



CZECH
REPUBLIC

CHALLENGES AND PRACTICES FOR ESTABLISHING APPLICANTS' IDENTITY IN THE MIGRATION PROCESS

TABLE OF CONTENTS

COMMON TEMPLATE	3
THE CONTRIBUTION OF THE CZECH REPUBLIC	31
INTRODUCTION	32
Section 1 THE NATIONAL FRAMEWORK	37
Section 2 METHODS FOR ESTABLISHING IDENTITY	62
Section 3 DECISION-MAKING PROCESS	94
Section 4 DATABASES AND DATA PROCEDURES	101
Section 5 DEBATE AND EVALUATION	108
Section 6 CONCLUSIONS DRAWN FROM THE NATIONAL CONTRIBUTION	109
ANNEX 1	113
ANNEX 2	116

COMMON TEMPLATE

1 STUDY AIMS AND RATIONALE

1.1 STUDY AIMS

The **overall aim** of the Study is to offer an overview of the important challenges faced by national authorities in their efforts to reliably establish and verify the identity of third-country nationals within the context of various migration procedures—namely those related to asylum, return and legal migration channels (including both short-stay and long-stay visas and residence permits) - and of national practices to address those challenges.

More specifically, the Study aims to:

- Identify **common challenges** concerning the establishment and verification of a third-country national's identity when processing applications for international protection, managing return procedures and handling applications for short and long stay visas and residence permits;
- Present available statistics on the **estimated scale** of the population of asylum applicants, irregular migrants and returnees lacking (reliable) identity documents, as well as the reasons why such statistics are not available or not published;
- Document (Member) States' **policies and practices** in addressing identity issues (including the lack of satisfactorily documented identity) in the handling of migration procedures;
- Map (Member) States' approaches to establish the identity of third-country nationals in **situations of disproportionate migratory pressure** at the external borders or on the national territory, including under the EU 'Hotspot' approach;

- Gain an insight into the use of **innovative technologies and methodologies** (including e.g. biometrics, databases and language analysis) to support identification and identity verification processes;
- Uncover any recent **changes in identity management policy and practice**, in particular in those (Member) States affected by the increasing number of arrivals within the context of the European migrant and asylum crisis;
- Identify possible steps towards **further joint actions** in this area to make (Member) States' efforts more effective;

The Study will update and supplement the 2013 EMN Study on '[Establishing Identity for International Protection: Challenges and Practices](#)', especially in light of the application of the recast Directives on Qualification for international protection¹ and Asylum Procedures,² the experiences gained by some (Member) States since 2014 from handling higher numbers of asylum seekers and irregular migrants and the use of new identity management technologies and techniques. The Study will also explore identity management issues emerging within the context of legal migration channels, a thematic area which was not addressed in the 2013 EMN Study.

1.2 TARGET AUDIENCE

The **target audience** of the Study consists of national and EU officials/practitioners concerned with asylum, return and legal migration channels, and in particular with the establishment and verification of the identity of the third-country nationals concerned.

¹ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) , OJ L 337, 20.12.2011.

² Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L 180, 29.6.2013.

The results of the Study will assist the target audience in taking informed decisions on the need (or not) to introduce modifications to current policies and practices used to establish and verify the identity of third-country nationals within the context of migration procedures.

1.3 RATIONALE

Identity management in migration procedures has become ever more crucial in recent years in light of the increase in the number of applications for international protection since 2014/2015 and of current security challenges. The ability to unequivocally establish the identity of a third-country national is of key importance when considering applications for visas to legally enter the Member State both for short and long stays, or for asylum following irregular entry, as well as for the return of irregular migrants to third countries. It is also essential to ensure that vulnerable persons such as unaccompanied minors have access to adequate standards of care. Moreover, effective identity management policies and practices are a prerequisite not only for the proper functioning of the migration and asylum system but also for maintaining the citizen's trust in their integrity and reliability.³

Many applicants for international protection cannot provide documents substantiating their identity. Those who flee persecution often do not have the possibility to take identity documents with them when leaving their country of origin. Some of those who apply for protection may not want to reveal the identity by which they are known to the authorities in the country of origin, for valid fears or other reasons. It also appears that in some cases migrants are advised to destroy their identification documents upon arriving in the EU. Moreover, when third-country nationals do provide identity documents as part of their application for international protection, these documents are sometimes considered

³ For a reflection on these issues, see the Introduction to the proceedings of the Conference 'The Establishment of Identity in the Migration Process', Vienna (Austria), 2 May 2016, available at: <http://www.emn.at/en/national-emn-conference-austria-the-establishment-of-identity-in-the-migration-process/> [last accessed on 20 March 2017]

false or otherwise invalid by the responsible authorities in the (Member) States. These issues clearly limit the authorities' ability to assess the validity of the applicant's claims and to make decisions on their asylum cases. Without establishing the identity of an asylum seeker it can be very difficult for the authorities to determine the credibility of their asylum claim, and also whether responsibility for assessing such application lies with the (Member) State where this has been lodged in accordance with the rules governing the Dublin system.

These challenges are compounded by the surge in the number of asylum applications in recent years, especially since 2014/2015. Based on statistics provided to Eurostat, the number of applications for international protection more than doubled between 2009 (287,000) and 2014 (662,000), with a sharp increase witnessed especially since 2013. In 2015, more than double the number of applications for asylum were lodged compared to 2014, reaching a total of 1.39 million applications. At 1.26 million, the number of asylum applications remained similar in 2016.⁴ Against this background, establishing the identity of individual applicants for international protection often takes place in the face of the elevated migratory pressures manifested in very high numbers of migrants arriving in the EU irregularly. The EU has established the '**Hotspot' approach** to provide operational support to the Member States concerned, in particular in relation to the registration and identification processes.

In circumstances where the person's age is in doubt, **age assessment** constitutes an element of the identification procedure that the authorities may need to undertake. Establishing whether an individual is an adult or a child is essential to ensure that children are afforded the protection they are entitled to by law and also to prevent that adults are placed among children and have access to rights and services which are not

⁴ Eurostat, 'Asylum Statistics (Data extracted on 2 March 2016)', available at: http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics [last accessed on 12 March 2016].

intended for them.⁵ Over 96 thousand unaccompanied minors (UAMs) applied for asylum in the EU in 2015, with Sweden receiving around 36% of them.⁶ The Study will review the age assessment procedures followed by the (Member) States for UAMs when the date of birth is not credibly documented.

The Study also addresses the challenges associated with identity determination in the context of the **return of rejected applicants for international protection**, i.e. those who receive a negative decision, or who have exhausted or abandoned the asylum procedure. This group will be referred to in short as “rejected applicants” for international protection or “rejected asylum seekers”. It is widely recognised that an efficient return policy is needed to safeguard the integrity of the common asylum procedure. However, effective returns are often complicated by the fact that only a small minority of applicants for international protection hold (valid) identity documents. In the absence of valid proof of identity, it is not possible to return rejected asylum seekers to their assumed country of origin since this may not then accept the person. While an important distinction exists between assisted (voluntary) and forced return of rejected applicants for international protection, this Focussed Study only addresses the regulations and procedures which exist in relation to forced return.

Identity management tasks are also performed at the Member States’ embassies and consulates abroad. In 2015 almost 15.5 million applications for Schengen visas were processed at EU consulates in third countries and over 14 million visas were issued (up from around 12 million in 2011).⁷ Unlike in the asylum and return procedures, where credible iden-

⁵ EASO, ‘Age assessment practice in Europe, December 2013’, available at: <https://www.easo.europa.eu/sites/default/files/public/EASO-Age-assessment-practice-in-Europe1.pdf>, last accessed on 24 March 2017.

⁶ See Eurostat, ‘Asylum applicants considered to be unaccompanied minors by citizenship, age and sex Annual data (rounded)’, [migr_asyunaa], available at http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyunaa&lang=en, last accessed on 24 March 2017, last accessed on 24 March 2017.

⁷ See the Complete statistics on short-stay visas issued by the Schengen States available from the European Commission website at https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/visa-policy_en#stats, last accessed on 5 April 2017.

tity documents are often lacking (see above), visa applicants are under a strong obligation to establish their identity by presenting a valid travel document. In order to ascertain whether the person concerned meets entry conditions, the competent consulate is responsible for verifying the authenticity of the travel document presented. However, before the Visa Information System (VIS) was in operation in November 2015, (Member) States faced important difficulties in ascertaining whether a visa applicant was using a false identity to obtain a Schengen visa.⁸

For stays longer than three months, third-country nationals should obtain a **long-stay visa and/or a residence permit** for the purposes of work, study or family reunification. Applicants for long-stay visas and/or residence permits are also required to provide credible and verifiable documentation of their identity,⁹ and to satisfy the other conditions applicable for the granting of the visa or permit. As in other migration procedures, however, the need to verify this documentation and link it to the applicant creates challenges for the responsible authorities. Moreover, the EU rules on free movement within the Union mean that this is not only a national concern but one in which national capacities and practices have consequences for all (Member) States.

The Study will also look into the **technical solutions and methodologies** used by the Member States to support the identification process. Identity management is an area where technical innovations are occurring

⁸ European Commission, Commission Staff Working Document, ‘Evaluation of the implementation of Regulation (EC) No 767/2008 of the European Parliament and Council concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) / REFIT Evaluation’, SWD(2016) 328 final, 14.10.2016.

⁹ A partial exception to this rule concerns family reunification. While in family immigration cases the obligation for the applicant to establish and clarify the identity of the applicant is also stronger than in the asylum procedure, if it is impossible to get the requisite documents, the authorities may resort to other means in order to identify the person and ascertain the family relationship. See Oxford Research, ‘Comparative study of ID management in immigration regulation – Norway, Sweden, the Netherlands and United Kingdom’, 2013, available at: <https://www.udi.no/statistikk-og-analyse/forskning-og-utviklingsrapporter/comparative-study-of-id-management-in-immigration-regulation.-norway-sweden-the-netherlands-and-united-kingdom-2013/>, last accessed on 5 April 2017.

at a fast pace. To support the identification of third-country nationals in the immigration process, the EU has three main centralised information systems (i) the Schengen Information System (SIS) with a broad spectrum of alerts on persons and objects, (ii) the Visa Information System (VIS) with information on short-stay visas, and (iii) the EURO-DAC system with fingerprint information of applicants of international protection and third-country nationals who have crossed the external borders irregularly. All three systems work on the basis of biometric technology, whereby unique identifiable attributes of people are used for identification and authentication.¹⁰ In addition, at the national level Member States use various methods to help establish migrants' identity or, at the very least, their nationality, such as language analysis and interviews.

2 SCOPE OF THE STUDY

2.1 IDENTITY MANAGEMENT TASKS COVERED

The Study examines (Member) States approaches to establish the identity of third-country nationals within the migration process in a broad sense, covering both identification and identity verification related tasks:¹¹

- **Identification:** Identification procedures and systems (e.g. biometric systems) are different from identity verification systems in that they seek to identify an unknown person or biometric. The identification procedure/ system aims to answer the question: "Who is this person?" Biometric identification systems are characterised as 1-to-n matching systems where n is the total number of biometrics in the database against which the person's biometric characteristics are checked.

¹⁰ Biometric institute: Definition of biometrics, available at: <http://www.biometric-institute.org/pages/definition-of-biometrics.html>, last accessed on 24 March 2017.

¹¹ See for example, BiometricUpdate.com: 'Explainer: Verification vs. Identification Systems', available at: <https://www.biometricupdate.com/201206/explainer-verification-vs-identification-systems>, last accessed on 24 March 2017.

- **Identity verification:** Identity verification procedures and systems seek to answer the question: "Is this person who they say they are?" Biometric verification systems are generally described as 1-to-1 matching systems because they try to match the biometric presented by the individual against a specific biometric already on file.

2.2 MIGRATION PROCEDURES COVERED

The Study will address identity management issues within the context of the following migration procedures:

- Asylum procedure;
- Return procedure;
- Legal migration channels:
 - > Applications for short-stay visas;
 - > Applications for long-stay visas/ residence permit for study, work and family purposes.

Identity management issues related to naturalisation procedures are outside the scope of the Study.

3 EU LEGAL AND POLICY CONTEXT

3.1 COMMON EUROPEAN ASYLUM SYSTEM

The **Common European Asylum System (CEAS)** requires inter alia Member States: "to verify the identity of the applicant in order to produce a legally correct decision based on the facts and circumstances in the individual case". More specifically, Article 4 paragraph 2 (b) of

the **Recast Qualification Directive**¹² introduces a duty for Member States to assess the identity of asylum seekers, while Article 13 of the **Recast Asylum Procedures Directive**¹³ imposes an obligation upon applicants to cooperate with the competent authorities with a view to establishing their identity.

