Statistics not available					

### 1.3 Relevant legislation

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

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

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

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

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

### 1.4 The institutional framework

NPIS is responsible for registering and establishing the identity of applicants for international protection when they arrive in Norway. NPIS also assists the responsible local police districts with identity controls in immigration cases.

UDI is the authority responsible for deciding applications for international protection. UDI also investigates the identities of asylum seekers.

The *Immigration Appeals Board (UNE)* is a quasi-judicial appeals board that considers appeals against rejections by UDI, and can also investigate identity information when considering a case.

NPIS is responsible for establishing the identity of applicants for international protection who have to be forcibly returned their country of origin. NPIS will never return a person by force unless his/her nationality has been verified. Failed asylum seekers are not returned to a “presumed country of origin”.

The *National Identity and Documentation Centre (NID)* has been established as a central competence centre for methods for determining identity and verifying documents. As NPIS also has a function as a central competence centre for identity determination and verification of documents in protection, expulsion and rejection cases the description below covers both.

Databases for genuine documents have been developed, while those for false documents are under development and only some specimens are available. The databases iFADO (iPRADO) authentic

identity and travel documents are used when checking whether ID documents are falsified, and the EDISON travel document system is also used. An advanced laboratory for forensic document examination is in place in NID and NPIS also has a forensic document unit. Both agencies provide advisory services, training of frontline officers and support with difficult cases, as well as develop improved methods for identity determination and document verification.

Officials responsible for determining the identity of applicants for international protection cannot access directly EU databases holding identity information about third-country nationals, but officials in the *National Crime Investigation Service (NCIS)* have access to EURODAC and conducts searches on behalf of the NPIS. SIS II is available for officials in both UDI and NPIS. VIS will be available to NPIS.

## 2 Methods for Establishing Identity

### 2.1 Definition and documents required for establishing ‘identity’

The term “identity” has not been defined in Norwegian legislation. When applied to applicants for international protection and for the return process the term is used to describe a set of characteristics that, together, define an unique reference to a certain person. Important defining characteristics are name, date and place of birth, and nationality/citizenship. The set of characteristics can also be expanded to include clan affiliation, family connections and marital status.

When considering whether the applicants identity is **documented** (for the grading structure used in Norway to indicate the degree of identity establishment, cf. 3.1) the authorities only accept valid passports and other official travel documents valid for travel to Norway, cf. table of travel documents (Council 7193/11 and 7789/10). If the applicant cannot be requested to present valid travel documents because of the applicant’s need for international protection or if his/her country of origin does not produce such documents, the Norwegian authorities can, in exceptional cases, accept other types of documents to decide that the applicant’s identity has been documented, for example by a domestic passport.

When considering whether the applicant’s identity is made **probable** the Norwegian authorities also can accept documents that are not considered as sufficient to consider the identity as documented, for example a driving license, national ID-card (from countries outside EU), ID-card for students, birth- and marriage-certificates and proof of citizenship.

As a main rule, copies of documents are not accepted as proof of identity, but can in certain cases be considered in an overall assessment of whether an applicant’s identity is probable.

The major issues when **determining the veracity (or genuineness) of documents** are;

- travel documents, and other identity-documents, have to have been issued in accordance with the relevant country’s legislation and procedures for issuing such documents. The credibility of the information (contents) in documents must also be considered. Credibility is related to the extent to which the documents in question have been issued on the basis of registered and verifiable information and in accordance with satisfactory procedures. To be able to consider this, the Norwegian authorities are depending on accurate and relevant information on such legislation and procedures. The *Norwegian Country of Origin Information Centre (Landinfo)* has issued several country reports with relevant information on the issuing of documents in countries from where Norway receives many asylum-seekers. The immigration authorities also receive this kind of information from several other

sources, for example Norwegian foreign service missions and immigration authorities in third countries.

- travel documents should be valid at the time when the application is handled and the content and appearance should be unchanged. It is necessary that control of persons and documents are carried out in connection with the handling of an application for protection where the applicant has submitted an identity document.
  - Control of persons: Checking the identity document against the applicant, for example checking that features such as lips, face structure, eye form, distance between face elements correspond to those shown by the photograph, and that the applicant is familiar with and can elaborate on the information contained in the document.
  - Document control: Investigations carried out to check whether a document has been issued by the proper authority in the correct manner, that the necessary fields have been completed, that the document does not appear to have been altered (without authorization) etc., and that it otherwise appears to be genuine. This control is not the same as verification; see below.
- Both control of persons and documents are carried out in all asylum cases where the applicant has presented an identity document. The control is made by NPIS.
- The authorities can carry out verification of identity documents that asylum seekers have presented. If possible, this may involve: investigations carried out to verify the stated identity against a register by contacting the issuing authority, as well as interviewing neighbours, to verify that the information given in a document is correct, The possibilities for the Norwegian authorities to carry out a verification in countries of origin differ according to the situation in the country, including whether Norway has a foreign service mission there and possibilities to co-operate with immigration authorities from third countries.

