



**Comparative study of ID management in
immigration regulation – Norway, Sweden, the
Netherlands and United Kingdom**

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Foreword

The purpose of the study is to compare Norwegian immigration laws, rules and regulations related to ID management with those of Sweden, the Netherlands and the UK. The study aims to provide suggestions for improvement of the Norwegian practice regarding ID management.

Senior analyst Tor Egil Viblemo has been project manager. Professor Jens Vedsted Hansen at Aarhus University, Professor Maritta Soininen at Stockholms University, Ulla Iben Jensen and dr. juris Terje Einarsen have been reading and commenting the report.

We would like to thank all those who contributed to this study.

Findings, conclusions and recommendations are the responsibility of Oxford Research.

Kristiansand, October 2013



Harald Furre

Adm. dir.

Oxford Research AS

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Guide to the report

This report starts with a Norwegian summary of the study. Then the report consists of three main parts:

Part one: “About this study”, describes the objectives and research questions (chapter 2). It also presents the methodology (chapter 3).

Part two: “Comparative findings” consists of five chapters. In each chapter different research issues are discussed. Each discussion starts with comparative findings and then the findings for Norway, Sweden, The Netherlands and UK are presented. The chapters are the following

- Chapter 4: Legal framework
- Chapter 5: Institutional framework
- Chapter 6: Policy
- Chapter 7: Practice
- Chapter 8: Practical dilemmas

Part three: “Best practices and recommendations”, consists of two chapters.

Chapter 9 presents the main findings, while chapter 10 presents best practices and several recommendations.

In the appendices you can find supplementing data and information.

Those readers only interested in conclusions and recommendations should read part 3, chapter 9 and 10. For more in depth study, we recommend also to read each comparative chapter (chapter 4-8). It would also give a better understanding of the study if you read chapter 2 (describes the objectives and research questions) and chapter 3 which presents the methodology.

Chapter 1 Sammendrag

Dette kapitelet redegjør for oppdraget, metode, konklusjoner og anbefalinger.

Strukturen er som følger:

- Om oppdraget
- Konklusjoner
- Anbefalinger

1.1 Bakgrunn

Identitetstvil og innvandrere uten identitetsdokumenter innebærer en utfordring for samfunnet på flere plan.

Identitetsfastsettelse i utlendingsforvaltningen er vanskelig og man må i noen tilfeller akseptere tvil

Utlendingsmyndighetene har ansvar for å vurdere identiteten til utlendinger som har søkt om en tillatelse til opphold i Norge. Identitetsvurderinger er en viktig oppgave som er tids- og ressurskrevende for utlendingsforvaltningen. Dersom Utlendingsdirektoratet (UDI) innvilger søknaden om oppholdstillatelse til tross for at det foreligger identitetstvil, vil tvilen som hefter ved identiteten ofte også skape store utfordringer for utlendingene selv. Identitetstvil kan også innebære en sikkerhetsmessig utfordring og utfordringer for andre myndigheter utenfor utlendingsforvaltningen¹.

Det finnes allerede en del kunnskap og indikasjoner på hva som er utfordringene for *utlendingsforvaltningen*. Flere utredninger og rapporter har påpekt at dagens ID-arbeid i utlendingsforvaltningen har utfordringer. En hovedkonklusjon er at arbeidet er *fragmentert* og mangler *samordning*. Det er også indikasjoner på at ulike etater har ulike krav og vurderinger av identitet².

I forbindelse med etableringen av Nasjonalt ID-senter³ ble det nedsatt en arbeidsgruppe som leverte en rapport i januar 2010⁴. Arbeidsgruppen gjorde også en kartlegging av identitetsarbeid i *utlendings-*

forvaltningen. I denne kartleggingen kom det bl.a. frem:

- ID-arbeid og kompetansebygging skjer i stor grad på ad-hoc basis
- Det skjer noe dobbeltarbeid bl.a. fordi resultater av en aktørs undersøkelser ikke nødvendigvis blir gjort kjent for andre aktuelle aktører
- Det er usikkerhet om metoder, ansvarsfordeling og analyse og tolkning av resultater

Rapporten "Effektivisering av tvangsreturer identitetsfastsettelse og samarbeid"⁵ (side 4) peker også på behovet for økt kompetanse og mer enhetlig arbeid med identitet i utlendingsforvaltningen:

"Klarlegging av utlendingers identitet er en av de største utfordringene på utlendingsfeltet. Utlendingsmyndighetene har ikke en tilstrekkelig enhetlig og helhetlig vurdering av identitet. Identiteten klarlegges ikke tidlig nok. Utlendingsmyndighetene samarbeider ikke i tilstrekkelig grad om identitetsfastsettelse."

En del av disse rapportene er utarbeidet for flere år siden. Det har dermed trolig skjedd en god del forbedringer. Samtidig viser en nylig utgitt rapport i 2013 fra Nasjonalt ID-senter, at enkelte elementer av identitetskontrollen i utlendingsforvaltningen (utenriktjenesten og politiet har undersøkt) kan bli bedre:

*Gjennom kartleggingen har vi gjort funn som tilsier at politiet ikke fullt ut bruker den muligheten de har til å registrere og foreta søk i flere saker der identiteten ikke er fastlagt. Spesielt gjelder dette i søknader om oppholdstillatelse. Større grad av sentral lagring av biometri vil gi en gevinst i identitetsarbeidet, blant annet ved at det er lettere å kontrollere om en person oppholder seg i landet under flere identiteter."*⁶

Rapporten fra Nasjonalt ID-senter indikerer også at det er en betydelig systemrisiko for falske identiteter og at enkelte utlendinger kan operere med flere identiteter som etableringen av Nasjonalt ID-senter og endringer i organiseringen av førstelinjen.

¹ Oxford Research 2013: Behov for felles innsats. Identitetsproblematikk og identitetsvurderinger knyttet til utlendingers identitet

² Effektivisering av tvangsreturer. Identitetsfastsettelse og samarbeid. Rapport 2008.

³ <https://www.nidsenter.no/>

⁴ Etablering av et nasjonalt identitets- og dokumentasjonssenter. Om Nasjonalt ID-senters mål, oppgaver og plassering. Arbeidsgruppens rapport januar 2010.

⁵ Effektivisering av tvangsreturer. Identitetsfastsettelse og samarbeid. Rapport 2008.

⁶ Nasjonalt ID-senter (2013): *Biometri og identitet. Utfordringer og nye muligheter for utlendingsforvaltningen*

Identitetsvurderinger der dokumenter mangler og/eller dokumenter har lav notoritet⁷

I særlig grad er identitetsvurderinger krevende i saker hvor innvandrere ikke fremlegger, eller ikke kan fremlegge identitetsdokumenter. I enkelte tilfeller vil fremlagte dokumenter ha lav notoritet. I flere saker kan det videre være tvil rundt utlendingers identitet grunnet motstridende opplysninger og lignende.

Temaet for denne komparative studien, er nettopp identitetsvurderinger i slike utlendingssaker.

1.2 Om oppdraget

1.2.1 Formål

Prosjektet er gjennomført på oppdrag fra utlendingsdirektoratet (UDI).

Hovedformålet med studien har vært å få mer kunnskap om utlendingsforvaltningenes identitetsvurderinger i Norge, Sverige, Nederland og Storbritannia.

En målsetning med studien er å bidra til kunnskapsgrunnlaget for den videre utviklingen av arbeidet med identitetsvurderinger i norsk utlendingsforvaltning og i utlendingsmyndighetenes tilnærming til innvandrere som ikke har fremlagt nasjonalpass eller andre identitetsdokumenter med høy notoritet.

Det er også et formål å bidra til mer komparativ kunnskap om identitetsvurderinger og «best practice» i slike krevende saker.

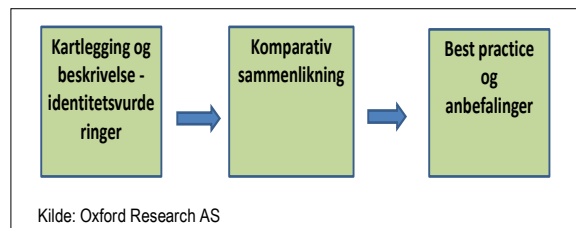
Studien bør ses i sammenheng med andre utviklingsprosjekter og utredninger i norsk utlendingsforvaltning, særlig de prosjekter og utredninger som gjelder identitetsvurderinger.

1.2.2 Oppdragets hoveddeler

Oppdraget har forenklet sett hatt tre hoveddeler. Figuren nedenfor skisserer oppdragets hoveddeler.

⁷ Notoritet dreier seg om i hvilken grad et dokument eller handling er etterprøvable. Et dokument som utstedes på bakgrunn av betryggende rutiner og registre, og som inneholder etterprøvbare opplysninger, har notoritet.

Figur 1: Prosjektets hoveddeler



Den første hoveddelen er en kartlegging og beskrivelse av identitetsvurderinger i Norge, Sverige, Nederland og Storbritannia. Den andre hoveddelen av studien utgjør en komparativ sammenlikning mellom disse fire landene. Den tredje delen av studien redegjør for «best practice» og anbefalinger.

Prosjektet er med andre ord både innrettet mot kunnskapsinnhenting og analyse, men også policyreget der en skal få frem «best practice» og om mulig gi konkrete anbefalinger til tiltak og metoder.

1.2.3 Problemstillinger

Studien forsøker å gi kunnskap om andre lands tilnærming til identitetsvurderinger og identitetstil på fem nivåer:

- Den lovregulerte tilnærmingen til identitetsvurderinger
- Den organisatoriske tilnærmingen til identitetsvurderinger
- Policy-tilnærmingen
- Praxis-tilnærmingen
- Praktiske dilemmaer: Den konkrete vurderingen i søknader om beskyttelse/opphold fra utvalgt land.

Lovregulerte tilnærmingen

I den lovregulerte tilnærmingen til identitetsvurderinger har bl.a. følgende spørsmål vært stilt:

- «Identitetskrav i lovverket. Er det ulike identitetskrav for ulike tillatelser?»
- «Hvilket ansvar for å avklare egen identitet har søkerne, og hvilket ansvar har myndighetene i id-avklaringen?»

- «Hvorvidt myndighetene foretar nye vurderinger av en utlendings identitet ved senere søknader enn asylsøknaden, eller om myndighetene kun legger til grunn vurderingen foretatt på tidspunktet for avgjørelsen av asylsøknaden.»

Den organisatoriske tilnærmingen til identitetsvurderinger

Når det gjelder organiseringen av arbeidet med identitetsvurderinger, har følgende spørsmål bl.a. blitt forsøkt belyst:

- «Hvordan er organiseringen av identitetsvurderinger i utlendingsforvaltningen og hvilket ansvar har de ulike enheter?»
- «Finnes et eget ID-senter?»
- «Hva slags kompetanse har de som foretar identitetsvurderingene?»
-

Policy-tilnærmingen

I delen om policy, har vi forsøkt å få kunnskap om følgende:

Om Norge, Sverige, Nederland eller Storbritannia har innført konkrete policy-tiltak for å avklare identiteten til asylsøkere som ankommer uten identitetsdokumenter herunder tiltak som er ment å stimulere denne gruppen til å avklare sin identitet?

Vi har bl.a. sett på følgende konkrete spørsmål:

- «Det gis mindre gunstige tillatelser til asylsøkere som ikke har fremlagt nødvendige identitetsdokumenter, evt. ikke har sannsynliggjort sin identitet?»
- «Får uavklart identitet konsekvenser for velferdstilbud eller andre rettigheter (f. eks. rett til å søke arbeid, botilbud, stønader) i perioden det tar å behandle asylsøknaden mens man søker asyl?»
- «Dersom det er satt inn tiltak, er tiltakene blitt evaluert?» Er det utført evalueringer innen tematikken identitetsvurderinger?

Praksis tilnærmingen

Her har vi undersøkt følgende spørsmål:

Krav til klarlegging av identitet: Hvilke krav stilles til søkerne om samarbeid for å avklare identiteten, og hva er konsekvensene av at de ikke samarbeider?

I hvilken grad er et gyldig pass tilstrekkelig til å avklare identitetstil for søkere som har operert med flere forskjellige identiteter? Hvor stor vekt tillegges notoritet i denne sammenheng?

Hvilke undersøkelser foretas der det ikke er fremlagt pass eller andre identitetsdokumenter?

I saker der det er lagt fram pass eller andre reisedokumenter:

- I hvilken grad foretas det dokumentkontroll: kontrolleres det om reisedokumentet er utstedt av riktig myndighet, på riktig måte, og at det ikke er falskt/forfalsket mv. - I hvilke land eller saker er det eventuelt aktuelt?
- I hvilken grad verifiseres dokumentene, dvs. kontrolleres mot registre i hjemlandet ved kontakt med utstedelsesmyndighet. - I hvilke land eller saker er det eventuelt aktuelt?
- Hvordan vektlegges pass som er ekte, men som har generelt lav notoritet på grunn av lave krav til underlagsdokumenter, høyt korrupsjonsnivå mv.

Praktiske dilemmaer– eksempler (test cases)

I studien har det blitt utarbeidet noen praktiske dilemmaer. Dette er eksempler på saker fra land hvor dokumentsituasjonen generelt er forholdsvis god, videre hvor dokumenter har liten grad av notoritet av ulike årsaker og endelig saker hvor søkerne er fra land hvor dokumenter ikke finnes eller er praktisk tilgjengelig i meget liten grad. De praktiske dilemmaene illustrerer typiske utfordringer og spørsmål ved saker fra Russland, Afghanistan og Somalia.

Vi forutsetter at alle øvrige vilkår er oppfylt for å gi en tillatelse, og at det kun er ID-vurderingen som gjenstår. Gitt de ulike kjennetegn ved saken som presenteres i gjennomgangen av de praktiske dilemmaene, forsøkte vi å få kunnskap om følgende:

- Hvilke krav som stilles til dokumentasjon – underlagsdokumenter?
- I hvilken grad gjøres undersøkelser der det ikke foreligger dokumentasjon og hvilke undersøkelser gjøres i de ulike sakene?

- Hva vil utfallet av søknaden som hovedregel være; innvilgelse eller avslag? Gis det begrensede tillatelser i noen tilfeller?

Det er gitt en full beskrivelse av de praktiske dilemmaene i vedlegget.

1.2.4 Problemstillinger - en oversikt

Figuren under presenterer en oversikt over hovedtema og problemstillinger. Norge har baseline og utgangspunkt for den komparativ studie og det har blitt gjennomført casestudier i Sverige, Nederland og Storbritannia.

De praktiske dilemmaene illustrerer typiske utfordringer og spørsmål ved saker fra Russland, Afghanistan og Somalia. Dette er indikert med landsnavn og flagg.

Tabell 1: Case land

Baseline og case-land		 Norway: Baseline-studie	 Sverige Case-land	 Storbritannia Case-land	 Nederland Case-land
Hovedtema – og problemstillinger	Hoved spørsmål				
Lovregulert tilnærming	Identitetskrav i lovverket				
	Identitet og tillatelser				
	Etter søknad				
Organisatorisk tilnærming	Nasjonale myndighet og ID				
	Kompetansesenter				
	Kompetanse				
Policy-tilnærming	Tillatelser				
	Velferdsrettigheter				
	Evaluerings				
	Reformer				
Praksis-tilnærming	Krav til søker og nasjonale myndigheter				
	Gradert struktur i praksis?				
	Dokumenter og notoritet/«reliabilitet»?				
	Undersøkelser når: Søkere ikke har pass eller andre reisedokumenter				

	Undersøkelser når: Søker har pass eller reisedokumenter:				
Praktiske dilemmaer	De praktiske dilemmaene illustrerer typiske dokumentasjons- spørsmål fra følgende land: Afganistan  Somalia  Russland 				
Kilde: Oxford Research AS					

1.3 Metode

Denne delen beskriver den metode og systematikk som har vært brukt i prosjektet. Kapittelet beskriver også datainnsamlingsmetoder som har vært brukt og hvordan datainnsamlingen har foregått i praksis.

den informasjonen som har fremkommet inn i en felles mal i og rapportert etter hovedproblemstillinger:

1.3.1 Analyteskjema og totrinnsmetodikk

Komparativ metode

Oppdraget innebærer bruk av komparativ metode⁸ gjennom en komparativ beskrivelse og analyse av institusjonelle forhold, regelverk og praksis når det gjelder identitetsvurderinger.

Komparasjon forutsetter en systematisk datainnsamling og analyse mal⁹.

Vi har brukt følgende to-trinns metodikk:

Data har blitt forsøkt innhentet fra alle landene på samme måte¹⁰. Hvert lands ordninger har blitt analysert og rapportert hver for seg. Deretter har vi satt

⁸ Se bl.a. Charles Ragin, *The Comparative Method: Moving Beyond Qualitative and Quantitative Strategies*

⁹ Gerring, J. 2004. "What is a case study and what is it good for?" I *American political Science Review*, vol 98 (2).

¹⁰ Redegjørelsen under datainnsamlingen viser at det ikke har vært praktisk mulig å få et helt likt metodisk opplegg i hvert land.

Tabell 2: Analyteskjema

Baseline og case-land	 Norway: Baseline-studie	 Sverige Case-land	 Storbritannia Case-land	 Nederland Case-land
Lovregulert tilnærming				
Organisatorisk tilnærming				
Policy tilnærming				
Praksis tilnærming				
Praktiske dilemmaer				
Kilde: Oxford Research AS				

1.3.2 Datainnsamling og analyse

Dokumentstudier

Dokumentstudier har vært en sentral del av dette prosjektet, og flere ulike dokumenttyper har vært sentrale datakilder for å belyse regelverk, rutiner og organisering av identitetsarbeidet i de ulike landene.

I særlig grad har instruksjer og interne rundskriv vært nyttige for å forstå regelverk, organisering og praksis. Instruksjer og regelverk har vært tilgjengelig i Norge, Sverige og Storbritannia. I Nederland var noe av materialet på engelsk, for øvrig var mye av materialet på nederlandsk. I Nederland gjennomførte vi betydelig flere intervjuer, siden en del av de skriftlige kildene i mindre grad var tilgjengelig på engelsk.

Det finnes begrenset med andre utredningsrapporter som spesifikt gjelder identitetsvurderinger i asylsaker og familieinnvandring. Den mest sentrale og relevante studien er en EMN¹¹-studie fra 2012-2013

¹¹ European Migration Network (EMN) er ett nettverk koordinert av EU-kommisjonen. Nettverket har alle EU-land og dessuten Norge som medlemmer. Nettverkets formål er å bidra med og formidle oppdatert, objektiv og nøyaktig fakta og informasjon om migrasjon og asyl. Et viktig mål er å bidra til relevant kunnskapsutvikling for europeiske policy beslutningstakere. Se mer informasjon om nettverket her: <http://www.emnnorway.no/>

som gjelder etablering av ID i asylsaker¹². Denne studien dekker EU-landene og Norge. Det ble i denne studien utarbeidet landrapporter og en synteserapport. Disse rapportene har vært nyttige i denne studien av identitetsvurderinger i Norge, Sverige, Nederland og Storbritannia.

Intervjuer

Den andre sentrale kilden har vært intervjuer. I særlig grad har intervjuene vært sentrale for å forstå praksis og de identitetsundersøkelser og identitetsvurderinger som konkret blir gjort i asylsaker og saker om familieinnvandring i Norge, Sverige, Nederland og Storbritannia.

Ved utvelgelse av informanter forsøkte vi å sikre at vi intervjuet personer som hadde kunnskap om de forholdene vi skulle kartlegge. Vi søkte særlig de informanter som hadde bredde og dybdekunnskap om identitetsvurderinger. Representanter fra rapportlandene har funnet frem til de personene som vi har intervjuet på bakgrunn av en beskrivelse fra Oxford Research om ønsket kompetanse og bakgrunn til informantene.

¹² Establishing Identity for International Protection: Challenges and Practices.' EMN (2012-2013)

Før intervjuene ble informantene også så langt det var mulig informert gjennom e-post om hva prosjektet og intervju spørsmålene gikk ut på. Intervjuene varte fra om lag én time opptil 2,5 timer. Gruppeintervjuene varte typisk fra 1,5 til 2,5 timer, mens enkeltintervjuene ble gjennomført i løpet av 1-1,5 time. Alle intervjuene i Sverige, Nederland og Storbritannia ble tatt opp på bånd. Deretter ble hovedpunkter fra intervjuene skrevet ut. Noen intervjuer ble transkribert fullt ut. De fire pilotintervjuene i Norge ble ikke tatt opp på bånd.

Intervjuer i utlendingsforvaltningen i rapportlandene

Før det kunne gjennomføres intervjuer ble det også gjort en formell avklaring med rapportlandene. UDI utarbeidet et presentasjonsbrev som fortalte om prosjektet¹³. Dette ble tatt med i forbindelse med gjennomføring av intervjuene.

I det følgende redegjør vi kort for gjennomføring av intervjuer i de enkelte landene. I forbindelse med gjennomføringen av intervjuer fikk vi også tilgang til enkelte interne dokumenter.

Samlet har også Oxford Research gjennomført 23 intervjuer med totalt 44 informanter.

Norge

I Norge ble det gjennomført intervjuer med 4 erfarne saksbehandlere innen ID-vurderinger i Utlendingsdirektoratet. Tre av informantene tilhørte asylavdelingen, to med særlig kompetanse på Somalia og en av informantene med særlig landkompetanse om Russland. En av informantene var fra oppholdsavdelingen med kompetanse innenfor familieinnvandring. Intervjuene ble gjennomført i mars 2012.

Sverige

I Sverige behandles søknader om innvandring hovedsakelig av Migrationsverket¹⁴. Oxford Research besøkte Migrationsverket i Stockholm sammen med en representant fra Nasjonalt ID-senter. Intervjuene ble gjennomført i mai 2012. Samlet ble det gjennomført intervjuer med 9 informanter. Oxford Research gjennomførte 5 intervjuer, to gruppeintervjuer og tre enkeltintervjuer. Ett av gruppeintervjuene bestod av informanter fra ID-enheten sammen med Ambasadensheten. Videre gjennomførte vi to enkeltinterv-

juer med saksbehandlere med ansvar knyttet til avgjørelse av saker. Ett av intervjuene var med en ekspert på ID-regelverk i asyl- og familieinnvandringssaker. Det ble også gjennomført et intervju med to saksbehandlere som forbereder sakene, men som ikke har ansvar for den endelige beslutningen i utlendingssakene.

I tillegg til intervjuene har vi ved behov supplert og sjekket ut informasjon gjennom e-postkommunikasjon med Migrationsverket.

Nederland

Alle intervjuene ble foretatt i løpet av november 2012 av en analytiker fra Oxford Research sammen med to representanter fra Nasjonalt ID-senter. I Nederland er Immigratie en Naturalisatiedienst¹⁵ (IND) den myndigheten som behandler og avgjør spørsmål om opphold for personer som vil bosette seg i Nederland, komme på besøk, søker beskyttelse, skal utvises eller ønsker nederlandsk statsborgerskap. Mange av intervjuene ble foretatt med representanter fra IND. Intervjuene fant sted på informantenes kontorer som befant seg på flere steder i Nederland.

Oxford Research besøkte følgende steder i landet:

- Schiphol airport
- Rijswijk (head-office IND)
- Zwolle
- Den Haag

Det ble gjennomført intervjuer med totalt 26 informanter. Dette resulterte i totalt 10 intervjuer, hvorav 8 var gruppeintervjuer og 2 enkeltintervjuer.

I tillegg til intervjuene har vi supplert og sjekket ut informasjon gjennom e-postkommunikasjon.

Storbritannia

Intervjuene ble gjennomført sommeren 2012 av en forsker fra Oxford Research sammen med en representant fra Nasjonalt ID-senter. Alle intervjuene ble gjennomført i London i hovedkontoret til Home Office¹⁶. I Storbritannia ble 5 informanter intervjuet

¹³ Se vedlegg

¹⁴ Migrationsverket har ansvaret for innvandring til Sverige. Det er Migrationsverket som bl.a. behandler søknader om asyl og familieinnvandring og også vurderer og fastsetter ID. Se nærmere informasjon på hjemmesidene til Migrationsverket: <http://www.migrationsverket.se/info/om.html>

¹⁵ www.ind.nl

¹⁶ Home Office er ansvarlig for bl.a. innvandringssaker i Storbritannia.

gjennom 4 intervjuer, hvorav ett gruppeintervju og 3 enkeltintervjuer.

Oxford Research etterspurte flere intervjuer i Storbritannia. Imidlertid har ikke Home Office kunnet stille flere informanter til rådighet. I løpet av første del av 2013 har Home Office gitt grundige skriftlige tilbakemeldinger på spørsmål og rapportutkast.

Andre metoder og kvalitetssikring

I denne studien har også andre metoder for informasjonsinnsamling og kvalitetssikring vært viktige. Vi vil her særlig nevne:

- Referansegruppemøter og innspill på skriftlige utkast av sluttrapport.
- Innspill fra informanter hos utlendingsmyndighetene i de enkelte caselandene på spørsmål og rapportutkast.
- Rapportutkast har også vært gjennomgått og kommentert av ekspertene Professor Jens Vedsted Hansen ved Aarhus Universitet, Professor Maritta Soininen ved Stockholms Universitet, Ulla Iben Jensen og dr. juris Terje Einarsen

1.4 Komparative hovedfunn

1.4.1 Overordnet konklusjon

Vi finner at det overordnet er betydelige *likheter* mellom landenes juridiske regulering, metoder og praksis når det gjelder ID-vurderinger i asylsaker og familieinnvandringssaker. I all hovedsak gjør landene det samme.

Den vesentligste forskjellen synes å være i hvilken grad landene har tatt i bruk biometri¹⁷ og lagring av biometriske data. Her skiller Storbritannia seg ut med flere års erfaring i bruk av biometri og visamatching. Det er flere mindre ulikheter mellom landenes juridiske regulering, metoder og praksis.

Fra et forvaltningsperspektiv synes det også å være en forskjell mellom Sverige, Norge og Nederland på

¹⁷Biometri er et område der teknologien kan hjelpe oss med å styrke og forenkle vår evne til å identifisere mennesker. Biometri er målbar, fysiske kjennetegn eller personlige adferdstrekk, som kan brukes til å gjenkjenne identitet, eller verifisere den påståtte identitet til en person som er registrert med biometriske data. Kilde: <https://www.nidsenter.no/no/Metoder/Biometri-og-ID-arbeid/>

den ene siden og Storbritannia på den annen side. De tre første nevnte landene har alle detaljerte reguleringer av ID-vurderinger i forskrifter og i interne retningslinjer. I diskusjonen av praksis og konkrete dilemmaer, har det vært hensiktsmessig å diskutere konkrete caser. I Storbritannia synes det i større grad å gjelde en «sak til sak»-tilnærming. Også Storbritannia har interne retningslinjer, men i denne studien har det vært utfordrende å få svar på konkrete dilemmaer i ID-vurderingene.

1.4.2 Juridisk rammeverk

Regulering av ID

Vi finner at alle landene har reguleringer av ID-vurderinger i lovverk, forskrift og retningslinjer og rundskriv. I alle landene er det detaljerte reglene om ID-vurderinger gitt i rundskriv og interne retningslinjer.

I Sverige og Norge ser vi også at rundskriv og interne retningslinjer har blitt oppdatert og revidert de siste årene. I Nederland har det ikke blitt gjort større endringer av praksis de siste årene når det gjelder ID.

I Sverige har videre Migrasjonsdomstolen og Migrasjonsoverdomstolen¹⁸ spilt en viktig rolle i tolkningen av kravene til ID. Dette er en forskjell fra situasjonen i Norge, Storbritannia og Nederland. I Storbritannia og Nederland har domstoler i noen grad gjennom rettsavgjørelser vært med på å fastlegge og utvikle innholdet i ID-kravene, men ikke i samme grad som i Sverige. I Norge har domstolene i mindre grad tolket og fastlagt innholdet i ID-kravene i utlendingssaker.

Identitetskrav i lovverket

Vi finner at reglene og tilnærmingen i Sverige og Norge er forholdsvis like når det gjelder identitetskrav i lovverket.

Sverige¹⁹ opererer i likhet med Norge med tre standarder hva gjelder utlendingens identitet.