The **Dublin III Regulation**¹⁴ establishes the rules for determining which Member State is responsible for examining an application for international protection that has been lodged in one of the Member States by a third country national or a stateless person. The Dublin III Regulation is complemented by the EURODAC Regulation (EU) No. 603/2013,¹⁵ which set up an EU asylum fingerprint database in order to establish the identity of applicants for international protection and of persons apprehended crossing the external border irregularly. EURODAC facilitates the application of the Dublin III Regulation by providing fingerprint evidence to facilitate the determination of the (Member) State responsible.¹⁶

¹² Directive 2011/95/EU, op. cit. (see footnote 1 above)

¹³ Directive 2013/32/EU, op. cit. (see footnote 2 above)

¹⁴ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast), OJ L 180, 29.6.2013.

¹⁵ Regulation (EU) No 603/2013 of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (recast), OJ L 180, 29.6.2013.

¹⁶ European Commission, 'Identification of applicants (EURODAC)', available at: https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/identification-of-applicants_en, last accessed on 24 March 2016.

The Dublin system (Dublin III Regulation and EURODAC Regulation) is currently undergoing a process of reform, as proposed by the European Commission in May 2016.¹⁷

3.2 RETURN

The **Return Directive** sets out common EU standards and procedures on voluntary and forced return of illegally staying third-country nationals.¹⁸ Although not bound by these provisions, Ireland and the United Kingdom provide in their policy for the possibility of voluntarily returning irregular migrants. Iceland, Liechtenstein, Norway and Switzerland while not members of the EU, implement the Return Directive as part of the Schengen acquis.

Within the framework of the Return Directive, identity management issues emerge in relation to Article 15, which establishes the grounds for detention. According to this provision, Member States may keep in detention a third-country national who is subject to a return procedure in order to prepare the return and/or carry out the removal process when there is a risk of absconding or when the third-country national concerned avoids or hampers the preparation of return or the removal process. The Return Handbook further elaborates on the criteria used at the national level to assess the whether a risk of absconding exist. Among others, these include lack of documentation and the absence of cooperation to determinate identity.¹⁹ The Handbook clarifies, however, that 'the length of the initial apprehension period during which suspected irregular migrants may be kept in detention should be brief but reason-

¹⁷ Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast), COM (2016) 270 final, 4.5.2016.

¹⁸ 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, OJ L 348, 24.12.2008.

¹⁹ Return Handbook, point 1.6, p.11.

able for the purpose of identification', as stated in the answer provided by the Court of Justice of the European Union in Achughbabian.²⁰

3.3 EU 'HOTSPOT' APPROACH

Following the unprecedented migration flows registered in 2015, the European Commission proposed to develop a new 'Hotspot' approach. **Hotspots** are located in frontline Member States facing disproportionate migratory pressure and are designed to help national authorities 'swiftly identify, register and fingerprint incoming migrants.'²¹ Member States' authorities are supported on the ground by officers from EU Agencies, including the European Asylum Support Office (EASO), EU Border and Coast Guard Agency (Frontex), the EU Police Cooperation Agency (Europol) and EU Judicial Cooperation Agency (Eurojust). Currently, the Hotspot approach is being implemented in Italy and Greece. Other Member States can request the set-up of Hotspots on their territory.²²

As regards the identity management related tasks carried out in Hotspots, these are mainly undertaken by Frontex, who supports Member States in identifying migrants (including by performing 'nationality screening') and provides assistance with registration and fingerprinting. Identification and registration is undertaken by Frontex Joint Screening Teams and fingerprinting officers, while Joint Debriefing Teams are in charge of interviewing migrants and gathering intelligence on smuggling routes and networks.

²⁰ Alexandre Achughbabian c. Préfet du Val-de-Marne, C-329/11, European Union: Court of Justice of the European Union, 6 December 2011,

²¹ European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 'A European Agenda on Migration', COM(2015) 240, 13.05.2015.

²² Ibid.

3.4 PROCESSING OF SHORT STAY VISAS

The **Visa Code**²³ establishes the procedures and conditions for issuing visas for short stays in and transit through the Schengen States and applies to nationals of third countries that need a visa when crossing the external border of the Union, based on Regulation (EC) No 539/2001.²⁴ National authorities have to verify the admissibility of the application by checking the identity of the visa holder and the authenticity and reliability of the documents submitted. After performing this task, they must create an application file in the VIS, following the procedures set out in the VIS Regulation.²⁵

The **Visa Information System (VIS)** is the European information management system for the exchange of data on short stay visas between Schengen States. It consists of a central database, a national interface in each Schengen State and a communication infrastructure that enables to process data on visa applications and on visa issued, refused, annulled, revoked or extended. The system also performs biometric matching, primarily of fingerprints, for identification and verification purposes.²⁶

²³ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code), OJ L 243, 15.9.2009.

²⁴ Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, OJ L 81, 21.3.2001, p. 1-7.

²⁵ Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation), OJ L 218, 13.8.2008

²⁶ European Commission, VIS, available at: http://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/visa-information-system_en, last accessed on 24 March 2017.

3.5 FAMILY REUNIFICATION

The **Family Reunification Directive** aims to establish harmonised rules relating to the right of third-country nationals to be reunited with their family.²⁷ It applies to third-country nationals who have a residence permit valid for at least one year and who have a genuine option of long-term residence. The Directive sets the conditions and procedure for family reunification as well as rights to be granted to the family members of third-country nationals. In accordance with Article 5(2), an application for family reunification shall be accompanied, among others, by documentary evidence to prove the family relationship, and certified copies of the family member(s)' travel documents. The European Commission has noted that Member States have a certain margin of appreciation in deciding whether it is appropriate and necessary to verify evidence of the family relationship through interviews or other investigations, including DNA testing.²⁸

3.6 OTHER LEGAL MIGRATION CHANNELS

The **Single Permit Directive** establishes a single residence and work permit for third-country nationals who are seeking to be admitted to a Member State to stay and work or third-country nationals who are already residing in a Member State and have access to the labour market or are already working in a Member State.²⁹ It also defines a set of common rights to be offered to third-country nationals covered by the Directive.

²⁷ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, OJ L 251 3.10.2003.

²⁸ European Commission, 'Communication from the Commission to the European Parliament and the Council on guidance for application of Directive 2003/86/EC on the right to family reunification', COM(2014) 210 final, 3.4.2014.

²⁹ Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State, OJ L 343, 23.12.2011.

The **Students Directive** sets harmonised rules and conditions concerning the admission of third-country nationals to the Member States, for a period exceeding three months for the purposes of studies, pupil exchange, unremunerated training or voluntary service, as well as the minimum rights to be granted to those admitted.³⁰ The **Researchers Directive** introduces a special procedure governing the entry and residence of third-country nationals coming to carry out a research project in the EU for a period of more than three months.³¹

On 11 May 2016, the European Parliament and the Council of the EU approved amendments to the **Visa Directive** that harmonises entry and residence rules for non-EU students and researchers.³² The recast Visa Directive allows non-EU students and researchers to stay in the territory of the Member State for at least nine months after finishing their studies or research in order to look for a job or set up a business. It also grants them a right to move within the EU during their stay without having to file a new visa application when moving from one Member State to another, and provides a right to work for at least 15 hours a week during their studies. Researchers are entitled to bring their family members with them, and those family members will be allowed to work during their time in Europe.³³ Member States should transpose the Directive within two years of its entry into force, i.e. by 22nd May 2018.

³⁰ Directive 2004/114/EC <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32004L0114&from=EN>

³¹ Council Directive of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, L 375, 23.12.2004.

³² Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing, OJ L 132, 21.5.2016

³³ European Parliament, Press release (11 May 2016): New rules to attract non-EU students, researchers and interns to the EU, available at: <http://www.europarl.europa.eu/news/en/newsroom/20160504IPR25749/New-rule>, last accessed on 24 March 2017.

The **Blue Card Directive** applies to highly qualified third-country nationals seeking to be admitted for more than three months for the purpose of employment to the Member States, including their family members.³⁴ It sets the entry conditions, details the admission procedure and the lays down minimum rights to be granted.

The **Seasonal Workers Directive** applies to non-EU workers whose principal place of residence is in a non-EU country and who enter an EU Member State to work there temporarily.³⁵ The Directive requires each Member State to draw up a list of sectors that are dependent on seasonal conditions (for example, summer tourism and harvesting of certain crops). Member States were required to transpose the Directive by 30 September 2016.

The **Intra-corporate Transferees Directive** applies to third-country nationals and their families who are transferred by their company to work in one or more of its centres inside the EU for more than three months.³⁶ The Directive provides a mechanism by which the transferee can carry out his/her assignment in multiple EU Member States without interruption and without the need to re-apply for admission each time s/he moves country. Member States were required to transpose the Directive by 29 November 2016.

All the legal instruments regulating the legal migration channels specified in this subsection require the applicant to present a travel document and, in some cases, an application for a visa or a valid visa or, where applicable, a valid residence permit or a valid long-stay visa.

³⁴ Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, OJ L 155, 18.6.2009

³⁵ Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, OJ L 94, 28.3.2014

³⁶ Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer, OJ L 157, 27.5.2014

3.7 EU INFORMATION MANAGEMENT SYSTEMS

The absence of internal borders in the Schengen area requires strong and reliable management of the movement of persons across the external borders, including through robust identity management. As noted in subsection 1.3 above, the three main centralised information systems developed by the EU are the SIS, VIS and EURODAC, all of which support identity management in the migration process. A EU regulatory agency, **eu-LISA**, is responsible for the operational management of all three systems.³⁷

The **Schengen Information System (SIS)** allows the exchange of information between national border control authorities, customs and police authorities on persons who may have been involved in a serious crime.³⁸ It also contains alerts on missing persons, in particular children, as well as information on certain property, such as banknotes, cars, vans, firearms and identity documents that may have been stolen, misappropriated or lost. The second generation Schengen Information System (SIS II) entered into operation on 9 April 2013. The system enhanced the functionalities of the original SIS among others by including the possibility to enter biometric data (fingerprints and photographs).

The **Visa Information System (VIS)** allows Schengen States to exchange visa data.³⁹ It consists of a central IT system and of a communication infrastructure that links this central system to national systems. VIS connects consulates in non-EU countries and all external border crossing points of Schengen States. It processes data and decisions relating

³⁷ Further information is available at: <http://www.eulisa.europa.eu/AboutUs/MandateAndActivities/CoreActivities/Pages/default.aspx>, last accessed on 24 March 2017.

³⁸ See European Commission, 'Schengen Information System', available at: http://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen-information-system_en, last accessed on 24 March 2017.

³⁹ European Commission, VIS, available at: http://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/visa-information-system_en, last accessed on 24 March 2017.

to applications for short-stay visas to visit, or to transit through, the Schengen Area. The system can perform biometric matching, primarily of fingerprints, for identification and verification purposes. Among other aims, the VIS facilitates checks and the issuance of visas by enabling border guards to verify that a person presenting a visa is its rightful holder and to identify persons found on the Schengen territory with no or fraudulent documents. The VIS was progressively deployed to consulates in third countries across several pre-defined regions in a progressive manner on the basis of three criteria defined by Article 48(4) of the VIS Regulation: the risk of irregular immigration, the threats to the internal security of the Schengen States, and the feasibility for collecting biometrics from all locations in the respective region. The rollout to consulates was completed in November 2015.

EURODAC is a large database of fingerprints of applicants for international protection and irregular immigrants found within the EU whose primary objective is to serve the implementation of Regulation (EU) No. 604/2013 ('the Dublin Regulation') (see subsection 3.1 above). EURODAC also allows Member States' law enforcement authorities and Europol to compare fingerprints linked to criminal investigations with those contained in EURODAC, only for the purpose of the prevention, detection and investigation of serious crimes and terrorism and under strictly controlled circumstances and specific safeguards.

In April 2016 the European Commission published a **Communication on 'Stronger and Smarter Information Systems for Borders and Security'** to launch a reflection on how existing and future EU information management systems could enhance both external border management and internal security in the EU.⁴⁰

⁴⁰ European Commission, 'Stronger and Smarter Information Systems for Borders and Security', Brussels, COM(2016) 205 final, 6.4.2016.

4 PRIMARY QUESTIONS TO BE ADDRESSED

The primary questions to be addressed by the Study are:

- What are the main challenges, scale and scope of the issues faced by the (Member) States?
- What is the national framework and capacity for establishing the identity of applicants for international protection, visa and residence permits, including the legislative framework, organisational structure, methods and processes applied?
- How are decisions made with regard to cases of international protection where identity can at best be only partially determined?
- How do national authorities proceed regarding rejected applicants for international protection with an obligation to return, when evidence regarding identity is missing or scarce?
- How are identity management tasks approached in situations of disproportionate migratory pressure at the external borders or on the national territory, including under the EU 'Hotspot' approach?
- To what extent are there similar identity management practices in the (Member) States in relation to applications for long-stay visas/residence permits?
- What is the added value of innovative technologies in supporting the identification and identity verification processes?
- Has identity management policy and practice changed in the (Member) States in recent years, in particular in those affected by the increasing number of migrant arrivals?
- Are there any good practices in the (Member) States as regards identity management within the context of migration procedures?

