

## EMN FOCUSED STUDY 2012

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

#### National Contribution from Bulgaria

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

#### Top-line 'Factsheet'

(National Contribution)

#### [Executive Summary

(Synthesis Report)]

#### National Contribution (one page only)

*Overview of the National Contribution – drawing out key facts and figures from across all sections of the Study, with a particular emphasis on elements that will be of relevance to (national) policymakers.*

The establishment of the identity of foreigner entered the Republic of Bulgaria in order to seek protection is essential part of the procedure for examining applications for international protection and is performed throughout the whole procedure as stipulated in the Law on Asylum and Refugee. The special protection provided by the Republic of Bulgaria to foreigners includes asylum, refugee status, humanitarian status and temporary protection.

Migration Directorate at Ministry of Interior is maintaining close cooperation with the State Agency for Refugees at the Council of Ministers in the Republic of Bulgaria. The Agency is the competent authority which processes complaints/requests lodged by applicants to obtain humanitarian or refugee status.

The Migration Directorate is then informed of the decision taken by the Agency on each of the complaints/requests. In case of rejection of the request, State Agency for Refugees at the Council of Ministers informs the Migration Directorate of its negative decision and the Migration Directorate performs all procedures on return of the foreigner.

According to the information provided by State Agency for Refugees, in the period **01.01.2012 – 31.06.2012** the number of the foreigners sought protection in the

Republic of Bulgaria is 418. In the frame of the procedure identity documents have been submitted, as follows:

- National passports/ travel documents – 73 persons, or 17.5% from the total number of the applicants;
- Identity Cards – 77, that is 18.4% from the applicants;
- Certificates (for citizenship, birth etc.) – 21, or 5% from the applicants;
- Other documents driving license, student books, military identity cards, certificates – 14, which is 3.3% from the total number of the applicants;

44.2% from the foreigners seeking international protection in the first half of 2012 had submitted personal documents in the frame of the procedure.

According to the information provided by the Migration Directorate at the Ministry of Interior the number of the forced returns of rejected applicants whose identity has been established at the time of return are 43 foreigners for 2010 and 32 – for 2011. Most of them are from Afghanistan, Iraq, Lebanon and Syria.

In the period 2007 - 2011 three applicants for international protection could not be returned to their country of origin because of the fact the states of origin found the identity establishment not convincing enough.

*Synthesis Report (up to 3 pages)*

*Executive Summary of Synthesis Report: this will form the basis of an EMN Inform, which will have EU and National policymakers as its main target audience.*

## Section 1

### The National Framework

*(National Contribution: Maximum 6 pages, excluding statistics)*

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

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

### **1.1 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 establishment of the identity of foreigner entered the Republic of Bulgaria in order to seek protection is essential part of the procedure for examining applications for international protection and is performed throughout the whole procedure as stipulated in the Law on Asylum and Refugee /LAR/ (*Prom. SG. 54/31 May 2002, amend. SG. 31/8 Apr 2005, amend. SG. 30/11 Apr 2006, amend. SG. 52/29 Jun 2007, amend. SG. 109/20 Dec 2007, amend. SG. 82/16 Oct 2009, amend. SG. 39/20 May 2011*).

The identity of the applicant for protection is established in the frame of the administrative procedure on the basis of submitted personal identity documents, interviews with the applicant, checks within a database of information systems as EURODAC and etc.

During the procedure the foreigner is obliged to submit all of his/her and of the accompanying minor and underage documents which can serve for establishing their identity and citizenship, as well as the way of their movement and entry in the Republic of Bulgaria. If he/she doesn't submit these documents he/she is obliged to certify his/her identity, the date and the place of birth, his/her family status, as well as those of the accompanying minor and underage children, **through a declaration** under Art. 30 of the Law on Asylum and Refugees in front of an official, for the correctness of which he/she bears criminal responsibility according to art. 313 of the Bulgarian Penal Code.

Often in the course of the procedure foreigners, whose identity is initially established on the basis of a declaration (Art. 30 of the Law on Asylum and Refugee), submit afterward personal documents with data not conforming the data already declared by them. In these cases weight is given to personal documents.

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

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

More frequent there are cases where foreigners with initially established identity on the basis of a declaration under Art. 30 of the Law on Asylum and Refugee, afterwards submit other identity documents with different data.