¹⁸ I 2006 innførte Sverige den organiseringen av klagesaksbehandlingen i utlendingssaker som gjelder i dag: Utländingsnämnden ble fjernet, og avslag fra Migrasjonsverket kan i stedet klages inn for en egen avdeling i de ordinære forvaltningsdomstolene; Migrationsdomstolene. Det er tre Migrasjonsdomstoler i Sverige. Migrasjonsverket kan klage Migrasjonsdomstolens avgjørelse til Migrasjonsoverdomstolen, men dette gjøres bare i prinsipielle saker som har betydning for rettstilstanden. I kapittel 4 i denne rapporten forklares rollen til Migrasjonsdomstolen og Migrasjonsoverdomstolen nærmere når det gjelder ID.

¹⁹ "styrkt/visat", "sannolikt" og "ikke-sannolikt"

Både i Norge og Sverige er utgangspunktet og hovedregelen at ID skal være dokumentert for å få opphold. Imidlertid ser vi at det i begge landene er unntak hvor det er nok at ID er sannsynliggjort. Dette gjelder typisk i noen asylsaker og enkelte saker om familieinnvandring.

Kravene til ID i statsborgersaker er som hovedregel høyere både i Norge og Sverige enn for søknader om opphold.

I Nederland synes identitetskravene i det all vesentlige å være lignende som i Norge og Sverige. Hovedregelen er at ID skal være dokumentert, men i en del asylsaker er kravet i praksis lavere.

Identitetskravene i lovverket i Storbritannia skiller seg noe fra reguleringen i Sverige og Norge. Det er ikke formelle regler i lovverket om hvilke krav til ID eller beviskrav om ID som er tilstrekkelig. I Storbritannia er kravene til ID basert på helhetlig skjønnsmessig avveining av alle momenter. Det er pr. våren 2013 heller ikke noen formelle regler om graderte krav til ID etter ulike utlendingssaker. Storbritannia baserer seg på en sak-til sak tilnærming av ID hvor troverdighet er meget sentralt.

Norge har en regel om begrenset oppholdstillatelse som gis på grunn av sterke menneskelige hensyn eller særlig tilknytning til riket. Oppholdstillatelsen kan gjøres begrenset dersom det er tvil om utlendingens identitet, hvis behovet er midlertidig, eller når andre særlige grunner tilsier det, jf. utlendingsloven § 38 tredje ledd. Begrensningene kan gjelde diverse rettigheter slik som retten til familieinnvandring, tilgang til norskopplæring. Begrensede tillatelser er altså tidsbegrensede og gir ikke grunnlag for permanent opphold eller familiegjengeforening. Vi finner ikke en tilsvarende regel om begrensninger i oppholdstillatelsen grunnet ID-tvil i de andre landene (Sverige, Nederland og Storbritannia).

Vurdering av ID etter asylsøknad

Vi finner at hovedregelen i alle landene er at ID i asylsaken er et viktig utgangspunkt for senere søknader og vurdering av ID. Hovedregelen i Norge og Sverige er at det ikke vil bli gjort en ny uavhengig vurdering av ID ved søknader om andre tillatelser.

Nye undersøkelser og vurderinger av ID vil imidlertid bli gjort i Norge hvis konkrete omstendigheter nødvendiggjør dette. Dette kan typisk være at informasjon står i motstrid til ID opplysninger som er regi-

strert i asylsaken og vedtaket om opphold. Reglene er i praksis stort sett de samme i Sverige og Norge: Ved søknad om fornyelse eller permanent oppholdstillatelse tas det ikke stilling til søkers identitet på nytt da dette er gjort ved førstegangstillatelsen, med mindre det foreligger nye opplysninger som strider mot det som tidligere er oppgitt om identitet.

I Nederland er reglene annerledes. Hvis en søker som har fått avslått sin asylsøknad, søker om oppholdstillatelse, vil det bli gjort en ny vurdering av ID. Vi har ikke data om regelverket på dette punktet i Storbritannia.

1.4.3 Institusjonelt rammeverk

Myndigheter

Vi finner noen forskjeller mellom landene når det gjelder organisering og ansvaret for funksjoner i etablering og vurdering av ID i asylsaker og familieinnvandringssaker.

Den største forskjellen synes å være mellom Sverige og Storbritannia på den ene siden og Norge og Nederland på den andre siden.

Når det gjelder asylsaker, er mye av ansvaret for etablering og vurdering av ID, lagt til en organisasjon i Sverige og Storbritannia. I Nederland og til dels Norge er det flere ulike organisasjoner som har ansvar for å etablere og vurdere ID. Særlig i Nederland er det en kompleks rollefordeling og mange aktører når det gjelder etablering av ID, ID-undersøkelser og vurdering av ID.

I alle landene er det imidlertid en organisasjon som har vedtaksmyndigheten og gjør en ID-vurdering i selve asylsaken.

Når det gjelder familieinnvandring er hovedbildet at landene stort sett har samme aktører involvert i ID-undersøkelser og ID-vurderinger.

Sentrale kompetansesentre og andre spesialiserte enheter

Norge er det eneste av de undersøkte landene som har etablert et sentralt kompetansesenter for ID-spørsmål.

Imidlertid har både Sverige, Nederland og Storbritannia ulike spesialiserte enheter med rådgivende-

funksjoner og kompetansefunksjoner innen ID-spørsmål.

Kompetanse

Ett hovedfunn er at det ikke i noen av landene er formelle krav til kompetanse og utdanning i identitetsvurderinger for ansatte som fatter vedtak i asylsaker og familieinnvandringsaker.

For saksbehandlere blir det imidlertid gitt opplæring i ID-vurderinger i alle landene. Til dels er ID-vurderinger en del av basisopplæringen og dels gis spesifikk opplæring i ID-spørsmål.

1.4.4 Policy

ID og tillatelser²⁰

Norge har som nevnt en regel om begrensede tillatelser grunnet ID-tvil, jfr. utlendingsloven § 38 og utlendingsforskriften § 8-12.

Vi finner ikke noen lignende regel i Sverige, Nederland og Storbritannia.

ID og velfersrettigheter

Vi finner som hovedregel at ID-tvil og ID-status ikke er direkte knyttet opp mot velfersrettigheter.

Et vesentlig unntak gjelder retten til arbeid for asylsøkere. I Norge kan asylsøkere på nærmere vilkår få rett til arbeid dersom de kan dokumentere ID. En lignende regel finnes i Sverige. I Sverige er utgangspunktet at asylsøkerne må kunne dokumentere ID for å få rett til arbeid, men det kan i noen tilfeller være nok at asylsøkeren aktivt har medvirket til å klargjøre ID.

Retten til arbeid for asylsøkere i Nederland og Storbritannia er på den annen side ikke knyttet opp mot krav om å dokumentere ID.

Evalueringer

Vi finner få spesifikke evalueringer av ID-tiltak og regelverk.

I Norge har det i de senere årene vært utført en del evalueringer av ID-policy og regelverk.

I de andre landene finnes det generelle evalueringer av organisasjonene, som i noen grad også inkluderer evalueringer av ID-arbeidet. Storbritannia er et eksempel der det jevnlig blir utført uavhengige evalueringer.

Reformer

Vi finner at det er flere interessante reformer og endringsforslag i de ulike landene når det gjelder ID.

I særlig grad vil vi fremheve prosjektet VEFÖ i Sverige som var et pilotprosjekt hvor man sendte alle dokumenter rett til ID-enheten for vurdering. Formålet var å minimere risikoen for at dokumenter forsvinner, at alle dokumenter blir kontrollert og unngå ad hoc og svak dokumentkontroll.

I norsk sammenheng vil vi fremheve arbeidet med å modernisere Folkeregisteret.

I Storbritannia er det blitt gjennomført flere viktige endringer de senere årene og flere er pågående. I særlig grad vil vi fremheve arbeidet med visamatching og lagring av biometrisk informasjon.

1.4.5 Praksis

Ansvar for søker og myndigheter

Alle landene pålegger søkeren en plikt til å legge frem alle relevante dokumenter for saken. I alle landene er det også en plikt for søker å samarbeide og medvirke til å klargjøre ID.

Det er i alle landene en forskjell mellom asylsøkere og andre søkere/familieinnvandring. Asylsøkere kan ikke kreves å medvirke til handlinger som ville måtte komme i konflikt med beskyttelsesbehovet.

Selv om det synes som landene i all hovedsak setter samme krav til søkerne, synes det å være indikasjoner på noen mindre forskjeller i praksis når det gjelder kravet til medvirkning for søker og eventuelle

²⁰ Det vi er interessert i å undersøke her, er om det er innført regler/policytiltak som er motivert av å få flere søkere til å klargjøre sin ID.

konsekvenser ved ikke-oppfyllelse av medvirkningsplikten

Det synes som Nederland har en noe strengere praksis hvor identitetstvil grunnet i bl.a. at søker ikke i stor nok grad har medvirket til å klargjøre ID og/eller ikke har en konsistent forklaring, kan lede til avslag. På den andre siden har Oxford Research et inntrykk av at Sverige er et eksempel hvor medvirkningskravet i praksis er noe mindre strengt, i alle fall for asylsøkere. Det synes som det substansielle spørsmålet om beskyttelsesbehov i praksis får mer betydning enn ID-tvil.

I alle landene har utlendingsmyndighetene en plikt til å undersøke og klargjøre ID. I all hovedsak er reglene like mellom landene, det er bare mindre detaljforskjeller.

Dokumenter og notoritet²¹

Hovedfunnet er at notoritet gis betydelig vekt i alle landene. Dokumenter med lav notoritet legges ikke vekt på eller bare i liten grad som støttegrunnlag.

Vi finner at selv om en søker har flere identiteter, vil et autentisk pass med notoritet vektlegges betydelig. Det er derfor mulig at et ekte pass med notoritet vil være tilstrekkelig til å kunne dokumentere ID også i de tilfeller der søker har flere identiteter. Imidlertid vil denne vurderingen være avhengig av de konkrete omstendighetene og grunnlaget som den er basert på i utgangspunktet.

Samtidig er det trolig noen mindre nyanseforskjeller i den konkrete vurderingen og vektleggingen av notoriteten til dokumenter mellom de ulike landene. Oxford Researchs hovedinntrykk er i alle fall at man i Storbritannia i større grad vektlegger biometrisk ID. Når det gjelder notoritet for dokumenter og vekten av andre ID-opplysninger, synes man i større grad å vektlegge en holistisk tilnærming. Et dokument med notoritet vil ha betydelig vekt, men samtidig har man i Storbritannia en sak-til-sak tilnærming. Fingeravtrykks-match er det sterkeste ID-beviset og er også akseptert av domstolene på alle nivåer.

Gradert ID?

Vi finner at Norge og Sverige har et system og regelverk med gradert ID. Det vil si at man har ulike standarder for ID eller krav til bevis for ID. I både Norge og Sverige er det tre ulike hovedkategorier av ID.

I Nederland er det også etablert et gradert system for ID i asylsaker. Ifølge «The Identification and Labelling Protocol» (PIL) er det et hierarki av kilder for å etablere og fastsette ID. «The Identification and Labelling Protocol» inkluderer også en tabell med åtte forskjellige nivåer når det gjelder sikkerhet for ID. Oxford Research fant i intervjuene med ansatte i utlendingsforvaltningen i Nederland at man imidlertid at man i praksis har to hovedkategorier for ID: «Dokumentert» og «Ikke dokumentert».

I Storbritannia eksisterer ikke formelle regler om graderte ID-krav.

Undersøkelser – ingen dokumenter

Hovedfunnet er at alle landene har mange ulike metoder for å undersøke ID i utlendingssaker. Hovedbildet er at landene i stor grad gjør de samme undersøkelsene, men at det er noen forskjeller i praksis når det gjelder vektlegging og i hvilken grad de ulike undersøkelsene brukes.

En vesentlig forskjell er i hvilken grad man har implementert bruk av biometrisk matching og lagring av biometrisk informasjon systematisk. Storbritannia har innført systematisk matching av fingeravtrykk gjennom sitt nasjonale visa-system. Dessuten bruker de data fra andre internasjonale databaser. Storbritannia har også integrert data og lagrer dem – de bygger datasett med store datamengder som også har data fra lang tid tilbake. Storbritannia er videre medlem av «The Five Country Conference»²², som gir muligheter for deling av fingeravtrykk.

Det er videre en rekke mindre ulikheter mellom landene når det gjelder hvordan man bruker og gjennomfører de ulike undersøkelsene.

²¹ Notoritet dreier seg om i hvilken grad et dokument eller handling er etterprøvbart. Et dokument som utstedes på bakgrunn av betryggende rutiner og registre, og som inneholder etterprøvbare opplysninger, har notoritet.

²² The Five Country Conference ('FCC') er et samarbeidsforum for innvandring og grensekontroll – samarbeidet er mellom følgende Canada, Australia, Storbritannia, USA og New Zealand

Undersøkelser – dokumenter er presentert

Dokumentkontroll

Alle landene har et system for dokumentkontroll. Det er noen ulikheter i hvordan ansvarsfordelingen er og hvordan dokumentkontroll utføres.

I Norge er det Politiets Utlendingsenhet (PU) som i asylsaker foretar dokumentkontroll av de ID-dokumenter søker har framlagt, hovedsakelig reisedokumenter. I oppholds- og visumsaker skal som hovedregelen førstelinjen i Norge (politiet) eller utlandet (utenriksstasjonene) foreta person- og dokumentkontroll. Dokumentkontroll gjøres vesentlig på reisedokumenter, og i noen tilfelle nasjonale ID-dokumenter. Førstelinjen i oppholdssaker kan i en del tilfeller sende dokumenter til Nasjonalt ID-senter for nærmere kontroll og vurderinger (retningslinjer følger av RS 2011-040).

I Sverige gjøres i utgangspunktet dokumentkontrollen i Migrationsverket i asylsaker. I Sverige blir ikke alle dokumenter kontrollert. I praksis er det kontroll av dokumenter fra noen spesifikke land. For å kunne vurdere dokumenters ekthet, skal det være en ID-ekspert ved hver Asyl undersøkelses-enhet i Migrationsverket. En utfordring er at det er opp til hver administrator eventuelt å sende videre dokumenter for undersøkelse og ekthetskontroll til ID-enheten. Som nevnt i kapitlet om policy, har det vært igangsatt et pilotprosjekt, VEFÖ, der et av hovedformålene var å styrke og gjøre en mer systematisk dokumentkontroll.

I Nederland er det tre nivåer av dokumentkontroll og ulike aktører har fått fastsatt spesifikke oppgaver. Førstelinjen i Nederland er i asylsaker politiet og IND. I oppholdssaker er førstelinjen utenriksstasjonene/ambassadene, politiet og IND. De ulike spesial enhetene kan gjøre en grundigere dokumentkontroll.

I Storbritannia er det i hovedsak to former for dokumentkontroll. Det ene er en grunnleggende dokumentkontroll. Det andre er mer videregående dokumentkontroll, som krever høyere kompetanse.

Ikke alle saksbehandlere vil ha kompetansen til å gjennomføre en grunnleggende dokumentkontroll. Ikke alle pass eller andre dokumenter gjennomgår en grunnleggende dokumentkontroll.

I Storbritannia arbeides det med å innføre et system hvor dokumenter blir sentralt lagret og tilgjengeliggjort. I det nye systemet vil alle dokumenter bli sendt til den sentrale enheten og alle dokumenter vil

bli kontrollert. I det nye systemet vil saksbehandlere motta skannede dokumenter som allerede er blitt kontrollert av den sentrale enheten.

Verifiseringer

Alle landene har regler som muliggjør verifiseringer av dokumenter. I hvilken grad verifisering mot registre og lignende er nødvendig og mulig avhenger av de ulike opprinnelseslandene.

1.4.6 Praktiske dilemma

I studien har det som nevnt blitt utarbeidet noen praktiske dilemmaer.

Hovedfunnet er at landene i betydelig grad vurderer de praktiske dilemmaene på lignende måte. Begrunnelsene og enkeltheter i kravene kan være noe ulike, likevel er det likhetene som er hovedinntrykket. I noen av de praktiske dilemmaene, skiller Norge seg noe ut i resultat ved at Norge har en særregel om begrenset tillatelse grunnet ID-tvil.

Vi finner noen vesentlige forskjeller i den konkrete vurderingen av enkelte saker:

ID krav i familieinnvandringsaker fra Somalia

Når det gjelder familieinnvandringsaker fra Somalia, er kravet til ID i noen tilfeller strengere i Sverige enn i Norge. I Norge legger Utlendingsdirektoratet til grunn sannsynliggjort ID for alle grupper søkere i familieinnvandringsaker fra Somalia. Hovedregelen i Sverige for familieinnvandringsaker fra Somalia er at ID må være dokumentert (på svensk styrkt/klarlagt). Imidlertid gjelder et unntak for familier med felles barn og der familien har levd sammen i hjemlandet. I slike tilfeller vil det være tilstrekkelig at ID er sannsynliggjort. I disse tilfeller kan DNA-analyse være en metode for å sannsynliggjøre ID og slektsskapsrelasjonen. I øvrige tilfeller gjelder altså et krav om dokumentert ID²³.

Bakgrunnen for dommen fra Migrasjonsdomstolen av 18. januar 2012, var at Migrasjonsdomstolen i 2010 og 2011 hadde skapt en praksis der ID måtte

²³ Se nærmere MIG 2011:11 og mål nr UM 10897-10)[2]. Se også følgende artikkel på Migrationsverkets nettside som forklarer praksisendringen og hvilke krav til ID det gjelder i familieinnvandringsaker fra visse land hvor det er svært vanskelig å dokumentere ID: <http://www.migrationsverket.se/info/5403.html>

være dokumentert (styrkt) i familieinnvandringssaker. Dette kravet gjorde det i praksis umulig for eksempelvis somaliere å gjenforenes med familie i Sverige. Dommen fra Migrasjonsdomstolen modifiseres kravet på dokumentert ID i familieinnvandringssaker når det gjelder barnefamilier

Er det forskjeller i praksis for å oppheve tidligere ID-tvil?

Ett av spørsmålene vi har forsøkt å undersøke i denne studien, har vært vurderingene av tidligere ID-tvil dersom det ved senere søknad om familieinnvandring fremlegges gyldig pass.

Dette har vært et vanskelig spørsmål for informantere i de ulike landene å vurdere. I fremstillingen i kapittelet om practical dilemmas kan det synes å være noen forskjeller mellom de enkelte landene. Resultatene tyder på at praksis i Norge er noe strengere enn i de andre landene. Det synes som det skal mindre til for å oppheve tidligere ID-tvil ved å fremlegge gyldig pass i Sverige, Nederland og Storbritannia enn den praksis som Norge følger.

På bakgrunn av intervjusituasjonen og understrekingen av usikkerhet rundt svaret/vurderingene fra informantene side på akkurat dette spørsmålet, mener vi at denne forskjellen ikke bør vektlegges.

Hovedfunnet som har fremkommet er at opphevelse av tidligere ID-tvil ved fremleggelse av gyldig pass, er et vanskelig spørsmål for alle landene å vurdere. I alle landene vil det være en konkret vurdering av tidligere ID-tvil og nye ID-opplysninger herunder vurdering av utstedelse av passet og passets notoritet.

1.5 Beste praksis og anbefalinger

I kapitelet om beste praksis og anbefalinger har vi tatt utgangspunkt i tiltak som kan være effektive for å fastsette og vurdere ID i asylsaker og i familieinnvandringssaker.

Vi har identifisert flere ulike beste praksis tiltak og gir anbefalinger om konkrete tiltak i norsk utlendingsforvaltning. I særlig grad er mange av best praksis tiltakene hentet fra praksis og reformer i Storbritannia.

I rapporten vil man finne mer detaljerte opplysninger som utdyper bakgrunnen for beste praksis og

anbefalingene. Det er flere relevante redegjørelser i kapittel 7 om praksis, se spesielt diskusjonen i kapittel 7.4.5. Det er også viktige funn i kapittel 6 om policy, se særlig kapittel 6.4.4.

Oxford Research mener at potensialet for en mer effektiv ID-forvaltning særlig synes å være tilstede innenfor økt bruk av biometri, utvikling av store databaser med informasjon fra mange ulike kilder og en helhetlig ID-forvaltning. Vi ser også at ID-kontroll og ID-vurderinger er krevende og mer konkret ferdighetstrening og erfaringslæring kan være nyttig.

Oxford Research har ikke vurdert anbefalingene opp mot det norske regelverket på de aktuelle områdene (slik som datalagring og personvern). Vi har fokusert på å fremheve tiltak og utviklingsområder som synes å gi *vesentlig potensial* for en mer effektiv ID-vurdering og ID-fastsettelse i utlendingssaker hvor det i liten grad er dokumenter med tilstrekkelig notoritet. Anbefalingene er i hovedsak langvarige strategiske tiltak som trolig krever betydelige endringer i systemer, organisering og regelverk.

1.5.1 Utvikle databaser og øke bruken av biometri i ID-kontroll og ID-vurderinger

Oxford Research mener som sagt at det ligger et betydelig potensial i utvikling av store databaser med informasjon fra mange ulike kilder og økt bruk av biometri ID-kontroll og ID-vurderinger

Norske (utlendings)myndigheter bør på denne bakgrunn utrede mulighetene for å utvikle databaser, lagre biometriske data og øke bruken av biometri i ID-kontroll og ID-vurderinger.

Vi finner at Storbritannia har kommet lengst i broken av databaser og biometriske data og er det landet man bør se til når det gjelder etablering av databaser og bruk av biometri.

De viktigste lærdommene fra Storbritannia er følgende:

- Man bør utvikle registre og databaser med biometriske data og andre data. Det er viktig å kunne lagre og opparbeide data over lang tid. Man bør bygge registre med store datamengder som også har data fra lang tid tilbake (dvs. man må kunne lagre dataene over lengre tid). I størst mulig grad bør det være et sentralt register.
- Dessuten må man ha et integrert datasystem som inkorporerer data fra ulike kilder, fra utlen-

dingssakene, fra andre nasjonale kilder og fra internasjonale kilder..

- Det er i den sammenheng videre viktig med internasjonalt samarbeid og utveksle data fra andre land og internasjonale databaser. Storbritannia er bl.a. medlem av «The Five Country Conference»²⁴, som gir muligheter for deling av fingeravtrykk.
- Saksbehandlerne i utlendingsforvaltningen må trenes opp til å bruke dataene og systemene.

Etablere databaser/register og lagre biometriske data

Norske myndigheter bør utvikle og etablere en database eller register som har muligheten til å lagre og sammenlikne biometriske data fra utlendingssaker. Aktuelle og relevante biometriske data bør bli lagret over lengre tid²⁵.

Vurdere mulighetene for økt internasjonalt samarbeid om datautveksling

Norske myndigheter bør vurdere mulighetene og behovene for ytterligere internasjonalt samarbeid for å utveksle data fra andre land og fra internasjonale databaser. Et liknende samarbeid som «The Five Country Conference»²⁶, som gir muligheter for deling av fingeravtrykk, kan være et eksempel på internasjonalt samarbeid.

1.5.2 Styrke helhetlig ID-forvaltning

Denne komparative rapporten indikerer at foruten å etablere et register med bl.a. biometriske data slik som i Storbritannia, er det også meget viktig å innføre en helhetlig ID-forvaltning. Organiseringen teller også, ikke bare teknologien.

Oxford Research mener at norske myndigheter bør styrke en helhetlig ID-forvaltning. Tidligere studier viser at ett av hovedproblemene i norsk forvaltning når det gjelder identitetsvurderinger, er manglende

koordinering og helhetlig forvaltning av identitetsproblematikken²⁷.

Erfaringene fra Storbritannia indikerer også at e-forvaltning og «integrity» i datasystem og organisering er meget viktig for effektiviteten når det gjelder ID-kontroll og ID-vurderinger, se bl.a. omtale i kapittel 6.4.4, 7.4.5. og kapittel 10.2.

Norske myndigheter bør utvikle et system som sikrer en effektiv elektronisk forvaltning av ID-data og biometriske data i utlendingssaker. Det er behov for å forbedre tilgangen til systemene og informasjonsutvekslingen mellom i norsk forvaltning for å oppnå en effektiv e-forvaltning og herunder en effektiv ID-forvaltning med et integrert system.

1.5.3 Innføre gradering av ID og fastsette "sikker" ID.

Denne komparative studien fokuserer på identitetsvurderinger i saker hvor innvandrere ikke fremlegger, eller ikke kan fremlegge identitetsdokumenter med tilstrekkelig notoritet. I flere slike saker kan det videre være tvil rundt utlendingers identitet grunnet motstridende opplysninger og lignende. Ett problem ved lav sikkerhet rundt fastsatt ID, er muligheten for å operere med flere ulike ID-er.

En mulig løsning til utfordringen med usikker ID og doble ID-er, er å «låse» ID-en. En forutsetning for at en slik tilnærming skal være effektiv, er at utlendingsmyndighetene i større grad bygger opp databaser med biometrisk informasjon, se anbefaling over.

Storbritannia er det landet som synes å ha kommet lengst i å utvikle og prøve ut systemer og metoder for å «låse» ID-en og ha et system for å fastsette sikkerheten til ID-en. Storbritannia har som nevnt også flere års erfaring med bruk av biometri i utlendingssaker og lagring av biometriske data.

Det viktige prinsipielle poenget er at det bør være en ID fastsatt som man kjenner grunnlaget til og kan vurdere graden av sikkerheten til. Denne ID-en bør "låses" inntil eventuelt nye opplysninger endrer ID-en. Økt bruk av biometri synes å være en effektiv metode for å kunne fastsette ID-en med høy sikkerhet. Særlig gjelder dette i utlendingssaker hvor innvandrere ikke fremlegger, eller ikke kan fremlegge identitetsdokumenter med tilstrekkelig notoritet.

²⁴ The Five Country Conference ('FCC') er et samarbeidsforum for innvandring og grensekontroll – samarbeidet er mellom følgende Canada, Australia, Storbritannia, USA og New Zealand

²⁵ En liknende anbefaling fremkommer også i en rapport fra Nasjonalt ID-senter (2013): *Biometri og identitet. Utfordringer og nye muligheter for utlendingsforvaltningen*

²⁶ The Five Country Conference ('FCC') er et samarbeidsforum for innvandring og grensekontroll – samarbeidet er mellom følgende Canada, Australia, Storbritannia, USA og New Zealand

²⁷ «Behov for felles innsats. Identitetsproblematikk og identitetsvurderinger knyttet til utlendingers identitet». Rapport fra Oxford Research (2013)

Vi vil imidlertid understreke at denne anbefalingen er nært knyttet til anbefalingene om å utvikle databaser med biometri, økt bruk av biometri og en effektiv ID-forvaltning. Erfaringene fra Storbritannia indikerer at det særlig er *kombinasjonen* av biometriske databaser bygget opp over lang tid med data fra flere kilder, effektiv e-forvaltning og et system for å låse og gradere ID-ens sikkerhet bl.a. basert på biometri, som synes å kunne være effektivt.

Denne anbefalingen om å innføre gradering av ID og fastsette «sikker» ID, bl.a. basert på økt bruk av biometri, bør ses i sammenheng med anbefalinger om graderinger av ID i Folkeregisteret. Denne og andre rapporter viser at man i norsk utlendingsforvaltning i for liten grad har et system for å fange opp og registrere usikkerheter i ID-vurderingene. Vi viser her til anbefalinger i strategirapport om Folkeregisteret og til en rapport fra Oxford Research om identitetsvurderinger i norske etater og virksomheter²⁸.

Ikke alltid mulig å fastsette sikker identitet i alle tilfeller

Det er viktig å understreke at utlendingsmyndighetene ikke i alle saker kan fastsette en sikker identitet. Det finnes saker der det er sannsynlighetsovervekt for at søkeren fyller vilkårene for beskyttelse, eller der det foreligger svært sterke menneskelige hensyn som taler for å gi en oppholdstillatelse, men hvor det ikke er mulig for utlendingsmyndighetene å avklare nøyaktig hvem personen er. Dersom utlendingsmyndighetene i slike tilfeller utsteder personen med et ID-dokument, så kan omverdenen gis et inntrykk av at personens identitet er sikrere enn det som faktisk er tilfelle.

1.5.4 Styrke opplæring og praktisk trening i ID-kontroll og ID-vurderinger

Organiseringen av førstelinjen og dens roller i ID-kontroll varierer noe i de ulike landene. Erfaringen i denne komparative rapporten, indikerer at det er behov for økt fokus på opplæring og praktisk erfaringslæring i ID-kontroll og også ID-vurderinger.