5 RELEVANT SOURCES AND LITERATURE

Where relevant, your National Contribution may refer to, or incorporate information from the national contribution to the following **EMN Studies**:

- EMN Study on 'Policies on Reception, Return and Integration arrangements for, and numbers of, Unaccompanied Minors – an EU comparative study', May 2010;⁴¹
- EMN Study on 'Establishing Identity for International Protection: Challenges and Practices', February 2013;⁴²
- EMN Study on 'The Return of Rejected Asylum Seekers: Challenges and Good Practices', November 2016;⁴³
- EMN Study on 'Family reunification of third-country nationals in the EU', to be published in 2017.

⁴¹ Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/0_emn_synthesis_report_unaccompanied_minors_publication_sept10_en.pdf, last accessed on 27 March 2017.

⁴² Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/establishing-identity/0_emn_id_study_synthesis_migr280_finalversion_2002013_en.pdf, last accessed on 27 March 2017.

⁴³ Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn-studies-00_synthesis_report_rejected_asylum_seekers_2016.pdf, last accessed on 27 March 2017.

The detailed planning of the Study as well as the template for the national contributions will also take into account the information provided in (Member) States' replies to the following **EMN Ad-hoc Queries**:

- EMN Ad-Hoc Query on 'Control and verification of biometric data of biometric documents', requested by LU NCP on 16 September 2013;⁴⁴
- EMN Ad-Hoc Query on 'The mode of issuing the identity documents and resident permits', requested by BG NCP on 23 April 2014;⁴⁵
- EMN Ad-Hoc Query on 'Recent or planned developments in the field of identity documents and information systems', requested by EE NCP on 16 June 2014;⁴⁶
- EMN Ad-Hoc Query on 'Proof of identity regarding third-country nationals who apply for residence permit', requested by FR NCP on 18 June 2014;⁴⁷
- EMN Ad-Hoc Query on 'Member States' Experiences with the use of the Visa Information System (VIS) for Return Purposes', requested by the European Commission on 18 March 2016.⁴⁸

⁴⁴ Available at: https://www.udi.no/globalassets/global/european-migration-network_i/ad-hoc-queries/ad-hoc-query-on-control-and-verification-of-biometric-data-of-biometric-documents.pdf, last accessed on 27 March 2017.

⁴⁵ Available at: http://www.emn.fi/files/1177/Compilation_BG_AHQ_mode_of_issuing_of_identity_documents_and_residence_permits_WIDER.pdf, last accessed on 27 March 2017.

⁴⁶ Available at: http://emn.ee/wp-content/uploads/2016/02/577_emn_ahq_planned_developments_id_22september2014_en.pdf, last accessed on 27 March 2017.

⁴⁷ Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/residence/580_emn_ahq_proof_of_identity_18june2014_en.pdf, last accessed on 27 March 2017.

⁴⁸ Available at: http://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/ad-hoc-queries-2016.1042_com_ahq_on_member_states_experiences_with_the_use_of_the_visa.pdf, last accessed on 27 March 2017.

Other relevant sources include:

- Oxford Research, 'Comparative study of ID management in immigration regulation – Norway, Sweden, the Netherlands and United Kingdom', 2013;⁴⁹
- The Conference Proceedings of the AT EMN NCP Conference on 'The Establishment of Identity in the Migration Process', held on 2 May 2016;⁵⁰
- The national contributions and the conclusions of the IGC Workshop on Identity Establishment in Immigration Processing, held on 26–27 October 2016.

6 AVAILABLE STATISTICS**EU level**

The following statistics are available through **Eurostat**, and may be indicative of the scale of the issue:

- Number of asylum applications;
- Number of rejected asylum applications;
- Number of return decisions;
- Number of return decisions effectively carried out;
- Number of forced returns;
- Number of first residence permits, by reason:

⁴⁹ Op. cit. (see footnote 9 above).

⁵⁰ Op. cit. (see footnote 3 above).

- Number of first residence permits for family reasons;
- Number of first residence permits for study reasons;
- Number of first residence permits for the purposes of remunerated activity.

The EU also collects statistics on short-term **visas issued by the Schengen states**, including the following:

- Uniform visas applied for in Schengen States' consulates in third countries;
- Total uniform visas issued (including multiple entry visas) in Schengen States' consulates in third countries;
- Total uniform visas not issued in Schengen States' consulates in third countries.

National level

The Study also requests national-level data (see subsection 1.2 below), although EMN NCPs' feedback indicate that these data may be difficult to provide. Should the requested statistics not be available in their (Member) State, EMN NCPs are asked to indicate this and specify, to the extent possible, the reasons why this is the case.

7 DEFINITIONS

The following key terms are used in the Common Template. The definitions are taken from the EMN Glossary v4.0⁵¹ unless specified otherwise in footnotes.

⁵¹ Available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/docs/emn-glossary-en-version.pdf, last accessed on 24 March 2017.

The EU acquis does not give a definition of “identity.” Whilst, for the purposes of this study, identity is also understood to include a person’s nationality, more specific criteria used by the (Member) States are requested in Section 1.3. On the basis of the responses received, the Synthesis Report will then consider commonalities amongst the (different) definitions used. As a starting point, within the context of this Study, **identity** is defined as follows: “a unique set of characteristics related to a person such as name, date of birth, place of birth, nationality, biometric characteristics, etc. making it possible to individualize a person.” For a definition of **identification** and **identity verification**, see subsection 2.1 above.

Other relevant definitions are:

Applicant for international protection: is defined as “a third-country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken”.

Application for international protection: is defined as “a request made by a third-country national or a stateless person for protection from a Member State, who can be understood to seek refugee status or subsidiary protection status, and who does not explicitly request another kind of protection, outside the scope of Directive 2011/95/EU,⁵² that can be applied for separately”.

Asylum seeker: is defined in the global context as “a person who seeks safety from persecution or serious harm in a country other than their own and awaits a decision on the application for refugee status under relevant international and national instruments; and in the EU context as a person who has made an application for protection under the Geneva Convention in respect of which a final decision has not yet been taken.”

⁵² Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, OJ L 337, 20.12.2011.

Compulsory return: in the EU context is defined as “the process of going back – whether in voluntary or enforced compliance with an obligation to return to:

- one’s country of origin; or
- a country of transit in accordance with EU or bilateral readmission agreements or other arrangements; or
- another third country, to which the third-country national concerned voluntarily decides to return and in which they will be accepted. Synonym: Forced return

Forced return: is defined in the EU context as “the process of going back – whether in voluntary or enforced compliance with an obligation to return– to: one’s country of origin; or a country of transiting accordance with EU or bilateral readmission agreements or other arrangements; or another third country, to which the third-country national concerned voluntarily decides to return and in which they will be accepted.”
Synonym(s): compulsory return, removal, refoulement

Irregular stay: is defined as “the presence on the territory of a Member State, of a third-country national who does not fulfil, or no longer fulfils the conditions of entry as set out in Art. 5 of the Schengen Borders Code or other conditions for entry, stay or residence in that Member State”.

Rejected applicant for international protection: is defined as “a person covered by a first instance decision rejecting an application for international protection, including decisions considering applications as inadmissible or as unfounded and decisions under priority and accelerated procedures, taken by administrative or judicial bodies during the reference period”.

Residence permit: is defined as “any authorisation issued by the authorities of an EU Member State allowing a non-EU national to stay legally in its territory, in accordance with the provisions of Regulation 265/2010 (Long Stay Visa Regulation).”⁵³

Return decision: is defined as “an administrative or judicial decision or act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return”.

Return: is defined as “the movement of a person going from a host country back to a country of origin, country of nationality or habitual residence usually after spending a significant period of time in the host country whether voluntary or forced, assisted or spontaneous”.

Risk of absconding: is defined as “in the EU context, existence of reasons in an individual case which are based on objective criteria defined by law to believe that a third-country national who is subject to return procedures may abscond”.

Third-country national: is defined as “any person who is not a citizen of the European Union within the meaning of Art. 20(1) of TFEU and who is not a person enjoying the Union right to free movement, as defined in Art. 2(5) of the Schengen Borders Code”.

Unaccompanied minor: is defined as “a minor who arrives on the territory of the Member States unaccompanied by the adult responsible for them by law or by the practice of the Member State concerned, and for as long as they are not effectively taken into the care of such a person. It includes a minor who is left unaccompanied after they have entered the territory of the Member States.”
Synonym(s): UASC, unaccompanied and separated child

⁵³ Regulation (EU) No 265/2010 of the European Parliament and of the Council of 25 March 2010 amending the Convention Implementing the Schengen Agreement and Regulation (EC) No 562/2006 as regards movement of persons with a long-stay visa, OJ L 85, 31.3.2010

In addition, the forthcoming EMN Glossary 5.0 (2017) includes the following entries that may be relevant:

Establishment of identity of individuals in international protection: is defined as “process which is commonly carried out on the basis of a review of documentary evidence, but which makes use of different procedures and methods e.g. a physical-technical examinations of the documents, investigations in the country of origin via the embassies, the taking of finger prints, speech-text-analysis and age assessment, when documentary evidence is inauthentic, inadequate, insufficient or absent.”

False and Authentic Documents Online: is defined as “a European Union internet-based image-archiving system set up to support the rapid sharing between EU Member States of images of genuine, false and forged documents in order to aid the combating of irregular migration and the use of fraudulent documents.”

Language analysis for the determination of origin: is defined as “analysis of mainly spoken, but also written, language as a method for helping to establish the nationality, region or ethnic origin of applicants for international protection.

Public Register of Authentic Travel and Identity Documents Online: is defined as “a reference database containing information about authentic travel and identity documents and other important documents issued by authorities from EU Member States and Schengen countries and some third countries.”

THE CONTRIBUTION OF THE CZECH REPUBLIC

INTRODUCTION

a) Establishment of identity in international protection proceedings

As concerns establishment of identity in international protection (IP) proceedings, the situation has recently not changed in essence.

The Asylum Act (No 325/1999 Coll.), as amended, is the main legislation applied over the entire course of international protection proceedings.

The matter of establishment of the identity of applicants for international protection at national level is paid considerable heed to during the application examination process. Complications during decision making are due mostly to the impossibility of contacting the foreign national's country of origin. In some cases, identity may be compared using the EURODAC system, if such person has already applied for international protection in a different EU country bound under the Dublin Regulation and presented authentic identity documents in that country.⁵⁴ To some extent, identity may also be established also in persons who have had a previous authorised stay in the Czech Republic (CR) and so the information system already contains their data, including their photograph

⁵⁴ From the point of view of establishment of identity, information from Eurodac is merely supplementary, i.e. it involves comparison of information established to date concerning a person and their identity. In practice and according to the law, identity is established during proceedings strictly on the basis of valid national identity documents with a photograph or, in the absence of such documents, by statutory declaration.

from earlier residence permits, or if respective persons have committed a crime and therefore their fingerprints are in the AFIS (a fingerprint identification system). Failure to establish identity in itself, however, does not constitute grounds for rejection of an application for IP.

b) Establishment of a foreign national's identity in forced returns in general

The issue of establishment of identity of former applicants for IP subject to forced return discussed in the study is not relevant to the CR since refusal to grant IP does not automatically lead to forced return. In the event of refusal to grant the IP, the foreign national receives an order to leave mostly valid for a period 30 days during which he/she must leave the territory. If he/she fails to do so and is discovered in the territory, the Foreign Police Service Directorate (FPSD)⁵⁵ addresses his/her forced return.⁵⁶ The FPSD does not hold a record of whether the foreign nationals who are to be returned had previously been applicants for IP. Unsuccessful applicants for IP are no longer governed by the international protection regime and, bar one exception (foreign nationals who have applied for voluntary return to their country of origin)⁵⁷, are subject fully to the Act on Residence of Foreign Nationals (Act 326/1999 Coll.). When we talk of **forced returns in this study, this does not necessarily concern former applicants for international protection. The group of people described here (including amongst others former applicants for IP) who, regardless of lacking authorisation to stay and being obligated to leave the**

⁵⁵ A unit of the Police of the Czech Republic with nationwide jurisdiction.

⁵⁶ This study involves "only" forced returns, and not voluntary. In the case of voluntary returns, the embassy of the state of origin is also involved in the process of establishing the identity of former applicants for IP who have applied to be returned to their country of origin by the legally stipulated deadline (an application for establishment of the identity of the foreign national is sent to the said embassy).

⁵⁷ For the purposes of healthcare services, accommodation, meals and other essential services, a foreign national who has lodged an application for voluntary return is treated as an applicant for international protection until such time as he/she departs the country or until the Ministry issues a notice that the Ministry will not cover expenses connected with voluntary return (Section 54a of Act 325/1999 Coll.)

territory, have remained in the territory of the Czech Republic, and therefore the Czech Republic applies forced return to them.

Detention of such foreign nationals takes place only after repeated failure to meet the stipulated conditions.