#### Types of documents accepted by Norway before a return

The types of document accepted depend on practices in the recipient country. Before returning a failed asylum seeker, the NPIS has to ascertain that the correct identity has been established. It is preferred that the immigrant is in possession of a passport or other valid travel document. If the returnee is lacking a travel document, the NPIS will in most cases contact representatives from the home country to request verification and that a travel document is issued.

As long as the returnee is verified and accepted by the home country, Norwegian authorities do not require any other identity documents to return the person in question.

#### Types of documents accepted by recipient countries:

The type of documents accepted by the receiving countries depends on practices in the country in question, and there are large variations. Some countries only accept a valid national passport, and will not issue a travel document unless the person in question applies for the document voluntarily, while others accept the return of their citizen if s/he is in possession of some type of identity document, like a national identity card or family book.

A few countries will accept their citizen in return without any identity documents at all. In these cases, the immigrant is given a laissez-passer issued by the NPIS. If the nationality of a former

asylum seeker has been established by Interpol or through a Norwegian embassy in his home country, it is also possible to return him or her without identity documents.

## **2.2 Methods used in the absence of documentary evidence of identity**

### **Language analysis**

With applicants for international protection this is often combined with the knowledge test where the applicant is asked about geography, culture, politics and history. This knowledge test is part of the standard procedure for applicants for international protection, to establish whether the applicant has the geographic affiliation s/he has claimed.

UDI has developed and maintain a list of 20 countries where applicants claiming to originate from them are routinely subjected to a language analysis/knowledge test.

In addition, applicants claiming to originate from other countries than those pre-defined can be subjected to language test if the immigration authorities suspect that the person in question has given false information about his/her country of origin.

The obligation to participate in a language test is included in the Immigration Act sections 83 and 93, cf. Immigration Regulations section 17-7 first paragraph letter h.

A language test may be performed at the time when the asylum seeker registers his application for international protection, or later during the case processing.

The results of a language analysis that has been conducted in connection with the application for international protection (see above) can be used in return related identity investigation.

### **Age assessment to determine probable age**

If the date of birth cannot be documented and UDI finds reasons to doubt the stated age of a young applicant for asylum, an optional **age examination** will be carried out. This consists of a medical report based on X-ray examination of both dental and skeletal development, information from persons who have observed him/her and other available information. The medical report includes both a 'best estimate' of the actual age, based on the findings, and an assessment of the precision of that estimate. A decision of the most probable age is made at the same time as a decision is made on the need for protection, but the two decisions are independent. Most age examinations are made when it is suspected that the real age is higher than the stated age, but they are also made when it is suspected that the stated age is too high.

### **Fingerprints for comparison with National and European databases**

Comparisons with national and European databases are standard procedure with applicants for international protection above the age of 14. The process is usually not repeated in the return procedure.

### **Photograph for comparison with National and European databases**

Comparisons with national and European databases are standard procedure with applicants for international protection. The process is usually not repeated in the return procedure.

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

**DNA analysis:** Applicants for international protection and sponsors may be requested to undergo DNA testing if it is necessary to establish whether a family relationship exists. This only applies if

the other information in the case fails to provide a basis for establishing the family relationship with reasonable certainty.

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

Applicants for international protection usually participate in several interviews to determine their identity as well as their need for protection, except for applications that are examined pursuant to the Dublin II Regulation. (Immigration Act Sections 81, 83 and 93, Immigration Regulations Section 17-2, UDI Circulars 2011-029 and 2010-086).

All those who are seeking international protection in Norway are registered as asylum seekers at the NPIS. During the registration, the applicant must provide his/her name, nationality, place and date of birth, place of residence in the home country or any other country where the applicant has stayed before arriving in Norway, civil status, travel route and any identity documents that the applicant has. Furthermore, the applicant must provide information on the name, date of birth, address and telephone number of his or her family members.