Vurdere å styrke kompetansen i førstelinjen – ID-kontroll

²⁸ «Modernisering av Folkeregisteret.» Rapport fra strategigruppen Versjon nummer 1.0, 4. november 2011. «Behov for felles innsats. Identitetsproblematikk og identitetsvurderinger knyttet til utlendingers identitet». Rapport fra Oxford Research (2013)

Oxford Research mener at det kan være fornuftig å styrke kompetansen og opplæring om følgende i førstelinjen i utlednings:

- Dokument kontroll,
- Taktisk ID-kontroll,
- Ulike tekniske metoder for kontroll av ID, slik som ansiktsgjenkjenning, sjekke mobil telefoner, sammenlikninger av foto og liknende osv.²⁹.

Vurdere å styrke erfaringslæring med ID-vurderinger i Utlendingsdirektoratet (UDI)

Oxford Research mener også at det er grunn til å se på mulighetene for å styrke opplæring og erfaringslæring i de særlig utfordrende utlendingssakene når det gjelder ID-vurderinger. Denne anbefalingen er særlig rettet mot Utlendingsdirektoratet. Oxford Research mener at selv om ID-vurderinger er nøye regulert i interne retningslinjer, vil jevnlig erfaringslæring og diskusjoner om hvordan en bør vurdere disse sakene, være nyttig.

Erfaringslæring er prinsipielt viktig. En del av det grunnleggende innen ID-kontroll og ID-vurderinger kan læres på kurs etc., mens den største og trolig viktigste læringen skjer gjennom at ansatte har muligheten for å systematisere og dele erfaringer knyttet til arbeidet.³⁰

1.5.5 Undersøke og vurdere mulighetsrommet for verifiseringer

Erfaringene i Norge, Sverige og Nederland, er at verifiseringer ikke blir brukt så mye i praksis som man ideelt kunne gjøre. I intervjuene er det gitt forskjellige forklaringer som grunner til at verifiseringer ikke blir så mye som man ideelt sett burde vært gjort:

- Manglende systematisk kompetanse om mulighetene for verifiseringer
- Ressurser / tidkrevende
- Ikke del av interne retningslinjer/ sjekklist
- For lite fokus på verifiseringer.

³⁰ "Hvis det innarbeides rutiner for å lære av erfaringene, kan vi snakke om systematisk erfaringslæring. Erfaringslæring er å dreie reaktiv kontroll mot en mer proaktiv kontroll, ved å benytte erfaringer fra hva man har gjort (reaktivt) for å unngå å gjøre samme feil igjen (proaktivt)". NOU 2009: 12 <http://www.regjeringen.no/pages/2189838/PDFS/NOU200920090012000DDDPDFS.pdf> Sitat fra side 185.

I noen tilfeller er ikke verifiseringer mulig. Det synes likevel å være et mulighetsrom for å bruke verifiseringer i større grad, bl.a. i saker hvor søkerne kommer fra land med noen dokumenter, men hvor dokumentene har lav notoritet.

Oxford Research har ikke identifisert noen beste praksis i hvordan og når verifiseringer bør gjøres.

Norske utlendingsmyndigheter kunne vurdere deres gjeldende praksis og rutiner når det gjelder verifiseringer for noen søkerland hvor søkerne kommer fra land med noen dokumenter, men hvor dokumentene har lav notoritet (og hvor verifiseringer er mulig).

Norske utlendingsmyndigheter kunne videre vurdere opplæring og kompetanse når det gjelder verifiseringer i utlendingssaker.

Dette krever tilstrekkelige ressurser for å gjennomføre pilotprosjekter for å undersøke mulighetene for å bruke verifiseringer i større grad. For en del land er utlendingsmyndighetene i dag ikke kjent med metoder som vil medføre pålitelige verifiseringer. Tilstrekkelige ressurser er også nødvendige for opplæ-

ring og faktisk gjennomføring av verifiseringer. Man vil som et utgangspunkt være avhengig at det finnes en norsk ambassade eller en ambulerende attache som kan følge opp verifiseringene. I noen saker er man også avhengig av å verifisere via advokat, og det kan være kostbart. Tilstrekkelige ressurser (budsjettmidler) er følgelig en avgjørende faktor for å forbedre metodikk og kunnskapsgrunnlag om verifiseringer og også for å gjennomføre verifiseringer.

1.5.6 Gi ekspertisebistand og annen støtte til søkerland

I en del land (for eksempel Afghanistan og Irak) har ID-dokumenter lav notoritet og ofte har også de administrative registreringssystemene i disse landene lav kvalitet.

Europeiske land kunne på denne bakgrunn gi økonomisk støtte og/eller ekspertisebistand til administrasjonene og myndighetene i disse landene for å forbedre kvaliteten på (søkerlandenes) ID-dokumenter og registreringssystemer.

Dette er en anbefaling som krever internasjonalt samarbeid.

Part one: About the study

Chapter 2. Objectives and research questions

2.1 Key objectives of the study

This study has been commissioned by the Norwegian Directorate for Immigration (UDI)³¹. The study is a comparative study of identity³² (ID) - management in asylum cases as well as family immigration cases.

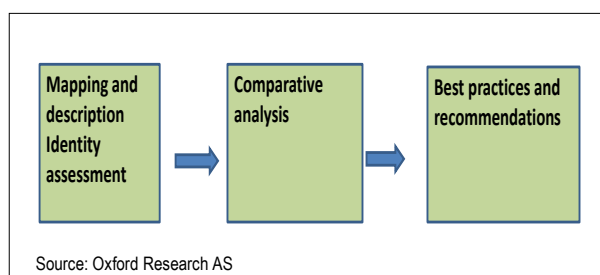
The purpose of the study is to compare Norwegian immigration laws, rules and regulations related to ID management. The study compares the organisation of the work and routines and practices with those of Sweden, the Netherlands and the United Kingdom (UK). The study aims to provide suggestions for improvement of the Norwegian practice regarding ID management.

The study focuses on asylum cases, and to some degree family immigration, where there *are few or no documents*. We have especially been interested in the practices regarding asylum seekers and family immigration cases from Afghanistan, Russia and Somalia.

2.2 The main parts of the assignment

Simplified, the assignment has three main parts. The Chart below outlines the assignment's main parts

Figure 2: Main parts



The first part is a mapping and description of the ID assessment in Norway, Sweden, the Netherlands, and UK. The second part of the study constitute of a comparative analysis between these four countries. The third part of the study explains 'best practices' and recommendations.

Thus, the project is oriented towards both knowledge acquisition and analysis, and also characterized by a policy approach in which we identify 'best practices' and if possible provide concrete recommendations for measures and methods.

2.3 Research questions

The analysis addresses the following research dimensions and primary questions in particular:

- legal framework
- institutional framework
- policy
- practices (including methods and investigations)
- practical dilemmas.

We do not intend to describe common EU rules and databases.

2.3.1 Legal framework

In the following we describe the primary questions regarding the legal framework for establishing and assessing ID in asylum cases and family immigration. The following questions have been asked:

- Is the process to be used to determine ID within the procedure for international protection and family immigration laid down in legislation? What kind of rules are there in the legislation to determine 'documented ID' (in Norwegian, 'dokumentert identitet')?
- Are the rules different regarding different permits?
- Are there new assessments of ID when immigrants apply for other permits?

³¹ Identitetstil og identitetsvurderinger i utlendingssaker – et komparativt prosjekt
Saksnummer 10/2588. Tilbudsfrist: 20. juni 2011.

³² In this report ID is used as abbreviation for identity.

2.3.2 Institutional framework

In this section the aim is to describe the institutional framework regarding establishment and assessment of ID. The following questions have been asked:

National authorities

- Which *national authorities* have the operational responsibility for establishing and assessing the ID of applicants for international protection and family immigration?
- What are their roles and responsibilities in establishing and assessing ID?

Competence centre

- Is there a *central competence centre* for issues related to the determination of ID and/or verification of documents?
- If there is not a central competence centre, what *other institutions or systems* are available to provide advisory services or other forms of support to officials responsible for establishing the ID of applicants for international protection and family immigration?
- What are the issues and tasks of these specialised units?

Competence

- What kind of *competence* is required for those who assess ID?
- What kind of training is given?

2.3.3 Policy

The main aim and primary issue in this section is to consider whether Sweden, the Netherlands and the UK have implemented policy measures targeted against the problem of unclear ID. Are there policies that are meant to give incentives to clarify the ID for applicants in asylum cases and family immigration?

- Does unclear or undocumented ID status have any consequences for permits for the asylum seeker?

- Does unclear or undocumented ID status have any consequences for welfare rights for the asylum seeker?

- Have rules and systems ID assessment and management been evaluated?

- Are there any proposals and reforms on the agenda regarding ID issues and ID management?

2.3.4 Practices

This section aims to describe the practices regarding the establishment and assessment of ID. The following primary questions have been asked:

- What are the respective obligations for applicants and national authorities?

- Do authorities employ a grading structure in practice?

- How are documents and their 'reliability' appraised?

- What investigative procedures are used when:

- applicants do not have a passport or other travel document?
- in cases when applicants have presented a passport or other travel document, but it is doubted?

In the following, we briefly describe the questions that have been asked about these practices.

Obligations for applicants and national authorities

- What obligation do the applicants have to cooperate with the authorities to establish their ID?

- What is the approach to an applicant's cooperation in the ID clarification process? What obligation does the applicant have?

Documents and ‘reliability’?

- What is a sufficient grade for a valid passport for those applicants who had been operating with different identities?
- How much weight is given to ‘reliability’?

Grading structure in practice?

- Is there a ‘grading’ structure used to denote the degree of ID determination?

Investigation procedures:

When no reliable documents are presented, what sorts of investigations are made, and in which cases:

- Check of *language capabilities, age, and other tests*? How are these undertaken or conducted?
- *Verification* of information in order to confirm ID (in case of no documents): how is this conducted? (For example, neighbours’ control).
- Are biometrics used, and if this is the case — which biometric data are considered?

Applicant presented a passport or other travel document:

- To what extent is the document controlled? Do officials check if the travel document was issued by the appropriate authority, and if the document is false or forged? For which countries or cases is this determination possibly relevant?
- To what extent are the documents *verified*? Are they checked against the records in the country, in contact with the issuing authority? For which countries or cases is this possibly relevant?
- What are the means to assess *passport authenticity* for those countries with generally low notoriety, because of the low requirements for supporting documents, high level of corruption, and so on?

2.3.5 Practice — practical dilemmas

In the study there were developed a small number of critical dilemmas in the form of very brief cases. These dilemmas reflect cases from countries where the document situation is generally good, where documents are unreliable for different reasons, and cases where documents are scarce or non-existent. The cases reflect documentation issues from Russia, Afghanistan and Somalia.

These practical dilemmas were developed by UDI.

Practical dilemmas (situations)

The assumptions in the discussion about practical dilemmas were that *all other conditions* were met to grant a permit and that *only the identification assessment remained*. Given the different characteristics of the cases below, we looked for arguments, justifications and answers to the following:

- What are the *requirements for evidence*: supporting documents?
- To what extent is *investigation* undertaken in cases where there is no evidence, and which investigations are made in the various cases? What kind of investigation is typically done in different cases?
- What will the *outcome* of the application be, as a rule? Granted or denied? Is there a possibility to give a limited permit, for example, time limited?

There is a full description of the practical dilemmas in the annex.

2.4 Research issues — overview

The table below illustrates and gives an overview of the main research issues and the concrete questions.

Norway has been a baseline for the comparative study and case studies have been conducted in Sweden, the Netherlands and UK.

The practical dilemmas reflect documentation issues from Russia, Afghanistan and Somalia. This is indicated with name and flags.

Tabell 3: Research issues – an overview

Baseline and case-study countries		 Norway: Baseline	 Sweden Case-country	 United Kingdom Case-Country	 The Netherlands Case-country
Main issues	Main research questions				
Legal framework	Legislation and ID				
	ID and permits				
	After application				
Institutional framework	National authorities and ID				
	Competence centre				
	Competence				
Policy	Permits				
	Welfare rights				
	Evaluation				
	Reforms and policy agenda				
Practice	Obligation for applicant and national authorities				
	Grading structure in practice?				
	Documents and 'reliability'?				
	Investigation procedures:				
	Applicant do not have presented a passport or other travel document:				
	In the case when applicant presented a passport or other travel document				
Practical dilemmas	Cases reflect documentation issues from: Afghanistan  Somalia  Russia 				

Source: Oxford Research AS

Chapter 3. Methodology

3.1 Process and Methodology

The study was conducted between August 2011 and June 2013. Following introductory analysis and interviews regarding the situation in Norway, the three country case studies were carried out in May–November 2012, followed by a comparative analysis.

Data collection is a combination of literature review and interviews with officials in relevant public institutions.

3.1.1 Review of relevant literature and case profile review

The situation in each country was analysed through a *desk review* of national official documents, as well as through the use of research papers. Both rules and practices were researched.

Oxford Research did a search for relevant literature. However, few studies have been conducted on establishing ID and ID assessment.

The desk studies are hence mainly based on legal texts, internal documents from the immigration authorities and their internet sites.

EMN Study

The most important publicly available research on establishing ID and ID assessment is the EMN Study 2012–2013 on the ‘Establishing ID for International Protection: Challenges and Practices’³³. The aim of this EMN Study was to provide an overview of important challenges facing national authorities in their efforts to establish, in the absence of credible documentation, the ID of applicants for international protection (that is, asylum and subsidiary protection) and for the return of rejected applicants. It also aimed to draw together an overview of national practices in handling these challenges.

³³[http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do?sessionId=13E10059A98369211819194B87BC8BA1?entryTitle=03_Establishing IDENTITY for International Protection: Challenges and Practices](http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do?sessionId=13E10059A98369211819194B87BC8BA1?entryTitle=03_Establishing_IDENTITY_for_International_Protection:_Challenges_and_Practices).

Oxford Research has found useful information in the EMN reports. However the information and level of detailed information vary across the national reports. The report from the Netherlands is rich with information, while the reports from the UK and Sweden are less detailed.

3.1.2 Case studies

Case countries

The selection of case countries was done in cooperation with UDI and the reference group. The following three countries were chosen:

- Sweden
- the Netherlands
- UK

Interviews

Before starting the case-studies, we collaborated with the immigration authorities in Sweden, The Netherlands and UK, and got a formal clarification for doing case-studies and interviews. UDI prepared a presentation letter with information about the project³⁴. This was included together with the conduct of the interviews.

To facilitate comparison, a common *interview guide* was developed and each country section has been drafted according to the same template.

23 interviews have been conducted and 44 people have been interviewed in total. We conducted more focus group interviews than expected. We have also collected information after the interviews by e-mail.

Generally, it was more difficult than anticipated to get access to relevant informants in the UK. We have less information about case workers’ views on practices in the UK than for Sweden and the Netherlands. Access to interview subjects selected for comparison proved generally difficult and time consuming.

³⁴ See appendix

The persons contacted or interviewed cannot be held accountable for the content of the study. Any omissions or misunderstandings remain the responsibility of Oxford Research. The interviews have been central in understanding practices and the ID studies and ID assessments made in asylum cases and in cases concerning family immigration in Norway, Sweden, in the Netherlands and in the UK. We wanted to ensure that the interviewed people were familiar to the matters we were to identify. We applied especially those informants who had breadth and depth of knowledge of the ID assessments. Representatives from the different countries included in the report identified the people who we interviewed based on a description made from Oxford Research about the desired expertise and background of informants. Before the interviews, we informed the informants, as far as possible, by email about the project and interview questions. The interviews lasted from about 1 hour to 2.5 hours. Group interviews lasted typically from 1.5 to 2.5 hours, while individual interviews lasted from 1 hour to 1.5 hours. We recorded all interviews in Sweden, the Netherlands and the UK on tape. Then the key points from the interviews were printed. Some interviews were completely transcribed. No recording was made for the four pilot interviews in Norway.

Interviews with the immigration authorities in case-countries

In the following, we will explain briefly how we conducted interviews in each country. In connection with the completion of the interviews, we also got access to some internal documents. [Norway](#) In Norway it was conducted interviews with four experienced officers within ID-assessments in the UDI. Three of the informants belonged to the asylum department, with particular expertise on Somalia, Afghanistan and Russia. One of the informants had expertise within family immigration. Interviews were conducted in March 2012.

Sweden

In Sweden, applications for immigration are processed mainly by the Migration Board. Oxford Research visited the Migration Board in Stockholm together with a representative from the Norwegian ID Centre. We held the Interviews in May 2012. Overall, there were conducted interviews with nine informants. Oxford Research conducted five interviews, two group interviews and three individual interviews. One of the group interviews consisted of

informants from the ID-unit. Furthermore, we conducted two single interviews with officers who have decision making authority. One of the interviews was with an expert in the identification legislation in asylum and family immigration cases. It was also carried an interview with two officers who prepare cases, but that do not have responsibility for the final decisions in immigration cases.

In addition to the interviews, we occasionally supplemented and tested the information through e-mail communication with the Migration Board.

Netherlands

All interviews were conducted in November 2012 by an analyst from Oxford Research together with two representatives from Norwegian ID Centre. We had the interviews at the offices of the informants' who were in several places in the Netherlands. Oxford Research visited the following places in the country:

- Schiphol airport
- Rijswijk (head-office IND)
- Zwolle
- The Hague

We had interviews with 26 informants. There were totally conducted 10 interviews, eight of which were group interviews and two individual interviews.

In addition to the interviews, we have complemented and tested the information through e-mail communication.

UK

We held the interviews in the summer 2012 by a researcher from Oxford Research along with a representative from the Norwegian ID Centre. We held the interviews in the premises of the Home Office. In the UK, we interviewed five informants in together four interviews, one group interview and three individual interviews.

Oxford Research sought more interviews in the UK. However, the Home Office was not able to arrange more informants. During the first part of 2013, the Home Office has given a detailed written response to questions and draft reports.

Other methods and quality assurance

In this study, other methods of information collection and quality assurance were important. We would particularly like to mention:

- Reference group meetings and input on written drafts of the final report.
- Input from informants in the individual case-countries (Sweden, the Netherlands and United Kingdom).
- The draft report has also been reviewed and commented on by the experts Professor Jens Hansen Vedsted at Aarhus University, Professor Maritta Soininen at Stockholm University, Ulla Iben Jensen and Dr. Juris Terje Einarsen

3.1.3 Notice to the reader

This study seeks to provide an accurate and up-to-date description of national legislation and systems in order to inform decision makers and the general public. It is not meant to be a 'legal textbook' for practitioners. Moreover, given the complexity of national cases, we cannot exclude mistakes or inac-

curacies. For specific questions related to national legislation, we would recommend consulting national legal documents mentioned in text. It is important to bear in mind that this study reflects the situation in 2012, and that this situation is likely to change, for instance as a result of developments in EU rules or national rules.

Especially, we have to note that there have been important changes in immigration organizations in the UK in 2012-2013. The UK Border Agency has been dissolved and its functions reabsorbed into the Home Office. This change to how immigration operations are undertaken has taken place alongside wider fundamental changes that have been underway since 2012.

Part two: Comparative findings

Chapter 4. Legal framework

In this chapter we present our *main comparative findings* regarding the *legal frameworks*.

The issues we try to answer are:

Legal framework

Is the process of determining ID within the procedures for international protection and family immigration as laid down in legislation?

Permits

What kind of rules are there in the legislation when it comes to what is 'documented ID' (in Norwegian, 'dokumentert identitet')?

Are the rules different regarding different permits?

Assessments of ID after asylum application

Are there new assessments of ID when applying for other permits (after asylum application)?

4.1 Legal framework: Legislation and ID

The table presents an overview of the comparative findings:

Table 4: Legislation/regulations - establishing and assessing ID

Member State	Legislation and main regulations	Procedural division of powers	Assessment of the ID – decision making
 Norway	The Immigration Act (Utlendingsloven) 2008 Immigration Regulations of 15 October 2009 (Utlendingsforskriften) Norwegian Nationality Act Norwegian Nationality Regulations	The Immigration Act (Utlendingsloven) 2008 Immigration Regulations of 15 October 2009 (Utlendingsforskriften) UDI circulars: RS 2012-009 ³⁵	Several internal instructions, see for example UDI circulars: RS 2012-009 RS 2011-040 ³⁶ RS 2010-155 ³⁷
 Sweden	Utlänningslag (2005:716) Utlänningsförordning (2006:97)	Utlänningslag (2005:716) Utlänningsförordning (2006:97)	-RCI 07/12012 "Rättslig ställningstagande angående kraven på klarlagt identitet och pass i ärenden om uppehållstillstånd", -Cases from the Supreme Migration Court -Internal handbook in Migrationsverket).
 United Kingdom	Immigration Act of 1971 Complex set of laws and regulations	Immigration Act of 1971 Complex set of laws and regulations	-Internal policy: Considering Asylum Claims and Assessing Credibility'. -Internal policy: Considering Asylum Claims and Assessing Credibility'.
 The Netherlands	Aliens Act 2000: <u>Sections 50, 52, and 55</u> Aliens Decree 2000	Aliens Act 2000: <u>Sections 50, 52, and 55</u> Aliens Decree 2000	-Identification and <u>Labelling Protocol (PIL)</u> -Aliens Act Implementation Guidelines -Work instructions Identification and <u>Labelling Protocol (PIL)</u> Aliens Act Implementation Guidelines

Source: Oxford Research AS

³⁵ RS 2012-009 «Registrering, vurdering og endring av identitetsopplysninger i saker etter utlendingsloven»

³⁶ RS 2011-040 «Personkontroll og kontroll av originale identitetsdokument ved søknader om visum og opphaldsløyve»

³⁷ RS 2010-155 «Retningslinjer for verifisering i utlendingssaker».

4.1.1 Comparative findings

The table shows that the countries all have some regulations and that most countries have laid down a more detailed policy and process in guidelines and work instructions.

In general we find that the rules about establishing and assessing ID and the process to be taken are mainly given in decrees, guidelines and work instructions. In the laws there is not much detailed information about the assessment of ID.

Sweden is somewhat special since cases from the Supreme Migration Court have been important regarding rules on establishing and assessing ID in asylum and family immigration cases.

4.1.2 Norway

The Immigration Act (Utlendingsloven) entered into force on 1 January 2010, as did its supplementary secondary legislation: Immigration Regulations of 15 October 2009 (Utlendingsforskriften). The rules and procedures for establishing and assessing ID are not described in the laws in detail. However, the laws give some important rules.

Important sections regarding ID

Immigration Act (Utlendingsloven):

According to the Immigration Act sections 83 and 93, all foreign nationals have to assist in clarifying their ID to the extent that the immigration authorities require.

There is however an important difference between the obligation between asylum / international protection and other applicants: Asylum applicants are not required to contact their home country in a manner that may conflict with their need for protection³⁸. The authorities should investigate ID, per Immigration Act § 93.

There are several other important rules about organisation, rules of procedure, the treatment of fingerprints and similar matters in the following chapters in the Immigration Act: border control and competence:

- chapter 10: Organisation of the immigration authorities,
- chapter 11: Rules of procedure,
- chapter 12: Treatment of fingerprints and the like, coercive measures and penalties.

Immigration Regulations (Utlendingsforskriften):

For the main rules about ID requirements, see for instance § 8-12, first paragraph, and § 10-2, second paragraph.

Norwegian Nationality Act

The Norwegian Nationality Act has important rules about ID in § 7 a).

Norwegian Nationality Regulations³⁹

The Norwegian Nationality Regulations has important rules about ID in Section 1-2.

Instructions and guidelines

The immigration area is further regulated by instructions and guidelines issued by the superior authority to subordinate and cooperating agencies and institutions.

There are several important instructions:

- RS 2012-009 «Registrering, vurdering og endring av identitetsopplysninger i saker etter utlendingsloven»,
- RS 2011-040 «Personkontroll og kontroll av originale identitetsdokument ved søknader om visum og opp-haldsløyve». (also in english version),
- RS 2010-155 «Retningslinjer for verifisering i utlendingssaker» (also in english version),
- RS UDI 2008-040 «Retningslinjer for behandling av statsborgersaker»,
- «Instrukser fra departementet AI 2009-80 og 103 om vurdering av identitet i saker etter hhv. statsborger- og utlendingsloven».

³⁸ Immigration Act Sections 81, 83 and 93, Immigration Regulations Section 17-2, UDI Circulars 2011-029 and 2010-086.

³⁹ Regulations No. 756 on the acquisition and loss of Norwegian nationality (Norwegian nationality regulations).

These instructions give detailed rules about establishing ID, assessments of ID and verifications and document control.

4.1.3 Sweden

Legal provisions pertaining to the Swedish Migration Board are found primarily in the *Aliens Act*, *Aliens Ordinance* and the Ordinance with Instructions for the Swedish Migration Board.

The migration system in Sweden is governed by the Aliens Act (Utlänningslagen, Statute 2005:716), which was enacted by the parliament. Emanating from that law is the Aliens' Ordinance (Utlänningsförrordningen, Statute 2006:97), which is decided by the Swedish Government. The current Aliens Act took effect on 31 March 2006.

The Administrative Judicial Procedure Act (Statute 1971:291) also governs with regard to appeals. The Administrative Procedure Act (Statute 1986:223) contains certain general statutes that govern all administrative agencies.

The rules and procedures for establishing and assessing ID are not described in detail in the laws.

'ID handbook'

Sweden has elaborated the process of establishing ID in guidelines, as well as in work instructions.

There is a handbook regarding ID issues (part of the internal handbook in Migrationsverket). Chapter 4 is about ID. This handbook has been changed and updated as of 2012-2013.

Instructions - RCI 07/2012

There is further a database, Lifos, with legal and country information. In this database there are a number of interesting and relevant documents regarding the process of establishing and assessing ID. One important document is:

«Rättschefens rättsliga ställningstagande angående kraven på klarlagd identitet och pass i ärenden om uppehållstillstånd.» RCI 07/2012⁴⁰.

⁴⁰ <http://lifos.migrationsverket.se/dokument?documentSummaryId=26987>

This is an 'instruction' from the legal manager in the Migration Administration with rules and procedures for establishing ID for residence permits.

The Migration Court -

Migrationsdomstolen/Migrationsöverdomstolen

There are three migration courts in Sweden, in Malmö, Stockholm and Göteborg⁴¹. The Migration Court's decision may be appealed to the Supreme Migration Court in accordance with the Aliens Act ch.16 § 9. Public legal aid is available in case of such appeals.

Cases from the Supreme Migration Court have been important regarding establishing and assessing ID asylum and family immigration cases. The most important cases have been:

- Verdict from the Supreme Court of Migration (Migrationsöverdomstolen) that considers evidence in asylum seekers' testimonies (MIG 2007:12);
- Verdict January 4, 2010, concerning passports and clarified identities in application for residence ('saker om oppholdstillatelse') (UM 1014-09);
- Verdict October 2, 2007, concerning permits where credibility of ID, ethnicity and domicile were lacking (UM 1119-06);
- Verdicts from a) August 29, 2007, concerning the question of residence permits for persons where decisions of rejection or expulsion have been prescribed (MIG 2007:46); and b) March 31, 2009 (UM 2819-08, MIG 2009:13) where passivity (ex. in ID-cases) is equated with withholding

See also discussion of the cases in "Instructions - RCI 07/2012".

4.1.4 The Netherlands

The relevant national legislation is:

- Aliens Act 200042

⁴¹ These are part of the administrative courts in the same cities. In case of a negative decision, the applicant can appeal to the Migration court which will review the case. The Migration board and the applicant meet as two parties in the Migration court.

⁴² No official English translation of the law exists. This translation is provided by www.legislationonline.org, an online legislative database operated by OSCE. This

- Aliens Regulation (Voorschrift Vreemdelingen)
- Aliens Decree (Vreemdelingenbesluit 2000).

Aliens Act, Aliens Decree

The main regulation is the following⁴³:

- Aliens Act 2000 Sections 50, 52, and 55
- The Aliens Decree 2000.
- The rules here often concern a formal/procedural division of powers:
- Section 31(2) of the Aliens Act 2000 also includes a few provisions about the assessment of the asylum application

Aliens Act Implementation Guidelines and PIL

In the Netherlands the actual immigration policy on the establishment of ID and nationality has been elaborated further in the Aliens Act Implementation Guidelines.

The identification and registration of third-country nationals is to be carried out in accordance with the Identification and Labelling Protocol (PIL)⁴⁴. The PIL describes a highly standardised procedure for the identification, registration, modification and determination of personal data⁴⁵.