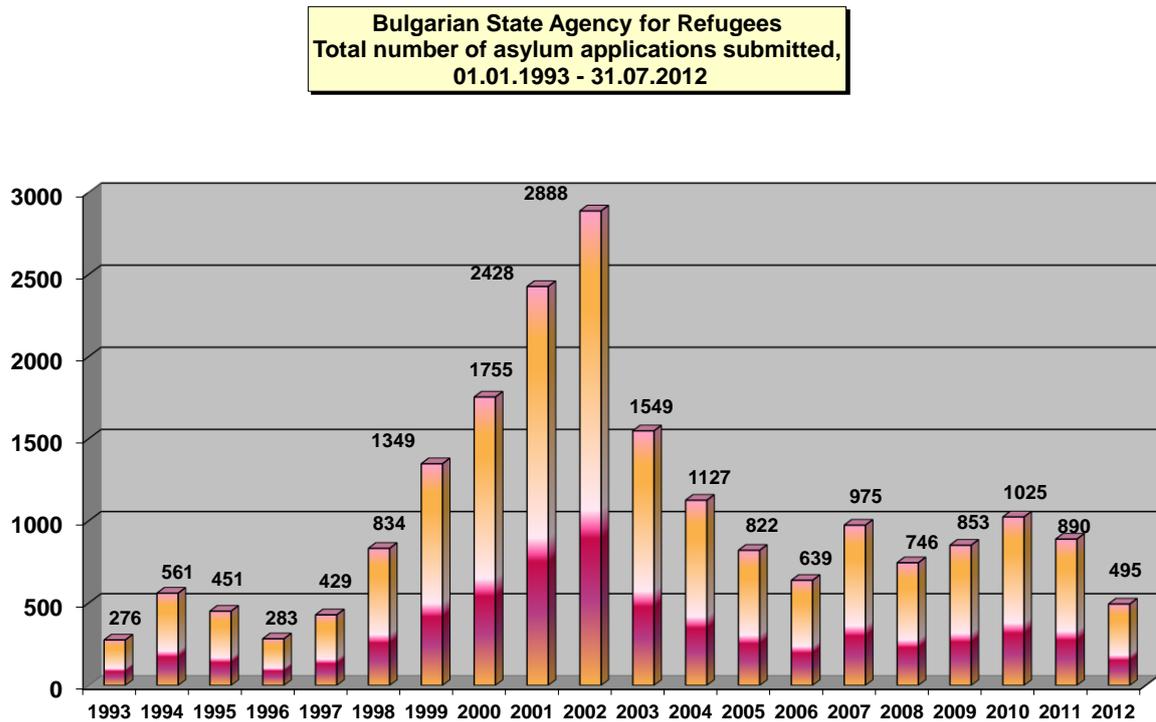
For example, presently after strengthening the crisis in Syria many Syrian citizens who had previously declared Iraqi citizenship and submitted counterfeit Iraqi documents, are submitting now their authentic Syrian ID with the same names and personal data.

According to the information provided by State Agency for Refugees, in the period **01.01.2012 – 31.06.2012** the number of the foreigners sought protection in the Republic of Bulgaria is **418**. In the frame of the procedure identity documents have been submitted, as follows:

- National passports/ travel documents – 73 persons, or 17.5% from the total number of the applicants;
- Identity Cards – 77, that is 18.4% from the applicants;
- Certificates (for citizenship, birth etc.) – 21, or 5% from the applicants;
- Other documents driving license, student books, military identity cards, certificates – 14, which is 3.3% from the total number of the applicants;

As it can be seen from above, 44.2% from the foreigners seeking international protection in the first half of 2012 had submitted personal documents in the frame of the procedure.

Verification in the database of EURODAC system has been done for all the persons applying for protection.



**Source:** State Agency for Refugees with the Council of Ministers of the Republic of Bulgaria

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

State Agency for Refugees (SAR) with the Council of Ministers of the Republic of Bulgaria does not have experts trained to detect counterfeit or forged documents. Such an assessment can be made by the respective experts at the Ministry of Interior and this action takes time and prolongs the procedure.

The interaction between State Agency for Refugees and Directorate "Migration" at the Ministry of Interior is performed in accordance with Foreigners in the Republic of Bulgaria Act (FRBA) and the Ordinance on the responsibility and coordination of the state bodies implementing regulation (EC) № 343/2003 of the Council from 18 February 2003.

Of all the 691 persons who submitted in 2010 **for the first time** asylum application in the Republic of Bulgaria, 70 were accepted by General Directorate "Border Police", 523 - by the Specialized Institutions for Temporary Accommodation of Foreigners with the Directorate "Migration" and 95 sought asylum directly at State Agency for Refugees.

After the implementation of the provisions of Regulation 343/2003 it was established that other member states were responsible for the applications of some 80 persons.

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

In the period 2007 - 2011 three applicants for international protection could not be returned to their country of origin because of the fact the states of origin found the identity establishment not convincing enough.

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

A serious problem in the establishing Identity of an applicant for international protection arises when he/she declares one data, and when analyzing the information gathered by asking control questions during the interview, it is found that the declared data are not true.

➤ ***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.***

**3 persons** of the rejected in the last 5 years applicants for international protection haven't been returned to their country of origin due to the fact that measures used to establish identity were not successful:

- 1 person in 2007;
- 1 person in 2010 and
- 1 person in 2011.

For comparison, the total number of the forced returns of rejected applicants whose identity had to be established at the time of return in 2010 was 43 and in 2011 – 32 persons.

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

In proceedings for granting international protection, it is particularly difficult to establish the identity of the Arabic-speaking persons who present themselves as citizens of another country where Arabic language is the official language too /for example, the Palestinian Authority, Iraq, Syria and North Africa countries/.

(ii) for implementing return

The number of the forced returns of rejected applicants whose identity has been established at the time of return is 43 foreigners for 2010 and 32 – for 2011. Most of them are from

Afghanistan, Iraq, Lebanon and Syria.