Following the initial registration interview, the applicant usually participates in a more in-depth interview, where the aim is to obtain additional verifiable information about the asylum applicant's identity and, in the best case scenario, have him/her present a passport or other identity document.

UDI will also conduct at least one in-depth asylum interview with the applicant.

### **Other measures**

Requests for information from other Member States pursuant to Article 21 of the Dublin II Regulation and requests for verification by Norwegian Embassies are only used when it is deemed necessary for the outcome of the case.

Being a police body, NPIS can apply traditional police methods and coercive measures in its efforts to establish identities. These methods are applicable for both applicants for international protection and for returnees, according to the Immigration Act:

- Search of the foreign national's person, dwelling or the like: NPIS may conduct a search of the immigrant's person, dwelling, room or places for safe keeping if there are reasonable grounds for believing that the person in question is concealing or withholding information about his or her identity.
- Seizure: NPIS may seize travel documents, tickets, electronic data or other material items which may serve to clarify or prove identity, if there is doubt whether the foreign national has stated his correct identity, or there are reasonable grounds for believing that the immigrant is concealing or withholding information about his or her identity.
- Duty to report and stay in specific place: An obligation to report or to stay in a specific place may be imposed on a foreign national who refuses to state his or her identity, or there are reasonable grounds to believe that the foreign national has given a false identity.
- Arrest and remand in custody: A foreign national may be arrested and remanded in custody if the foreign national refuses to state his or her identity, or there are reasonable grounds for believing that he or she has given a false identity.
- Register search: Searches are conducted in all available registers and databases, including the currency register.

- Electronic medias: NPIS have equipment to search mobile phones, digital cameras, memory sticks, laptops etc. Information from electronic media can provide important indications of the identity of the holder.
- Contact with Norwegian embassies: Norwegian embassies and consulates are often able to help verify information about the asylum seeker and returnee. Further both NPIS and UDI have Immigration Liaison Officers (ILOs) stationed at various embassies. Especially the ILOs affiliated with the police assist Norwegian immigration authorities in clarifying identities of asylum seekers and rejected applicants.
- Contact with embassies of the home countries: If NPIS is fairly convinced of the identity of a rejected applicant, he can be brought before the embassy of this country to verify him as their citizen.
- Surveillance and mapping of contact network: This is a traditional, resource intensive method, used mainly when investigating criminals, but can also be applied in immigration cases.

The methods used differ, depending on already existing information, available identity documents, the applicant's credibility etc. Methods applied also differ according to the alleged country of origin. For example, many countries lack central population registers or central registers of documents issued, making it difficult to try to verify documents.

Some methods are always applied as standard procedure. This is the case for interviews, photos and fingerprints (for applicants over the age of 14), and data base searches.

Coercive measures are not applied unless it is deemed strictly necessary, and the NPIS tries to use force as seldom as possible.

The use of coercive measures is laid down in legislation, and is strictly regulated in the Immigration Act and internal regulations.

### **3 Decision making process**

#### **3.1 Status and weight of different methods to determine identity**

##### Applicants for international protection

Decisions are made after an overall examination of all available information in the individual case, including a consideration of the consistency between results from different methods applied. In some cases, the applicant submits a valid travel document (cf. 2.1). Such documents are as a rule considered reliable and given great weight in the decision on identification. UDI Circular 2012-009 provides general guidelines with respect to identity determination, while various other internal guidelines give directions concerning country specific issues.

##### Return:

Some methods are given more weight than others. Generally, methods that are considered to provide the best reliable and tangible results are given more weight than those that provide more circumstantial evidence or indications. For example, a positive verification by representatives from the rejected applicant's home country will be given more weight than a language analysis that only indicates nationality.

To the extent possible, there needs to be a certain consistency between the outcomes of the methods used. Divergent outcomes may result in a less credible end result, and this may influence the decision in the asylum case, or make a return by force more difficult.

The weighting of the results from the different methods are not laid down in legislation, but both NPIS and UDI have internal guidelines concerning the use of different methods and their results when investigating identities.