Work instructions

The Immigration and Naturalisation Service (IND) has laid down work instructions for the relevant civil servants. The most relevant instructions regarding ID are the IND Work Instructions no. 2010/14 on decision methodology⁴⁶, and no. 2010/10 on the investigation method to be used during the asylum procedure⁴⁷.

translation does not include all changes to the law. The official Dutch text of the law: <http://wetten.overheid.nl/BWBR0011823>

44 Aliens Act Implementation Guidelines 2000 (A) 1/6.2.

45 Identification and Labelling Protocol (PIL), <http://ind-intranet/Asiel/Nieuws/Documents/PIL%203%200.pdf> Ministry of Justice, April 2008.

46 IND work instructions no. 2010/14 (Implementation Policy Department). Decision methodology: The assessment of credibility and relevance. (*Beslissystematiek: beoordeling geloofwaardigheid en zwaarwegendheid*). 15 December 2010. (www.ind.nl)

47 IND work instructions no. 2010/10 (Implementation Policy Department). Procedure to start an investigation and/or to ask questions in an investigation during the

4.1.5 UK

The EMN report for UK says that there is no overall set process of ID determination *for protection* of applicants laid down in UK legislation. However, a number of acts surround the procedure.

The Immigration Act 1971 is the foundation of the current legal framework, and has been amended and added to by a significant body of legislation, including:

- Immigration (Carriers' Liability) Act 1987 (now repealed)
- Immigration Act 1988
- Asylum and Immigration Appeals Act 1993
- Asylum and Immigration Act 1996
- Special Immigration Appeals Commission Act 1997
- Immigration and Asylum Act 1999
- Nationality, Immigration and Asylum Act 2002
- Asylum and Immigration (Treatment of Claimants, etc.) Act 2004
- Immigration, Asylum and Nationality Act 2006
- UK Borders Act 2007
- Borders, Citizenship and Immigration Act 2009.

Immigration policy and practice is governed by a large body of secondary legislation in the form of statutory instruments, as well as EU Regulations and Directives and the immigration rules made under the 1971 Act (which have been made, changed and consolidated on many occasions). There are also various procedure rules and practice directions for the Special Immigration Appeals Commission and the Asylum and Immigration Chamber, presided over by at least one immigration judge. A large volume of case law has also come into being, both from the Tribunal and from other courts.

Thus, migration and asylum in the UK are governed by a complex network of laws and practices.

asylum procedure (*Wijze van opstarten van onderzoek en/of het stellen van vragen bij onderzoek tijdens de asielprocedure*). 19 August 2010 (www.ind.nl).

Rules regarding ID

Part 11 of the Immigrations Rules dealing with asylum states that it is the duty of the applicants to substantiate their claim or establish that they are eligible to humanitarian protection or substantiate their human rights claims. However, where aspects of the person's statements are not supported by documentation or other evidence, those aspects will not need confirmation when all of the following conditions are met:

- the person has made a genuine effort to either substantiate their asylum claim, establish that they are eligible humanitarian protection, or substantiate their human rights claim;
- all material factors at the person's disposal have been submitted, and a satisfactory explanation regarding any lack of other relevant material has been given;
- the person's statements are found to be coherent and plausible and do not run counter to available specific and general information relevant to the person's case;
- the person has made an asylum claim or sought to establish that they are eligible for humanitarian protection or made a human rights claim at the earliest possible time, unless the person can demonstrate good reason for not having done so; and
- the general credibility of the person has been established.

Instructions

Caseworkers are trained to treat each case on its individual merits, and are provided with published instructions to aid consistency in their decision making. These instructions are also publicly available on the Home Office web pages.⁴⁸ The Home Office web page also has a section outlining relevant legislation, and the immigration rules.

The most important instruction in the context of this report is 'Considering Asylum Claims and Assessing Credibility'.

⁴⁸ <http://www.ukba.homeoffice.gov.uk/policyandlaw/>

4.2 ID and permits

4.2.1 Comparative findings

Sweden and Norway have quite similar rules. We find that in Norway and Sweden there are different legal rules regarding levels of ID for different permits. Both Norway and Sweden demand higher identification requirements for citizenship than application for residence permits.

Sweden requires that those applying for citizenship must establish their identification ('styrkt') beyond any doubt⁴⁹. The ID requirement for being granted a Norwegian citizenship is that the ID must be clarified ('klarlagd') (compare the Norwegian Nationality Act, Section 7, first paragraph a).

In both Norway and Sweden the formal starting point (main rule) in asylum cases is that ID should be established (Sweden: 'styrkt'⁵⁰ and Norway 'dokumentert'). In practice most asylum seekers are registered with a 'probable ID'. Through interviews and in some cases language tests it can be considered 'probable' that the applicant is from a certain state and that their nationality corresponds to that state.

Norway has a special legal rule allowing limited residence permits if there is doubt regarding the immigrant's ID, if the need is temporary or when other particular reasons indicate so (see Immigration Act, Section 38, third paragraph). Where no valid passport is presented, a residence permit may be granted with certain limitations until the passport is presented. Such limitations may include the right to family immigration and access to Norwegian language classes. We do not find a similar rule in Sweden, the Netherlands or UK.

In all countries there is *in practice* a difference in the level of ID required for international protection and other permits such as family immigration. The ID requirements for ID in international protection cases are often lower in practice than for family immigration cases. It also seems that the requirements for ID are somewhat higher in practice when a permit is given on humanitarian grounds than in asylum cases (see the discussion in chapter 6, 'Practice').

The UK does not have *formal rules* regarding ID requirements. In UK Border Agency practice the general rule used can be summarised in the term 'bal-

⁴⁹ Medboraskapslagen § 11.

⁵⁰ This is not directly said in regulations, except for citizenship cases.

ance of probabilities'. The Home Office does not presently (as of 2012) have any formal 'grading' structure for ID assurance. The UK has a case-by-case approach and decisions will rest heavily on the applicant's credibility.

Below we present more detailed findings from Norway and Sweden.

4.2.2 Norway

We find that in Norway there are *different legal rules* regarding levels of ID for different permits.

The following table shows some of the main requirements for ID and differences between permits.

Table 5: Immigration cases and ID

 Norway	International protection/asylum	Humanitarian reasons	Family immigration	Citizenship
Main rule	Documented, in cases where it is practical possible	Documented, compare. Immigration Regulations § 8-12 first paragraph	Documented, compare, utlendingsforskriften § 10-2 second paragraph	"clarified ('klarlagt') in other ways, cf. the Norwegian Nationality Act § 7 first paragraph a).
Exception	Probable (more than 50 % probable)	Probable (more than 50 % probable) cf. Immigration Regulations § 8-12 first paragraph, letter a and b)	Probable, if it is impossible or practical impossible to establish ID with documents, because the country of origin does not issue documents with high reliability	Ordinary probability (more than 50 % probable) § 1-2
Source: Oxford Research AS				

International protection

The formal starting point (main rule) is that ID in asylum cases should be established ('dokumentert').

In practice most asylum seekers are registered with a 'probable ID'. The main reason is that the stated ID is most probably correct and it is impossible to produce an original valid passport or other equivalent identification documents. This is also the case if the person concerned cannot be required to contact the authorities of their country of origin, as in asylum cases.

Through interviews, and in some cases language tests, it can be established as 'probable' that the applicant is from a certain state and that the nationality corresponds to that state.

Humanitarian reasons

According to the Norwegian immigration regulations, Section 8-12, documentation of ID is needed

before a permit for humanitarian grounds can be granted⁵¹.

Here the main rule is that ID should be documented (compare Immigration Regulations § 8-12, first paragraph). The practice is quite strict.

Limited residence permit and ID

Norway has a special legal rule allowing limited residence permits if there is doubt regarding the immi-

⁵¹ Section 8-12 Requirement as to documentation of identity before a residence permit is granted.

As a condition for granting a residence permit under section 38 of the Act, it is required as a general rule that the foreign national produce documentation to substantiate his/ her identity, see section 83, third paragraph, of the Act, unless the stated identity is most probably correct, and

(a) the foreign national's country of origin lacks a functioning central administration, or it is impossible for other reasons to produce an original valid passport or other equivalent identification documents that provide adequate evidence of the foreign national's identity, or

(b) in the interests of the applicant's safety, the person concerned cannot be required to contact the authorities of his/her country of origin.

If, in cases other than those mentioned in the first paragraph, a decision is made to grant a residence permit under section 38 of the Act, a limited permit may be granted under section 38, fifth paragraph, of the Act.

grant's ID, if the need is temporary or when other particular reasons indicate (see Immigration Act Section 38, third paragraph, and the Immigration Regulations Section 8-12). Where no valid passport is presented, a residence permit may be granted with certain limitations which may be lifted if a valid passport is presented later.

Family immigration

The main rule in accordance with the Norwegian legislation is that everyone who apply for residence in Norway must document their ID by producing a passport or other valid travel document with the necessary validity (see the Immigration Act Section 8 and the Immigration Regulations Section 10-2). In family immigration cases it is essential to establish whether the family relation between the applicant and the person living in Norway is consistent with what is stated in the application.

The most common exception is if it is impossible or practically very difficult to establish ID with documents, because the country of origin does not issue documents with high reliability. This is, for instance, the case for Somalia.

Citizenship

Norway demands higher identification requirements for citizenship than application for residence permits. The ID requirement for being granted a Norwegian citizenship is that the ID must be clarified ('klarlagt') in other ways (see the Norwegian Nationality Act, Section 7 first paragraph a).

The Norwegian Nationality Regulations have important rules about ID in § 1-2. In cases where the applicant is exempt from this requirement, the standard of proof is a normal preponderance of the evidence.

4.2.3 Sweden

We find that in Sweden there are *different legal rules* regarding levels of ID for different permits.

Table 6: Immigration cases and ID

 Sweden	International protection/asylum	Humanitarian reasons*	Family immigration	Citizenship
Main rule	-Documented, in cases where it is practical possible	-Documented -Since February 2011 Rättschefens Instruktion about ID52, states that a residence permit based on particularly distressing circumstances is harder to get than asylum	Main rule, ID- should be documented (established) -	The ID must be established ('styrkt') beyond any doubts
Exception	-Probable -In practice most asylum seekers are registered with a 'probable ID'	-In practice it would be difficult in all cases to demand established ID -Probably there are some exceptions in practice	A permit is possible, even if there is no passport and documents. The following must be the case: -Issue of relationship between children and parents -Impossible or practical impossible to prove ID with passport or other documents (ex.. Somalia)	

Source: Oxford Research AS

⁵² Rättschefens rättsliga ställningstagande angående kraven på klarlagt identitet och pass i ärenden om uppehållstillstånd. RCI 07/2012

International protection/asylum

In Sweden the formal starting point (main rule) is that ID in asylum cases should be established (Sweden: 'styrkt'⁵³). In practice most asylum seekers are registered with a 'probable ID'. Through interviews, and in some cases language tests, it can be considered 'probable' that the applicant is from a certain state and that the nationality corresponds to that state.

Humanitarian reasons

The main rule is that the requirements for a residence permit based on particularly distressing circumstances are stricter than for asylum based on need of protection, especially since the establishment of 'Rättschefens Instruktion' about ID⁵⁴.

In particularly distressing circumstances (Synnerligen ömmande omständigheter), the ID of the applicant is not the most important aspect but rather their place of *origin*. Establishing (or making probable) the domicile is hence the central issue in cases based on humanitarian protection.

In Sweden, if a person is to be granted a permit based on particularly distressing circumstances the ID should, according to the legal rules, be at least probable, if not fully established. But in practice, the requirements are not as strong as they might be. In cases when the applicant is very sick and in a difficult situation, it is then hard to decline their application⁵⁵.

Norway has a special legal rule about limited residence permits and ID-doubts if there is doubt regarding the immigrant's ID, if the need is temporary or when other particular reasons indicate (Immigration Act Section 38, third paragraph). We do not find a similar rule in Sweden.

Family immigration

The starting point and main rule in cases of family immigration is that the ID should be established with a passport or other supporting documents.

It follows from a case from 2012 (MIG 2012:1) that it is enough to prove that the identities are probable in cases where DNA analysis shows kinship between children and parents and there are at the same time a story and other information that are credible⁵⁶.

Citizenship

In Sweden the identification requirements when applying for citizenship are that the ID must be established ('styrkt') beyond any doubts⁵⁷.

Permanent Residence permit

Most countries give a time-limited residence permit at the initial application, unlike Sweden where granting permanent residence permits is the standard rule. Swedish law says that the applicant should be guaranteed a residence permit for at least three years or a permanent one.

There is however no fixed praxis in the cases where permits should be time limited.

4.2.4 The Netherlands

The rules in regular residence permit applications differ from the rules in asylum residence permit applications⁵⁸.

Within asylum residence permit applications, including family immigration, the rules for establishing ID are the same. Persons apply for asylum in general, not for a specific ground (for example international protection or humanitarian reasons). The assessment of ID is independent of the grounds on which an asylum residence permit can be given, e.g. there is no difference in the burden of proof for the applicant when it comes to ID assessment in asylum applications

⁵³ This is not directly said in regulations, except for citizenship cases.

⁵⁴ Rättschefens rättsliga ställningstagande angående kraven på klarlagd identitet och pass i ärenden om uppehållstillstånd. RCI 07/2012.

⁵⁵ Interview Migration Board.

⁵⁶

⁵⁷ Medboraskapslagen § 11.

⁵⁸ It seems that the Swedish practice on this point is more strict than the Norwegian practice

4.3 After application

4.3.1 Comparative findings

We find that the main rule is that the ID in the asylum case is an important starting point that applies to procedures after the asylum case. The main rule in Norway and Sweden is that there will not be a new *independent assessment* of ID when applying for other permits. In the Netherlands the rules are different. If an applicant applies for a regular residence permit after a rejection of the asylum application in the Netherlands, a new assessment of ID will take place. We have no data for the rules in UK.

However, further independent investigation and assessment of ID is often done if necessary in the concrete case when applying for other permits. The main situation is that there is (new) information which contradicts the ID-information registered at the initial permit. This is also the case in Sweden.

The rules in Norway are typical. When applying for renewed or permanent residency in Norway, the ID of the applicant is not taken under new consideration since this has already been done during the initial permit. Only if new information contradicts this information will the applicant's ID be scrutinised again⁵⁹.

In cases for citizenship in Norway, the immigration authorities perform a new, independent assessment of the applicant's ID when they apply for Norwegian citizenship.⁶⁰

In the Netherlands (as stated above under 4.2.4) the rules regarding ID are different for asylum applications and applications for a regular residence permit (e.g. work, study, medical, etc.). For example, in regular applications the standards for the required documents are higher. If an applicant applies for a regular residence permit after a rejection of the asylum application, a new assessment of ID will take place.

⁵⁹ See RS 2012-009 Chapter 9, first paragraph.

⁶⁰ AI - 80/09 Instruks om vurdering av identitet i saker etter statsborgerloven.

Chapter 5. Institutional framework

In this section the aim is to describe the institutional framework regarding the establishment and assessment of ID. The following primary questions have been asked:

National authorities

Which national authorities have the operational responsibility for establishing and assessing the ID of applicants for international protection and family immigration?

Competence centre

Does this country have a central competence centre for issues related to the determination of ID and/or verification of documents? What issues does the centre cover?

If there is not a central competence centre, what other institutions or systems are available to provide

advisory services or other forms of support to officials responsible for establishing the ID of applicants for international protection and family immigration?

Competence

What kind of competence is required for those who assess ID?

5.1 Authorities

National authorities

Which *national authorities* have the operational responsibility for establishing and assessing the ID of applicants for international protection and family immigration?

The table gives an overview of the different authorities with operational responsibility in the different countries.

Table 7: Organizations responsible for establishing and assessing ID

	Asylum/international protection		Family immigration
State	Type of organizations involved	Role and tasks	Type of organizations involved
	National Police Immigration Service (NPIS) Norwegian Directorate of Immigration (UDI). The Norwegian Immigration Appeals Board (UNE)	NPIS carries responsibility for recording documented or declared ID when registering the application UDI and UNE makes <i>decisions</i> on international protection, but also investigates the ID of applicants	Foreign service mission (Embassies) Local police The UDI UNE
	Swedish Migration Board	"Reception unit": collecting information "Asylum examination Unit": Assessment of ID and making decision	Foreign service mission (Embassies) Swedish Migration Board
	Home Office	"Screening unit": Collecting information/establishing ID "Case owner": Assessment and decision-making on application	Foreign service mission (Embassies): "Visa match system" Home office
	The Aliens Police the Seaport Police the Royal Netherlands Marechaussee the IND the Central Agency for the Reception of Asylum Seekers (COA) the Municipal Civil Registrars	The IND carries responsibility for establishment of ID, however, the Aliens Police, Seaport Police, Royal Netherlands Marechaussee are responsible for <i>initial ID investigation</i> , personal identification and initial registration whereas COA checks asylum seekers' fingerprints in reception facilities on a weekly basis. The Civil registrars enter personal data in Municipal Personal Records Database. The IND decides on applications for international protection and carries responsibility for the establishment of ID as well. However, The IND has no competence in attribute ID.	Foreign service mission (Embassies) The IND

Source: Oxford Research AS

5.1.1 Comparative findings

We find some differences between the countries when it comes to national authorities with operational responsibility for establishing and assessing ID.

In Sweden and the United Kingdom we find the organisation responsible for establishing the ID of applicants for international protection is the same organisation that decides on the outcome of asylum applications. In Sweden it is the Migration Board and

in the United Kingdom, the Home Office. Even if it is the same organisations there may be different units with specific tasks for either establishing ID or assessing and deciding on the application, including assessing the ID. In Sweden, for instance, the main focus in work at the 'Reception Unit' is collecting information, while work at the 'Asylum Examination Unit' is focused on assessment of ID and making decisions.

In Norway and the Netherlands there is a more mixed operational responsibility for *establishing and assessing* ID in asylum and international protection cases. There are in both countries law enforcement structures that focus on establishing the ID of asylum seekers upon arrival (and registering them), with the office in charge of deciding on the outcome of asylum applications responsible for investigating the ID of applicants once the asylum application process is underway.

In Norway the Norwegian Police Immigration Service (NPIS) does the registration, while the Norwegian Directorate of Immigration is responsible for investigating the ID of applicants once the asylum application process is underway. In the Netherlands several agencies are responsible for establishing ID, registration of personal data and attributing ID:

- the Aliens Police
- the Seaport Police
- the Royal Netherlands Marechaussee.

However the IND, as the office in charge of deciding the outcome of asylum applications, is responsible for investigating the ID of applicants once the asylum application process is underway.

We also find that in the Netherlands and partly also in Norway, there is a quite *complex organizational structure* for establishing and assessing ID in international protection cases. In the Netherlands it seems that this can produce some 'double work'. It may be that the roles will be changed: *'There are plans for transferring the responsibility of determining the ID to the IND next year'*⁶¹.

Family immigration

In all countries, embassies and consulates receive the applications for family immigration (they also collect documents and usually do some information collecting and short interviews). Normally the application then is sent to the migration service responsible for the outcome of the family immigration case.

5.1.2 Norway

International protection

The two main bodies that work with establishing identities are the National Police Immigration Service (NPIS) and the UDI.

The National Police Immigration Service is responsible for *registering* all asylum applications, and establishing the identities and travel routes of the asylum seekers.

Furthermore, NPIS is responsible for coordinating all forced returns from Norway⁶².

UDI examines most applications for immigration to Norway, including all asylum applications.

Asylum applications are examined by the Asylum Department of UDI, which carries out asylum interviews (with the use of an interpreter) and determines refugee status. The Asylum Department is divided into several sub-units, each with a regional or thematic focus.

In this study, it is important to underline that it is mainly UDI who assesses ID in the decision making process for asylum cases.

The Norwegian Immigration Appeals Board (UNE) is an independent quasi-judicial Appeals Board that handles appeals of rejections by the Directorate of Immigration (UDI) pursuant to the Immigration Act. Administratively, UNE sorts under the Ministry of justice and public security. The UNE is considering complaints on the UDI's decisions in all types of cases related to the Immigration Act and the Norwegian Nationality Act. The UNE can assess ID when considering the cases.

Family immigration

The principal rule is that the application for a residence permit must have been made from abroad (Section 56). Norwegian embassies and consular stations are the first bodies to receive applications for family immigration presented by the applicant. The consular stations then assess the reliability of the passport and other documents. Norwegian embassies and consular stations also consider birth certificates, marriage certificates, household regis-

⁶¹ Interview, Aliens Police.

⁶² Establishing Identity for International Protection: Challenges and Practices National Contribution from Norway.

ters, and so on. If there are ID doubts, the Norwegian embassies and consular stations will make a note about it in the documents which are forwarded to UDI.

Normally, the Foreign Service missions cannot make decisions in family immigration cases⁶³.

If application can be made in Norway, the local police will receive the application. On special occasions, the police districts may approve an application, but shall forward the case to the UDI for a decision if there is doubt regarding the applicant's ID (see the Immigration Act § 65 and the Immigration Regulations Chapter 13).

The Area for Family Immigration in the Department for Managed Migration of UDI processes applications for family immigration. It is subdivided into five units, which each have a regional focus⁶⁴. The UDI assesses ID among other requirements.

If UDI needs more information in the case, it will be sent back to the police or embassy. This could be because UDI needs to interview the applicant or the person in Norway, conduct DNA testing, verify the documents the applicant has handed in or make other inquiries⁶⁵.

5.1.3 Sweden

The Swedish Migration Board has four main fields of operations. These are the Reception Unit (Mottagningsenheten), the Asylum Examination Unit (Asylenheten), the Managed Migration and Citizenship Unit (Besök, bosättning och medborgarskap), and the Administrative Procedure Unit (Förvaltningsprocessenheten).

When migrants apply for asylum at the Migration Board in Sweden, they first register at the Application Unit (Ansökningsenheten).

During the application, officials take a photo, fingerprints and electronic signatures, and make a primary search in databases such as EURODAC (Identification

of applicants)⁶⁶, VIS (Visa Information System)⁶⁷ and SIS (Schengen Information Systems)⁶⁸.

The applicant gets two appointments, one after 14 days to the Reception Unit, and one after yet another 14 days (one month after the application) to the Asylum Examination Unit.

The Reception Unit is in charge of the investigation, which means that they collect background material and information about the applicant regarding health, social status and ID. Collecting ID documents is a part of this investigation. This information will then be part of the material that the Asylum Examination Unit analyses to make a decision whether the applicant gets a residence permit or not.

5.1.4 The Netherlands

The Netherlands has several cooperating organisations that establish the ID of the asylum seeker.

The identifying cooperating organisations are⁶⁹:

- the Aliens Police
- the Seaport Police
- the Royal Netherlands Marechaussee
- the Immigration and Naturalisation Service (IND)
- the Central Agency for the Reception of Asylum Seekers (COA)
- the Municipal Civil Registrars.

There are, however, a number of differences among these identifying cooperating organisations.

Central Shared Database with Basic Information on Applicants (BVV)

Personal identification and initial registration in the Central Shared Database with Basic Information on

⁶³ cf. the Immigration Regulations Section 13-4 and Attachment 18 of the regulations.

⁶⁴ EMN (2012): The Organisation of Asylum and Migration Policies in Norway.

⁶⁵ <http://www.udi.no/Norwegian-Directorate-of-Immigration/Central-topics/Family-immigration/What-happens-after-you-have-submitted-an-application-for-a-family-immigration/When-the-UDI-receives-the-application/>

⁶⁶ http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/identification-of-applicants/index_en.htm

⁶⁷ http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-information-system/index_en.htm

⁶⁸ http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/schengen-information-system/index_en.htm

⁶⁹ Establishing Identity for International Protection: Challenges and Practices National contribution from the Netherlands, European Migration Network (EMN) Focused Study.

Applicants (BVV) are effected upon the initial contact with the asylum seeker⁷⁰.

Authorities with power to attribute ID

The parties that come into contact with the asylum seeker *first* and that have the power *to attribute an ID* are the Aliens Police, the Royal Netherlands Marechaussee, and the Seaport Police⁷¹.

These three agencies have supervisory powers, which give them more scope to conduct an ID investigation than any of the other identifying cooperating organisations mentioned above.

If the asylum seeker is undocumented (which is frequently the case in the asylum process) or if it is a matter of ID fraud, the Aliens Police, the Royal Netherlands Marechaussee, or the Seaport Police will conduct an *ID investigation*.

The Aliens Police register all asylum seekers who did not enter the Netherlands via Amsterdam Airport Schiphol or the Rotterdam port area in the BVV at the application centre in Ter Apel.

Interviews with Oxford Research give more information about what the Aliens Police does in practice⁷².

IND, COA and the municipal registrars

The other organisations — the IND, the COA, and the municipal civil registrars — do not have the power to *attribute* an ID, but only have the power to *identify*. The official attribution of an ID must consequently be distinguished from the *identification* of an asylum seeker.

IND

The IND, Immigration and Naturalisation Service, *deals with the question of admission*. In other words, as soon as the asylum seeker submits an application for asylum or subsidiary protection, the IND will handle this application.

COA

The COA, Central Agency for the Reception of Asylum Seekers, is the implementing authority in the

Netherlands that is responsible for the reception of asylum seekers. The COA uses the database of the Aliens Police in which every asylum seeker is registered (name and fingerprints). By means of the obligation to report weekly, the COA checks the asylum seekers for whom the reception has been arranged on the basis of fingerprints⁷³.

Municipal Personal Records Database (GBA)

The civil registrars enter the personal data of third-country nationals in the Municipal Personal Records Database (GBA), which data are subsequently included in the shared registers. The GBA is the Dutch population register; all residents must be entered in this register. The registration of asylum seekers is affected, in principle, after a stay of six months. If asylum seekers obtain a residence permit before the end of this period, they will have to register earlier. Once the asylum seeker has been entered in the GBA, the relevant municipality is responsible for the quality of the data provided. For the purpose of the registration in the GBA, the source documents (in particular the birth certificate) are guiding if they have been issued by the competent authority in the country of origin⁷⁴.

5.1.5 UK

The Home Office is responsible for the overall management of the UK's border, migration to the UK and immigration matters. This immigration responsibility is one of the largest law enforcement functions in the UK. The immigration responsibility also sees a global presence, with operations in about 130 countries worldwide. This is due to the fact that foreign nationals can apply for UK visas at more than 250 visa application centres worldwide. These centres are responsible for gathering ID data which are later on used for identification processes described in this chapter. The most important in this context is the fact that biometric data from visa applications are used also for ID verification purposes.

⁷⁰ Establishing Identity for International Protection: Challenges and Practices National contribution from the Netherlands, European Migration Network (EMN) Focused Study.

⁷¹ Identification and Labelling Protocol (PIL), <http://ind-intranet/AsielNieuws/Documents/PIL%203%200.pdf> Ministry of Justice, April 2008.

⁷² Idem, Appendix 6.

⁷³ Establishing Identity for International Protection: Challenges and Practices National contribution from the Netherlands, European Migration Network (EMN) Focused Study.

⁷⁴ Establishing Identity for International Protection: Challenges and Practices National contribution from the Netherlands, European Migration Network (EMN) Focused Study.

The institutional framework at national level

The Home Office acts as a national authority taking the responsibility for establishing the ID of applicants for international protection. Various teams operationalize this procedure.

As for ID procedures, there are a number of UK units that take active roles in the ID management processes. This is due to the fact that the basic process actually starts with the biometric ID lock. Every applicant is initially fingerprinted. There are a number of actors who may take initial roles in this process:

- Screening officers in ports or in asylum screening unit (ASU) in UK headquarters;
- Non-centralized local immigration teams are distributed throughout the UK. They work with the public and alongside police, HM Revenue & Customs, local authorities and other local partners. Their purpose is to ensure compliance with immigration laws for the benefit of the community and the economy, and to enforce immigration law (including tracking down illegal migrants and targeting companies that flout the rules by employing workers illegally in the UK).
- Criminal Investigation Teams (CITs) operate throughout the country assisting in prosecuting those who commit immigration offences. CITs register biometric data using live-scan, card-scan and in some cases wet prints.
- Fingerprints are then sent to the Immigration Fingerprint Bureau (IFB) which automatically runs a fingerprint check on the Eurodac database.
- The National Asylum Intake Unit (NAIU) receives and considers information about all new asylum applications. NAIU consider the information collected at the point of screening, ask for further information to be obtained if necessary, and determine whether a case is potentially removable on safe third country grounds, if it may be suitable for the Detained Fast Track process, or if it should be routed and handled according to mainstream procedures.

The screening officer must put the fingerprint evidence to the subject and ask them which ID is true. The screening officer must accept the first ID used by the subject as the true / accepted ID, unless satisfactory evidence exists in support of another ID.