➤ *Other (Member) State specific factors*

*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.*

[Insert responses here]

## **1.2 Statistics on the Scale of the Issue**

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

	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>Additional Information (e.g. Source, caveats, reasons for trends, top five nationalities, with numbers for total applicants – see below Table also)</b>
<u>Total Number</u> of applicants for international protection	975	746	853	1025	890	<p>The number of applicants in 2008 presents 75.5% from the number applicants in 2007, which shows a significant decrease.</p> <p>Compared to 2008 in 2009 there is an increase of the applicants with 11.6%.</p> <p>An increase of 20 % can be examined in 2010 towards the previous year.</p> <p>There is a decrease in 2011 of the number of the persons seeking protection – the number presents 86.8% from the applicants in 2010.</p>
Number of applicants for whom <u>identity</u> was not documented at the time of application	-----	----	-----	----	----	
Number of applicants for whom <u>identity</u> was wholly or partially <u>established</u> during the asylum process thereby allowing the relevant authorities to reach a particular decision on international application (e.g. grant, refuse, defer)	-----	----	-----	----	----	

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*Establishing Identity for International Protection: Challenges and Practices*

Total Number of <u>Positive Decisions</u>	335	294	267	138	192	Total: Refugee status and Humanitarian status
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>	245	381	380	386	366	The terminated procedures are as follows: 2007 – 191; 2008 – 70; 2009 – 91; 2010 – 202; 2011 – 213.
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) <sup>1</sup> Returns undertaken of all rejected applicants	----	-----	-----	-----	-----	-----
Number of (Forced) <sup>2</sup> Returns of rejected applicants whose identity had to be established at the time of return	-----	-----	-----	43	32	Most of them are from Afghanistan, Iraq, Lebanon and Syria.
Number of (Forced) <sup>3</sup> 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	1	-----	-----	1	1	

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

**Source:** Migration Directorate at the Ministry of Interior and State Agency for Refugees with the Council of Ministers of the Republic of Bulgaria

<sup>1</sup> 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.

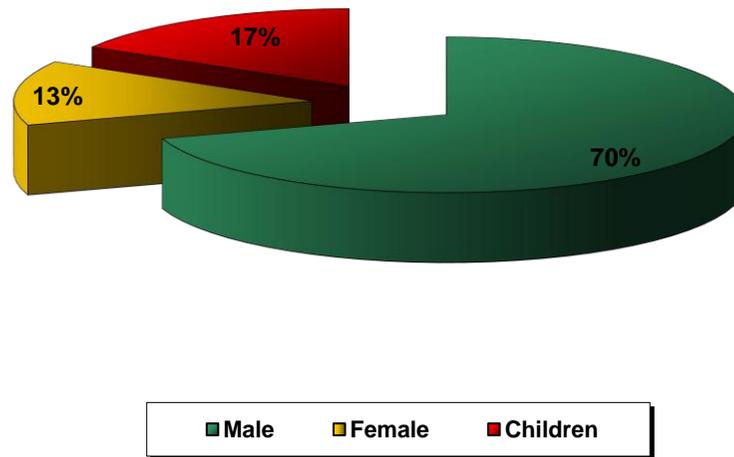
<sup>2</sup>Idem.

<sup>3</sup>Idem.

**Bulgarian State Agency for Refugees**  
**Information for the number of applicants and decisions taken**  
**01.01.1993 r. - 31.05.2012 r.**

<b>Year</b>	<b>Number of applications submitted</b>	<i>Refugee status granted</i>	<i>Refusals</i>	<i>Humanitarian status granted</i>	<i>Prolonged humanitarian status</i>	<i>Terminated procedures</i>	<i>Terminated refugee and humanitarian status</i>	<b>Total number of decisions</b>
1993	276	0	0	0	0	0	0	<b>0</b>
1994	561	0	0	0	0	0	0	<b>0</b>
1995	451	73	6	14	0	28	0	<b>121</b>
1996	283	144	28	13	0	132	8	<b>325</b>
1997	429	145	28	2	0	88	0	<b>263</b>
1998	834	87	104	7	0	235	3	<b>436</b>
1999	1349	180	198	380	5	760	250	<b>1773</b>
2000	1755	267	509	421	65	996	17	<b>2275</b>
2001	2428	385	633	1185	164	657	36	<b>3060</b>
2002	2888	75	781	646	138	1762	9	<b>3411</b>
2003	1549	19	1036	411	7	528	20	<b>2021</b>
2004	1127	17	335	257	2	366	12	<b>989</b>
2005	822	8	386	78	0	478	2	<b>952</b>
2006	639	12	215	83	0	284	0	<b>594</b>
2007	975	13	245	322	0	191	1	<b>772</b>
2008	746	27	381	267	0	70	0	<b>745</b>
2009	853	39	380	228	0	91	2	<b>740</b>
2010	1025	20	386	118	0	202	1	<b>727</b>
2011	890	10	366	182	0	213	0	<b>771</b>
2012	332	10	186	59	0	70	0	<b>325</b>
<b>Total</b>	<b>20212</b>	<b>1531</b>	<b>6203</b>	<b>4673</b>	<b>381</b>	<b>7151</b>	<b>361</b>	<b>20300</b>

**Bulgarian State Agency for Refugees**  
**Refugee population by gender, 01.01.1993 - 31.07.2012**



**Source:** State Agency for Refugees at the Council of Ministers of the Republic of Bulgaria

**TOP 10 REFUGEE COUNTRIES OF ORIGIN**

**01.01.1993 – 31.07.2012**

1. Afghanistan – 5 769 persons
2. Iraq – 5 118 persons
3. Armenia – 1 878 persons
4. Stateless – 974 persons
5. Iran – 965 persons
6. Serbia and Montenegro – 775 persons
7. Nigeria – 524 persons
8. Algeria – 458 persons
9. Syrian A.R. – 452 persons
10. Turkey – 389 persons