When establishing the identity of a foreign national detained for the purpose of forced return, the FPSD proceeds according to the Act on Residence of Foreign Nationals (326/1999 Coll.). It should be added that establishment of identity is greatly dependent on the degree to which the foreign national cooperates during the identity establishment process and his/her willingness to provide full and true information, which is an essential condition for successful completion of the identity establishment process. If establishment of identity and issuance of a travel document proves impossible, return of the foreign national, either forced or voluntary, is impossible to implement.

c) Establishment of a foreign national's identity in proceedings concerning short-term visas and long-term residence visas/permits (application made upon first entry)

This study also describes the area of establishment of identity for the purposes of short-term visas and long-term residence visas/permits (upon first entry to the country). With applications lodged at embassies, presentation of a forged/altered travel document is ground for rejection of an application for a short-term visa. In the same way, if the Foreign Police Inspectorate⁵⁸ at an international airport, as the authority responsible for issuance of short-term visas at a border crossing point, finds that an applicant for a short-term visa has failed to satisfy one or more of the conditions laid down in the Visa Code, or represents a threat to the Czech Republic or other Member States, such foreign national will not be granted a visa and usually proceedings are initiated to refuse him/her entry to the territory of the Czech Republic. The same rule applies for applications for long-term authorisation of stay (long-term visa or long-term residence permit) made at an Embassy

⁵⁸ Directly subordinate to the Foreign Police Service Directorate.

as for applications for a short-term visa, in other words presentation of a forged/altered travel document is always grounds for rejection of an application. Therefore, establishment of the identity of a foreign national for an application for long-term visa/permit is performed by the Embassy, while it is the Department for Asylum and Migration Policy of the Ministry of the Interior which decides on the basis of the findings provided by the Embassy.

Methodology and general information:

This report is based primarily on information and data provided by the International Protection Unit, the Integration Unit, the Unit for Migration Legislation, the Unit for Methodology and the Unit for Coordination of Schengen Cooperation and Protection of Borders of the **Department for Asylum and Migration Policy of the Ministry of the Interior** (hereinafter DAPS MoI); by the **Foreign Police Service Directorate and the Visa Department of the Ministry of Foreign Affairs**.

Many answers concerning the issue studied were divided into the following areas: a) international protection, b) forced returns for all foreign nationals without authorisation to stay and c) short-term visas and long-term residence visas/permits. In certain cases, the answers did not need to be divided in this way because of their general nature.

Actual "establishment" of identity for the purposes of IP proceedings are performed by DAPS MoI, the authenticity of identity documents is investigated by the Foreign Police, or alternatively by the Criminalistics Institute Prague. Establishment of the identity of detained foreign nationals is performed by the FPSD which is the central authority in this area. The identity of applicants for short-term and long-term visas and long-term residence permits is established by the consulates of Embassies of the Czech Republic upon receipt of an application, alternatively the Foreign Police Inspectorate at an international airport, as the authority responsible for issuance of short-term visas at a border crossing point.

The vital documents for the process of establishment the identity of an applicant in all migration processes is the **passport** or **identity card**.

Various methods are used to establish the accuracy of an applicant's claim concerning his/her identity, **depending on which process is involved**. This involves a method for establishing age (only for applications for IP), checking against relevant databases using biometric data, interviews with the applicant, cooperation with third countries (only for returns), etc.

As for the relative weight apportioned to each separate method, objectively verifiable information (finger prints, establishing age using RTG examination and data from the database) are afforded greater weight than the applicant's statement, etc. In the event of failure to establish the identity of the foreign national, it applies for the purposes of forced returns that if the identity of a person is not established by the Embassy of his/her state of origin, such person cannot be deported to his/her home country.

Section 1

THE NATIONAL FRAMEWORK

The aim of this Section is to provide an insight into the scale and scope of the issue at national and EU level, as evidenced by quantitative and qualitative information. The section will also analyse the extent to which the processes for establishing identity are laid down in legislation across (Member) States, and the institutional framework for these processes. Differences in the capacity of (Member) States to meet the challenges identified (e.g. in terms of having the (trained) human resources needed, being able to draw on expertise, access databases, or have a legal basis for using certain methods) will be presented.

CHALLENGES IN RELATION TO IDENTITY MANAGEMENT IN THE MIGRATION PROCESS (IN RELATION TO PROCEDURES ON INTERNATIONAL PROTECTION, RETURN, VISA AND RESIDENCE PERMITS)

Q1. Is the issue of establishing identity considered an issue/ challenge within the framework of the procedure for?

a) Considering the need for international protection?;

Establishing identity continues to remain challenging also in international protection proceedings. Responsible authorities have to deal with cases of denial of possession of travel documents, subsequent declarations by applicants concerning their real identity or applications for change of identity during proceedings or after termination thereof (granting of asylum or subsidiary protection), documents being presented with various excuses (fear when lodging application, worry for their relatives, past errors in name transcription at some time in the past, etc.). However, such cases do not occur on a mass scale. **Failure to establish identity does not make it impossible to issue an IP decision, i.e. it does not in itself constitute grounds for rejection of an application.**

b) Preparing for the forced return of a rejected applicant for international protection to their (presumed) country of origin?;

YES

*Note: It is necessary to point out that refusal to grant international protection and forced return are not directly linked to each other. **The asylum procedure in the CR is not connected to forced return procedure of the foreign national to the country of origin.** In the event of a refusal to grant IP, the foreign national concerned receives an return order (he/she is obliged to leave the territory). If he/she fails to do so, he/she may be detained by the FPSD. Detention occurs mostly only after repeated failure to satisfy conditions. For establishment of the identity of a detained foreign national for the purposes of forced return, the FPSD proceeds according to the Act on the Residence of Foreign Nationals (326/1999 Coll.). In the course of forced return⁵⁹ no record is made of whether such return concerned a former applicant for IP who did not obey the order to leave the country, or whether it concerned for example a foreign national whose authorisation to stay had expired and failed to leave the country.*

⁵⁹ This study concerns “only” forced returns, not voluntary. For voluntary returns, the Embassy of the applicant’s home state is involved in the identity establishment process for former applicants for IP who applied within the legally stipulated deadline for return to their country of origin (an application for verification of the identity of the foreign national is sent to that Embassy).

In general, as concerns returns of foreign nationals (those who have repeatedly failed to obey the order to leave the territory due to the absence of authorisation to stay), **establishment of identity is heavily dependent on the degree to which the foreign national cooperates during the identity establishment process and his/her willingness to provide complete and true information which is an essential prerequisite for successful completion of the identity establishment process.** If establishment of identity and issuance of a travel document proves impossible, return of the foreign national, either forced or voluntary, is impossible to implement.

c) Verifying applications for the following categories:

▪ Visitors visa; **YES**

Residence permits issued for:

▪ Family reasons; **YES**

▪ Study reasons; **YES**

▪ Remunerated activities; **YES**

▪ Non-EU harmonised protection status (i.e. resident permit on humanitarian or medical grounds). **N/A**

The statistics on applications for short-term visas show very low numbers of applications rejected on the basis of presentation of false/altered travel document.

Q2a. Please also indicate which factors have contributed to the issues identified in Q1 (e.g. the volume of cases where no credible documentation is available has increased, the measures used to substantiate the applicants' identity are considered ineffective, there is no enough funding or qualified staff etc.).

Please support your answers with reference to statistics (e.g. those presented under Section 1.2 below), research or any other sources of information (e.g. media debates, case-law, policy documents, practitioners' views).

a) International protection

The situation concerning establishment of identity in IP proceedings has remained basically unchanged over the past years. As we stated in the preceding study, it applies that in the course of IP proceedings to the applicant's country of origin, which alone could establish the identity of such person with 100% accuracy, must not be contacted. In some cases it is possible to compare identity using the EURODAC system if such person has already applied for international protection in another EU state bound by the Dublin Regulation and presented authentic identity documents (from the point of view of establishment of identity, information from Eurodac is merely supporting, i.e. it involves comparison of information established to date concerning a person and their identity.). To some extent identity may be established in persons who have had a previous stay in the Czech Republic and so the information system already contains their data, including their photograph from earlier residence permits, or if respective persons have committed a crime and therefore their fingerprints are in the AFIS (a fingerprint identification system).

b) Forced return

Embassy employees systematically visually scrutinise travel documents presented with applications for visas or permits and also compare the applicant's appearance with the travel document or other presented documentation. In depth scrutiny of travel or other supporting documents takes place only when travel documents show signs of anomalies or with documents that the Embassy rarely encounters. Detailed systematic verification of travel documents is impossible due to the volume of work that Embassies have. In problem areas, the Czech Republic attempts to make up for this deficit by sending out experts on forged documents. In the experience of our Embassies, problem areas include Tbilisi, Moscow, New Delhi and Riyadh.

Q2b. In relation to Q2a above, has your (Member) State experienced a change in the number of received applications for international protection and irregular migrants in recent years?

The situation as concerns establishment of identity has basically not significantly changed.

In general terms, as concerns applicants for IP, over the past years there has been a rise in numbers, although in absolute figures this did not mean any significant increase.

2014: 1,156 persons (+63.5 %; +449 persons)

2015: 1,525 persons (+31.9 %; +369 persons)

2016: 1,478 persons (-3.1 %; -47 persons)

Despite increased year-on-year growth in 2014 and 2015, in long-term outlook in the field of international protection may be considered to be stable.

Likewise, an increase of persons detected during illegal migration was recorded in the years 2014 and 2015.

2014: 4,822 persons (+16.1 %; +699 persons)

2015: 8,563 persons (+77.6 %; + 3,741 persons)

2016: 5,261 persons (-38.6 %; - 3,302 persons)

The number of foreign nationals remaining illegally in the territory of the Czech Republic (predominantly transiting across the territory) began to fall in connection with the migration situation in Europe.

Q3. Has your (Member) State faced challenges in considering asylum applications/ implementing the return of third-country nationals as a result of their identity not being acknowledged by the (presumed) country of origin?

a) International protection

With regard to establishing the identity of an applicant for international protection, his/her (assumed) country of origin is not contacted; the findings are based only on the documents provided, and potentially the applicants' claims.

b) Forced return

In relation to establishing the identity of a person in the return process, the country of origin may be contacted. Nevertheless, the asylum and return procedure are separate from each other; the category of rejected applicants for international protection is not moni-

tored further and statistics on them not recorded, and so the described procedure applies for all categories of foreign nationals.

STATISTICAL INFORMATION

Q4. 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 differ from the ones requested 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 for international protection or of rejected asylum seekers, etc.) If statistics are not available, please try to indicate an order of magnitude. Statistics already available through Eurostat have not been requested in order to facilitate the task of filling in the Common Template.

Table 1: Statistical information on international protection and return procedures

	2012	2013	2014	2015	2016	Additional Information (e.g. sources, caveats, reasons for trends, top five nationalities, with numbers for total applicants) <i>If statistics cannot be provided, please indicate the reasons why,</i>
						<ul style="list-style-type: none"> > The necessary registrations are not made; > The registered information cannot easily be extracted for reporting and statistics; > The statistics are only produced for internal use, and are not available to the public. > Other reasons, please describe:
Number of applicants for international protection whom identity was not documented ⁶⁰ at the time when the application for international protection was lodged	-	-	-	-	-	> <i>The registered information cannot be easily extracted for reporting and statistics</i>
Number of applicants for international protection for whom identity was wholly or partially ⁶¹ established during the asylum procedure thereby allowing the relevant authorities to reach a particular decision on the application for international protection (e.g. grant, refuse, defer)	-	-	-	-	-	> <i>The registered information cannot easily be extracted for reporting and statistics</i>
Total Number of Positive Decisions for applicants for international protection whose identity was not documented ⁶² at the time of application	-	-	-	-	-	> <i>The registered information cannot easily be extracted for reporting and statistics</i>

⁶⁰ Through the presentation of a formal identity document (identity card or passport) or other document(s) accepted in the Member State for the purposes of identity verification (e.g. driver's license).

⁶¹ For example, if some elements of identity (e.g. nationality) could be established but not others (e.g. full name, date of birth).

⁶² Through the presentation of a formal identity document (identity card or passport) or other document(s) accepted in the Member State for the purposes of identity verification (e.g. driver's license).

Table 1

Total Number of Positive Decisions for applicants for international protection whose identity was considered sufficiently established by the decision-making authorities	-	-	-	-	-	> <i>The registered information cannot easily be extracted for reporting and statistics</i>
Total Number of Negative Decisions for applicants for international protection whose identity was not documented ⁶³ at the time of application	-	-	-	-	-	> <i>The registered information cannot easily be extracted for reporting and statistics</i>
Total Number of Negative Decisions for applicants for international protection whose identity was not considered to be sufficiently established by the decision-making authorities	-	-	-	-	-	> <i>The registered information cannot easily be extracted for reporting and statistics</i>
Total Number of (Forced) ⁶⁴ Returns undertaken of all rejected applicants for international protection	-	-	-	-	-	> <i>The necessary registrations are not made;</i> The asylum and return procedure are separate from each other; the category of rejected applicants for international protection is not monitored and statistics on them not recorded.

⁶³ Idem.

⁶⁴ While the scope of this Focussed Study (with respect to Returns) includes only the forced return of rejected applicants for international protection, it is acknowledged that distinguishing between forced and voluntary returns in official statistics may not be possible. Where possible, do make this distinction.