Once the true / accepted ID has been decided, the screening officer must undertake the following actions on the case information database (CID):

- Link the multiple identities (specifying the false ID as an alias to the true / accepted ID);
- Void the false application (if it was entered onto CID prior to receiving a fingerprint match);
- Insert the special conditions flag 'Confirmed Multiple Applicant' on CID.

Regardless of whether the subject's subsequent ID has been accepted or not, the documents presented to a screening officer must be held and sent securely to the original caseworker.

If the Criminal Investigation Teams (CIT) has an interest, they will take ownership of the case until any investigation and/or criminal prosecution has been concluded.

5.2 Competence centre

Comparative findings

We find that only Norway has established central competence centres (Norwegian ID Centre) with advisory / support functions that are independent of the organisations in charge of establishing the ID of asylum applicants and / or rejected applicants.

However, Sweden, the Netherlands and UK all have *specialised units* with advisory / support functions. The specialized units in Sweden are all within the Migration Board in charge of deciding the outcomes of asylum applications and family immigration. In the Netherlands there are several expertise centres with advisory / support functions. The ID and Document Fraud Centre of Expertise is part of the law enforcement structure, while the ID and Document Investigation Unit (IND) is part of the IND. In the United Kingdom there are several expertise centres with advisory / support functions. They are part of Home Office.

Table 8: Competence centre

State	Central competence centre	Other expertise centres/institutions	Issues and function
 Norway	Norwegian ID Centre	NPIS also has a function as a central competence centre for ID determination and verification of documents in protection, expulsion and rejection cases Landinfo	Norwegian ID Centre: Central competence centre for methods for determining ID and verifying documents.
 Sweden	NO	Swedish Migration Board: The ID Unit: The biometric team The document team The ID analysis team The operative Support Unit Travel Embassy Unit	Determination of ID, biometric information and document analysis
 United Kingdom	NO	The ID and Data Integrity Directorate (including the ID Services Unit and the Immigration Fingerprint Bureau) The Immigration Fingerprint Bureau is the centre of forensic expertise. The National Document Fraud Unit (NDFU)	Biometrics Verification Document analysis
 	NO	The Netherlands has several expertise centres with advisory / support functions •The ID and document Fraud Centre of Expertise (BURDOC / IND) •The ID and Document Investigation Unit (Royal Marechaussee) on behalf and under supervision of the BURDOC / IND.	Verification Document analysis

Source: Oxford Research AS

5.2.2 Norway

Norway established in 2010 a *central* competence centre, the Norwegian ID Centre.

The Norwegian ID Centre (Norwegian ID Centre) has high competence in authenticity assessments of travel- and ID documents, and develops tools and methods that can be employed when an immigrant's ID for some reason is undocumented.

The Norwegian ID Centre has 35 employees (2013) and is centrally located in Oslo.

The Norwegian ID Centre is an expert body placed under the Police Directorate (POD), and works with ID and documents within the immigration field. The tasks and role of Norwegian ID Centre are regulated in an instruction⁷⁵.

⁷⁵ <https://www.nidsenter.no/en/Forside/>

According to this instruction, Norwegian ID Centre's role is mainly to:

- *Assist and advise* in general and in individual cases;
- Collect and process information, develop and share expertise;
- Coordinate the development of subjects and methods related to ID and documentation work;
- Evaluate the immigration authorities' ID and documentation work.

It is important to note that the Norwegian ID Centre does not make decisions in cases.

5.2.3 Specialised units

Landinfo

UDI relies on assistance from Landinfo, the Norwegian Country of Origin Information Centre, in the examination of asylum applications. Landinfo is an independent expert body, but it is administratively affiliated with UDI. Landinfo's country analysts collect and analyse information about social conditions and human rights in countries relevant to the work of the immigration authorities.

NPIS

NPIS also has a function as a central competence centre for ID determination and verification of documents in protection, expulsion and rejection cases

5.2.4 Sweden

Specialised units

The ID Unit in Sweden

Over 90 % of all asylum applicants have no documents. Therefore only a rather small number of documents are available for ID evaluation.

The ID Unit is part of the Reception Unit (Mottagningsenheten). At the ID Unit there are three areas of inquiry, performed by teams:

- the biometric team,

- the document team
- the ID analysis team.

The biometric team

The biometric team works with fingerprints, photo analyses and photo comparisons.

The document team

The document team works with authenticity evaluations of documents coming from local units all over Sweden. It is up to every administrator to decide which documents — if any — they want to send to the ID Unit in Stockholm. An administrator need not necessarily suspect anything, but rather wants to be sure that a document can be trusted before making a decision. The document team also provides embassy workers with a basic course in document knowledge, and they cooperate with other authorities in other countries in aspects relating to documentation. When a document arrives at the ID Unit, it is registered and the document team takes a photo of it. They also scan in all pages with information and save this data.

Members of this team make a technical evaluation of the documentation, which begins by looking at the printing techniques used in the production of the document and establishing whether or not the document is authentic. If it is authentic, they continue to see if any kind of interference ('ingrepp') has been done; if there are any changes in personal information or if pages have been exchanged. After the technical evaluation is done, the documentation team writes a statement of the findings. If any defects are found, these are documented with pictures (in case the documents become evidence in court). After the statement is written, they return the statement and the document to the administrator who sent it to the ID Unit. False documents should be reported to the police. The administrator will then have to fill out a form and send that to the police together with the fake document.

The ID analysis team

The ID analysis team has not yet (as of 2012) begun their operations and the Migration Board is still recruiting team members. It will work with tips and suspicions that an asylum applicant has several identities, for example, an asylum seeker in Sweden who might have a permit in another country. This team is needed to handle incoming infor-

mation, since most tips actually have valuable substance. They will consequentially investigate these tips, make statements and direct these inquiries toward the appropriate unit where the case should be re-opened.

The Operative Support Unit

The Operative Support Unit (Operativa Stödenheten) consists of two agencies: the Travel Unit (Resesamordningen) and the Embassy Unit (Ambassadsamordningen). Both work with ID issues. The Operative Support Unit is, like the ID Unit, a service operation that helps the administrators at the Reception Unit (mottagningshandläggarna) and all over Sweden find documents for people who are returning to their home countries. The Embassy Unit, as its name implies, works with embassies and the diplomatic corp.

The Operative Support Unit's work depends on how the Reception Unit and the Asylum Examination Unit handle their investigations of ID, respectively. The decisive criteria that the Asylum Examination Unit imposes on an applicant are not the same as the Operative Support Unit's standards to deport that person if their asylum request is declined. For the Asylum Examination Unit, it is sufficient to establish the ID as probable, whereas the Operative Support Unit cannot send someone back unless they are sure of whom the person is. This can be problematic for the Travel Unit and the Embassy Unit since the investigation is then not as thorough as it needs to be for them to extradite the person. The Travel and Embassy units therefore try to work proactively with colleagues at the Asylum Examination Unit on cases that are likely to be rejected, proposing questions to ask the applicants during the investigations. Otherwise they end up with persons without documents and no knowledge of their origins or who they really are. And some countries do not accept repatriation of a person unless the country is sure of that person's ID.

The Operative Support Unit seeks a level of certainty about the basis on which documents are issued, which documents will prove citizenship and which documents are enough to extradite a person (a passport is not always needed).

Collaboration with other authorities

The ID Unit collaborates with other authorities. There is for example an ID group composed of representatives from the Taxation Authority (Skatteverket), the Swedish Transport Agency (Transportstyrelsen), the National Criminal Investigation Department (Rikskriminalpolisen), the National Laboratory of Forensic Science (SKL) and the ID Unit. The Taxation Authority can for example contact the Migration Board if something is wrong with the document that someone hands in to receive an ID card. The administrator who handled that case at the Migration Board will then be contacted to further investigate the matter. This group meets three to four times a year.

5.2.5 The Netherlands

The Netherlands does not have a central competence centre. However, the Netherlands has several expertise centres with advisory / support functions that work independent⁷⁶ of the organisations in charge of establishing the ID of asylum applicants (EMN 2012).

The Netherlands has three levels of documentation control:

- first line had some training, no equipment (human senses) in order to detect fraud;
- second line had more training and simple equipment (loupe en UV light);
- the third line had expert training and special equipment to detect fraud.

We will shortly present the following expertise centres:

- the ID and Document Fraud Centre of Expertise (BURDOC /IND),
- the ID and Document Investigation Unit (Royal Marechaussee), present at reporting point for asylum seekers, are supporting and under supervision of the BURDOC / IND.

⁷⁶ Most of the expertise centres are part of the IND, but work on an independent basis and are not involved in the assessment of the asylum application.

The ID and Document Fraud Centre of Expertise (ECID)

The ID and Document Fraud Centre of Expertise is cooperation between the Royal Netherlands Marechaussee (KMar) and the National Police. It is situated at Schiphol Airport. The ID and Document Fraud Centre of Expertise specialises in the investigation of travel documents (passports and ID cards) at third level⁷⁷.

The ID and Document Investigation Unit

Oxford Research visited in 2012 'Bureau Documenten' (BURDOC). The BURDOC are third line experts on civil and supporting documents, while the KMar (the Royal Netherlands Marechaussee), are third line on travel documents, the Ministry of Education are third line on diplomas and documents regarding education, and the Ministry of Transport are third line on driving licenses and documents, and the like. The experts are organized according to *regions*, for instance one region of expertise covers the Middle East. The unit is formally under the IND, but the unit assists all ministries in uncovering document fraud. The unit receives about 13 000 documents annually; 45 % of these documents come mainly from the municipalities, some from other investigation units like the police and the rest comes from IND. Of the 13 000 documents, about 18 – 20% are found to be fraudulent or manipulated with⁷⁸.

The BURDOC is partly responsible for the *training* of staff at selected municipalities and, in cooperation with Foreign Affairs, specific selected embassies. They provide assistance through e-mail and telephone. The BURDOC also assists the municipalities with prosecution of fraud. In order to get a conviction, one needs to prove malice. The ID and Document Fraud Centre of Expertise provides also document training courses at first level to its own staff, to staff of the national police force, air carriers, and other national services⁷⁹. Abovementioned is not standard but done on request.

⁷⁷ Information products and expertise services designed to combat and prevent identity fraud.

⁷⁸ Interview with BURDOC.

⁷⁹ Interview with BDOC.

Low competence in first line

The main challenge for the first line in document control is the poor understanding of the importance of document control, together with lack of training and little time to do a thorough examination.

The BURDOC is attempting to streamline the procedures for municipalities and embassies in order to get a coherent first line examination of documents. This will prevent attempts of fraud on less experienced and less trained first line offices ('fraud shopping'). There is planned a review of the level of skill at the municipalities in regards to document control, to ensure that all offices have adequate competence to detect fraud. To regain this goal BURDOC is participating in several regional and national projects.

5.2.6 UK

Within the UK Border Agency, the ID and Data Integrity Directorate (including the ID Services Unit and the Immigration Fingerprint Bureau) is the centre of expertise for all matters relating to biometrics, and the leader on ID management strategy and policy. The Immigration Fingerprint Bureau is the centre of forensic expertise.

The National Document Fraud Unit (NDFU) is the centre of expertise for all ID-document related matters, including verification of documents.

5.3 Competence decision makers

5.3.1 Comparative findings

We find that in all countries there are no formal requirements for ID-education and ID-competence. Training about ID is given in all countries. We do not have discovered significant differences between the countries.

In the following we describe some indicative findings when it comes to competence (focused on ID) of decision makers in Norway, Sweden, the Netherlands and the UK.

5.3.2 Norway

The formal competence requirement for the post of decision maker at the UDI is at least 3 years of higher education or similar competence. The education and experience vary. For the most part those recruited over recent years in UDI have graduated in social science and law⁸⁰.

Further it is important to underline that the Asylum Department is divided into several sub-units, each with a *regional* or thematic focus. Also the family immigration cases are divided by region.

Coaching in ID evaluation is a part of the basic instruction:

- instruction in the ID circular letter;
- instruction in specific subjects related to ID, such as the use of limited permits.

Guidance on the assessment of identification (both individual cases and general issues) is done internally in UDI through:

- line management, including coordinators;
- technical meetings in the departments;
- processing in the ID group.

5.3.3 Sweden

There are no specific formal qualifications for the post of decision maker at the Migration Board. The education and experience vary. For the most part those recruited over last years have graduated in social science and law.

Training in ID-evaluation is part of introduction courses for new employees. Administrators have competence to decide and assess ID-issues. All administrators at the Migration Board handle *cases from all countries*. Therefore officially there are no experts on specific countries.

There is supposed to be an ID expert at each Asylum Examination Unit to alleviate the ID Unit's workload. This expert has basic knowledge of various documents and helps local administrators differentiate obviously fake or obviously authentic passports, and thereby avoids sending these documents to the ID Unit.

5.3.4 The Netherlands

There are no specific qualifications for the post of decision maker at the IND. The education and experience vary.

The competence also has to be seen in line with the existence of several expertise centres with advisory / support functions. The rules and procedures for establishing and assessing ID are also described in detail in instructions and internal work guidelines.

5.3.5 UK

There are no specific qualifications prior to recruitment to posts of caseworkers. For the most part those recruited over the last few years are graduates. Candidates pass assessment centres, measuring intelligence and attitude towards the work. Once recruited, they receive a long training connected with quality assessment. This is a 55-days-long training course, plus mentoring. In some cases this process takes longer, when going deeper into some initial aspects of future work. Later on candidates are posted to subsequent aspects of the training.

Experience of the caseworkers dealing with ID assessments varies. There are some officers who stay at the post for many years; others change over years, but still remain within asylum and immigration sections. As a qualified guess, it might be stated that the experience of caseworkers is between 2 to 20 years. Caseworker training is on-going; they are also provided with written instructions and kept constantly updated about changes in policy or process that might affect their decision making considerations. Caseworkers are also provided with country reports and have the support of their senior officers.

Expert interviewing teams have built up expertise in particular countries. All are able to carry out in-depth, assertive interviews, to cross-check personal information that an applicant may be using other than in their dealings with the UK Border Agency, and to challenge the person on discrepancies. This approach was developed for criminal cases and is now being taken up for other types of case,

⁸⁰ See Oxford Research 2010: Organisering teller, ressurser avgjør.

but is limited by the number of officials trained to carry it out⁸¹.

⁸¹ Establishing Identity for International Protection: Challenges and Practices
National contribution from the United Kingdom, European Migration Network
(EMN) Focused Study.

Chapter 6. Policy

6.1 Permits

Limited residence permit and ID (humanitarian reasons)

Norway has a special legal rule allowing limited residence permits if there is doubt regarding the immigrant's ID, if the need is temporary or when other particular reasons indicate (see Immigration Act Section 38 and the Immigration Regulations Section 8-12). Where no valid passport is presented, a residence permit may be granted with certain limitations which may be lifted if a valid passport is presented later.⁸²

We do not find a similar rule in Sweden, the Netherlands or UK.

6.2 Welfare rights

In general we do not find that unclear ID has a *direct economic* consequence for welfare rights.

We find one main exception: work during the asylum application process. We give here examples from Norway, Sweden and UK.

6.2.1 Norway

In general we do not find that the lack of a documented ID has a *direct economic* consequence for welfare rights in Norway, *as long as the person is an asylum applicant*.

We find one main exception: work during the asylum application process. The right to work for asylum applicants requires that asylum seekers may document their ID with a valid travel document. This rule was introduced in January 2009 (see Immigration Act § 94 and Immigration Regulations § 17-24).

⁸² Sønsterudbråten, Silje (2012): Lovlig med forbehold. Bruk av oppholdstillatelser med begrensninger for å øke andelen asylsøkere som dokumenterer sin identitet. Fafo-rapport 2012: 38.

The aim of the new requirements was⁸³:

- to make Norway a less attractive destination for asylum seekers without protection needs who come to Norway to work;
- to motivate more asylum seekers to document their ID.

This rule has been evaluated by NTNU Samfunnsforskning⁸⁴.

6.2.2 Sweden

In general we do not find that unclear ID has a *direct economic* consequence for welfare rights in Sweden.

We find one main exception: work during the asylum application process.

If the applicant wants to work during the asylum examination process, they must obtain a certificate of exemption from the requirement to obtain a work permit. To receive an AT-UND, the applicant must show *proof of ID* or at least contribute actively in clarifying their ID (which they might be more willing to do if they know that they might be able to work). AT-UND can also be received on the basis of the application – if it is well-founded and the applicant has good reasons to have the application considered by the Migration Board.

6.2.3 UK

Unclear / undocumented ID status will not have any consequences for welfare rights for the asylum seeker during the asylum process, while their ID is established, and before the asylum decision. The person is treated like every other welfare applicant.

If the applicant meets the requirements to receive support, suitable housing and money are provided.

⁸³ NTNU Samfunnsforskning (2011): Asylsøkeres rett til å ta arbeid. Evaluering av konsekvenser av innstramminger i dokumentasjonskravet.

⁸⁴ NTNU Samfunnsforskning (2011): Asylsøkeres rett til å ta arbeid. Evaluering av konsekvenser av innstramminger i dokumentasjonskravet.

The money enables applicants to buy essential things such as food, clothing and toiletries.

As soon as a person is granted leave as a refugee, they have immediate access to the labour market and to all key mainstream benefits. They also enjoy the same access to family reunion as refugees with ILE / ILR and access to Refugee Convention Travel Documents.

Work during the asylum application process

Applicants for asylum will not normally be allowed to work while Home Office Immigration considers their asylum application, except in very limited circumstances. This is because entering the country for economic reasons is not the same as seeking asylum, and it is important to maintain a distinction between the two.

Currently, most new asylum applications receive a decision within 30 days. However, in cases when an application is handled longer than 12 months before an initial decision, permission to work might be requested.

Permission to work does not allow applicants to become self-employed. Permission only allows persons to take up jobs that are included on the list of shortage occupations published by UK.

Permission to work is granted only if the applicants themselves were not responsible for the delay in reaching an initial decision on the application or a decision on further submission.

6.3 Evaluation

We find few specific evaluations of policy, Norway being an exception.

We find some more general evaluations of ID systems, management and assessments, which can be seen as reforms and policy agenda. In the Netherlands there are several reforms and pilot projects. These can also be seen as reforms and policy agenda.

6.3.1 Norway

Here we find some evaluation of ID policy and rules. One example is the evaluation of limited

residence permits⁸⁵. Another evaluation was an analysis by Oxford Research of ID management⁸⁶. The rules about work permits for asylum applicants are, as already mentioned, evaluated by NTNU Samfunnsforskning.

There has been during recent years several internal projects and evaluation of ID procedures by Norwegian government immigration officials⁸⁷.

6.3.2 UK

ID systems evaluation in UK

The performance of the agency is reviewed annually by an independent chief inspector of borders and immigration. The agency promptly responds to the evaluation recommendations, mostly accepting the guidance and implementing appropriate actions.

6.4 Reforms and policy agenda

There are several reform and pilot projects underway; especially interesting is the VEFÖ – a pilot project on controlling ID documents in Sweden.

Below we present the most important reforms and policy agendas in Norway, Sweden, the Netherlands and UK.

6.4.1 Norway

On-going major works and projects that may be of importance:

- modernization of the National Population Register;
- possible recording and exchange of biometrics (photo and fingerprint);
- exchange of other types of information about ID;

⁸⁵ Sønsterudbråten, Silje (2012): Lovlig med forbehold. Bruk av oppholdstillatelser med begrensninger for å øke andelen asylsøkere som dokumenterer sin identitet. Fafo-rapport 2012: 38.

⁸⁶ Oxford Research (2013): Behov for felles innsats. Identitetsproblematikk og identitetsvurderinger knyttet til utlendingers identitet.

⁸⁷ Arbeidsgruppen (2008): Effektivisering av tvangsreturer. Identitetsfastsettelse og samarbeid. Rapport 2008 and Strategigruppen (2011): Modernisering av Folkeregisteret. Rapport fra strategigruppen.

- ranking of ID by enlisting in the National register National Population Register.

There is an initiative to investigate the use of biometric, pursuant to an order from the Ministry in April 2010 and the report from the UDI in June 2010.

Suggestions from the UDI report:

- fingerprints taken when a person applies for visas (VIS) and residence cards should be stored in the national database;
- these fingerprints should be recorded at the time of the application.

An order from the Ministry in January 2013 and responses from the UDI in April 2013, include the following improvements:

- review practice and guidelines concerning the use of limited permissions, better sharing of information, and so on.
- possible reimbursement or subsidy for the provision of ID documents.

6.4.2 Sweden

VEFÖ – a pilot project on controlling ID documents

The VEFÖ project ended in February 2012 and was a pilot program where all documents were stored digitally. All real documents were stored at the ID Unit in an archive. The idea was that all documents brought to the Application Unit and the Reception Unit should automatically go straight to the ID Unit for authenticity evaluation. In that way, the risk that the documents might disappear is smaller, all documents will be evaluated at the same time and all documents will be controlled. When the Asylum Examination Unit then does their evaluation of the asylum case, they have the investigation from the Reception Unit and the verdict on the documents from the ID Unit.

The project helps the administrators and the decision makers in a more accurate decision when all documents are authenticity evaluated⁸⁸.

At the time of our inquiries (May 2012), it was up to every single administrator to decide what should be sent to the ID Unit. It was most common

to control documents from specific countries, such as Bangladesh, Georgia, former Soviet Union (especially fake ID cards and driver's licenses).

There are no *internal guidelines* when it comes to judging authenticity, but the help from the ID Unit made the administrators feel more secure, especially in Stockholm where the ID Unit is in the same building. The ID Unit however only looked at the authenticity of the document – not how it was issued from the local authorities. This is something that the Reception Unit and Asylum Examination Unit ask the applicant, that is, how they received the document, if they got it personally, what documents they had to show to get it, and so on. Then officials might compare the answers to what they find in the Country Information Bank Database and in Lifos, if it appears to be correct. The controls are not more elaborate than this (but perhaps they are at the Returning Unit).

The Reva Project -Cooperation

Oxford Research found in the interviews that the ID Unit wants more cooperation between the authorities in Sweden. If someone is granted a residence permit on false grounds, this has consequences for other authorities.

The Reva Project is an example of cooperation between the Migration Board and the Police Authority's Transportation Service to create collaboration between the Migration Board and the Police's Embassy Unit.

When someone applies for an ID card at the Taxation Authorities, the agency makes an evaluation based on the documents that the applicant hands in. For instance, someone could present a passport with a residence permit in it. The Taxation Authority might then interpret this passport as authentic since the permit is there and the assumption is that the Migration Board must have approved it. This interpretation might be wrong, given that not all documents at the Migration Board are evaluated by the ID unit. On the other hand, when the Taxation authorities have cause to think that a document may be false, they contact the ID Unit.

The best way to avoid this interpretation mistake would be if the ID Unit evaluated all documents received at the Migration Board⁸⁹.

⁸⁸ Interview ID-unit,

⁸⁹ Interview ID-UNIT

6.4.3 The Netherlands

In the Netherlands there are several pilot projects:

- biometric (more use of biometric ID. It is focused on the implementation of biometrics on documents and the use of it in ID in the asylum chain);
- ID management (key goal is to get a more efficient and coherent system)
- border management E-gates (at airports)

The pilot project ID-management is in the start-up. It is led by "Programm-directorate ID management and Immigration (IDMI)".

The wider use of Biometric act: Proposal for wider use of biometric data

There is a proposal from the government to widen use of biometric data. The government in the Netherlands wants to set up a central database of biometric data, such as fingerprints and digital passport photographs, of all foreign nationals who apply for residence or are already residing in the Netherlands.

The goal of this proposal is prevent people using another person's ID or using false documents to obtain permission to reside, work or study in the Netherlands. Fingerprints would be used to reliably match immigrants to their personal identification data and documentation. Furthermore this bill on the wider use of biometric is not only dealing with the prevention of fraud but also meant to release higher level of customer services.

What does the proposal mean?

In the new system, Foreign nationals who apply for a residence permit would be required to provide fingerprints and a passport photograph once, after which their ID could be checked against that data using fingerprint scanning and facial comparison. There is also planned to be a central databank, where biometric data would be stored in a central databank and on a chip on the residence permit.

According to the government, the database would make it easier for the Immigration and Naturalisation Service (IND), the Aliens Police and Dutch embassies to check the ID of foreign nationals and

thus prevent ID fraud.⁹⁰ Furthermore for residence it will be easier to identify the applicants.

6.4.4 UK

Considerable change has been and will be made in terms of databases integration, a central document check system and a system for complex electronic handling of applications.

Reform programme 'Our Agency 2015'

The UK Border Agency has begun a major internal change programme called 'Our Agency 2015'. The programme is building the agency's ability to make lasting improvements in its performance in 2012 to 2015.

The UK immigration case model is shifting towards a *smarter electronic handling process* in 2013.

Asylum casework – new model implementing 2013

In the UK, asylum casework is undergoing change as part of a Home Office transformation programme. Going forward (2013), asylum caseworkers will be responsible for registering, deciding and concluding asylum protection applications. Their primary function will be to make high quality decisions on asylum cases and work with other parts of the organisation to ensure effective immigration control.

The new asylum caseworker role will focus on interviewing and making high quality written decisions on asylum and human rights applications. The role will focus on developing specialist knowledge of legislation and policy, with higher graded Technical Specialists who are trained to handle more complex issues. The vision for the new model is to be a highly competent, continuously improving Asylum Casework Directorate (ACD) that controls the UK asylum system and inspires public and ministerial confidence by delivering results, faster, at lower cost and higher quality than ever before.

⁹⁰ http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205403032_text: Use of biometric data of foreign nationals.

<http://www.government.nl/issues/identification-documents/use-of-biometric-data-of-foreign-nationals>

Visa –matching and biometrics

There exists no perfect solution for confirming a person's nationality or ID if it is not already known with some certainty. The Home Office keeps various records and applies various processes to address this issue, including the biometric matching of national visa application records. Biometric checks are also carried out with data from four other countries and their records of fingerprints (the Five Country Conference High Value Data Sharing Process).

The taking of fingerprints for visa applications began in 2003 as a pilot. By 2008 all visa applicants were required to provide fingerprints. That was also the moment when the (national) biometric system was introduced for use in asylum applications, as this assured sufficient comparative volume for possible matches.

System efficiency

Within this visa / asylum cross-check system three years ago, the Home Office was able to match around 85 % of asylum claims to previous UK visa applications, using the biometrics information collected historically. From July 2011 to July 2012 around 52 % of all applications for asylum matched with previous visa applications⁹¹.

In this context the systems' ability to track applicants' different identities claimed in different countries is important. A reasonably high proportion of asylum seekers indicate different identities in different countries. In 2012 alone, the Home Office recorded about 24 % matches with different identities claimed in United States when compared to UK. Overall, the Home Office's own systems indicate a match rate of just over 52 % in the biometric visa / asylum checks. This brings ID doubts to less than 10 % (indicative) of applications currently⁹².

In the past, before the biometric system became common, a large proportion of those who claimed false identify likely got away with it. From the moment when biometrics was introduced the situation has changed. Now a very small proportion of those applying for asylum are discovered to have

claimed a different ID, probably because the applicants already expect that the Home Office will get the match. Still, around half of asylum applications result in no biometric match to visa applications. As already said, among those cases ID abuse is less than 10 %; as opposed to approximately 60-80 % of cases from before the biometric ID checks were introduced. Still there are no definitive statistics and the numbers show only indicative system efficiency in tracking ID fraud⁹³.

⁹¹ Interview with Kevin Patel and Richard Browns, Data Sharing Team, recorded on July 2012

⁹² Ibidem.

⁹³ Ibidem

Chapter 7. Practice

This chapter aims to describe the practice regarding establishment and assessment of ID. The following primary questions have been asked:

- obligations for applicant and national authorities;
- Documents and 'reliability'?
- Grading structure in practice?

Investigation procedures:

- applicant presented a passport or other travel document;
- In the cases when applicant has not presented a passport or other travel document.

7.1 Obligations for applicant and national authorities

7.1.1 Comparative findings

Norway, Sweden, the Netherlands and UK all impose an obligation on the applicant to submit all documents that may be relevant to substantiate their application⁹⁴.

We also find that the applicant in all countries should assist and cooperate in clarifying their ID through the application procedure.

There is also in all countries a difference in practice between applicants for international protection and other applicants/family immigration. An asylum seeker is not required to contact their home country in a manner that may conflict their need for protection. In such cases, the authorities have to rely to a large degree on the ID information presented by the asylum seeker or further investigations.