**TOP 10 REFUGEE COUNTRIES OF ORIGIN**

**01.01.2012 – 31.07.2012**

1. Iraq - 166 persons
2. Syrian A.R. - 94 persons
3. Stateless – 60 persons
4. Afghanistan - 52 persons
5. Iran - 24 persons
6. Pakistan - 16 persons
7. Morocco - 12 persons
8. Armenia - 11 persons
9. Lebanon - 9 persons
10. Algeria - 7 persons

**Source:** State Agency for Refugees with the Council of Ministers of the Republic of Bulgaria

### **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.<sup>4</sup>*

The procedure for the establishment of personal data of the persons seeking protection and collection of other information relevant to the proceedings is regulated by Law for Asylum and Refugees and the Internal rules of the procedure for granting protection. On the other hand in the UNHCR Handbook for interviewing asylum seekers, the techniques for interviewing is described in detail.

The Law for Asylum and Refugees determines the order and conditions for granting special asylum to foreigners on the territory of the Republic of Bulgaria, as well as their rights and obligations. The law introduces the provisions of Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof; Directive 2003/9/EC of the Council laying down minimum standards for the reception of asylum seekers; Chapter Five of Directive 2003/86/EC of the Council on the right to family reunification, Directive 2004/83/EC of the Council on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted and Directive 2005/85/EC of the Council on minimum standards on procedures in Member States for granting and withdrawal refugee status.

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<sup>4</sup> If however the level of detail is highly relevant, by shedding light on, for example, which elements of identity should be evidenced, what methods can or should be used to do so, what weight is to be given to the outcomes of the use of these methods, etc., it would be useful to insert the information directly in the Template.

A foreigner who has entered the Republic of Bulgaria in order to seek protection, or who has received protection, cannot be returned to the territory of a country where his life or freedom are threatened for reason of race, religion, nationality, belonging to a definite social group or political opinion and/or conviction, or he has been exposed to a danger of torture or other forms of cruel, inhuman or humiliating attitude or punishment.

A foreigner who has entered the Republic of Bulgaria not by the legal order for the purpose of seeking protection, arriving directly from a territory where his life and freedom have been threatened, is obliged to present himself immediately to the competent bodies and point out valid reasons for his illegal entry or stay on the territory of the country.

The foreigners seeking and having received protection in the Republic of Bulgaria have the rights and the obligations according to the Law for Asylum and Refugees and bear civil, administrative and penal responsibility under the conditions and by the order valid for the Bulgarian citizens.

The legal capacities under Law for Asylum and Refugees are exercised by officials of the State Agency for the Refugees. They establish all facts and circumstances of importance for the proceedings for granting of a status of a refugee or of a humanitarian status and provide assistance to foreigners, having file applications for such status.

According to the Law for Asylum and Refugees the State Agency for the refugees has the right to collect data about the foreigners having filed an application for a status in terms of determination of the state, competent to consider the application, establishing the identity and clarification of the circumstances related to the filed application.

During the proceedings the foreigner is obliged to fulfil the orders and not obstruct the officials in fulfilment of their official duties; to submit all of his and of the accompanying minor and underage documents which can serve for establishing their identity and citizenship, as well as the way of their movement and entry in the Republic of Bulgaria. If the applicant does not have the above mentioned documents in order to certify his identity, he/she does declare the date and the place of birth, his family status, as well as those of the accompanying minor and underage children,

through a declaration before an official for the correctness of which he/she shall bear criminal responsibility according to art. 313 of the Penal Code.

For the registration the State Agency for Refugees makes record of the names, nationality, date and place of birth, sex, marital status and kinship, identity documents and other documents of the foreigner.

Source of the data can be both the foreigners themselves and Bulgarian and foreign bodies, natural persons or corporate bodies. Not admitted is the information about the foreigners seeking or having been granted protection, to be collected by and to be provided to bodies and organizations, carrying out persecution. The State Agency for the refugees creates its own informational funds by an order determined by its chairman, in compliance with the Law for protection of the personal data.

The registration card does not attest foreigner's identity.

The foreigner's names in the registration card is entered in an order and in quantity, as written in the documents for travelling abroad, with which he/she has entered the Republic of Bulgaria, or in any other identity document. When the foreigner does not hold such documents, his/her names are written in the order, as they are indicated in the declaration under Art. 30, item 3 of the Law for Asylum and Refugees.

***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.<sup>5</sup>***

The provisions of the Community acts in the field of return are reflected in the Bulgarian national legislation. There are several normative acts regulating the return of foreigners in its two varieties – voluntary and forced.

According to the forced return of rejected applicants and the procedure of identity determination the competencies of Services for Administrative Control of Foreigners

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<sup>5</sup> Idem.

in the Republic of Bulgaria are stipulated in the Foreigners in the Republic of Bulgaria Act, Regulations for Application of the Foreigners in the Republic of Bulgaria Act and Regulations for Application of the Ministry of Interior Act, Ordinance on the implementation of Regulation 343 /Dublin Regulation/.