Table 1

Total Number of (Forced) ⁶⁵ Returns of rejected applicants for international protection whose identity was established at the time of return	-	-	-	-	-	<p>> The necessary registrations are not made;</p> <p>The asylum and return procedure are separate from each other in the Czech Republic; the category of rejected applicants for international protection is not monitored and statistics on them not recorded.</p> <p>Generally it applies for all forced returns of foreign nationals that if his/her identity is not established, the foreign national cannot be returned to the country of origin.</p>
Total Number of (Forced) ⁶⁶ Returns of rejected applicants for international protection whose return could not be executed due to the authorities of the (presumed) country of origin refusing to recognise their nationals or considering their identity as not sufficiently ⁶⁷ established	-	-	-	-	-	<p>> The necessary registrations are not made</p> <p>The asylum and return procedure are separate from each other; the category of rejected applicants for international protection is not monitored and statistics on them not recorded.</p> <p>The Czech Republic does not have statistics at its disposal for persons who could not be returned due to the fact that the authorities of the assumed country of origin did consider establishment of identity to be sufficient. The Czech Republic has only statistics on detained foreign nationals whose identities must be established.</p>

⁶⁵ Idem.

⁶⁶ Idem.

⁶⁷ For example if the authorities were unable to formally identify the third-country national by nationality, surname, first name and date of birth and support such identification with the documents required by the third county.

Table 2: Statistical information on other migration-related procedures

	2012	2013	2014	2015	2016	Additional Information (e.g. sources, caveats, reasons for trends, top five nationalities, with numbers for total applicants) <i>If statistics cannot be provided, please indicate the reasons why,</i> > The necessary registrations are not made; > The registered information cannot easily be extracted for reporting and statistics; > The statistics are only produced for internal use, and are not available to the public. > Other reasons, please describe:
Total Number of visas applied for in consulates in third countries ⁶⁸	603,486	649,470	519,819	421,355	489,920	Source: DG HOME statistics on short-stay visas
Total Number of visas refused in consulates in third countries ⁶⁹	17,851	17,976	11,509	13,263	19,062	Source: DG HOME statistics on short-stay visas
Total Number of visas refused in consulates in third countries due to the applicant having presented a travel document which was false, counterfeit or forged	Data not available	43	50	53	40	Numbers of visa applications (VAs) rejected for this reason are very low, totalling 0.3 % of rejected VAs, in other words less than 0.01 % of VAs lodged. This reason for rejection is cited most often in Moscow, and then in Tbilisi, Delhi and Riyadh.
Total Number of residence permits for remunerated activities refused due to the identity of the applicant not being considered sufficiently established	-	-	-	-	-	Embassies require an official travel document to be presented with applications for residence permit. Originals of documents proving identity must be presented. Presentation of forged/altered travel document is always ground for rejection of an application for residence permit.

⁶⁸ If your Member State is part of the Schengen area this statistics are collected at EU level and need not be repeated

⁶⁹ Idem.

Table 2

Total Number of residence permits for study purposes refused due to the identity of the applicant not being considered sufficiently established	-	-	-	-	-	Embassies require an official travel document to be presented with applications for residence permit. Originals of documents proving identity must be presented. Presentation of forged/altered travel document is always ground for rejection of an application for residence permit.
Total Number of residence permits for family reasons refused due to the identity of the applicant/ the family relationship not being considered sufficiently established	-	-	-	-	-	Embassies require an official travel document to be presented with applications for residence permit. Originals of documents proving identity must be presented. Presentation of forged/altered travel document is always ground for rejection of a application for residence permit.

Table 3: Statistical information on methods used to establish identity

	2012	2013	2014	2015	2016	Additional Information (e.g. sources, caveats, reasons for trends, top five nationalities, with numbers for total applicants) <i>If statistics cannot be provided, please indicate the reasons why,</i>
						<ul style="list-style-type: none"> > The necessary registrations are not made; > The registered information cannot easily be extracted for reporting and statistics; > The statistics are only produced for internal use, and are not available to the public. > Other reasons, please describe:
Total Number of Cases in which language analysis was performed to establish the identity of the third-country national	-	-	-	-	-	<ul style="list-style-type: none"> > Other reasons, please describe: <p>Language analysis is not performed during proceedings.</p>
Total Number of Cases in which an age assessment was performed to determine whether the third-country national was a minor	-	-	-	-	-	<ul style="list-style-type: none"> > The registered information cannot easily be extracted for reporting and statistics; <p>These statistics are not registered; in general terms it can be said that the number of cases is not large, but methods are used in practice if necessary.</p>
Total Number of Cases in which a DNA Analysis was used to establish the family relationship in family reunification cases	-	-	-	-	-	<ul style="list-style-type: none"> > Other reasons, please describe: <p>No case has been registered where a DNA test has been used for establishing family ties.</p>
Total Number of Cases in which Interviews were used to determine probable country and/or region of origin	-	-	-	-	-	<ul style="list-style-type: none"> > The necessary registrations are not made; <p>As for the IP proceedings interviews are always performed. As for the visas/residence permits an interview with the applicant is component to assessment of applications for authorisation of stay made at Embassies of the Czech Republic in the event of any doubt about the applicant's identity. Evaluation of the need to perform an interview is in the competence of the Embassy; in the case of long-term residence authorisations, this is likewise in the competence of the Embassy and also is performed at the request of the MoI CR.</p> <p>Statistical data on the quantity and the precise reasons for performing interviews are not available.</p>

RELEVANT NATIONAL LEGISLATION

Q5. Has the legislative basis for the procedures used to determine identity within the procedure for international protection and/or return been changed since the 2013 EMN Study on 'Establishing identity'?

The legislative basis has not changed since the study of 2013. Act No. 325/1999 Coll., on Asylum, underwent considerable amendment at the end of the year, although no substantial changes occurred as to establishment of identity.

Please see reply in the preceding study.

Q6. Is the process used when verifying the identity of third country applicants for visitors' visa, work and study permits and family reunification permits, laid down in national legislation?

Procedural norms and methodical instructions specifically governing the procedure for establishment of identity are not stipulated in legislation.

THE INSTITUTIONAL FRAMEWORK AT NATIONAL LEVEL

Q7. Have there been any changes concerning which national authorities have the responsibility for establishing the identity of applicants for international protection and return following the 2013 EMN Study on 'Establishing identity'?

a) International protection

The authority primarily responsible for establishing identity for purposes of international protection proceedings is the administrative authority (MoI CR – Department for Asylum and Migration Policy), the authenticity of documents presented is verified by the Police of the Czech Republic (FPSD), and where necessary, the Criminalistics Institute Prague. In connection with establishment of the identity of applicants for international protection, the Police perform identification operations (taking fingerprints) upon lodging applications for the granting of international protection in accordance with Section 45(6) of Act No. 325/1999 Coll., on Asylum.

b) Forced return

Establishment of identity of detained foreign nationals is performed by the Foreign Police Service Directorate.

Q8. Which national authorities have the responsibility for verifying the identity of third country applicants for visitors' visa and permits for the purposes of study, family reunification and remunerated activities? Please describe which authorities take part in which procedures in your (member) state and specify the name of the relevant authorities below (providing an english translation if possible, e.g. *Rajavartiolaitos – finnish border guard; migrationsverket – swedish migration agency*).

Please insert your response below and also complete the summary table provided in Annex 1

The identity of applicants both for a short-term visa and a long-term visa/residence permit is established by the consulates of the Embassies of the Czech Republic upon acceptance of applications.

Responsibility for establishment of the identity of applicants for a short-term visa at a border crossing point is borne by the Foreign Police Inspectorate at international airports (this is an organisational unit of the Foreign Police Service Directorate).

See Annex 1.

Q9. For each of the migration procedures considered (applications for international protection, returnees, visa and residence permit applicants), please briefly describe the different steps followed to establish the identity of third country nationals, including:

- > Parts of the process which have been automated;⁷⁰
- > Biometric technologies used, if any;
- > Identification/ identity verification tasks carried out by a decision-maker or specialised officer;
- > Centralised or decentralised identification function(s).

See Annex 2

Q10. Does your (Member) State have in place specific procedures to establish the identity of third-country nationals within the context of exceptional migratory flows (e.g. under the EU 'Hotspot' approach)?

NO

⁷⁰ Automation is defined as 'The use or introduction of automatic equipment in a manufacturing or other process or facility' (see Oxford Dictionary <https://en.oxforddictionaries.com/definition/automation>, last accessed on 24 March 2017). For example, the use of a document reader would be understood as partially automating the task of performing document checks).

Q11. Does your (Member) State have a central competence centre or similar entity for issues related to identification/identity verification?

*If 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 or third-country nationals applying for visitors visa and permits for the purposes of study, family reunification and remunerated activities?*

The Czech Republic does not have a central competence centre for establishment of identity. In connection with establishment of the authenticity of foreign nationals' documents, the Foreign Police Service Directorate uses the National Centre for Document Verification (subordinate to the FPSD), which uses the iFADO database, EDISON system and also its own database DATEX which carries available sample documents, discovered forgeries and information concerning documents.

The Foreign Police Service Directorate - National Centre for Document Verification – verifies the authenticity of the documents of foreign nationals who are meant to be returned (e.g. after serving a prison sentence in the Czech Republic). Furthermore, in the event of doubt on the part of national and also foreign immigration authorities, on request the Centre will verify the authenticity of specific documents. It performs, collects and analyses expert appraisal of irregular documents seized on the external Schengen borders or in the territory of the Czech Republic and constantly monitors foreign alerts to irregular documents.

Q12. Are the officials responsible for determining the identity of the abovementioned immigration categories authorised to access EU databases holding identity information about third-country nationals (e.g. EURODAC, SIS II, VIS, etc.)?

Users access the **VIS**, **SIS II** and **EURODAC** systems on the basis of allocated authorisation. Access authorisations are required primarily by European legislation and precise procedures for granting access authorisations are laid down in national legislation (internal regulations governing administrators of separate systems).

The following organisations have direct access to **VIS** on the basis of allocated user authorisation: Police of the Czech Republic, Ministry of the Interior and Ministry of Foreign Affairs (Embassies).

The Police of the Czech Republic and the Ministry of the Interior have direct access to **EURODAC**.

The Police of the Czech Republic has direct access to **SIS** (the Ministry of the Interior receives data indirectly).

Section 2

METHODS FOR ESTABLISHING IDENTITY

The aim of this Section is to provide an overview of the types of documents and methods used to establish the identity of third-country nationals within the context of various migration processes.

DEFINITION AND DOCUMENTS REQUIRED FOR ESTABLISHING IDENTITY

Q13 What legal and/or operational definitions (if any) of identity is/are used with regard to (a) applicants for international protection and (b) the return process and (c) applications for short stay and long stay visas and permits for the purposes of study, family reunification and remunerated activities?

The term **“identity”** is used in certain regulations of the legal order of the Czech Republic, however it is not specifically defined. The only law that stipulates for its own ends the **scope of data to establish for proving “identity”** is Act No. 273/2008 Coll., on the Police of the Czech Republic, as amended (Section 63). Schedule 1 of the said Section 63 states: *“Proving identity means proving name or names, date of birth and, when necessary, also permanent registered address, registered address or residential address abroad, birth registration number and*

citizenship. The scope and method of establishing personal data must proportionate to the purpose of establishment of identity”.

In special cases, fingerprints may be used for proving identity (according to Section 177 (2) of the Act on the Residence of Foreign Nationals).

a) International protection

A definition of establishing identity is not specifically cited in the Asylum Act. The Asylum Act specifically stipulates the duty of the applicant for IP to submit a valid travel document or other identity document with a photograph or a valid public document issued by the country of origin or country of last permanent residence to facilitate establishment of his/her identity and citizenship, or to attest to his/her identity and citizenship by statutory declaration. Applicants are required by law to surrender their travel document to a branch office of the International Protection Unit of the Department for Asylum and Migration policy of the MoI. Applicants for IP are required under the law to allow their fingerprints (performed by the Police the CR) and photograph to be taken (performed by the of DAMP MoI International Protection Unit as component to the proceedings when lodging an application) in order to establish or verify identity.

In connection with applicants for international protection, the relevant legislation is: Regulation (EU) of the European Parliament and of the Council No. 603/2013 on the establishment of ‘Eurodac’ for comparison of fingerprints for the purpose of effective application of Regulation (EU) No. 604/2103, establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or stateless person and on requests for comparison with Eurodac data by Member States’ law enforcement authorities and Europol for law enforcement purposes and amending Regulation (EU) No. 1077/2011 establishing a European Agency for operational management of large-scale IT systems in the area of freedom, security and justice and according to Act No. 325/1999 Coll. on Asylum.

b) Forced return

See above in the introductory section.

c) Visa/Residence permit

Consulates do not work with different definitions of identity than those laid down by relevant general legislation. See above in the introductory section.

Q14. What types of documents and other information do the authorities in your (Member) State accept as (contributing to) establishing the identity for the abovementioned immigration categories? For example:

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

> **Other documents: birth certificates, driving licence, divorce certificates, marriage licences, qualification certificates, house books etc.;**

> **Please indicate if your (Member) State takes informal (residence) documents into consideration in the identification process, such as UNHCR registration documents.**

The Czech Republic accepts document types in accordance with Section 108 of Act No. 326/1999 Coll. on the Residence of Foreign Nationals. This provision specifies what types of document constitute a travel document.