⁹⁴ Establishing Identity for International Protection: Challenges and Practices produced by the European Migration Network February 2013.

Though the rules and practice seem to be similar in Norway, Sweden, the Netherlands and UK, Oxford Research found that there are *indications* of some differences in the level of burden on applicants and the consequences if their ID is not established.

The Netherlands seem to have a *strict practice* where ID doubts can lead to a negative decision. On the other side, Oxford Research found that Sweden is an example where in practice the rule is less strict. The issue of ID often has secondary implications since the permit is given in several cases where the ID is not probable⁹⁵.

All countries in practice give the authorities a duty to establish/investigate ID. There only seem to be some small differences between the countries.

7.1.2 Norway

Norwegian immigration law impose an obligation on the applicant to submit all documents that may be relevant to substantiate their application⁹⁶. According to the Immigration Act Sections 83 and 93 all foreign nationals have to assist in clarifying their ID to the extent that the immigration authorities require.

There is however an important difference between the obligation of those seeking asylum / international protection and other applicants: An asylum seeker is not required to contact their home country in a manner that may conflict their need for protection⁹⁷. In asylum cases where there are no or few documents, the authorities have to rely to a large degree on the ID information presented by the asylum seeker and / or investigations made by the Norwegian government immigration officials.

⁹⁵ This is also commented upon in 'Utlänningslagen: med kommentar' (2010) by Gerhard Wikrén and Håkan Sandesjö and also 'Nya medborgarskapslagen med kommentarer' (2009) by Kurt Björk och Håkan Sandesjö.. On page 97 »När det gäller flyktingar och andra skyddsbehövande blir dock identitetsfrågan i praktiken av sekundär betydelse, även om stora ansträngningar görs för att klarlägga identiteten. ...I övriga situationer, t.ex. i anknytningsfall, gäller dock att utlänningen skal kunna visa vem han eller hon är».

⁹⁶ Establishing Identity for International Protection: Challenges and Practices produced by the European Migration Network February 2013.

⁹⁷ Immigration Act Sections 81, 83 and 93, Immigration Regulations Section 17-2, UDI Circulars 2011-029 and 2010-086).

The Norwegian immigration authorities should investigate ID. It follows from Immigration Act § 93 that the immigration authorities have an *independent responsibility* for obtaining necessary and available information before the administrative decision is made (see Section 17, first paragraph, of the Public Administration Act⁹⁸).

7.1.3 Sweden

As a starting point the applicant's ID should be established ('klarlagt') when a residence permit is to be issued.

The applicant should submit all documents that may be relevant to substantiate their application. The applicant should also cooperate in the proceedings. Internal circulars and the ID handbook both declare that the asylum applicant has the burden of proof for ID⁹⁹.

In many cases the decisions of the Swedish Migration Board include a statement that the ID has not been made clear. Through interviews and in some cases language tests it can be considered probable that the applicant is from a certain state and that the nationality corresponds to that state. The ID investigation also considers other documents besides passports and national ID cards that might all together give a probable ID. This can be considered sufficiently proof by the Swedish Migration Board and lead it to a positive decision.

In the following we briefly comment on the ID requirements in cases of international protection and family immigration.

International protection

If an applicant claims to be in need of protection, this is weighed with regard to the person's home land and region. For countries that do not have any accepted documents that help clarifying the ID, other measures must be used. Language analyses are used fairly often by the Swedish Migration Board.

Domicile ('hemvist') is important to establish — or make probable — because it determines whether the applicant will be granted a residence permit based on the need of protection.

⁹⁸ <http://www.lovdata.no/all/tl-19670210-000-004.html#17>

⁹⁹ RCI 07/2012.

In particularly distressing circumstances ('Synnerligen ömmande omständigheter'), the ID of the applicant is not the most important aspect but rather the place where they *originate*. Establishing (or making probable) the domicile is hence the task here as well. The Asylum Examination Unit then looks at circumstances such as whether medical treatment is available in the home country.

The main rule is that the requirements for asylum based on particularly distressing circumstances or family connection are *stricter* than for asylum based on need of protection. Since February 2011, RCI (Rättschefens Instruktion) states that a residence permit based on particularly distressing circumstances is harder to get.

Family immigration

The main rule is clear: In family immigration cases the ID should be established ('styrkt / klarlagt') (cf MIG 2011:11 and mål nr UM 10897-10)¹⁰⁰.

It follows from a case from 2012 (MIG 2012:1) that it is enough to prove that the identities are probable in cases where DNA analysis shows kinship between *children and parents* and at the same time the story and other information are credible¹⁰¹.

7.1.4 The Netherlands

The Netherlands imposes an obligation on the applicant to submit all documents that may be relevant to substantiate their application.

In Dutch asylum cases the burden of proof rests primarily upon the asylum applicant. Most asylum applicants have no documents to substantiate their claim. In general, an asylum seeker is granted the benefit of the doubt if their statements given during the asylum procedure are consistent and not improbable on a general level.

¹⁰⁰ «För att en sökande ska anses ha klarlagt sin identitet på ett godtagbart sätt, ska han eller hon som huvudregel kunna visa ett hemlandspass i original eller en fotoförsedd identitetshandling i original utfärdad av behörig myndighet i hemlandet, allt under förutsättning att det i det enskilda fallet inte finns anledning att tvivla på dokumentets äkthet (jfr prop. 1997/98:178 s. 8).

Det är den sökande som ska klarlägga sin identitet, men det är inte alltid nödvändigt att detta sker genom att personen visar pass. Identiteten kan, utifrån principen om fri bevisföring, undantagsvis kläggas med hjälp av andra handlingar och vittnesuppgifter från nära anhöriga i Sverige.» RCI 07/2012.

¹⁰¹ RCI 07/2012.

This means that if the applicant cannot get documents there has to be a reasonable explanation. If there is no reasonable explanation and the applicant does not submit all the documents that the IND considers necessary for the assessment of the application, the applicant is considered accountable for the lack of documents. A more stringent threshold of credibility ('positive persuasiveness') is then applied with regard to the applicant's statements.¹⁰²

If there is serious doubt about the ID, in terms that IND come to the point that there are indications that the applicant deliberately provided false information about the ID and/or nationality, it is possible to reject the claim based on that.

The heightened standard of proof is specified in Article 31 (2) (f) of the Aliens Act.¹⁵

Section 31

1. An application for the issue of a residence permit for a fixed period as referred to in section 28 shall be rejected if the alien has not made a plausible case that his application is based on circumstances which, either in them or in connection with other facts constitutes a legal ground for the issue of the permit.

2. The screening of an application shall take account, among other things, of the fact that:

...(f) in support of his application the alien is unable to produce a travel document, ID card or other papers necessary for assessment of his application, unless the alien can make a plausible case that he is not to blame for their absence[.]

In general, an asylum seeker is granted the benefit of the doubt if their statements given during the asylum procedure are consistent and not improbable on a general level. This will in practice depend on the situation and the country of origin. A permit can be granted although the ID has not been established:

Although the establishment of ID usually precedes the assessment of the asylum account, in some cases even despite doubt about a person's ID it may still be decided that the asylum seeker qualifies for a permit. The mere situa-

tion in the country of origin can be decisive in this respect. If it has been established, for instance, that a person originates from a specific country or region in a country where the safety situation is so bad or he belongs to a specific ethnic group, a permit may be granted¹⁰³.

Family immigration

In family immigration cases the obligation for the applicant to establish and clarify their ID is stronger. As a rule the applicant should establish and clarify the ID with *documents*. In some cases there is a possibility to take DNA.

Normal applicants for family immigration have to have documents to show that they are who they say. If it is impossible to get documents, we ask questions to identify the person and the relationship. The benefit of doubt (compared [with] asylum seekers) is to a less degree relevant in these cases. Normally the applicant should have the possibility to contact the home country. Sometimes we take DNA to prove relationships [of] parents and children¹⁰⁴.

7.1.5 UK

Decision makers must consider the credibility of a claim in light of all available evidence relating to the claim. Credibility assessments address the following:

Internal credibility – the applicant's own evidence

Consideration of internal credibility requires an assessment of whether the applicant's claim is internally coherent and consistent with past written and verbal statements, as well as being consistent with claims made by witnesses' and / or dependents and with documentary evidence submitted in support of the claim. It is for the decision maker to assess how well the evidence submitted fits together and whether or not it contradicts itself. An applicant's inability to remain consistent throughout both written and oral accounts of past and current events may lead the decision maker not to believe the claim.

¹⁰² For more information/explanation on this point, see: UNHCR – Beyond Proof, available at: <http://www.refworld.org/pdfid/519b1fb54.pdf> Chapter 7, p222-224 is specifically about the Netherlands.

¹⁰³ EMN FOCUSED STUDY 2012: Establishing Identity for International Protection: Challenges and Practices. National Contribution from the Netherlands.

¹⁰⁴ Interview IND, decision makers family reunification.

External credibility – are the material facts consistent with objective evidence

Material facts should be consistent with generally known facts and country of origin information. The decision maker is required to conduct research into the applicants' country of origin to assess whether claims about past and present events are consistent with objective country information using, for example, information contained in Country of Origin Information Reports and COI Requests produced by the COIS.

The entire asylum process must be based on cooperation. Applicants are obliged to cooperate with the UK authorities and tell the truth; they are also obliged to stay in regular contact with the caseworker, including keeping all appointments. Failing these requirements may result in asylum refusal and other consequences.

In practice during the process – if someone is not cooperating with other aspect of an asylum case, which would not mean Home Office Immigration has doubts about the identification. If someone has failed to attend the asylum application interview, failed to answer the specific questions and properly explain why they do not have a passport, and exhibited other failings (for example, negative language test findings, or failure to answer country-specific questions in the interview), Home Office Immigration has more grounds to claim the person is not the one they assert themselves to be. *But there are no country-specific procedures in UK; the decision is case-specific.*

Reliability of the applicant is crucial for the process – it is the foundation of all aspects of the process and information gathered.

In case of applicant with a valid passport but who was operating with different nationalities, again the entire story and information gathered will be taken into consideration. The credibility of the applicant will be therefore important for the final decision.

7.2 Documents and 'reliability'?

In what grade is the valid passport sufficient for those applicants who were operating with different identities?

How much weight is given to 'reliability'?

In general all countries give much weight to reliability.

7.2.1 Comparative findings

The main finding is that even when a person has several identities, an *authentic passport* is highly valued. It is therefore possible that a valid passport is sufficient for those applicants who were operating with different identities, but it will depend on other evidence and the concrete case.

Probably there are some differences between Sweden, the Netherlands and UK. At least it seems that UK to a higher degree emphasises biometric ID and similar methods, while document reliability is more dependent on a 'holistic approach':

The UK uses a '*case by case*' approach where believability of documents and information is *essential*. In UK fingerprint match evidence is the strongest, and is acceptable to the courts at any level.

Other methods do not generally provide definitive proof so may be accepted to a greater or lesser degree by the courts and by the country of origin, and need to be weighed against other factors on a *case-by-case basis*.

7.2.2 Norway

Reliability is very important. Norwegian Immigration Authorities consider travel documents from some countries to have low reliability, for instance Afghanistan and also Iraq. There are no documents from Somalia with reliability. General information from Landinfo can be important as well as concrete controls of documents.

A valid passport is to some extent sufficient to eliminate doubts regarding ID, but first its validity or reliability is determined by examining how the passport was issued (in-person or not) and other controls to consider reliability. A concrete consideration is always needed in each such case, where documents are issued from countries / authorities with low reliability¹⁰⁵.

¹⁰⁵ Interview.

7.2.3 Sweden

The information about reliability here in chapter 7.2.3 is based on *interviews* with informants from the Migration Board.

Several informants told that reliability in general is very important.

The main finding from the interviews is that even when a person has several identities, an *authentic passport* is highly valued. It is therefore possible that a valid passport is sufficient for those applicants who were operating with different identities, but it will depend on other evidence and the concrete case.

Reliability is in general very important

A valid passport may to some extent suffice to eliminate doubts regarding ID, but first its validity or reliability is determined by examining how the passport was issued (in-person or not) and if it has been accepted as a travel document by a somewhat trustworthy state (such as an EU country). For example, Saudi Arabia accepts passports from Somalia, while Sweden does not. Mongolians usually have several kinds of passports, one that they use for travels, and one that they present to Swedish authorities. Fortunately, Mongolia has a national registration system similar to the Swedish one which makes these passports more trustworthy than might otherwise be the case.

Many Afghans use so-called 'Oslo passports' passports issued by the Afghan Embassy in Oslo. When the Migration Board asks how these passports were issued, they learn that the applicant sent money to the embassy with a written testimony where two people verified that the applicant is the one they claim to be. So even though the passport is issued from an authority, the Asylum Examination Unit puts *no value on them, given the circumstances on which these were issued* (but other units of the Migration Board, such as the Return Unit, will probably accept these passports as a travel document). A passport must be issued in combination with a personal appearance.

Even when a person has several identities, an *authentic passport* is highly valued if the passport has high reliability. This is controlled at the ID Unit, and if there are other documents in that person's possession of alternate identities those are checked as well.

The considerations and approach is similar to the Norwegian, see above. That means that a concrete consideration is always needed in each such case, where documents are issued from countries / authorities with low reliability.

7.2.4 The Netherlands

Reliability is also in general very important. A valid passport will have very much weight.¹⁰⁶

We find that in the Netherlands also a valid, authentic passport may to some extent suffice to eliminate doubts regarding ID, but first its validity or reliability is determined by examining how the passport was issued (in-person or not).

In this case the IND will probably make some investigations, to make sure there are no ID doubts and clarify the ID.

7.2.5 UK

Having a passport does not mean the asylum will be granted. All the little bits of evidence matter and caseworkers are trained not to place sole reliance on one piece of evidence. Having a passport, even a genuine one in asylum case, doesn't mean the applicant will get the asylum. When considering documents presented or otherwise obtained in respect of ID and nationality, officers must first consider whether the document is capable of proving nationality. A genuine passport and national ID card would normally be capable. Other documents may also be able to prove nationality, but careful consideration of this capacity must be given.

If a document is capable of proving ID and nationality, officers must consider whether reliance can properly be placed on such documentary evidence.

The principles outlined in the case of Tanveer Ahmed [2002] UKIAT 00439¹⁰⁷ should be applied in determining whether reliance can properly be placed on any documentary evidence. The tribunal ruled that the burden of proof is upon the applicant to show that documentary evidence submitted can be relied upon. However, it is for the decision maker to consider whether a document is one on which reliance should properly be placed after looking at all the evidence in the round. Particular

¹⁰⁶ Interview IND.

¹⁰⁷ <http://www.bailii.org/uk/cases/UKIAT/2002/00439.html>

attention should be paid to the authenticity of the documents and the circumstances in which they were obtained.

If an officer has doubts as to the authenticity of documentation, it should be sent to the National Document Fraud Unit (NDFU). Prior to doing so, officers must make copies of the documents and attach them to the Home Office (HO) file.

There may be occasions when the applicant holds conflicting documentary evidence of nationality, for example an ID card for one nationality and a passport for another. After examination, if the most recently issued document is found to be reliable, then this would normally be sufficient evidence to establish nationality. But all relevant facts must still be taken into account.

All documentation, whether accepted as reliable or not, must be held and attached securely to the Home Office (HO) file.

The strongest form of clarification is when the ID is 'established' ('styrkt'). The weakest form is when the ID is not probable.¹⁰⁸

The Netherlands also have a grading structure for establishing ID in asylum cases. According to the Identification and Labelling Protocol (PIL) a hierarchy in sources exists for the determination of ID. The Identification and Labelling Protocol includes a table representing eight levels. However, Oxford Research found in the interviews that this hierarchy in practice is two categories: 'documented' and 'not documented'.

In UK there is no formal grading structure. The Home Office *does not use a grading system* in this regard (for example, from 'undocumented' to 'sufficiently substantiated', or 'has the benefit of doubt' to 'fully documented and verified'). In practice *different levels or types of ID assurance are required in different circumstances*. The general approach in UK is 'case by case'.¹⁰⁹

7.3 Grading structure

Grading structure in practice

Is there in practice a "grading" structure or spectrum used to denote the degree of ID determination?

7.3.1 Comparative findings

We find that both Norway and Sweden have a grading structure. In Norway there are three different levels used in the decision making process in UDI for asylum and family immigration cases:

- documented ID,
- probable ID,
- not probable ID.

In Sweden there are also three different levels used in the decision making process in Migration Board for asylum and family immigration cases:

- 'styrkt / visat',
- 'sannolikt',
- 'ikke-sannolikt'

7.3.2 Norway

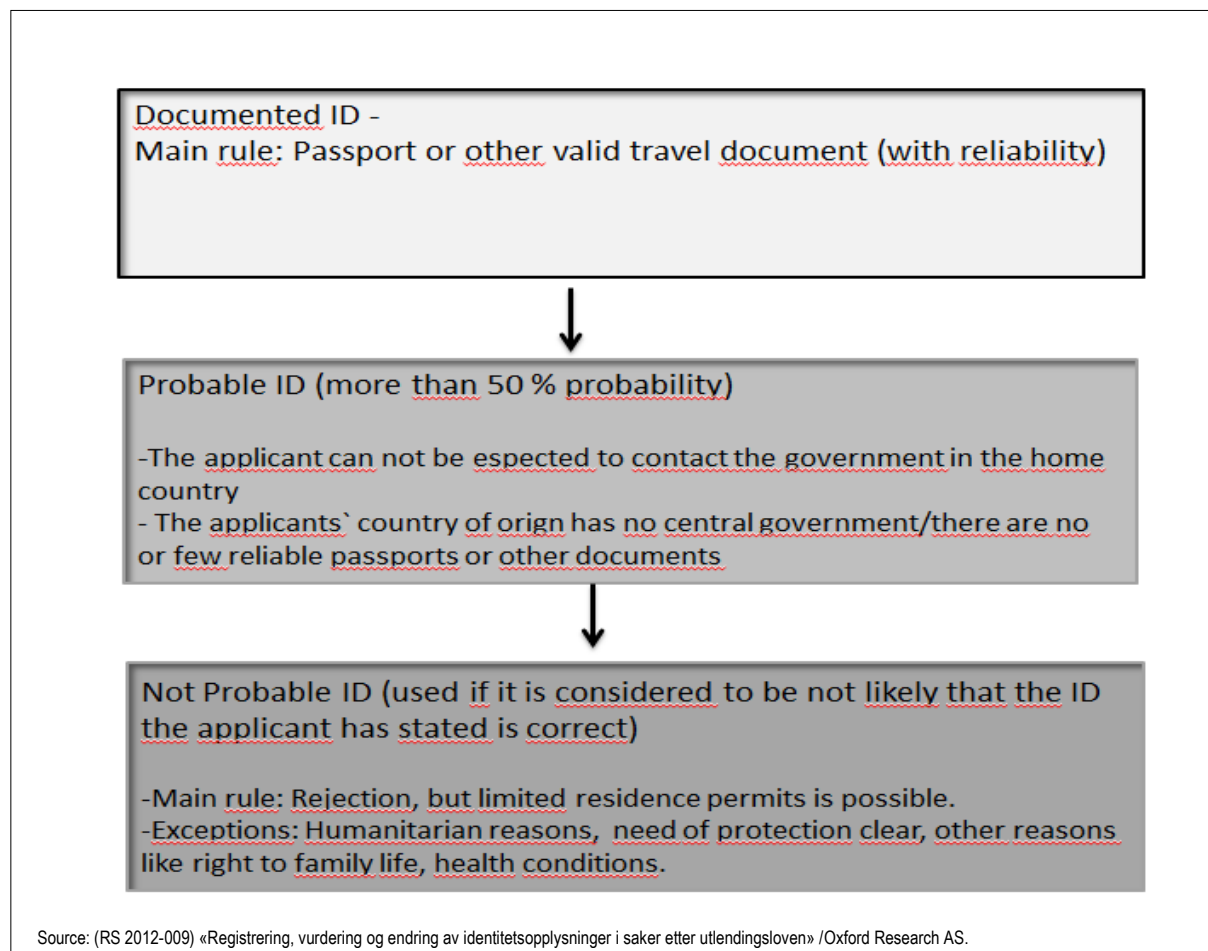
In Norway there are three different levels used in the decision-making process in UDI for asylum and family immigration cases:

The different levels of proven ID can be illustrated in the following figure:

¹⁰⁸ RCI 07/2012

¹⁰⁹ Interviews Home Office.

Figure 3: Grading structure ID



The circular (RS 2012-009)¹¹⁰ regulates three different ID-levels used in the decision making process in UDI for asylum and family immigration cases. What is the main content and meaning of 'documented ID' probable ID' and 'not probable ID'?

- **'Documented ID':** Applicant has presented a passport or another travel document that is reliable and valid for travel to Norway. There is no specific information or general knowledge about the type of document that indicates that it should not be trusted. Then the applicant will usually be considered to have a documented ID.¹¹¹

¹¹⁰ RS 2012-009 «Registrering, vurdering og endring av identitetsopplysninger i saker etter utlendingsloven».

¹¹¹ Information from decision-maker in UDI about the practice: Documents (in asylum cases) should also have been examined by National Police Immigration Service (NPIS) before the ID is considered "documented". However, this practice is not applied when using the rules in § 8-12 in Immigration Regulations (Utlendingsforskriften).

- **'Probable ID':** Applicant has not presented a passport or travel documents with sufficient reliability. Then it is possibly considered to be more likely than not that the ID the applicant has stated is correct. This consideration is based on an *overall assessment* of both documents that have been presented, the information of their ID provided by the applicant, and the investigation and control of these documents and/or information. It is important to underline that the ID-assessment is a *concrete* judgement of documents and facts. Probable means here more than 50 % probability.
- **'Not probable ID':** This ID-category is used if it is considered to be *unlikely* (less than 50 %) that the ID the applicant has stated is correct. As a main rule, an application for a residence permit will be rejected if the applicant's ID is considered to be 'not probable'. However there are some exceptions from this rule, especially concerning applications for international protection. Mainly, exemptions from the

requirement that the ID has to be ‘probable’ are made when there are special humanitarian reasons (for example, health reasons or the consideration to children) or the applicant’s need for international protection is considered to be sufficiently probable.

7.3.3 Sweden

In Sweden there are three different levels used in the decision making process in Migration Board for asylum and family immigration cases:

- ‘styrkt / visat’,
- ‘sannolikt’,
- ‘ikke-sannolikt’.

The strongest form of clarification is when the ID is ‘established’ (‘styrkt’). The weakest form is when the ID is not probable, which can be thought of as a rating of 75-80 on a scale from 0 to 100, where 0 is untrue and 100 is very true. When there are doubts regarding ID, the weakest form can still be achieved and the applicant may then receive a residence permit¹¹².

There is another form of clarification, which is elucidated as ‘klarlagd / viast’; it is not an actual level of verification and is closer to established than probable¹¹³.

7.3.4 UK

In UK there is no formal grading structure. The Home Office does not *use a grading system* in this regard (e.g. from ‘undocumented’, to ‘sufficiently substantiated’ or ‘has the benefit of doubt’ to ‘fully documented and verified’)¹¹⁴.

This is consistent with the findings in the EMN study for UK:

No, the UK Border Agency does not presently (2012) have any formal ‘grading’ structure for ID assurance. In practical terms, different levels or types of ID assurance are required in different circumstances.

¹¹² Interview Swedish Migration Board.

¹¹³ Interview Swedish Migration Board. See also “Rättschefens rättsliga ställningstagande angående kraven på klarlagd identitet och pass i ärenden om uppehållstillstånd. RCI 07/2012”, for further explanation.

¹¹⁴ Interviews Home Office.

In UK practice the general rule used can be summarised as ‘*balance of probabilities*’. All methods of gathering data are taken into consideration while making the asylum decision. Of course the information from more ‘trusted’ sources and reliable documents (such as information and documents from visa application matched with the applicant) will be valued more. It was nevertheless often repeated that the final decision is based on assessment of the full available portfolio.

In general consistency between gathered facts is sought, nevertheless for making the final decision full consistency is not required.

Also, the results from the different methods used in the asylum application process for gathering data will not have different status and / or will be given different weights. All information will be gathered in the system and the decision will be taken using the ‘balance of probabilities’ approach. This approach is documented in the instruction for caseworkers (see below the instruction regarding Non-Suspensive Appeal cases).

UK is also not using a grading system to this regard (for example, ‘undocumented’ over ‘sufficiently substantiated’ or ‘has the benefit of doubt’ to ‘fully documented and verified’).

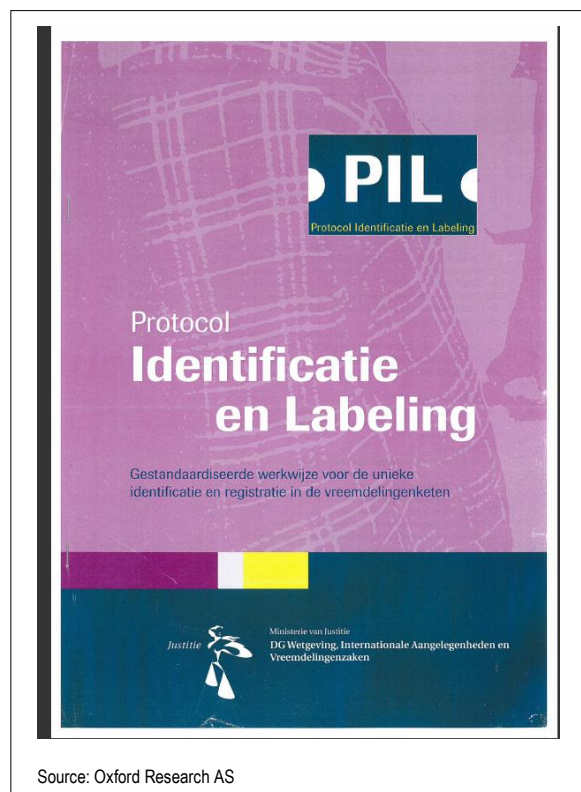
7.3.5 The Netherlands

According to the Identification and Labelling Protocol (PIL) a hierarchy in sources exists for the determination of ID. The Identification and Labelling Protocol includes a table representing eight levels¹¹⁵.

¹¹⁵ EMN FOCUSED STUDY 2012.

‘Establishing Identity for International Protection: Challenges and Practices’, National Contribution from the Netherlands.

Figure 4: The Identification and Labelling Protocol (PIL)



Source: Oxford Research AS

The EMN (2012) study says that these levels are determined on the basis of whether *specific documents* have been submitted or not:

A third-country national may be registered on the basis of these different levels. The purpose is to establish the ID at the highest possible PIL level¹¹⁶. The highest identification level is formed by an official identifying a personal data document (i.e. a national passport or an EU ID document), in combination with an official non-identifying personal data document (e.g. a birth certificate or marriage certificate). If these documents are absent and the identification is based solely on the asylum seeker's own statement, this results in a lower level in the hierarchy.

In practice, two levels

As mentioned earlier, in the Netherlands it is the Aliens Police who determine and assess ID.

The Aliens Police use seven levels of credibility when assessing ID in asylum cases (PIL) but Oxford

Research found in the interviews that there are really in practice only two levels: 'documented' and 'not documented'¹¹⁷. ID documents are the only real proof of a person's ID. To be considered 'documented' the *ID document* submitted must be genuine, it must belong to the applicant, the document must be valid and reliable and, it must be an official document (travel document, national ID card, and such).

The ID and Document Fraud Centre of Expertise (BURDOC), has given some additional information about documents and determination of ID. More and more BURDOC finds out that people, who have an ID document like a passport, gained it by using fake or falsified source documents. So the passport on it's self is genuine but fraudently obtained. This undermines the idea of ID documents being the REAL proof for ID. To check this in common cases the IND is complementary asking for *source documents*, which were used for the appliance of the ID document, to proof the genuine of the ID document.

Also passports, carrying the signature of the holder need attention. BURDOC was confronted with passport in which the signature was not similar compared to the signature present on the appliance form for asylum. The passport was gained via an alternative way, genuine passport but the ID of the holder was not sufficient enough checked.

¹¹⁶ PIL, Appendix 6.

¹¹⁷ Interview Aliens Police, 14 November 2012.

7.4 Investigations — no documents

7.4.1 Comparative findings

The overall picture is that all countries have several methods and ways to investigate the applicants' ID.

The table shows different methods and investigations for establishing ID in procedures for international protection.