This part of the national legislation incorporates all the relevant Community acts regulating the right of entry, residence and departure of third country nationals (two types of return are envisaged for third country nationals – forced and voluntary). It introduces the requirement of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, Directive 2003/110/+C of the Council on assistance in cases of transit for the purposes of removal by air, Directive 2003/109/ EC of the Council concerning the status of third-country nationals who are long-term residents, Directive 2003/86/EC of the Council on the right to family reunification, Directive 2001/51/EC of the Council supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985, Directive 2001/40/EC of the Council on the mutual recognition of decisions on the expulsion of third country nationals, Council Decision 2004/191/EC of 23 February 2004 setting out the criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third-country nationals.

Ordinance on the implementation of Regulation 343 /Dublin Regulation/ regulates the responsibilities, order and ways of interaction between the Ministry of Interior and the State Agency for Refugees with the Council of Ministers for joint actions and exchange of information in relation to the implementation of Regulation 343/2003 of the Council from 18 February 2003.

#### **1.4 The institutional framework at national level**

***Which national authorities have the operational responsibility for establishing the identity of applicants for international protection?***

Operational responsibility for establishing the identity of applicants for international

protection belongs basically to State Agency for Refugees, but in some cases, respective structures of the Ministry of Interior are responsible too.

***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?***

In carrying out its responsibilities in return and residence control in order to supply valid travel documents Migration Directorate interacts with other government bodies as Ministry of Foreign Affairs, State Agency for Refugees, State Agency for National Security; partner departments of Member States and diplomatic and consular missions in Republic of Bulgaria.

Terms of checking identity documents have all the authority of the Ministry of Interior with police power, and powers to establish the right of entry and residence in the country have the Border Police and Migration Directorate.

The institutions responsible for the coordination and implementation of the forced return are the Ministry of Interior and the State Agency for National Security.

***Does your (Member) State have a central competence centre for issues related to the determination of identity and/or verification of documents?<sup>6</sup>***

The structure with competence in identity establishment and verification of documents of applicants is not centralized.

***If Yes, what issues does the centre cover:***

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

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

[Insert response here]

***If Yes:***

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<sup>6</sup> This may be a separate body (as in Norway) or a unit within a relevant authority.

- ***Has the centre developed its own database / reference base for***
  - ***genuine documents?*** [Yes/No]
  - ***false documents?*** [Yes/No]
- ***Does it make use of the database iFADO (iPRADO)<sup>7</sup> for checking false ID documents?*** [Yes/No]
- ***Does it make use of the EDISON<sup>8</sup> system?*** [Yes/No]
- ***Does its tasks involve:***
  - ***Advisory services?*** [Yes/No]
  - ***Development of Methods?*** [Yes/No]
  - ***Training of frontline officers?*** [Yes/No]
  - ***Support with difficult cases?*** [Yes/No]
- ***Does it have a forensic document unit?*** [Yes/No]

***If 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?***

State Agency for Refugees with the Council of Ministers has competence in identifying only persons who are in a procedure of providing international protection. In their activity the officials of the State Agency for Refugees who conduct the procedure for granting international protection and establish identity of applicants are assisted with consultations and legal advices by experts of the “Quality of the procedure, temporary protection and competence in consideration of the application”, which is part of the specialized administration of the Agency.

***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.)?***

In determining the identity of applicants for international protection, the officials of the State Agency for Refugees with the Council of Ministers have access to the national and the central database of the system EURODAC, as well as to National Visa Information System and the National SIS.

<sup>7</sup> [PRADO](#) Public register of authentic identity and travel documents online

<sup>8</sup> EDISON Travel Documents System

State Agency for Refugees with the Council of Ministers doesn't have own national database of documents and doesn't make use of the database *iFADO and EDISON*. Pursuant to Law for Asylum and Refugees national documents of applicants for international protection are kept by the Agency until the end of procedure, after which they are returned to the person.

***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?***

## Section 2

### Methods for Establishing Identity

*(National Contribution: Maximum 8 pages)*

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

#### **2.1 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.***

A specific legal definition of identity of applicants for asylum or rejected applicants for international protection awaiting return measures doesn't exist.

It's stipulated in the Bulgarian Identity documents Act there are three main groups of personal documents: the identity documents; driving license and residence documents.

To foreigners seeking or having been granted protection the following types of documents are issued:

1. registration card;
2. card of a foreigner having been granted asylum;
3. card of a refugee;
4. card of a foreigner with a humanitarian status;
5. certificate for traveling abroad to a foreigner having been granted asylum;
6. certificate of a refugee for travelling abroad;
7. certificate of a foreigner with a humanitarian status for travelling abroad;
8. certificate for return of a foreigner to the Republic of Bulgaria.
9. a transfer permit.

The registration card does not attest foreigner's identity. It contains the following data:

1. foreigner's status;
2. reference number of the document;
3. unified civil number or a personal number of the foreigner in compliance with the foreigner's status;
4. sex;
5. holder's photograph;
6. holder's signature;
7. date of issue;
8. date of expiry of validity;
9. date of extension of validity;
10. issuing authority;

11. present address;
12. the grounds under the Law, allowing the foreigner to stay in the Republic of Bulgaria;
13. national identity document;
14. other data.

In addition to the above listed, the registration card contains the stated by the foreigner data:

1. names;
2. date of birth;
3. place of birth;
4. nationality;
5. names and date of birth of his/her minor children, accompanying him/her;
6. languages spoken.