Table 4: Documents accepted as (contributing to) establishing the identity

Type of document	(a) applicants for international protection	(b) for the return process	(c) third country applicants for visitors visa and permits for the purposes of study, family reunification and remunerated activities
Official travel documents: Passports, ID cards	<p>YES</p> <p>The passport is the key document, other documents accepted are national ID card, driving licence, military ID card.</p>	<p>YES</p> <p>(applies generally for all returns, not just for returns of former applicants for IP)</p> <p>The passport is key. FPSD accepts a copy thereof. For forced return of a foreign national, the country of origin accepts a travel document, a replacement travel document or travel identity card with confirmed identity of the foreign national.</p> <p>A national identity card is also deemed key by the FPSD. A copy</p>	<p>YES</p> <p>The identity document for lodging applications for a visa / residence permit is the passport. A supporting document during examination of the application may be a national ID card or birth certificate, or potentially other documents (at the discretion of the consulate, according to the situation in the third country in question).</p>

Table 4

Type of document	(a) applicants for international protection	(b) for the return process	(c) third country applicants for visitors visa and permits for the purposes of study, family reunification and remunerated activities
		<p>of such ID card is accepted by this state authority.</p> <p>If the FPSD has a photocopy of travel documents or other documents, such materials are sent to the relevant Embassy of the foreign national's country of origin together with an application for verification of the foreign national's identity. The FPSD is unable to say whether or not the Embassy in question accepts photocopies of the aforementioned documents.</p>	

Table 4

Type of document	(a) applicants for international protection	(b) for the return process	(c) third country applicants for visitors visa and permits for the purposes of study, family reunification and remunerated activities
Other documents: birth certificates, driving licence, divorce certificates, marriage licences, qualification certificates, house books etc.	<p>YES</p> <p>In the course of IP proceedings, all presented documents and identity documents (passport, national ID card, driving licence, military identity card) are accepted, while documents that do not bear a photograph (marriage certificate, birth certificate, divorce certificate etc.) are treated as supporting documents in establishing identity and assessing the reliability of the applicant's statements.</p>	The FPSD is unable to say whether the assumed country of origin accepts documents other than those which suffice for Czech authorities.	The passport is the accepted identity document for making an application for a visa / residence permit, while an ID card or birth certificate and other documents may serve as supporting documents (at the discretion of the consulate, according to the situation in the third country in question).

Table 4

Type of document	(a) applicants for international protection	(b) for the return process	(c) third country applicants for visitors visa and permits for the purposes of study, family reunification and remunerated activities
Informal (residence) documents, such as UNHCR registration documents	YES Documents issued by UNHCR	NO	NO

Q15a. To the extent possible, please indicate whether copies are accepted by the relevant authority(ies) and which type of documents are considered by the national authorities as core or supporting documents.

a) International protection

Copies are acceptable only as supporting documents presented in the course of international protection proceedings as attempts by the applicant to support his/her claims to identity and other facts, not as a document confirming identity. If he/she lacks an identity document, the applicant must make a written statutory declaration concerning his/her identity and citizenship (In the event of doubt, further questions are asked with the aim of checking the reliability of his/her claim concerning identity and where he/she comes from. The questions are always adjusted by the person conducting the interview according to the case at hand).

b) Forced return

For returns, the FPSD accepts a copy of a passport and ID card. If the FPSD has photocopies of travel documents or other documents at its disposal, such materials are sent to the relevant embassy of the foreign national's country of origin together with an application for verification of the foreign national's identity. The FPSD is unable to say whether or not the embassy in question accepts photocopies of the aforementioned documents.

c) Visa/Residence permit

Only originals of documents proving identity may be presented at the consulate.

Q15b. Which are the major issues faced by your (Member) State concerning determining the authenticity (or genuineness) of documents?

The authenticity of documents in international protection proceedings is examined by the Police of the Czech Republic or by the Criminalistics Institute Prague (when making an international protection decision, such procedure may be requested for the purposes of the proceedings, or else the procedure is performed at the own accord of the Police of the Czech Republic in the event of suspicion of presentation of a forged or otherwise altered document).

It applies generally for establishment of identity in all processes, that in the case of common types of document, the Police of the Czech Republic has numerous information sources at its disposal (whether national document databases or others), and there exist specially trained experts and available equipment for scrutinising and documenting documents. A problem arises in the event of a document of which not sample is available

or there is not known more detailed information concerning the technology used to produce the document. European documents and authenticity thereof may be checked with contacts contained in the iFADO system.

Q15c. Have any of these issues changed compared to those described in your contribution to the 2013 EMN Study on 'Establishing identity'?

The only change is a change of name of the centre, or rather the creation of the **National Centre for Document Verification**.

Q16. In your Member State, are there any national guidelines for the control by the relevant authorities of identity of person and identity documents in the various migration procedures?

NO

Q17. In which situations, and by which authorities, are forged documents most commonly detected in connection with applications for visa and residence permit (e.g. in border control, by immigration authorities or other state agencies)?

Generally speaking, irregular documents are most often detected by the foreign police authorities at border crossing points and on the territory of the country during residence authorisation checks, less often by police units in the course of spot checks on the roads or other checks

or by the Department for Asylum and Migration Policy of the Ministry of the Interior when taking applications for long-term/permanent residence. In these situations, the FPSD (or else the Criminalistics Institute Prague) is contacted so that they issue an opinion on the authenticity of documents. According to statistical data on applications for visas rejected due to a forged/altered travel document, Embassies encounter problems in establishing identity only very rarely. In connection with applications for visas at Czech Embassies, irregular documents accompanying applications are detected, so-called supporting documents (birth certificates, marriage certificates, travel insurance certificates, bank statements, invitations to business meetings, education-related certificates), which are mostly complete forgeries.

Q18. Are there any exemptions to the obligation to present an official travel document for third country applicants for visa and residence permit?

NO

METHODS USED IN THE ABSENCE OF DOCUMENTARY EVIDENCE OF IDENTITY IN THE ASYLUM/RETURN PROCEDURE

This Subsection looks into the methods used in the absence of credible documentation to ascertain the credibility of the third-country national's statements, and the relative weight that is given to the outcomes of the methods used across the (Member) States. The Subsection focuses on the asylum and return procedure, where the absence of credible documentation is a common challenge.

Various methods are listed in the tables below. Where applicable, please succinctly identify any changes introduced with respect to the situation described in the 2013 EMN Study on 'Establishing identity'. For each

method listed, please indicate whether any changes introduced since 2013 were made as a result of legislative reforms and/or due to considerations of reliability, efficiency and/or workloads.

Q19a. In your (Member) State, do national authorities make use (or plan to make use) of the methods identified below to establish the identity of third-country nationals subject to asylum/return procedures?

Please indicate, per method used, who executes the method (i.e. all-round decision makers, in-house specialists or external parties). Please also indicate 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).

Table 5: Methods **used** for establishing identity in the asylum/return procedure (I)

Method	Applicants for international protection	Return of rejected applicants for international protection
Language analysis to determine probable country and/or region of origin	NO	-
Age assessment to determine probable age	<p>YES – obligatory (in the case of persons claiming to be minors, where doubts exist. The weight of this method depends on the result of the test (accuracy to the nearest few years).</p> <p>The Asylum Act stipulates that in the event of doubt about the age of an unaccompanied minor, a medical examination is performed to determine age. If the person in question refuses this examination, he/she is then considered to be an adult. If the examination is inconclusive, the person continues to be considered as a minor. Minors are informed by the MoI about the options for determining age</p>	YES – part of standard practice (if doubts exist about the age of the foreign national).

Table 5

Method	Applicants for international protection	Return of rejected applicants for international protection
	in his/her mother tongue or in a language that he/she is able to understand; information is provided under the law about the method of examination, its consequences and the consequences of refusing the examination on the assessment of the application for IP.	
Interviews to determine probable country and or region of origin (or other elements of identity, such as faith and ethnicity) ⁷¹	YES – obligatory (interviews are component to international protection proceedings; they are the greatest source of information in IP proceedings); contained in Section 10 and Section 23 of the Asylum Act.	YES – part of standard practice (if necessary for establishing the identity of a foreign national).

⁷¹ 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.

Table 5

Method	Applicants for international protection	Return of rejected applicants for international protection
	Where doubt exist, part of the interview with the applicant is conducted, focusing on the reliability of his/her claims concerning the region from which he/she hails, and if necessary, a supplementary interview may be performed in the course of international protection proceedings for various reasons including this.	
Identity related paper and e-transactions with the authorities (e.g. tax, social benefits)	YES If the applicant him/herself submits such documents, they serve as supporting documents for assessing reliability.	YES If such documents are at disposal, they are sent to the relevant Embassy as supporting documents to an application for identity verification.
Identity related paper and e-transactions with the private sector (e.g. bank)	YES If the applicant him/herself submits such documents, they serve as supporting documents for assessing reliability.	YES If such documents are at disposal, they are sent to the relevant Embassy as supporting documents to an application for identity verification.

Table 5

Method	Applicants for international protection	Return of rejected applicants for international protection
Identity related e- transactions in connection with social media	YES If the applicant him/herself submits such documents, they serve as supporting documents for assessing reliability.	YES If such documents are at disposal, they are sent to the relevant Embassy as supporting documents to an application for identity verification.
Smartphones and other digital devices: May your law enforcement/immigration authorities confiscate (temporarily or permanently) such devices and access their content in their efforts to establish or verify an identity?	NO	NO
Other	<i>Please describe, e.g. type of co-operation with or contacts in third countries, such as diplomatic missions</i> NO , this is impossible due to international obligations concerning refugees.	YES – part of standard practice (if necessary for establishment of the identity of a foreign national, cooperation involves actual verification of identity. If the Embassy requires an interview, such interview may be held with the foreign national).

Table 6: Methods **used** for establishing identity in the asylum/return procedure (II)

Method	Applicants for international protection		Return of rejected applicants for international protection	
	National database	European database	National database	European database
Fingerprints for comparison with National and European databases	YES – obligatory (searching for internationally wanted fugitives or wanted persons in the CR). This obligation is enshrined in the Asylum Act. As required by law, the Police take fingerprints at the start of proceedings and perform a check of accessible databases.	YES – obligatory, performed by the Police (using EU-RODAC for comparison, compulsory for application of the Dublin Regulation).	YES – obligatory (in AFIS)	YES – part of standard practice (if the foreign national applies for international protection in the CR or declares that he/she is an applicant in a different state, identity is compared using EURO-DAC).
Photograph for comparison with National and European databases	YES As required by law and for the purposes of the	NO	NO	NO

Table 6

Method	Applicants for international protection		Return of rejected applicants for international protection	
	National database	European database	National database	European database
	proceedings, international protection section of DAMP MoI makes an image record (photograph) at the start of proceedings which is registered in the Azyl II information system.			
Iris scans for comparison with National databases	NO	-	NO	-
DNA analysis	NO	-	NO	-

Table 6

Method	Applicants for international protection		Return of rejected applicants for international protection	
	National database	European database	National database	European database
Other (please describe e.g. type of co-operation with or contacts in third countries, such as diplomatic missions)	NO , this is impossible due to international obligations concerning refugees.	-		<p><u>Cooperation with third countries</u></p> <p>Yes - part of standard practice (if necessary for establishment of the identity of a foreign national, cooperation involves actual verification of identity. If the Embassy requires an interview, such interview may be held with the foreign national).</p> <p><u>Cooperation with Embassies of the CR abroad - YES</u></p> <p><u>Cooperation with FRONTEX - YES</u></p> <p><u>Cooperation with INTERPOL NCB and SIRENE NB - YES</u></p>

Table 7: Methods national authorities **plan to use** for establishing identity in the asylum/return procedure (I)

Method	Applicants for international protection	Return of rejected applicants for international protection
Language analysis to determine probable country and/or region of origin?	NO	NO
Age assessment to determine probable age	Conducted – see table 5.	Conducted – see table 5.
Interviews to determine probable country and or region of origin (or other elements of identity, such as faith and ethnicity) ⁷²	Conducted – see table 5.	Conducted – see table 5.
Identity related paper and e-transactions with the authorities (e.g. tax, social benefits)	Such documents serve as supporting documents, see answer in table 5.	Conducted – see table 5.
Identity related paper and e-transactions with the private sector (e.g. bank)	Such documents serve as supporting documents, see answer in table 5.	Conducted – see table 5.

⁷² 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.