In Norway the following grading structure is used in the handling of applications for residence permits, including applications for international protection:

- “Documented identity”; if the applicant has presented a passport or another travel document valid for travel to Norway, and there is no specific information or general knowledge about the type of document which indicates that it should not be trusted, the applicant will usually be considered to have a documented identity. For most applications for residence permits in Norway there is an obligation that the applicant has a “documented identity”. However, for applications for international protection the main rule is that the applicant’s identity has to be probable.
- “Probable identity”; used if it is considered to be more likely than not that the identity the applicant has stated is correct. This consideration is based on an overall assessment of documents that have been presented, the information of his/her identity provided by the applicant, and the investigation and control of these documents and/or information. Other elements in this overall assessment include whether the applicant has contributed to clarifying his/her identity, and whether the applicant has given contradictory information on his/her identity.
- “Not probable identity”; used if it is considered to be not likely that the identity the applicant has stated is correct, the applicant’s identity is considered to be “not probable”. As a main rule, an application for a residence permit will be rejected if the applicant’s identity is considered to be “not probable”. However there are some exemptions from this rule, especially concerning applications for international protection. Mainly, exemptions from the requirement that the identity has to be “probable” are made when there are special humanitarian reasons (for example health reasons or the consideration to children) or the applicant’s need for international protection is considered to be sufficiently probable.

To be able to return an immigrant, the identity of the person in question must be verified and/or documented, either by the immigrant holding a passport or other valid travel document, or that the immigrant’s nationality being verified by representatives from the recipient country or representatives from Interpol in the recipient country. NPIS will never remove a person by force if his or her identity is uncertain. There are no plans to introduce a grading structure in connection with return, as a verified identity is needed in order to deport a rejected asylum seeker. A rejected asylum seeker can only be returned if the identity is substantiated.

### **Decisions taken by competent authorities on basis of outcomes of identity establishment**

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

The possible decisions are:

- Granting of refugee status (international protection).
- Rejection of the application for international protection, but granting a permit due to strong humanitarian considerations or because of the applicant's strong connection with Norway.
- Residence permit with limitations
- Rejection

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

To obtain a permit on humanitarian grounds the applicant must as a rule document his/her identity. Where no valid passport is presented, a residence permit may be granted with certain limitations until the passport is presented. Such limitations include not having the right to family reunification or access to Norwegian language classes, and having to remain in the asylum reception center until s/he can provide a valid passport. There are a few exemptions also from this requirement, however. The importance of having established the applicant's identity depends somewhat on the case. If the applicant's claims are manifestly unfounded regardless of his/her identity, not much weight is given to establishing his/her identity as part of asylum proceedings. However, to do so will be crucial for an effective return.

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

In most cases a rejected asylum seeker has an obligation to return to the country of origin, and if s/he does not return voluntarily s/he will be returned by force if the identity has been established and the country is willing to accept her/him. However, an established identity will not automatically result in a deportation as there may be other factors, like strong humanitarian reasons, that can cause a deferral of the return.

Most of the results from the efforts made to establish identity during the asylum procedure are available also for the return procedures. However, internal notes and assessments made by one institution may not always be available. The supplementary steps that are needed for the return procedures will differ from case to case. Sometimes new traces and information about the applicant's (real) identity can emerge that make new investigations necessary. For example, NPIS often finds identity documents during a search, and this requires follow-up. Furthermore, electronic devices like mobile phones or cameras may contain pictures that indicate a different country of origin than that stated by the applicant, thus providing important clues for the search for more information.

## 4 Concluding remarks

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

One main challenge is that most asylum seekers arriving in Norway have little or no identity documentation at all. Although several asylum seekers provide some identity relevant documents during the case processing procedure, there is no guarantee that the identity has been established. It is a well-known fact that falsified and imposter documents are widely available. Furthermore, many documents do not meet the quality standard required for them to be credible.

In order to establish identity in absence of credible documentation, Norwegian immigration authorities have a variety of methods at their disposal. These include fingerprints- and manual photo comparison, interviews, age and language analysis, as well as coercive methods and police methods available to NPIS. A considerable amount of resources is also invested in cooperation with other countries' authorities.

UDI is supporting initiatives by medical and dental forensic experts to develop improved methods for age determination in cooperation with statisticians and experts in image analysis. The work to establish identity is time consuming and resource demanding, and does not guarantee a satisfactory result. The Immigration Act section 83 imposes an obligation on the asylum seeker to help clarify his identity. While many do contribute, we experience that some rejected asylum seekers refuse to assist in clarifying their identities, making it difficult to return them to their country of origin.

Issues concerning identity clarification are of great importance to Norwegian policy makers and authorities, and in 2010 the *National Identity and Documentation Centre (NID)* was opened. The purpose of the centre is to help strengthen the immigration authorities' work with establishing the identities of foreign nationals seeking residence in Norway. The centre will also assist and advise on general issues and in individual cases, collect information and develop methods for improved identity and documentation verification.