The foreigner's names in the registration card shall be entered in an order and in quantity, as written in the documents for traveling abroad, with which he/she has entered the Republic of Bulgaria, or in any other identity document. When the foreigner does not hold such documents, his/her names shall be written in the order, as they are indicated in the declaration under Art. 30, item 3 of the Law for Asylum and Refugees.

The State Agency for the refugees issues:

1. a registration card to a foreigner, having applied for asylum – for a period of three months;
2. a registration card to a foreigner, for whom proceedings for determination of the state, competent to consider the application for a status have been instituted – for a period of three months;
3. a registration card to a foreigner for whom summary proceedings have been opened for granting a status – for a period of three months;
4. a registration card to a foreigner, for whom proceedings for granting a status have been opened by the general order – for a period of three months;
5. a registration card to a foreigner, to whom temporary protection has been granted – for the period of protection;
6. a transfer permit to a foreigner, enjoying temporary protection.

***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.*

A valid foreign-travel document or another substitute document: a document that has been issued in accordance with the terms and procedures established by the laws of the respective country wherein a visa can be affixed and which entitles the foreigner to return to the state from which he is entering, to the country of origin, or a third country, the photograph in it satisfactorily identifies the bearer, all data therein are free from corrections, cross-outs, deletions, additions, etc., there is no evidence of photograph replacement, all stamps and seals affixed thereto are clear, the photograph is a good likeness of the bearer and its validity has not expired.

In the process of identification of asylum seekers among personal documents are accepted and number of other documents, such as birth certificate, marriage certificate, death certificate of relatives of the applicant, diploma, document for the health condition of the applicant, other student or staff cards etc. Due to specific nature of the protection granting proceedings it is not permitted information for persons seeking or granted protection to be collected from institutions, organizations or the missions of the State of origin.

The Ministry of Interior exchanges information with the State Agency for National Security and the State Agency for Refugees in connection with the issuing of Bulgarian personal documents to foreigners who seek or have been granted protection, and for the purpose of conduct of proceedings for the grant of special protection under the Asylum and Refugees Act.

The data from the visa issuance information system may also be used for the purposes of asylum granting, as well as by the authorized competent national authorities or Member State authorities for the prevention, uncovering and investigation of terrorist acts and crimes specified in Article 36, Paragraph 1 of the Extradition and European Arrest Warrant Act. The rules of access to the data is set by an Act of the Council of Ministers.

A Single Register of Foreigners has been maintained at the Ministry of Interior, containing data regarding foreigners residing in Bulgaria on a prolonged, long-term and permanent basis.

For the purposes of executing the functions established by law for the Services for administrative control of foreigners under the Ministry of Interior, data concerning the following are processed:

1. visa control of foreign citizens;
2. border control for crossings by foreign citizens;
3. citizens seeking or having obtained special protection on the territory of the Republic of Bulgaria;
4. address registration of foreigners on short stay;
5. any administrative penalties and measures of administrative coercion imposed on foreigners;
6. acquisition, loss and restoration of Bulgarian citizenship.

Services for administrative control of foreigners under the Ministry of Interior process the following data:

1. cyrillised and romanised names, date of birth, place of birth, gender, citizenship;
2. single civil registry number and/or personal number of a foreigner;
3. permanent address in the Republic of Bulgaria;
4. present address in the Republic of Bulgaria;
5. document for travel (type, series, number, date, place of issue and validity term);
6. purpose of stay in the Republic of Bulgaria;
7. visa (type, number, date and place of issue and validity term and term of stay);
8. grounds on which stay in the Republic of Bulgaria is permitted;
9. applications for authorisation of long-term residence (number, date, decision);
10. decisions for granting special protection on the territory of the Republic of Bulgaria (date and number)
11. term of stay in the Republic of Bulgaria;
12. marital status;

13. spouse;
14. children aged up to 18 years;
15. permanent address in the country of which the person is a citizen;
16. decree of the President of the Republic of Bulgaria on change of citizenship;
17. entries in and exits from the Republic of Bulgaria;
18. host;
19. tourist vouchers;
20. profession and place of work;
21. imposed measures of administrative coercion;
22. ex officio data;
23. biometric data - photographs and 10 fingerprints.
24. other data as specified in a law.

The State Agency for National Security is using the information from the register for purposes of discharge of its statutory functions in accordance with a procedure determined by the Minister of Interior and the Agency Chairperson.

During the procedure photocopies of documents are accepted, but information from them carries little weight if not confirmed also by other sources.

In case of contradiction the photocopy of the document is not taken into account.

Difficulties in determining the veracity and authenticity of the submitted documents stem from the lack of well-trained experts and the high prices of expertise.

Furthermore the development of new technologies allows counterfeit or forged documents to be produced moreover with very high quality, which are difficult to distinguish from the originals.

In proceedings for granting international protection all relevant facts and circumstances are important. Therefore together with personal data of the applicant – name, date and place of birth, sex, citizenship, of importance in the identification of the applicant are also his/her religion, his/her belonging to a particular social group or political opinions and convictions, marital status, residence, etc

***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.*

If applicants for international protection have to be returned, because they have received a negative decision, the national authorities in the presumed countries of origin prefer to accept not counterfeit or forged documents but original document that has been issued in accordance with the terms and procedures established by the law of the respective country.

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

*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:  
Part of the practice.
- Return of rejected applicants for international protection:  
Part of the practice.