Table 7

Method	Applicants for international protection	Return of rejected applicants for international protection
Identity related e- transactions in connection with social media	Such documents serve as supporting documents, see answer in table 5.	Conducted – see table 5.
Smartphones and other digital devices: May your law enforcement/ immigration authorities confiscate (temporarily or permanently) such devises and access their content in their efforts to establish or verify an identity?	NO	NO
Other	<p><i>Please describe, e.g. type of co-operation with or contacts in third countries, such as diplomatic missions</i></p> <p>NO, impossible due to international obligations concerning refugees.</p>	<p>YES – part of standard practice</p> <p>If necessary for establishing the identity of a foreign national, cooperation extends only to verification of identity. If an Embassy requests a consular interview, such interview may be conducted with the foreign national.</p>

Table 8: Methods national authorities **plan to use** for establishing identity in the asylum/ return procedure (II)

	National database	European database	National database	European database
Fingerprints for comparison with National and European databases	Conducted – see above in table 6.	Conducted – see table 6.	Conducted – see table 6.	Conducted – see table 6.
Photograph for comparison with National and European databases	Conducted – see above in table 6.	We do not have this information	NO	NO
Iris scans for comparison with National databases	NO	-	NO	-
DNA analysis	NO	-	NO	-
Other (please describe, e.g. type of co-operation with or contacts in third countries, such as diplomatic missions)	-	-	NO	-

Q19b. Is the (biometric) identity information given by an asylum seeker matched against identity information available in VIS?

NO, for technical reasons.

Q19c. Has your Member State introduced any changes in the method(s) used to establish the identity of applicants in the asylum/ return procedure since 2013?

NO

Q19d. If there has been an increase in the number of applicants for international protection and irregular immigration in your (Member) State in recent years, has this had any effect on the methods used (e.g. certain methods have been prioritised to deal with specific nationalities, the capacity to use certain methods has been under strain due to lack of sufficient staff resources, etc.)?

NO

Q20. Has your (Member) State issued any guidelines and/or best practices on the use of different methods?

NO

METHODS USED TO VERIFY THE IDENTITY OF THIRD-COUNTRY NATIONALS IN OTHER MIGRATION PROCEDURES

This Subsection focuses on the methods used to verify third-country national's identity within the framework of procedures concerning applications for short-stay visas and residence permits for family and study-related reasons or for the purposes of remunerated activities. With the partial exception of family reunification, where documentary evidence is sometimes missing, within the framework of these procedures applicants are generally required to provide documentary proof of their identity. The challenge thus lies in verifying that the third-country national concerned is who they claim to be.

*Various methods are listed in the tables below. Where applicable, please indicate if the method is **obligatory** (i.e. enshrined in law), is it part of **standard practice** (i.e. used in most cases but not enshrined in law) or is it **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 your (Member) State may refer to in their replies.*

Q21. Does an applicant for an authorization to stay or residence permit have to present an official travel document?

YES

Q22. Do national authorities make use (or plan to make use) of the methods identified below to establish the identity of third-country nationals within the framework of procedures concerning applications for short-stay visas and residence permits for family and study-related reasons or for the purposes of remunerated activities?

Please specify by filling in the table below:

Table 9: Methods **used** for establishing identity

Short stay visas		
Method	National database	European database
Fingerprints for comparison with National and European databases	NO	YES , obligatory (VIS)
Photograph for comparison with National and European databases	Where doubt exists, a search may be performed in the visa archiving system (component to the National Visa Database) for previous applications by the same applicant and photographs compared.	YES , where doubt exists (VIS)
Others (please specify)	-	-

Table 9

Residence permit for study reasons (long-term visa and residence permit – all purposes of stay)		
Method	National database	European database
Fingerprints for comparison with National and European databases	Fingerprints are taken, but not sent to any database for comparison.	NO
Photograph for comparison with National and European databases	Where doubt exists, a search may be performed in the visa archiving system for previous applications by the same applicant and photographs compared.	NO
Others (please specify)	-	-

Table 9

Residence permits for the purposes of remunerated activities		
Method	National database	European database
Fingerprints for comparison with National and European databases	Fingerprints are taken, but not sent to any database for comparison.	NO
Photograph for comparison with National and European databases	Where doubt exists, a search may be performed in the visa archiving system for previous applications by the same applicant and photographs compared.	NO
Others (please specify)	-	-

Table 9

Residence permit for family reasons		
Method	National database	European database
Fingerprints for comparison with National and European databases	Fingerprints are taken, but not sent to any database for comparison.	NO
Photograph for comparison with National and European databases	Where doubt exists, a search may be performed in the visa archiving system for previous applications by the same applicant and photographs compared.	NO
DNA analysis	NO	NO
Others (please specify)	-	-

Table 10: Methods national authorities plan to use for establishing identity

No other methods are planned than the mentioned adaptation of the NS VIS system.

Short stay visas		
Method	National database	European database
Fingerprints for comparison with National and European databases	-	Adaptation of the NS VIS system which, after adaptation, will be capable of automatic fingerprint check against CS VIS.
Photograph for comparison with National and European databases	-	-
Others (please specify)	-	-

Table 10

Residence permit for study reasons		
Method	National database	European database
Fingerprints for comparison with National and European databases	-	-
Photograph for comparison with National and European databases	-	-
Others (please specify)	-	-

Table 10

Residence permits for the purposes of remunerated activities		
Method	National database	European database
Fingerprints for comparison with National and European databases	-	-
Photograph for comparison with National and European databases	-	-
Others (please specify)	-	-

Table 10

Residence permit for family reasons		
Method	National database	European database
Fingerprints for comparison with National and European databases	-	-
Photograph for comparison with National and European databases	-	-
DNA analysis	-	-
Others (please specify)	-	-

Section 3

DECISION-MAKING PROCESS

This Section looks into how the different methods outlined above are combined to establish the identity of third-country nationals, and their outcomes used to make a decision within the context of various migration procedures

STATUS AND WEIGHT OF DIFFERENT METHODS AND DOCUMENTS TO DETERMINE IDENTITY

Q23. On the basis of the information gathered by the methods outlined in Section 2, how is a decision on the establishment of identity made?

Does there need to be consistency between the results obtained from the various methods used? Are some methods given more weight than others? If Yes, please indicate which methods and why they are considered more reliable, and whether this is laid down in legislation, policy or practice guidelines.⁷³

⁷³ 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.

Yes. The most important method of establishing identity is taking fingerprints. This follows from the legislation cited above.

Generally speaking, objectively verifiable information (fingerprints, determination of age by X-ray examination or data from databases) is considered more reliable than the applicant's statements, etc. It is not necessary for all methods used to correspond in their results. Allocation of relative weight to separate methods is not laid down in legislation.

Q24. 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")?

a) International protection

No, only in cases of multiple identities discovered in the course of proceedings, the proceedings are conducted under all such identities and the application examined with respect to all relevant countries of origin.

b) Forced return

In the course of identification of detained foreign nationals, the Police of the CR (FPSD) keeps records of "verified", "unverified", "being processed".

c) Visa/Residence permit

Identity is either verified or unverified. If identity is not verified, neither a visa nor residence permit are granted.

Q25. Are there any future measures being considered with regard to setting up or further elaborating a 'grading' structure?

NO

DECISIONS TAKEN BY THE COMPETENT AUTHORITIES ON THE BASIS OF THE OUTCOMES OF THE IDENTITY MANAGEMENT PROCEDURES

Application for international protection

Q26a. Does the outcome of the procedure to establish the identity of the applicant for international protection influence a recommendation to 'grant international protection,' 'refuse international protection' or 'defer decision'?

Please describe any changes introduced with respect to what was described in your national contribution to the 2013 EMN study on 'Establishing identity'.

No change

Failure to establish identity does not automatically prevent the granting of IP or lead to automatic rejection of an application.

However, intentional concealment of identity, lying about identity or destruction of identity documents or a combination of such acts on the part of the applicant may lead to rejection of his/her application due to being manifestly unfounded (as stipulated in the Asylum Act), or such protection may be withdrawn if such act/s is/are discovered only after international

protection has been granted. If a person's identity proves impossible to verify, or if the person in question has presented a forged or altered identity document, such person's movement may be restricted to a closed facility (a decision to this effect is issued and may be appealed against) for the duration of the proceedings (120 days at longest). If the person refuses to cooperate during proceedings, e.g. refuses to identify him/herself or to present identity documents, proceedings may be terminated (as stipulated in the Asylum Act). Each case is assessed individually.

Q26b. If there has been an increase in the number of asylum applicants/ irregular migrants in your (Member) State in recent years, what has been the impact of such increase in the decision-making process? For example:

- Has the decision-making process become more difficult for national authorities? **NO**
- Have the authorities stopped using certain methods for identity determination? **NO**
- Has the quality of the methods used decreased? **NO**

The CR has not registered a serious increase in numbers of applicants for international protection. Despite increased numbers of applicants for international protection over the past years — 2014: 1,156 (+63.5 %); 2015: 1,525 (+31.9 %); 2016: 1,478 (-3.1 %) — the more long-term outlook in the field of international protection can be considered to be stable.

The registered growth in the number of applicants in preceding years did not have an effect on the decision-making process.

Return

Q27a. Does the outcome of identity establishment influence a recommendation to 'defer return'?

Please describe any changes introduced with respect to what was described in your national contribution to the 2013 EMN Study on 'Establishing identity'.

No change

The result of establishment of identity has an impact on forced return – if the identity of a foreign national is not verified by the Embassy of the state of origin, the foreign national cannot be deported to his/her country of origin. There exists the opportunity to obtain a visa for a stay of over 90 days (tolerated stay) in the territory, but this is dependent on active efforts on the part of the foreign national to obtain documents.

It is always necessary to examine the individual circumstances of the situation of a specific foreign national. If such examination demonstrates that the foreign national is in fact sincere and has systematically tried and continues trying to obtain a replacement travel document and to that end has assembled also the essential supporting documents required by his/her Embassy, although that Embassy or the central state administrative authorities of his/her country of origin that are responsible for verifying his/her identity are not cooperating (e.g. due to armed conflict, chaos in the country of origin or division of the country), then in isolated cases the issuance of a visa for a stay of over 90 days for permitting leave to remain (tolerated stay) in the territory⁷⁴ may be considered. For this purpose it is desirable to obtain the opinions of the relevant institutions via which and under whose guardianship the foreign national concerned was in contact with the Embassy of his/her origin.

⁷⁴ Section 33(1)(a) of Act No. 326/1999 Coll.

Q27b. Are the results of the work to establish identity during the international protection process available to the authorities preparing forced return?**YES**

The DAMP MoI enter the results of the identity establishment process achieved in the course of proceedings on granting international protection into its information system. This information is subsequently transferred to the Foreign Nationals Information System (CIS) with which the FPSD also works.

Procedure for third country applicants for visa and residence permits**Q28a. Does the outcome of identity establishment influence a recommendation to "grant residence permit" "refuse residence permit," "defer decision"?**

Impossibility of establishing identity and presentation of a forged/ altered travel document is always a reason for rejection of a visa or residence permit application.

Q28b. How important is the establishment of identity compared to other factors considered in making an overall decision? For example, if identity cannot be established, does this *de facto* lead to a negative decision? Are other factors such as family ties, health problems or/and other humanitarian reasons, given more weight than identity determination in some cases?

Embassies require an official travel document to be presented with an application for a visa/residence permit. Only originals of documents proving identity are accepted. Impossibility of establishing identity and presentation of a forged/altered travel document is always a reason for rejection of a visa or residence permit application.

Likewise if, as the body responsible for issuing short-term visas at border crossing points, the Foreign Police Inspectorate discovers that an applicant for a short-term visa has failed to satisfy certain obligations of the Visa Code, or represents a threat to the Czech Republic or other Member States, such a foreign national is not granted a visa and, as a rule, proceedings for refusal of entry to the territory of the Czech Republic are commenced against such foreign national.

Section 4

DATABASES AND DATA PROCEDURES

This Section explores which personal data is collected within the framework of migration procedures and which data sharing arrangements are in place.

LEGAL FRAMEWORK

Q29a. Do(es) the identity determination/verification authority(ies) in your (Member) State have Memoranda of Understanding (MoUs) and/or other agreements for the sharing of personal data in place with?

- Other agencies/departments: **YES**
- Carriers: **NO**
- Authorities in one or more other countries Carriers: **YES**
- International organisations: **YES**
- Private entities: **NO**
- Others: **YES**

If Yes, please specify the other agency, carrier, countries or organisation/entity, if possible:

Readmission agreements: on a bilateral level CR and 3rd countries + EU and 3rd countries

Treaties: MoI CR and International Organisation for Migration (IOM)

Treaties: CR and neighbouring countries (Germany, Poland, Austria, Slovakia)

Embassies share the personal data of applicants for short-term visas with the FPSD and, via VIS, with other Schengen States. Data on applicants for long-term visas/residence permits are sent by Embassies to the MoI CR (DAMP) and also share them with the FPSD.

Q29b. Please identify any agreements below and if possible share them through attachments. If it is not possible to share the documents, please provide a brief overview of the information they contain

- **Readmission agreements** at a bilateral level and at EU level (concluded for the issue of illegal migration) contain a clause concerning the protection of personal data and it being shared only between those actors.
- **Treaty between the MoI CR and IOM** of September 2001 for voluntary returns.
- **Treaties on interstate police cooperation between the CR and neighbouring countries** (although here this concerns information on migration routes, not the migration process).

- **Arts. 4 to 6 of the Organisation and Technical Provisions on Accessing Data and on Certain other Activities during the Processing of Data in Connection with Permitting Residence of Foreign Nationals**, concluded between the Police of the Czech Republic and the Ministry of the Interior, dated 30 December 2010.