Table 9: Investigations – no documents

Member State	Language analysis	Age assessment	DNA	Interview
 Norway	✓	✓	✓	✓
 Sweden	✓	✓	✓	✓
 United Kingdom	✓	✓	✓	✓
 The Netherlands	✓	✓	✓	✓
Source: Oxford Research AS				

The main findings are consistent with those in EMN 2013:

- conducting interviews with the applicant for international protection is obligatory or standard practice in all countries (Norway, Sweden, the Netherlands and UK);
- language analysis is an optional method to establish the ID of applicants for international protection in the Netherlands, Norway, Sweden and United Kingdom;
- DNA analysis is only drawn upon in exceptional circumstances, such as to establish family affiliation (Norway, Sweden, the Netherlands and UK).

In practice there are some small differences between these methods used in Sweden, the Nether-

lands and UK. Here we will underline two important differences.

As already stated, it seems that UK to a higher degree emphasises biometric ID and similar methods, while document reliability is more dependent on a 'holistic approach'. Indeed, Oxford Research finds that Norway, Sweden and the Netherlands also use a holistic approach.

The most important differences are that UK has used systematic use of national (and international) database verifications. The biometric system is primarily constructed on fingerprints. In addition, the UK has other important methods to investigate ID. The UK integrates data from international posts (visa applications) for the identification process and further investigation in the asylum case. Further, the UK is member of the Five Country Conference, which gives possibility to share a certain

number of immigration fingerprints records for matching .

7.4.2 Norway

As already stated, the immigration authorities have an *independent responsibility* for obtaining necessary and available information before the administrative decision is made (see Section 17, first paragraph, of the Public Administration Act). What kind of methods and investigations can be made in cases of international protection and family immigration?

We find that several investigations can be done. The most important are:

- language analysis and knowledge test,
- age assessment to determine probable age,
- interview and information,
- verifications,
- contact with country of origin (not in international protection / asylum cases).

The methods used differ, depending on already existing information, available ID documents, the applicant's credibility, and so on. Methods applied also differ according to the alleged country of origin. For example, many countries lack central population registers or central registers of documents issued, making it difficult to try to verify documents¹¹⁸.

Language analysis and knowledge test (most common in international protection)

With applicants for international protection a language test is often combined with a *knowledge test* where the applicant is asked about geography, culture, politics and history. This knowledge test is part of the *standard procedure* for applicants for international protection, to establish whether applicants have the geographic affiliation they have claimed.

¹¹⁸ EMN (2012): Establishing Identity for International Protection: Challenges and Practices. National Contribution from Norway.

UDI has, according to the EMN study on establishing ID (2012)¹¹⁹, developed and continues to maintain a list of 20 countries; applicants claiming to originate from them are routinely subjected to language analysis and knowledge tests. Others also can be subjected to a language test if the immigration authorities suspect that the person in question has given false information about their country of origin.

Age assessment to determine probable age

If the date of birth cannot be documented and UDI finds reasons to doubt the stated age of a young applicant for asylum, an optional age examination will be carried out (see Immigration Act § 88)¹²⁰.

A decision of the most probable age is made at the same time as a decision is made on the need for protection, but the two decisions are independent. Most age examinations are made when it is suspected that the real age is higher than the stated age, but they are also made when it is suspected that the stated age is too high¹²¹.

DNA analysis

Applicants for international protection and sponsors may be requested to undergo DNA testing if it is necessary to establish whether a family relationship exists. This only applies if the other information in the case *fails to provide* a basis for establishing the family relationship with reasonable certainty¹²².

In most applications for family immigration, the family relationship can be confirmed by written documentation, such as a birth certificate. However, the immigration authorities have experienced that applicants from some countries have great difficulty obtaining reliable written documentation of family relationships. In family immigration cas-

¹¹⁹ EMN (2012): Establishing Identity for International Protection: Challenges and Practices. National Contribution from Norway.

¹²⁰ Where, in a case concerning asylum or in a case concerning a residence permit for a family member, it is not possible to establish with reasonable certainty whether the foreign national is over or under the age of 18, the foreign national may be requested to allow themselves to be examined in order to determine their age. The result of the examination shall be assessed in relation to the other information in the case.

If the foreign national refuses to allow themselves to be examined, they shall be made aware that this may be of significance for the assessment of the case.

¹²¹ EMN (2012): Establishing Identity for International Protection: Challenges and Practices. National Contribution from Norway.

¹²² See further Immigration Act § 87 which regulates DNA testing .

es¹²³, DNA testing can be offered to applicants of all nationalities when the application is submitted through an embassy that is operative for DNA testing, or through the police in Norway. As a rule, DNA analyses will be offered in cases where the other criteria for family immigration are met, but where the immigration authorities find that doubt exists about the correctness of the stated family relationship.

Interviews to determine probable country and / or region of origin (or other elements of ID, such as faith and ethnicity) are important.

Applicants for international protection usually participate in several interviews to determine their ID as well as their need for protection.

Verifications¹²⁴

Contact with embassies is possible in family immigration cases. The UDI can ask the embassies to investigate further. Different kinds of verifications are possible. The general rule is that case details are verified only when the result of verification may be of decisive importance for the outcome of the case. Other conditions for obtaining a permit must therefore be met first. In addition, there must also be legitimate doubts about the stated case details. Exceptions may be made in cases in which the Directorate believes that there are other weighty considerations.

There are several different types of verifications:

- verification of language,
- verification of documents,
- verification of family relationships when documentation is not available or where documents have low/no "notoriety"
- verification of age,
- verification of other information.

¹²³ Guidelines for DNA analyses in connection with applications for family immigration – the Immigration Act, Section 87.

¹²⁴ Verifications can also be used in some asylum cases.

7.4.3 Sweden

Language analysis

Language analyses, especially direct ones, are used in Sweden. Direct language analyses mean that the applicant talks directly to an analyst. The analyst then asks questions regarding, for example, the applicant's home territory and local traditions, and listens to the local dialect that they speak. This may help establish if the home region is the same as that the applicant is claiming. One complication is that if a Somali has not lived in their home village for a long time, then Swedish officials look at where the applicant lived most recently, which can be very difficult if the applicant did not have a residence permit there. For the Migration Court to accept a language analysis, it has to be a direct one and not one where the applicant just records a monologue on tape. A language analysis cannot however be the only determinant in the asylum process.

Age evaluations

The applicant is the one who bears the burden of proof for their age. Ten years ago, it was common to use age evaluations in cases where it was uncertain whether the applicant was under age or not.

Age assessment is today used primarily in the application process for unaccompanied minors stating to be under age and who have no valid documents to prove that¹²⁵.

The very first day when the applicant applies for asylum at the Application Unit, initial age estimation is made, after which the applicant can be placed at a specific child unit where further investigation is carried out. In general, if the applicant initially is classified as an adult, that assessment will usually also hold later in the process – unless ID documents can prove that they are under age. It is rather unusual that an administrator (handläggare) directs the applicant to the child unit.

Today, the use of DNA tests for applicants in international protection is not established in Sweden, but it might be possible in the future.

¹²⁵ EMN FOCUSED STUDY 2012 Establishing Identity for International Protection: Challenges and Practices. National Contribution from Sweden.

7.4.4 The Netherlands

We find that in the Netherlands the IND has several methods and instruments to be used¹²⁶:

- language analysis by the Office for Country Information and Language Analysis,
- document verification by the ID and Document Investigation Unit,
- age assessment,
- interview to determine the probable country and / or region of origin on the basis of the Country of Origin Information System (HIS).

The IND also has the power to initiate an investigation via the Ministry of Foreign Affairs in the form of a person-specific report. Elements that are dealt with in such an investigation are, among other things, the question of whether the name of the asylum seeker concerned actually occurs, in the same form as that in the personal data provided by the asylum seeker themselves, in the registers of a specific country.

Language analysis

Some starting points:

- the Immigration and Naturalisation Service (IND) makes use of language analysis;
- a language analysis can be carried out with regard to approximately 70 languages;
- the interviews last approximately one hour and are conducted on site in the presence of the asylum seeker, a civil servant, and an interpreter;
- the recording is subsequently sent to the Office for Country Information and Language Analysis, where it is examined by a linguist and a language analyst;
- the language analysis is used to determine the asylum seeker's origin.

¹²⁶ EMN FOCUSED STUDY 2012
Establishing Identity for International Protection: Challenges and Practices.
National Contribution from the Netherlands.

Office for Country Information and Language Analysis¹²⁷

Staff working with language analyses:

There are 4 linguists and 35 native speakers working with language analysis. The native speakers are hired on a case-by-case basis. The native speakers do not have backgrounds as linguists but they are all well-educated.

Staff working with country information:

There are 11 country specialists (3 for Africa, 2 for Europe, 2 for Asia and 4 for the Middle East). The analysts have different educational backgrounds (social sciences, language, and so on.).

The caseworker handling the asylum case will conduct a recording of the applicant's speech on location (on a CD). The recording is conducted as an interview of the applicant (as opposed to a monologue). A translator is also present during the interview. The caseworker has a script with a fixed set of topics and questions they follow during the interview. It is important to ask questions about the applicant's past (including childhood) and questions that are related to their life in the country of origin. Knowledge tests are not done explicitly during these recordings but if the information the applicant gives on their place of origin is incorrect this will be commented on during the report from the language analysis and may be a factor in the overall assessment of the asylum case.

The recordings will be analysed by a native speaker and by a linguist (in some cases they work together). The analysts will conclude whether the applicant's speech can be traced to their claimed place / country of origin. The analysts use a grading system in their conclusions (probably, most probably, and so on). If the conclusion from the language analysis does not confirm the applicant's claimed place / country of origin, they will be asked to comment on the results. The applicant may also ask for a second opinion (counter-analysis). The language reports are considered to be expert reports in court.

Caseworkers handling the cases ask questions about the applicant's place / country of origin during the initial IND interview. The caseworkers may request the advice of a country analyst in

¹²⁷ Interviewee 1: senior linguist – language analysis;
Interviewee 2: country specialist/analyst – Africa (Somalia);
Interviewee 3: senior country specialist/analyst – coordinator for the country specialists/analysts (all regions).

individual asylum cases. For example the caseworkers are able to send the questions and answers to the country analyst and the country analyst will comment on the information given by the applicant (the comments will be filed as an internal document).

The country analysts always advise the caseworkers to ask personalized reference questions (no fixed interview questions). The questions should be customized for the applicant and linked to their level of competence, educational background, and so on. Fixed questions are also easy to memorize. There are five knowledge domains / topics the caseworkers focus on during the interview: documents, language, ethnology / clans, personal topography and knowledge of recent events. It is important both to ask questions about the applicant's background and childhood, but also recent events to confirm whether or not the applicant recently has been living in their country / place of origin.

The country analysts do not write official reports that are publicized. However the information is gathered on an internal database. Both the country analysts and the caseworkers have access to the database.

The country analysts only use *public* sources. The sources can then be referred to directly in the decision letter.

Caseworkers of *family immigration* cases may also ask for advice from the country analysts.

Verification can be done in some cases (via a lawyer) – usually a birth certificate, school registry, and such.

The Office for Country Information does not arrange or participate in fact-finding missions (only arranged by the foreign affairs).

International cooperation

The country analysts in IND do have contact with other country analysts in other countries (both informal and formal expert group meetings and the like).

7.4.5 UK

Language analysis (LA)

Language analysis has proven to be an extremely valuable tool in tackling abusive claims from those claiming asylum using a false nationality.

The Home Office presently contracts Sprakab, a Swedish company, to conduct language analysis. Language analysis is used regularly, but not really in high volumes. Testing paused in 2010-2011 whilst the effectiveness of the process was evaluated. Testing resumed in October 2011¹²⁸. The main outcomes of the review are summarized in the following.

- LA is best suited to cases of suspected nationality swapping between nationalities with a linguistic link. For example, where there is doubt over the claimed nationality of origin and where the person's alleged true nationality may also use a language or dialect that is similar to that of the claimed nationality, for example, Somalis and Kenyan Bajuni (Kibajuni).
- Five claimed nationalities (Afghans, Eritreans, Kuwaitis, Palestinians and Somalis) accounted for 90 % of LA tests, with over one-half of LA-tested applicants claiming to be Somalis.
- There was no statistically significant link between LA and the likelihood of success at appeal. However, appeal courts did not give substantial weight to LA until a court judgment in favour of it in September 2010. Therefore, LA may have an increased role in reducing the number of successful appeals, and deter unfounded appeals, from September 2010 onwards.
- The illustrative modelling conducted at Home Office Immigration suggests that for some nationalities LA unit costs are less than non-LA unit costs, particularly for granted cases. It is difficult to estimate the total net costs and benefits to the UK, because some benefits are difficult to quantify in monetary terms and the overall evidence is mixed on decision and appeal times and support costs.

¹²⁸ Language analysis testing of asylum applicants: Impacts and economic costs and benefits.
<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/reports/language-analysis/language-analysis.pdf?view=Binary>

- The main LA nationalities are associated with a 21 % fall in asylum intake compared with an 11 % reduction for all nationalities, but there is no firm evidence that LA has or has not had a deterrence effect on abusive asylum intake, as any distinct effect LA has cannot be easily separated from other factors.

In the spring / summer of 2013 the UK will award a new contract for language analysis, following an open tendering exercise.

Current systematic data recording should help to provide greater clarity around the benefits of language analysis testing in the future.

Age assessment

Another method is the age assessment. A Home Office officer may dispute age in circumstances described in and strictly limited by published policy¹²⁹. In other cases, an age assessment will be conducted by Social Services, which does not use x-ray as part of the assessment.

As regards visa issuing, in countries without reliable systems of birth registration, cases may arise where there is doubt about the age the children claim to be. The use of x-rays to assess the age of children is not admissible. Doctors must not be asked to use radiological data when giving age assessments. A physical examination by a doctor can be helpful in establishing the age in such circumstances, but any assessment can be only an approximation. The ECO will need to consider any assessment of age by a doctor in conjunction with other available evidence of age¹³⁰.

Databases verification

On 1 December 2007 the Immigration Rules changed. From this date all claims for international protection should be construed to be an asylum application and the applicant required to attend the Asylum Screening Unit for a screening interview. In this way all applicants are treated equally and have an ID locked and biometric data recorded at the beginning of the process.

The UK immigration biometric checks system is primarily constructed on fingerprints.

Home Office Immigration caseworkers do not solely rely on biometric identification. There are also biographic databases that can be checked.

If any database matches raise any question of material doubt over ID or any other aspect of the immigration case under consideration, the issues can be further clarified at interview.

During the application process suspicion that a person is a multiple applicant may arise through photographic and handwriting comparisons.

In the absence of any other evidence, these will not be sufficient to prosecute the subject. However, the subject should be challenged at the interview stage of their asylum claim about the similarities. If the subject then admits to making a multiple application, appropriate action must be taken.

The UK system for ID management is based on the simple approach that photographs and fingerprints are to match together. Still fingerprints seem to be much more definitive and constitute the backbone of the today's system. Fingerprints are not taken from children below five years of age.

National databases and "I Lord"

For asylum and visa applications the Home Office Immigration checks records for all adverse activity such as frauds, multiple asylum application, illegal working, denied workings, and so on. This means that all information available in UK that informs on risk is taken into consideration. Home Office Immigration collects this information in order to reduce risk on visa application and asylum process.

The newly introduced system is to cross check this information from existing sources. Home Office Immigration collects all that information in order to check whether they are cross-matches on post code, college, and so on. The system name is 'I-Lord'. Available databases from overseas are reviewed and copied into one database. This tool allows matching of telephones, postal addresses and emails.

A lot of information is able to be matched by biometrics. I-Lord is currently able to give results based on nine years of biometric data collection in national visa applications. Being able to biometrically match to visa application data is highly important for the system integrity.

¹²⁹

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/assessing-age?view=Binary>

¹³⁰ Entry clearance guidance - SET 07- Assessment of a child's age.

<http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/ecg/set/set7/#header4>

It was also stated that the efficiency of ID management systems are country interdependent as many applicants circulate between the countries.

It also appears that applicants now know that UK systems are more efficient than they were before — the number of asylum applications dropped from over 100 000 in 2002 to 25-26 000 in 2011.

DNA analysis

DNA testing has become widely used in criminal investigations and paternity cases in UK. It is generally accepted that DNA profiling is a virtually fool proof means of establishing ID and parentage. Until 1991 it was up to the applicant to decide whether or not to obtain DNA evidence in support of his application or appeal. In January 1991, however, a government scheme was introduced which enables entry clearance officers to offer to arrange DNA tests in cases where they are not satisfied that persons seeking admission as children are related as claimed to their United Kingdom sponsor. These arrangements are applicable only to persons applying for settlement for the first time, or family reunion where the sponsor is a refugee but not where the sponsor has exceptional leave to remain. They do not apply to persons making a further application on the same basis.

Where the applicant agrees to take a DNA test, the Entry Clearance Officers (ECO) arranges for blood samples to be taken from the applicants at the post overseas and sent to Orchid Cellmark for analysis (together with a blood sample provided by the sponsor in the United Kingdom under supervised conditions). A report is sent direct to the post and a decision is made on the basis of the information contained in the report. Cellmark is the company which currently holds the contract with UK Visas to provide DNA testing for all Entry Clearance Applications where such tests are deemed necessary. Therefore Cellmark is the only company which can be used by Entry Clearance Officers. These arrangements mean that the vast majority of cases involving DNA evidence will be dealt with by the ECO rather than UK immigration.

Although the Home Office used to consider cases for over-age re-applicants who may have been wrongly refused and who subsequently re-applied with DNA evidence of their relationship to the sponsor by way of the DNA and over-age re-applicants concession, the DNA and over-age re-

applicants concession was abolished on 24 August 2002. However cases do still arise in which UK caseworkers will need to be satisfied that a claimed relationship is genuine, and DNA testing is one means of evidence that applicants may provide in support of this issue.

Although UK Visas have a contract with Cellmark Diagnostics for the purposes of Entry Clearance Applications, caseworkers dealing with in-country applications should accept DNA test reports from any accredited organisation. The results of DNA tests can usually be accepted as evidence in after-entry cases but it is entirely up to the applicant to arrange and pay for this test. The UK immigration authority will not make arrangements or payments for this — there are no DNA testing contracts for in-country applications. In cases involving children, where proof of the existence of the relationship between the child and the sponsor cannot be satisfactorily established, even after further enquiries have been made by the caseworker, it may only be compelling evidence, such as a DNA test, that will resolve the issue. It must be emphasised that whether or not an applicant decides to undergo DNA testing in an on- or after-entry case is entirely for them to decide.

Interviews

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

In all asylum cases interviews are arranged. An asylum interview takes place about a week after an applicant's first meeting with a caseworker. An interpreter is provided if the applicant requests one and applicants may also request an interpreter of a particular gender.

The full interview is the applicant's opportunity to give the reasons they fear return to their home country. It is the applicant's role to prove ID and country of origin. Any evidence of what is said and any offered documents are taken into consideration to support the consideration and decision.

The interview seeks to clarify all areas pertaining to the applicant's claim for protection, including ID or origin. This may include questioning on such issues as investigation of specific locations and institutions, local habits or religious rites. Where appropriate, language analysis may be undertaken.

Every interview must focus on establishing and testing key aspects of the claim and avoiding areas that are not relevant. Obtaining relevant and detailed evidence on material elements of the claim at an interview will enable a decision maker to make a well-informed and balanced decision on the asylum and human rights aspects of an application, including any relevant information about the applicant's dependents in the UK. An applicant should be expected to provide information to a level of detail which a person who experienced a given incident or undertook particular activities should reasonably be expected to recall. It is also important that allegations of torture or ill-treatment are fully investigated at the interview with appropriate sensitivity. The investigation should focus on potentially externally verifiable details such as published facts, key dates and locations of events or incidents, but it should also probe the context in which the individual lived and worked in the country of claimed persecution, as well as (for example) the reasons for their conversion to one particular religion over others, or their involvement in one political party over others and so on. If, in the interview, a claimed material fact appears to be inconsistent with either the applicant's previous evidence or with generally known facts, or if what is being said appears to make no sense, they must be asked to explain or clarify this. If the applicant is not asked to explain and the application is then refused on credibility grounds, it will make for a weaker argument at the decision and appeal stage.

At the end of the interview, applicants are asked to sign the interview record, confirming receipt of the record copy.

Other methods and contacts with third countries

UK immigration adopts an intelligence-led approach to its investigations. Enforcement officers, intelligence units and police officers may identify suspected multiple applicants while investigating an individual for other reasons. They will then refer this information to the caseworkers. The determinativeness and / or disclosability of intelligence information will vary from case to case, depending upon the nature of the information received.

As described above UK integrates data from Home Office international posts (such as data from visa applications, but not only) for the identification

process and further investigation in the asylum case.

Another important point of international cooperation apart from European initiatives (such as Eurodac) is the Five Country Conference.

The UK is a member — with Canada, the USA, Australia and New Zealand — of the Five Country Conference, which engages in ongoing strategic initiatives on immigration and border security.

In June 2009, the governments of these five countries signed a joint agreement to pursue biometric data sharing for immigration purposes. Under the agreement, known as the 'high value data sharing protocol', the countries will initially share a limited number of immigration fingerprint records (approximately 3,000 per country per year) for matching against the other countries' immigration databases. If a match is found, further biographical information is shared on a bilateral basis.

The UK tries to establish as precise a system as possible in terms of ID-related information. The final decision is always taken based on the entire possible picture gathered during the process.

7.5 Investigations – passport or travel document are presented

In the case when applicants have presented a passport or other travel document, the question is: to what extent is that document controlled? Do immigration officials check if the travel document was issued by the appropriate authority in the originating country, and whether the document might be false or forged? For which countries or cases is this possibly relevant?

To what extent are the documents verified? Are they checked against the records in the country of origin, in contact with the issuing authority? For which countries or cases this is possibly relevant?

7.5.1 Comparative findings

All countries have a system for controlling documents. There are some differences in responsibility and how the document control should be done.

In Norway, The NPIS makes a document control of the ID documents that the applicant in asylum

cases has provided, mainly travelling documents. As a general rule the first line in Norway (the police) or abroad (Foreign Service mission) is to make personal or document control in residence and visa cases. It is implemented document control of travelling documents, and in some cases national ID documents. (Further guidelines provided by the UDI RS 2011-040.).

In Sweden, it is the Migration Board who is main responsible for controlling documents in asylum cases. To know whether a passport is trustworthy or not, there is an ID expert on each Asylum Examination Unit at the Swedish Migration Board. These experts receive one week's training at the National Swedish Police Board (Rikspolisstyrelsen). In addition to this, there is an ID Unit at the Migration Board which can control documents. Not all documents are controlled. It is up to every single administrator to decide what should be sent to the ID unit. It is most common to control documents from specific countries.

The Netherlands has *three levels* of documentation control. The first line has only some training and equipment in order to detect fraud. The first line in the Netherlands are in asylum cases the alien police and IND. In residence cases and visa cases, the first line are the alien police, the IND or abroad (foreign service mission). The Netherlands has several expertise units and these can do a more documentation control.

There are two levels of control of document examination in UK. First level is basic forgery check – not every caseworker will have that training, but each team has a reasonable number of trained persons. Not every passport submitted is examined on a basic level. The second level of document control includes a more complex document control. The second level is used not that often.

In the UK, there is a reform project that aims to build a centralised document management system. The new system will allow for all documents to be available electronically to relevant engaged units. All documents will be sent to central units and all documents will undergo verification check¹³¹. In this way the new system will allow caseworkers to receive scanned electronic documents, after the documents have been already verified in the central unit.

All countries have possibility to do verifications. . Needs and opportunities for verifying documents will vary widely from country to country

The table below gives an overview of documents accepted as (contributing) to the establishment of ID in asylum procedures.

¹³¹ The documents are scanned and will be sent electronically.

Table 10: Investigations – passport or travel document are presented

Member State	Passport/other ID	Birth certificate	Marriage licence/divorce certificate	Qualification certificate	Clarifications and other document
 Norway	✓	✓	✓		Any kind of ID document is accepted though much more weight is given to official documents for example passports, ID cards, birth certificates etc.
 Sweden	✓	✓	✓	✓	Passport or ID card constitute core documents, with birth certificates, laissez-passers, alien's passports issued by other state than Sweden, marriage licences, qualification certificates, airline tickets, etc. as supporting material.
 United Kingdom	✓	✓	✓	✓	Applicants are expected to produce their passport or anything else available to establish their ID, nationality and means of entry to UK.
 The Netherlands	✓	✓	✓	✓	Core documents include passport and ID card, other documents, such as driving license, ID card for students, birth and marriage certificates, proof of citizenship are considered as supporting material.
Source: Establishing ID for International Protection: Challenges and Practices produced by the European Migration Network February 2013					

7.5.2 Norway

Document control

In asylum cases, The NPIS makes a document control of the ID documents that the applicant has provided, mainly travelling documents.

As a general rule the first line in Norway (the police) or abroad (foreign service mission) is to make personal or document control in visa and residence cases. It is implemented document control of travelling documents, and in some cases national ID documents. (Further guidelines provided by the UDI RS 2011-040.).

Verification of documents

Needs and opportunities for verifying documents will vary widely from country to country. General guidelines for verification are found in the UDI RS 2010-155.

7.5.3 Sweden

Document control

To know whether a passport is trustworthy or not, there is an ID expert on each Asylum Examination Unit at the Swedish Migration Board. These experts receive one week's training at the National Swedish Police Board (Rikspolisstyrelsen). In addition to this, there is an ID Unit at the Migration Board documents.

Even when a person has several identities, an *authentic passport* is highly valued. This is controlled at the ID Unit, and if there are other documents in that person's possession of alternate identities those are checked as well.

The problem of document-control is mainly in low competence in the first line in the Swedish Migration Board.

It is up to every single administrator to decide what should be sent to the ID unit. It is most common to control documents from specific countries, such as Bangladesh, Georgia and the former Soviet Union (especially fake ID cards and driver's licenses).

Verifications

Swedish embassies abroad usually have good knowledge when it comes to specific countries' passport and authority systems. They can also be valuable for controlling other documents, such as court rulings (if someone claims to be sentenced to death or a lifetime in prison as the basis for asylum).

7.5.4 The Netherlands

Document control

The Netherlands has *three levels* of documentation control:

- first line had some training no equipment (Human senses) in order to detect fraud,
- second line had more training and simple equipment,(loupe and UV light)
- the third line had expert training and special equipment to detect fraud.

The first line has some training but they often lack time and experience to detect false documents. If a person in the first line is in doubt, they should ask an experienced employee at their office. The effort to check documents also varies between different municipalities and embassies. BURDOC administers the DISCS database and can observe who uses the database. Their experience is that many municipalities do not use DISCS. The second and third levels are dependent on the first line check.

The BURDOC is attempting to streamline the municipalities and embassies in order to get a coherent first line examination of documents. This will prevent attempts of fraud on less experienced and less trained first line offices ('fraud shopping'). There is planned a review of the level of skill at the municipalities in regards to document control, to ensure that all offices have adequate competence to detect fraud.

As mentioned earlier, The Netherlands has several expertise units. The ID and Document Fraud Centre

of Expertise is cooperation between the Royal Netherlands Marechaussee (KMar) and the National Police. It is situated at Schiphol Airport. The ID Fraud and Documents Centre of Expertise specialises in the investigation of travel documents (passports and ID cards) at third level¹³².

Oxford Research visited in 2012 'Bureau Documenten' (BURDOC).

The BURDOC personnel are the third line experts on civil and supporting documents, while the KMar are third line on travel documents, the Ministry of Education are third line on diplomas and documents regarding education, and the Ministry of Transport are third line on driving licenses and documents, and so on.

There are eight document experts (including two senior document experts) and four document examiners in the BURDOC unit. The experts are organized according to regions — for instance, one region of experts covers the Middle East. The unit is formally under the IND, but the unit assists all ministries in uncovering document fraud. The unit receives about 13 000 documents annually; 45 % of these documents come from the municipalities, and the rest come from IND. Of the 13 000 documents, about 18 - 20% are found to be fraudulent or manipulated with¹³³.

BURDOC will write a report about the document investigation and will send this to the party who requested the investigation. BURDOC uses six levels in their conclusions. The document experts at BURDOC sometimes also have to testify in court as expert witnesses. BURDOC has never lost a case so far.