### *ii) Age assessment to determine probable age<sup>9</sup>*

- Applicants for international protection:  
In case when applicants claim to be less than 18 years old and this isn't evident.

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<sup>9</sup> EMN NCPs are asked to update the information provided through the EMN Comparative EU Study on Unaccompanied Minors. EMN (2010), *Policies on Reception, Return and Integration arrangements for, and numbers of, Unaccompanied Minors*, European Migration Network, May 2010. The EMN Synthesis Report, as well as the 22 National Reports upon which the synthesis is based, are available from <http://emn.sarenet.es/Downloads/prepareShowFiles.do?directoryID=115>.

- Return of failed/Return of rejected applicants for international protection:  
The Services for Administrative Control of Foreigners in the Republic of Bulgaria can use the data received from the State Agency for Refugees.

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

**National Database**

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

**European databases**

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

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

**National Database**

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

**European databases**

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

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

**National Database**

- Applicants for international protection:  
[Yes/No, obligatory, part of standard practice or optional]
- Return of rejected applicants for international protection:  
[Yes/No, obligatory, part of standard practice or optional]

**European databases**

- Applicants for international protection:

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

- Return of rejected applicants for international protection:

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

**vi) DNA analysis**

- Applicants for international protection:

It's not compulsory, in very rare cases.

- Return of rejected applicants for international protection:

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

**vii) Interviews to determine probable country and or region of origin (or other elements of identity, such as faith and ethnicity)<sup>10</sup>**

- Applicants for international protection:

Part of the standard practice

- Return of rejected applicants for international protection:

Part of the standard practice

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

- Applicants for international protection:

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

- Return of rejected applicants for international protection:

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

***If possible, outline briefly the rationale behind the method(s) indicated above used in your (Member) State, e.g. why some method(s) been used in preference to others, is there a hierarchy or order of methods followed, any research conducted providing evidence of the method's reliability.***

The identification documents of the foreigner having applied for granting a protection are taken and kept in the State Agency for Refugees until the conclusion of the proceedings by an enacted decision. Officials of the State Agency for Refugees search the applicant, inspect the belongings carried by him, photograph him and take fingerprints and other identifying signs under the conditions and by the order

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<sup>10</sup> This would depend on the elements included in your national definition of "identity" used within the procedures covered by this Study. See Section 2.1.

determined by the Law for the Ministry of Interior and subject to respecting the dignity of the foreigner.

Fingerprints and other identification signs, as well as foreigner's personal data may be used in case of information exchange with other states for the purposes of the proceedings, having the foreigner informed thereof.

During the proceedings the applicant is obliged to submit all of his/her and of the accompanying minor and underage documents which can serve for establishing their identity and citizenship, as well as the way of their movement and entry in the Republic of Bulgaria. If applicants don't have documents he/she certifies his/her identity, the date and the place of birth, his/her family status, as well as those of the accompanying minor and underage children, through a declaration before an official for the correctness of which he shall bear criminal responsibility according to art. 313 of the Penal Code.

With each applicant for international protection special interviews are conducted that establish identity and clarify all the facts and circumstances relating to his/her application for protection. This is stipulated in the Law for Asylum and Refugees and in the Internal rules of the procedure for granting protection.

Upon registration a date for holding an interview is set. The applicant, having filed an application for a status, is notified in due time about the date of each subsequent interview. The applicant is obliged to present his/her evidences prior to pronouncing on his/her application, whereas provided that he/she fails to present such, the pronouncing will take place without those evidences.

An interview of the applicant has to be held, and a respective record has to be kept. If required, for the purposes of the respective proceedings the interviewing body may hold additional interviews.

A foreigner, having filed an application for a status, upon a declared by him/her wish will be interviewed by the interviewing body or a translator, respectively by an interpreter of the same sex.

The interview has to be held in a stated by the foreigner language. Where this is not possible, the interview will be held in a language, which it can be deemed, that the foreigner speaks.

The record has to be read up to the applicant and to be signed by him/her, by the

translator, respectively by the interpreter, and by the interviewing body.

It is a standard practice to conduct interviews, asking additional questions related to the peculiarities of the country and the region in which the person claims to have originated, as well as other questions testing the stated by the foreigner.

After analyzing data from interviews and other collected evidence conclusions are drawn about his/her identity and authenticity of his claims.

### Section 3

#### Decision-making Process

*(National Contribution: Maximum 3 pages)*

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

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

*On the basis of the information gathered by the methods outlined in Section 2, how then is a decision on identification made, e.g. are some methods given more weight on their reliability than others; does there need to be consistency between the results from some of the methods used? Briefly outline whether the results from the different methods will have different status and/or will be given different weights, and whether this is laid down in legislation, policy or practice guidelines.<sup>11</sup>*

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

The methods used in the activity of the responsible authorities as the State Agency for Refugees and the Services for Administrative Control of Foreigners in the Republic of Bulgaria – Migration Directorate at the Ministry of Interior, are: taking fingerprints of applicants and introducing and comparing them in the national and European databases, self-declaration, interview, asking additional questions related to the peculiarities of the country and the region in which the person claims that he/she originates, language analysis, age assessment based on x-ray of the wrist bone etc.

The process of the identity establishment of persons seeking international protection is a complex of several elements.