DATA PROCEDURES AND DATABASES

Q30. Which personal data of individuals is collected in national databases⁷⁵ within the framework of the various migration procedures, i.e. biographic (e.g. name, nationality, birthplace, ID-documents) and biometric (e.g. fingerprints, photographs, DNA). Please describe which data is collected for each of the relevant migration procedures and give the name of the relevant databases.

a) International protection

According to the law (the Asylum Act) the MoI keeps an electronic register of applicants for IP – all data included to the scope of lodging of an application for IP and other data relating to the proceedings, including data concerning identity and citizenship + image record. The MoI does not have a database of fingerprints of applicants for IP at its disposal (such database is kept by the Police of the CR).

⁷⁵ EMN NCPs do not need to provide information on the data collected under the framework of EU large-scale information management systems (EURODAC, VIS and SIS II) as data collection requirements in this area are standardised at the European level and will be detailed directly by the EMN Service Provider in the Synthesis Report.

b) + c) Forced return and Visa/ Residence permit (more)

According to Section 158(1) Foreign National Residence Act, the following data in information systems are involved:

a foreign national's name / names, surnames, including former names and surnames, the day, month and year of birth, sex and citizenship, birth registration number (or other identification data communicated by this foreign national, image record (e.g. a photograph of the foreign national), fingerprints and any distinguishing marks.

For the visa process, data is collected to the scope required for VIS.

USE OF DATABASES IN THE SCREENING PROCESS

Q31. Which identity-related databases are managed by the different national authorities involved in migration processes? (e.g. the national population register is managed by the police; the national entry/exit system is managed by the border guard authority; the Eurodac National Access Point is managed by the asylum authority).

The Foreign Nationals Information System, **CIS**, is operated by the Foreign Police Service Directorate.

The **AFIS** information system (a fingerprint identification system) is operated by the Police Presidium of the Czech Republic.

The **AZYL II** information system is operated by the Ministry of the Interior.

Q32a. Which regional, national and international databases, watch lists or reference tools are used for identification purposes, when a third-country national applies for international protection, a visa or residence permit? Please indicate which databases are used for specific procedures through the table below

Table 11: Databases, watch list and reference tools used for identity determination in migration-related procedures

	VIS	SIS	EURODAC	National databases and watch lists
International protection	X	X	X	X (CIS)
Return		X	X	X (CIS)
Short stay visas	X	X	-	X (CIS) (Embassy via FPSD)
Long stay visas and residence permit for study reasons	X	X	-	X (CIS)
Long stay visas and residence permits for family reasons	X	X	-	X (CIS)
Long stay visas and residence permits for the purposes of remunerated activities	X	X	-	X (CIS)

Q32b. Are there any data elements that the authorities would consider useful, but are not yet collected or stored?

YES

More information shared at an international level concerning forged documents and useful information in this area for the purposes of IP proceedings.

RECENT AND PLANNED DEVELOPMENTS

Q33a. Please outline recent major changes in relation to the processing of personal data within the framework of migration-related procedures and databases (national/regional levels), including the following, if applicable:

- Inclusion of new identity elements on individuals in existing systems (i.e. biographic or biometric data)
- New databases, centralisation of databases or inter-connectivity systems.

No significant changes occurred.

Q33b. Please outline recent /planned pilots in the field of identity management architecture and data sharing.

We do not have information on this topic.

Section 5

DEBATE AND
EVALUATION

Q34. Are the (actual or planned) measures described above currently being debated in your Member State?

NO

Q35. Have (national) data protection authorities or similar entities and/or legal experts assessed any of the measures described above?

NO

Section 6

CONCLUSIONS DRAWN
FROM THE NATIONAL
CONTRIBUTION

This Section will outline the main findings of the Study and present conclusions relevant for policy-makers at national and EU level.

Q36. With regard to the aims of this Focused Study, what conclusions would you draw from the findings reached in elaborating your National Contribution? What is the relevance of your findings to (national and/or EU level) policy-makers? *Please make any distinction between international protection, the forced return process and other (legal) migration channels.*

a) International protection

The number of applicants for IP has risen slightly over the past years, at the same time, however, the numbers of applications lodged in the territory of the Czech Republic is significantly lower than in other European states. Over the past years, the situation as far as establishment of identity is concerned has basically not changed significantly.

The issue of establishing identity of applicants for international protection is afforded a considerable amount of attention at national level. The non-existence of reliable documentation concerning a foreign national's

identity complicates decision-making on applications for IP. In the course of proceedings, due to international obligations concerning refugees, it is forbidden to contact the applicant's country of origin, which alone could verify the identity of a certain person beyond all doubt. But the administrative authorities may only work with the documents presented, and also with the applicant's claims. The key documents are a passport and identity card. Cases occur of concealment of travel documents, subsequent declarations by applicants concerning their true identity or applications for change of identity during proceedings or after their completion (granting asylum or subsidiary protection) and subsequent submission of documents with various excuses (fear when lodging application, worry for their relatives, past errors in name transcription at some time in the past, etc.). However, such cases do not occur on a mass scale.

Actual "establishment" of identity for IP proceedings purposes is performed by DAMP MoI, while the authenticity of presented identity documents is examined by the FPSD and, if necessary, the Criminalistics Institute Prague.

b) Forced returns in general

The asylum procedure is not inexorably connected with implementation of forced return of the foreign national to his/her country of origin (the asylum and returns procedures in the CR are separate, and the category of rejected applicants for international protection is not monitored further in connection with forced returns). The FPSD, the authority that implements forced returns of foreign nationals who, despite being required to do so, fail to depart from the territory, does not keep records on whether foreign nationals who are to be returned are former applicants for international protection. However, as far as forced returns of migrants who do not hold valid authorisation of stay and have repeatedly failed to satisfy their obligation to leave the territory, the impossibility of implementation of forced return due to failure to establish a foreign national's identity represents a challenge for the Czech Republic in the same way as it does for other countries.

Establishment of the identity of a foreign national is greatly dependent on the degree to which the foreign national cooperates in the establishment process and his/her willingness to provide complete and truthful information, which is prerequisite for successful completion of the identity establishment process. The main challenges connected with establishing identity in the forced returns regime include primarily drawn-out and complicated establishment of identity (if the foreign national states several identities), concealment of the real age of foreign nationals and the related exploitation of more favourable legislation that applies to youths and the impossibility of returning unsuccessful applicants to their country of origin.

The passport and identity card are key documents in the process of establishing the identity of a foreign national in the forced return regime.

If the Embassy of the home state fails to verify the identity of a detained foreign national, such person cannot be returned to his/her country of origin.

c) Short-term visa and long-term visas/residence permits

The consulates of the Embassies of the Czech Republic verify the identity of applicants both for short-term visas and long-term visas/residence permits when accepting applications. Component to the examination of the application is an interview with the applicant, which the Embassies of the CR perform in the event of any instance of doubt or ambiguity in the application, including doubts about the identity of the applicant. Evaluation of the need to conduct an interview for short-term visas is in the competence of the Embassy, while for long-term authorisations of stay this decision is also in the competence of the Embassy but may also be conducted at the request of the MoI CR.

Immigration police officers sent by the MoI CR for short periods to selected problem areas where they work at Embassies, evaluating the authenticity of documents presented, including travel documents, and

in cases of doubt such officers conduct an interview. In the event of doubt of the authenticity of a travel document, consulates may contact the authorities of the country that issued the document in most cases via the ministry of foreign affairs of the country in question. Consular workers at Embassies are trained by specialists from the FPSD and MoI CR, whom they may consult problematic cases.

Statistics on applications for short-term visas, kept by the Embassies of the CR, show very low numbers of applications rejected due to presentation of forged/altered travel documents.

Embassies require the presentation of a travel document to accompany an application for visa/residence permit. Only originals of documents proving identity are accepted. Presentation of a forged/altered travel document always constitutes a reason for rejection of an application for a visa/residence permit.

ANNEX 1

With reference to **Q8**, please fill the following table by indicating with an "X" the national authorities/institutions primarily involved in identity establishment procedures for each of the procedures considered.

Table 12: National authorities/ institutions involved in identity establishment in various migration procedures

	Inter-national protection	Return	Short stay visas	Long stay visas/ permits for family reasons	Long stay visas/ permits for study reasons	Long stay visas/ permits for the purposes of remunerated activities
Consulates/ Embassies	-	-	X	X	X	X
Immigration authorities DAMP – Foreign Nationals Residence Unit	-	-	-	-	-	-
Asylum authorities OAMP - Foreign Nationals Residence Unit	X	-	-	-	-	-
Police	X	X	-	-	-	-
Border guard	-	-	X (at the external boards)	-	-	-

Table 12

	Inter-national protection	Return	Short stay visas	Long stay visas/ permits for family reasons	Long stay visas/ permits for study reasons	Long stay visas/ permits for the purposes of remunerated activities
Security services	-	-	-	-	-	-
Identification centre	-	-	-	-	-	-
Other (please add rows to specify)	-	-	-	-	-	-

ANNEX 2

With reference to **Q9**, please provide a brief explanation of how the identity establishment procedure is organised. For each of the procedures considered, please fill the table below with general information on the different identification steps, including:

- Parts of the process which have been automated;⁷⁶
- Biometric technologies used, if any;
- Identification/ identity verification tasks carried out by decision maker or specialised officer;
- Centralised or decentralised identification function(s).

⁷⁶ Automation is defined as 'The use or introduction of automatic equipment in a manufacturing or other process or facility' (see Oxford Dictionary <https://en.oxforddictionaries.com/definition/automation>, last accessed on 24th March 2017). For example, the use of a document reader would be understood as partially automating the task of performing document checks).

Table 13: Procedural steps taken to establish identity of third-country nationals in various migration procedures

Migration procedure	Steps in the procedure to establish identity
International protection	<p>According to the Asylum Act, the application is required to submit valid documents; if he/she does not hold such documents or claims not to, identity and citizenship may be sworn by statutory statement; in the event of doubt about the authenticity of the documents, identity must be established by the Police of the CR or by the Criminalistics Institute Prague, not the DAMP MoI. In certain cases, identity may be compared using EURODAC if the person concerned has already applied for international protection in other EU countries bound by the Dublin Regulation and presented authentic documents on that country. Identity also may be partially established (compared) in the case of persons who have already resided in the Czech Republic and so whose data including photograph on previous residence permits are contained in the information system, or else in the case of persons who have committed a crime and so their fingerprints are in AFIS (a fingerprint identification system). In the event of doubt, as part of IP proceedings questions are posed to the applicant in order to assess the reliability of his/her answers concerning his/her identity and the region that they come from. The questions are always adapted by the person conducting the interview to be suitable for the case at hand.</p> <p>The Police of the Czech Republic receive the application for international protection, takes the fingerprints of the foreign national (in accordance with Section 45(6) of Act No. 325/1999 Coll., on Asylum) and sends them to EURODAC for comparison and saving. If a record is found in EURODAC, a trained fingerprint specialist analyses it, thereafter confirming or denying a match. Identity may also be established by running security checks in</p>

Table 13

Migration procedure	Steps in the procedure to establish identity
	<p>police databases where alphanumeric data and possibly a photograph of the foreign national may be found. This is dependent on the foreign national having previously visited the territory of the Czech Republic and a record on him/her existing in police databases.</p>
Forced return	<p>Identity is established by running security checks in police databases where alphanumeric data and possibly a photograph of the foreign national may be found.</p> <p>However, this is dependent on a record on the foreign existing in police databases.</p>
Short stay visas	<p>At Embassies: comparison of data in VIS; comparison of the appearance of the applicant with photographs in their travel document; ad hoc interviews, detection of forged travel documents.</p> <p>At border crossing points: Police of the Czech Republic accepts applications for short-term visas.</p> <p>The Police cross-checks the foreign national against police databases and takes the foreign national's fingerprints which it then enters into VIS. Component to this process is taking a photograph of the foreign national which is also entered into VIS.</p>
Long stay visas/ permits for family reasons	<p>Comparison of the foreign national's appearance with the photograph in the travel document; ad hoc interviews, detection of forged travel documents.</p>

Table 13

Migration procedure	Steps in the procedure to establish identity
Long stay visas/ permits for study reasons	<p>Comparison of the foreign national's appearance with the photograph in the travel document; ad hoc interviews, detection of forged travel documents.</p>
Long stay visas/ permits for the purposes of remunerated activities	<p>Comparison of the foreign national's appearance with the photograph in the travel document; ad hoc interviews, detection of forged travel documents.</p>

The content of this study
***Challenges and Practices for Establishing Applicants'
Identity in the Migration Process***
represents the views of the author only
and is his/her sole responsibility.
The European Commission does not accept any responsibility
for use that may be made of the information it contains.

**Challenges and Practices for Establishing Applicants'
Identity in the Migration Process**

Developed by the EMN Contact Point in the Czech Republic
published by the Ministry of the Interior
Graphics by Jindřich Hoch

2018

ISBN **978-80-87544-73-0**

www.mvcr.cz
www.emncz.eu