Greatest weight is given to the valid ID or other valid documents presented by the applicant. In absence of such documents the identity of the person is established by

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<sup>11</sup> Member States may differ significantly in how they deal with applicants for international protection whose statements regarding their identity are not supported by valid documentary evidence, not only in the methods they can or should use, but also in the weight they give to the outcomes of some methods. The aim, therefore, is to highlight these differences, should they exist.

declaration.

The applicant declares the date and the place of birth, his family status, as well as those of the accompanying minor and underage children, through a declaration before an official for the correctness of which he/she shall bear criminal responsibility according to art. 313 of the Penal Code.

During the administrative procedure also the opinion of the translator on the dialect of the applicant is taken into account. The assessment of the interpreter is not a method to identify the person, but it is an important indicator in the process.

Particularly important is the analysis of information gathered by asking control questions during the interview with the foreigner

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

### **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”?***

***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?***

Applications for granting a status is considered by the State Agency for Refugees, whereas a consideration for granting a status of a refugee is carried out in the first place. Provided that a refugee status is not granted, the necessity of granting a humanitarian status is considered.

Within three months for institution of proceedings by the general order the Chairman of State Agency for Refugees takes a decision by which he/she:

1. provides a refugee status;
2. refuses a refugee status;
3. provides a humanitarian status;

4. refuses a humanitarian status.

For pronouncement on the application for a status all relevant facts are assessed, related to applicant's personal situation, to his/her state of origin or to third states. Where applicant's statements are not supported by evidences, they are deemed valid, if he/she has made efforts to substantiate the application and has provided satisfactory explanation about the lack of evidences. The lack of enough data for persecution cannot be a reason for refusal of providing status.

The Chairman of the State Agency for Refugees, in case of insufficiency of the gathered data for the concrete case can extend the period up to three months, whereas the foreigner is advised personally or by an acknowledged receipt notification.

According to Art.13 of the Law for Asylum and Refugees, the application of a foreigner for conceding status of a refugee or a humanitarian status can be rejected as obviously ungrounded when the conditions of Art. 8, par. 1<sup>12</sup> are not present, **and** the applicant presents himself by a false identity or uses false, forged document or document with untrue contents for which, during the proceedings, he continues to claim that they are genuine; deliberately, verbally or in writing, he/she presents untrue, or withholds a substantial information regarding his/her case; unscrupulously destroys, damages or disposes with a passport, other document or a ticket related to his assertion in order to present himself with a false identity or to embarrass the considering of the request; has not provided information, allowing to identify with a sufficient confidence his/her identity or citizenship; refuses to fulfil his/her obligation to have his/her fingerprints taken.

### **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”?***

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<sup>12</sup> Art. 8. (1) (prev. art. 8 – SG 31/05; amend. and suppl. – SG 52/07) Status of refugee in the Republic of Bulgaria shall be provided to a foreigner who has valid reasons to fear from victimisation due to his race, religion, nationality, belonging to a definite social group or political opinion and/or conviction, who is outside the country of origin, and for this reason he cannot or does not want to use the protection in this state or return to it.

Yes, the return could be postponed if the data should be checked again or supplemented by other sources.

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

***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.***

For the purpose of identification and subsequent acquisition of travel documents, Migration Directorate makes use of already available information collected respectively by the State Agency for Refugees or by Border Police, but expands and complements it in the frame of the interviews held with foreigners and using the available information in the databases used normally by the Directorate.

***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.***

## Section 4

### Conclusions

*(National Contribution: Maximum 2 pages)*

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

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

The procedure in the Republic of Bulgaria for establishing identity is stipulated in the national legislation. There are strategic documents in the field. The National Strategy of the Republic of Bulgaria in the field of migration, asylum and integration (2011-2020) and the Strategic Programme for integrated Management of Return (2011-2013) define the main priorities and goals of the Republic of Bulgaria in the field of asylum and return, outline measures for increased effectiveness of the competent structures engaged in the process and for overcoming the administrative barriers to the implementation of the return procedures. The Programme covers all the groups of persons, institutions and organizations that it is relevant to.

There is a good interaction between the institutions with competencies in the field and an effective coordination is a fact. A Decree for the responsibility and coordination of the State authorities of the Republic of Bulgaria in the field of asylum and return was adopted. The Decree treats the interaction between MoI (Border Police, Migration Directorate, Research Institute for Forensic Science and Criminology) and State Agency for the Refugees at the Council of Ministers, stating that the two institutions engage in joint actions and information exchange while performing their functions.

Concerning coordination with NGOs - in 2007 agreements between Ministry of Interior, in particular Migration Directorate and the Bulgarian Helsinki Committee, Bulgarian Red Cross, Caritas Bulgaria and Assistance Centre for Torture Survivors – ACET were signed. The Parties under these Agreements had stated their readiness for partnership, cooperation and coordination of the efforts and resources for performing joint actions; support the migration policy as a part of the European policy in the migration area for following the objectives and for fair treatment of the third country nationals, as well as for improved management of the migration flows. The aim is to

strengthen the interaction for implementing activities on humanitarian support, consulting and return to the countries of origin or safe third countries.

There is a need of more regular and detailed statistics in the field of establishing identity and forced return of rejected applicants for protection in order to examine the process. According to the figures there are a relative small number (3) of unsuccessful forced returns in the period 2007 - 2011 because of the not sufficient identity establishment of rejected applicants for international protection. In the period January – June 2012 the percentage of the applicants submitting personal documents at the lodging of application in the beginning of the procedure is 44.2%.