The BURDOC is partly responsible for the *training* of staff at selected municipalities and in cooperation with Foreign Affairs special selected embassies. They provide assistance through e-mail and telephone. The BURDOC also assists the municipalities with prosecution of fraud. In order to get a conviction, one needs to prove malice. The ID and Document Fraud Centre of Expertise also provides document training courses at first level to its own staff, to staff of the national police force, Dutch Embassies, air carriers, and other services, it's done on request and specified to source documents and well proportioned in order of possibility and importance.¹³⁴

¹³² Information products and expertise services designed to combat and prevent identity fraud.

¹³³ Interview with BDOC.

¹³⁴ EMN FOCUSED STUDY 2012: Establishing Identity for International Protection: Challenges and Practices. National Contribution from the Netherlands.

Verifications

The IND also has the power to initiate an investigation via the Ministry of Foreign Affairs in the form of a person-specific report. Elements that are dealt with in such an investigation include the question of whether the name of the asylum seeker actually occurs in the registers of a specific country in the same form as the personal data provided by the asylum seeker themselves.

7.5.5 UK

Document control

In regular practice, satisfactory evidence means reliable proof of ID. Passports, ID cards, birth certificates and other documents may be presented as proof of ID. The general approach in Home Office procedures is to take into consideration all documents and facts available or established for the case, both from the side of UK institutions and other sources, as well as the applicant's claims. This can also include copies of documents provided by the applicant.

Documents are not a separate paragraph to the material fact to which the document relates. They are assessed in the same way as any other piece of evidence, taking into account the credibility of other material aspects of the case and the general credibility of the applicant. It is not appropriate nor sustainable for a decision maker to attach no weight to a document submitted in support of a claim without giving clear reasons for reaching this finding based on the available evidence – that is, all sourced, objective country information regarding authenticity and findings made regarding the applicant's general credibility are considered.

The general credibility of the claim and any information in the relevant Country of Origin Information report about the standards of documentation in that country should always be taken into

account. COI (Country of Origin Information Service) Reports often contain guidance and advice about the prevalence and accessibility of forged documents. Care is taken in placing reliance on documents such as birth certificates that may be forged, readily available from illegal sources, or improperly obtained from official sources.

In UK practice the word 'notoriety' (the state of being known for some unfavourable act or quality) is not in use at all. There is a similar term 'reliance' that can be put on a document, which is used for passports and other documents.

There are two levels of control of document examination. First level is basic forgery check – not every caseworker will have that training, but each team has a reasonable number of trained persons. If there are doubts, the forgery team experts make a report on this, used as evidence. Not every passport submitted is examined on a basic level. If a person for example is presenting a Turkish passport while making a claim for asylum, and Home Office does not have particular reasons for a further forgery check (such as, the person isn't Turkish, or particular issues occur in this person's immigration history), it won't go to forgery check as a routine.

The second level is used not that often. There are no statistical details about this further procedure.

The organisation is moving towards a centralised document management system. The new system will allow for all documents to be available electronically to relevant engaged units. All documents will be sent to central units and all documents will undergo document control. In this way the new system will allow caseworkers to receive scanned electronic documents, after the documents have been already verified in the central unit.

Currently, not all documents undergo full forgery check. Caseworkers are trained on basic checks. Home Office Border Force also maintains document experts at the airports and in places where direct checks may result in sending back the person.

Chapter 8. Practical dilemmas

In the study there were developed a small number of critical dilemmas in the form of very brief cases. These dilemmas reflect cases from countries where the document situation is generally good, where documents are unreliable for different reasons, and cases where documents are scarce or non-existent. The cases reflect documentation issues from Russia, Afghanistan and Somalia.

Practical dilemmas

We assume here that all other conditions are met to grant a permit and that only the identification assessment remains. Given the different characteristics of the cases, we looked for arguments, justification and outcomes of the practical dilemmas.

In the following chapter we first short discuss if it is possible to draw some comparative findings and then we present and describe the results from the discussions of practical dilemmas are presented for each country.

8.1 Comparative findings

The overall approach is similar

The main finding is that the case-countries mainly are assessing the practical dilemmas in the same way. The arguments and justification may differ; however, the overall approach is similar.

We see that for countries like Somalia where there are no documents, ID is much about making domicile probable, having a convincing story and credibility is important. The countries like Russia where there are reliable documents, the ID-assessment is much stricter and the obligation for the applicant is also harder. We also find that the ID-assessment is stricter for cases regarding humanitarian reasons.

We see that no other country than Norway has a rule about limited residence permit because of ID-doubt (see Immigration Act Section 38 and the Immigration Regulations Section 8-12).

ID assessment of family immigration cases from Somalia

We find a difference between Norway and Sweden regarding the ID requirement in family immigration cases from Somalia.

In Norway, applicants in family immigration cases from Somalia have to prove a probable ID. The reason for this is that it is impossible or practically impossible to establish ID with documents, because Somalia for long time does not issue documents with (high) reliability.

The main rule in Sweden in such cases, are that the ID should be established with a passport or other supporting documents. . However, there is an exception for families with common children where the family has been living together in Somalia. In such cases it is enough to prove a probable ID.

The exception rule was first laid down in a case from the year 2012 (MIG 2012:1). In such cases a DNA-analysis can be offered to show kinship between children and parents and prove the ID to be probable. Other evidence and information should at the same be credible.

However, the case (MIG 2012:1) does not say that this is enough to establish a probable ID in other situations of family immigration from Somalia. The main rule for families from Somalia without children is still that the ID has to be established. This is as we have seen different in Norway where the ID requirement is probable for all applicants from Somalia in family immigration cases. Hence, the practice in Sweden is stricter.

Are there differences in assessing ID-doubts? (practical dilemma 1d)

The situation we discuss here is the case when an applicant is applying for family immigration after rejection in asylum case. If the applicant used another ID in the asylum case than now in the family immigration case, to what degree will a passport that confirms the ID information the applicant gave in the asylum case be enough for residence on family immigration case?

This question has been a difficult issue to assess and answer in the interviews in all countries. The results presented in chapter 8, indicate that the practice in Norway to some degree is stricter than in The Netherlands and Sweden. It seems that a valid passport with reliability that confirms the ID, in some situations will be enough for permit in family immigration cases in Sweden and The Netherlands but not in Norway.

In all countries, there will be a concrete assessment of passport, credibility and information. When it comes to the passport, much weight is given to how it was issued and the reliability of the passport.

However, this issue was the most difficult of all questions for the informants to answer. The possible differences between Norway on the one side and the Netherlands and Sweden on the other side should therefore not be given weight.

We first present the results from Norway, then Sweden and the Netherlands.

The results from UK are not presented in the report. The results from UK are not comparable with the findings in Norway, Sweden and the Netherlands because we did not get interviews with case workers in UK. In addition, it was difficult to discuss the practical situations in UK, because the informants underlined a “case to case approach”.

8.2 Norway

The table below shows the main findings from the discussions of practical dilemmas.

Table 11: Findings practical dilemmas applicant country Afghanistan

Applicant country-origin	Afghanistan			
				
Practical dilemma	1a) Asylum	1b) Humanitarian Protection (Humanitarian reasons)	1c) Assessment of family immigration cases	1d) From asylum to family immigration
Evidence	-Domicile probable -Convincing story -Credibility	-Domicile probable -Convincing story -Credibility	-Main rule, ID- should be established, in some cases ID-probable	See 1 C)An authentic passport is valued, but will not alone be enough An authentic Afghan passport is not enough to consider the <i>ID documented</i> for applicants from Afghanistan. if an authentic passport/supporting documents with (some) reliability is delivered and there is also a convincing story and credible ID-information, the ID can be considered probable
Investigation	-Language analysis -Interview, question about -home-area etc. /knowledge test Age investigations	-Language analysis -Interview, question about -home area etc./knowledge test Age investigations	- Authenticity of passport -Authenticity supporting documents -Interview, question about home area etc. – -DNA-analysis is possible in certain cases, but voluntary -Investigation by Foreign Service possible	Authenticity of passport -Authenticity supporting documents Credible ID-information
Outcome	Yes, probably permit	The main rule will be rejection, however; The possibility to give <u>limited residence permit</u> -In general stricter ID-assessment for humanitarian reasons	-A permit is possible in this case, if an authentic passport/supporting documents with (some) reliability is delivered and there is also a convincing story and credible ID-information. Then the ID can be considered probable and permit can be given if a probable ID is enough. -The out-come will probably be that a permit will be given.	-Outcome uncertain, An authentic passport is itself not enough to nullify ID doubts/problems with several identities. An authentic passport is not sufficient for those applicants who were operating with different identities. The consideration is also depended of other evidence and the concrete case. The practice in Norway seems strict, when it comes to ID-doubts because of different identities

Source: Oxford Research AS

General comments about Afghan passports and ID-doubt:

It is important to underline that it is difficult to nullify already existing ID-doubt, since the Afghan passports have low reliability. Even an authentic Afghan passport is as a main rule not enough to revoke ID doubt. An authentic Afghan passport is not considered to be enough to consider the ID documented for applicants from Afghanistan. An authentic Afghan passport together with consequent and reliable ID - information, will normally be considered as probable ID.

Discussion of practical dilemmas

We see that in practice for both cases 1a and 1b, it is very important that the domicile can be considered probable (and is an unsafe area). It is further important that the story and information are credible.

In both cases language analysis and information obtained from the applicant will be important. Probably a permit will be given in case 1a. In case 1b the result is more uncertain. The practice regarding ID and humanitarian reasons are strict¹³⁵. The main rule in this case is rejection. The applicant may be given a limited residence permit (see Immigration Act Section 38 and the Immigration Regulations Section 8-12) In both cases, however, it will be registered that the ID is not fully established

When it comes to assessment of family immigration cases for applicants from Afghanistan, investigation of passports and supporting documents are important together with credible ID-information. Documents from Afghanistan have low reliability. An authentic Afghan passport is normally not enough to consider the ID *documented* for applicants from Afghanistan. A permit is though possible in this case, if an authentic passport/supporting documents with (some) reliability is delivered and there is also a convincing story and credible ID-information. Then the ID can be considered *probable* and permit can be given if a probable ID is enough. In case 1c the outcome will probably be that a permit will be given.

In case 1d, which is about an applicant who has applied for family immigration after rejection in asylum-case, the requirement for passport and credible ID information are high, as in case 1c. An authentic passport is highly valued; however, passports from Afghanistan will be carefully investigated. As already

mentioned, several Afghan passports have low reliability.

What about the situation in case 1d, where the applicant for family immigration used another ID in another European country (has been seeking asylum in another country with different ID than now)? To what degree will a passport that confirms the ID information the applicant gave in the asylum case be enough for residence on a family immigration case?

Oxford Research finds in the interviews that an authentic passport from Afghanistan itself is not enough to nullify ID-doubt because a person has several identities /ID doubts. Oxford Research concludes therefore that a valid passport from Afghanistan, normally is not be sufficient ID-evidence for those applicants who were operating with different identities, but it will also depend on other evidence and the concrete case.

¹³⁵ Interview UDI

Table 12: Findings practical dilemmas applicant country Somalia (southern and central) and Russia

Applicant country-origin	Somalia (southern and central)			Russia	
					
Practical dilemma	2a) Asylum	2b) Humanitarian reasons	2 c) Assessment of family immigration permit	3a) Asylum	3b) Humanitarian reasons
Evidence	-Domicile probable/make probable that X is from area Y -	-The ID-requirement and evidence should be harder here than for asylum -	-Main rule, ID- should be established, in cases with applicants from Somalia ID or relationship-probable. -Relation between children and parents should be probable -Credibility and DNA	-Rarely case in Norway -Need of protection, important -Credibility -Convincing story -	-Strict practice -The level of documentation requirements is higher for this nationality, since Russian applicants are supposed to be well documented. -Main rule: valid and authentic passport. The passport must be delivered in original version and issued according to home country procedures. -If not passport is presented,, consideration of exception rules or <u>limited residence permit</u>
Investigation	-Language analyses are especially important for Somali cases. -standard procedure in Somali cases -Knowledge test -Interview and given information – in practice an credibility assessment -	-Language analyses are especially important for Somali cases. Knowledge test Interview and given information – in practice an credibility assessment -Consideration of humanitarian needs	-Reviewing interview and story -It has to be a convincing story and to make probable a relationship -DNA-analysis can be of importance Verifications?	-Given information from applicant can be controlled against country of origin information -If passport presented, this will be investigated by National Immigration Police Services (NPIS).	In this situation the UDI tries as far as practical possible to explain to the applicant that certain documents are needed. -If passport presented, this will be investigated by National Immigration Police Services (NPIS).
Outcome	Probably permit	A permit on humanitarian grounds is possible -In general stricter ID-assessment for humanitarian reasons	A permit is possible, even if there is no passport and documents. It follows from practice and circulars that the level of ID is probable, if it is impossible or practical impossible to establish ID with documents, because the country of origin does not issue documents with high reliability (ex. Somalia)	Permit, if need of protection is well documented	A permit on humanitarian grounds is possible – a limited residence permit will probably be given ¹³⁶

Source: Oxford Research AS

¹³⁶ According to the policy rules/internal guidelines in UDI, the main rule and outcome in this case is rejection.

Somalia

We see that in practice for both cases 2a and 2b, it is very important that the *domicile* can be considered as probable (and is an unsafe area). In both cases language analysis will be especially important. Language analyses are especially important for Somali cases, and are standard procedure in Somali cases, see above. Review of interview and information is important. It seems like the ID assessment in these cases to some degree will be a question of credibility.

The real difference between case 2a and 2b, when it comes to ID, is that the ID requirement and evidence should legally be stricter for applications based on humanitarian reasons than for asylum. Probably a permit will be given in case 2a (asylum). It could be that a limited residence permit will be given in case 2b. It will in both cases, however, be registered that the ID is probable.

In the case 2c, which is about assessment of family immigration, the starting point is that the ID should be established with a passport or other supporting documents. It follows from practice and in directives given in circulars that the level of ID is probable, if it is impossible or practically impossible to establish ID with documents, because the country of origin does not issue documents with high reliability.

Hence in this situation a permit is possible, even if there is no passport.

Russia

Applicants from Russia should have documents.

For an applicant from Russia to apply for asylum on the basis of protection, that person has to demonstrate that there is a personal threat. The applicants have to show that they are the ones in danger (but that is the assumption in any case). Russians are rarely granted residence permits for need of protection in Norway.

As in every case for asylum, the UDI will do an individual, concrete consideration of each application. If the applicants can convince that they are in need of protection, and that they are from where they say, and has a *convincing story* why their ID documents are missing, and there are no other ID

doubts, they would be granted a permanent residence permit.

In such a case the UDI will do some investigations; given information from applicant can be controlled against country of origin information. It follows from Immigration Regulations section 17-7 that a *“foreign national who applies for or has been granted protection may not be required to contact the authorities in his/her country of origin if this may conflict with a need for protection”*. If a passport is presented, this will be investigated by National Immigration Police Services (NPIS).

In case 3b it was underlined in the interview with the caseworker in UDI that practice is strict. In this situation the UDI tries as far as practical possible to explain to the applicant that certain documents are needed. The practice may to some degree vary when it comes to what the caseworkers actually do to inform the applicant about the need of documents. Some caseworkers may phone the applicant or send a letter. If a passport is presented, this will be investigated by National Immigration Police Service.

The outcome is most likely that they are given a time-limited permit (Immigration Act Section 38 and the Immigration Regulations Section 8-12.) Where no valid passport is presented, a residence permit may be granted with certain limitations until the passport is presented. The limitations in this case would be no permanent permit and not having the right to family immigration.

Table 13: Findings practical dilemmas applicant country Afghanistan

Applicant country-origin	Afghanistan 			
Practical dilemma	1a) Asylum	1b) Humanitarian Protection (Humanitarian reasons)	1c) Assessment of family immigration cases	1d) From asylum to family immigration
Evidence	Domicile probable	Domicile probable	-Main rule, ID- should be established, in some cases ID-probable - Supporting documents is not alone enough -Has to be supported also from convincing story	See 1 C) An authentic passport is highly valued
Investigation	Language analysis	Language analysis	-Authenticity of passport -Authenticity supporting documents Interview/(information collecting -DNA-analysis is possible in certain cases	Passport and other documents is controlled at the ID Unit
Outcome	Yes, probably permit	-Yes, probably permit -But in general stricter ID-assessment for humanitarian reasons	Yes or no, depends on evidence and convincing story. In this case yes, if convincing story.	-Outcome uncertain: - Possible that a valid passport is sufficient for those applicants who were operating with different identities
Source: Oxford Research AS				

We see that in practice for both cases 1a and 1b, it is very important that the domicile can be considered as probable (and is an unsafe area). In both cases language analyses and given information from the applicants will be important. Probably a permit will be given in both cases. It will in both cases, however, be registered that the ID is not fully established (but probable).

When it comes to assessment of family immigration cases for applicants from Afghanistan, investigation of passports and supporting documents are important. The passport and/or supporting documents should be supported with a convincing story, or if there is a reference person (perhaps a brother) living in Sweden and their stories match, then a probable ID is more likely.

The passports and supporting documents will be investigated carefully by the Asylum Examination Unit. There are some Afghan passports that have low value, the so-called 'Oslo passports'.

In case 1c the outcome could be a permit or rejection, depending on the evidence and convincing story. In this case probably permit will be awarded, given a convincing story and a passport and supporting documents that have some value. However, very few passports and supporting documents from Afghanistan are valued by Migration Board. In case 1d, which is about an applicant who has applied for family immigration after rejection in an asylum case, the requirement for a passport is high, as in case 1c. An authentic passport is highly valued; however passports from Afghanistan will be carefully investigated. As already mentioned, several Afghan passports have low value (low reliability), especially the so-called 'Oslo passports'.

What about the situation in case 1d, where the applicant for family immigration used another ID in another European country (has been seeking asylum in another country with a different ID than now)? To what degree will a passport that confirms the ID

information the applicant gave in the asylum case be enough for residence on family immigration case?

The answer to this was not clear or unified in the interviews. Oxford Research finds in the interviews that even when a person has several identities and there are ID doubts, an *authentic passport* with reliability is highly valued at the Migration Board. Oxford Research concludes therefore that a valid pass-

port may be sufficient for those applicants who were operating with different identities, but it will also depend on other evidence and the concrete case. Hence, an authentic, valid passport from Afghanistan is not alone sufficient.

Table 14: Findings practical dilemmas applicant country Somalia (southern and central) and Russia

Applicant country-origin	Somalia (southern and central)			Russia	
					
Practical dilemma	2a) Asylum	2b) Humanitarian reasons	2 c) Assessment of family immigration permits	3a) Asylum	3b) Humanitarian reasons
Evidence	-Domicile probable/make probable that X is from area Y -Referring to internal refuge is harder for Somalia than Afghanistan	-Rarely case in Sweden -The ID-requirement and evidence should in theory be harder here than for asylum -In practice difficult to demand more than probable - Establishing (or making probable) the <i>domicile</i> is the central issue for this case.	-Main rule, ID- should be established, in some cases ID or relationship-probable, compare MIG 2012: 1 -Relation between children and parents should be probable -Credibility and DNA	-Prove need of protection -The requirement on identification is high -Russians are rarely granted residence permit for need of protection -Must be convincing story	-High requirements of ID -Have to be convincing story why not ID-documents/why it is not possible to get travel documents
Investigation	-Language analyses are especially important for Somali cases. -Almost standard procedure in Somali cases -Interview, but no fixed number	-Language analyses are especially important for Somali cases. - Considering if medical treatment is available in homeland	-Reviewing interview and story -It has to be a convincing story and to make probable a relationship -DNA-analysis can be of importance		
Outcome	Probably permit	A permit on humanitarian grounds are possible	A permit is possible, even if there is no passport and documents. The following must be the case: -Issue of relationship between children and parents -Impossible or practical impossible to prove ID with passport or other documents (ex. Somalia)	A permit if: Need of protection Convincing story	Most likely rejection, but theoretically, the Migration Board could approve permit without a passport or ID documents in this case.

Source: Oxford Research AS

Somalia

We see that in practice for both cases 2a and 2b, it is very important that the *domicile* can be consid-

ered as probable (and is an unsafe area). In both cases language analyses will be especially important. Language analyses are especially im-

portant for Somali cases, and are almost standard procedure here.

The real difference between cases 2a and 2b, when it comes to ID, is that the ID requirement and evidence should in theory be harder for applications based on humanitarian reasons than for asylum. As the results show, this distinction is hard to follow in practice. It could also be mentioned that referring to internal refuge is harder for Somalia than Afghanistan.

Probably a permit will be given in case 2a (asylum). In case 2b, a permit is also possible, even though the ID requirement should be higher. It will in both cases, however, be registered that the ID is not fully established (but probable).

In the case 2c, which is about assessment of family immigration permits, the starting point is that the ID should be established with a passport or other supporting documents. However, there is an exception for families with common children where the family has been living together in Somalia. In such cases it is enough to prove a probable ID.

The exception rule was first laid down in a case from the year 2012 (MIG 2012:1). In such cases a DNA-analysis can be offered to show kinship between children and parents and prove the ID to be probable. Other evidence and information should at the same be credible.

However, the case (MIG 2012:1) does not say that this is enough to establish a probable ID in other situations of family immigration from Somalia. The main rule for families from Somalia without children is still that the ID has to be established.

Russia

In case 3a, the starting point is that an applicant from Russia has to demonstrate that there is a personal threat. The *requirement for identification is high*. It is also important to underline that Russians are rarely granted residence permits based on need of protection.

If the applicant can convince officials that they are in need of protection, and that they are from where they say, and have a convincing story why their ID documents are missing, they would be granted a permanent residence permit.

In case 3b the most likely outcome is rejection; however, *theoretically*, the Migration Board could approve a permit without a passport or ID documents in this case. The board will consider why the applicant does not have ID documents.

8.4 The Netherlands

Table 15: Findings practical dilemmas applicant country Afghanistan

Applicant country-origin	Afghanistan 			
Practical dilemma	1a) Asylum	1b) Humanitarian Protection (Humanitarian reasons)	1c) Assessment of family immigration cases	1d) From asylum to family immigration
Evidence	Domicile probable - the asylum seeker can explain their claim for protection; - IND's expectations of full openness are met; - the story is plausible; - the explanations are consistent	Domicile probable Same as 1 a) convincing story and credibility	-Main rule, ID should be clarified with documents, but not possible for all countries. - Supporting documents is not alone enough -Has to be supported also from convincing story	See 1 C) An authentic passport is valued
Investigation	Language analysis	Language analysis	-Authenticity of passport -Authenticity supporting documents Interview/(information collecting -DNA-analysis is possible in certain cases Contact home country	Interview/(information collecting -DNA-analysis is possible in certain cases Contact home country
Outcome	Yes, probably permit	-Yes, probably permit	Yes or no, depends on evidence and convincing story. In this case yes, if convincing story.	-Outcome uncertain: - Possible that a valid passport together with other credible ID-information is sufficient for those applicants who were operating with different identities A valid passport from Afghanistan, is <i>alone</i> normally not sufficient ID-evidence for those applicants who were operating with different identities, but it will also depend on other evidence and the concrete case.

Source: Oxford Research AS

We see that in practice for both cases 1a and 1b, it is very important that the applicant can give an explanation for lacking documents and credible information story is important. If the applicant cannot get documents there has to be a reasonable explanation. (Source: IND Work Instruction 2010/14).

As in Sweden and Norway, it is very important that the domicile can be considered as probable (and is an unsafe area). In both cases (1a and 1b) language analyses and given information from the applicants will be important.

In Oxford Research's interviews authorities in the Netherlands said that they do not see any difference between humanitarian protect and asylum.

In case 1c, the applicant may be granted a permit, given the assumptions and circumstances, but can also be rejected. It depends on the passport and if passport and documents are supported by a convincing story.

In family immigration cases the obligation for the applicant to establish and clarify their ID is stronger. As a rule the applicant should *establish and clarify the ID with documents*. In some cases there is the possibility to take DNA.

Normal applicants for family immigration have to have documents to show that they are who they say. *If it is impossible to get documents, authorities ask questions to identify the person and the relationship*. The benefit of doubt (as compared with asylum seekers) is to a less degree relevant in these family immigration cases. Normally the applicant should have the possibility to contact the home country. Sometimes IND takes DNA to prove relationship of parents and children¹³⁷.

In case 1 d), see the discussion under 1c.

*A valid passport will have considerable weight*¹³⁸.

In the Netherlands a valid passport may to some extent suffice to eliminate doubts regarding ID, but first its validity or 'reliability' is determined by examining how the passport was issued (in-person or not). One interview indicated that it is possible, but hard to judge to what degree a valid passport may to some extent suffice to eliminate doubts regarding ID.

But in this case the IND will probably make some investigations, to make sure there are no ID doubts. Oxford Research concludes therefore that a valid passport from Afghanistan, normally is not be sufficient ID-evidence for those applicants who were operating with different identities, but it will also depend on other evidence and the concrete case. This is the same conclusion as in Norway and Sweden (there may be some minor differences in arguments, but the main finding is the same).

¹³⁷ Interview IND, decision makers family reunification.

¹³⁸ Interview IND.

Table 16: Findings practical dilemmas applicant country Somalia (southern and central) and Russia

Applicant country-origin	Somalia (southern and central) 			Russia 	
Practical dilemma	2a) Asylum	2b) Humanitarian reasons	2 c) Assessment of family immigration permits	3a) Asylum	3b) Humanitarian reasons
Evidence	- Domicile probable • the asylum seeker can explain their claim for protection; • IND's expectations of full openness are met; • the story is plausible; • the explanations are consistent	-same as 2a)	- Main rule, ID should be clarified with documents, but not possible for all countries. -Relation between children and parents should be probable -Credibility and DNA	-See general process and rules/evidence needed in case 1 a) and 2 a) - -The requirement on identification is high -Russians are rarely granted residence permit for need of protection -Must be convincing story Credible information	-High requirements of ID Expected to have documents/or to get documents -
Investigation	-Language analyses are especially important for Somali cases. - -Interview important -Country expert review information	-Language analyses are especially important for Somali cases. - Interview important Country expert review information	-Reviewing interview and story -It has to be a convincing story and to make probable a relationship -DNA-analysis can be of importance May contact home country		Expected to contact home country
Outcome	Probably permit, given that evidence and investigations support credible ID	Probably permit, see 2a)	A permit is possible, even if there is no passport and documents.	A permit is possible if: Need of protection Convincing story Credible information	Most likely rejection, strict requirements on ID

Source: Oxford Research AS

There is no difference between these cases 2a and 2b. The same process applies as in 1a) Afghanistan:

- the asylum seeker has to explain their claim for protection;
- IND expects full openness;
- the story needs to be plausible;
- the explanations need to be consistent.

The asylum applicant from Somali needs to convince the case handler of their origin. Language tests can be employed, and if the asylum seeker

passes the test, the information about the asylum seeker's origin will be assessed by a country expert. If the applicant is a Somali, the IND expects the asylum seeker to give information about their *clan* in five stages.

The outcome in this case is dependent on the situation, and a permit is possible. The outcome depends to a high degree on the *credibility* of the applicant and if investigations can prove their ID and family relationships.

In case 2 c, family immigration, normally applicants for family immigration have to have *documents* to

show that they are who they say. If it is impossible to get documents, Dutch authorities ask questions to identify the person and the relationship. The benefit of doubt (as compared with asylum seekers) is to a less degree relevant in these cases. Normally the applicant should have the possibility to contact the home country. Sometimes officials take DNA to prove relationships between parents and children.

Hence, it is possible to get a permit even if there is no passport or documents given that evidence and investigation support the ID.

Russia

In case 3 a, with an asylum applicant from Russia, it is the same process and general rules as in 1 a) and 2 a) and 2 b). The same general rule applies here: If

there is no reasonable explanation and the applicant does not submit all the documents that the IND considers necessary for the assessment of the application, the applicant is considered accountable for the lack of documents. However, in practice, the level of documentation requirements is higher for this nationality, since Russian applicants are supposed to be well documented.

.It is in case 3a) possible with a permit, given convincing story. The requirement on ID/evidence is however high.

In case 3b, the outcome is rejection, since the person has no need of protection against Russia, and they can go to the Russian embassy to get a travel document. The requirements that the applicant should go to Russian authorities are stricter here.

Part three: Conclusions, best practices and recommendations

Chapter 9. Comparative main findings

9.1. Comparative findings

9.1.1 The overall conclusion:

Look at biometrics, e-government and “Big data”.

We find that overall there are significant similarities between the countries' legal regulation, methods and practices regarding identification assessments in asylum cases and family immigration matters. The countries generally do much of the same. This is an important, though not surprising conclusion.

There are several minor differences between countries' legal regulation, methods and practices.

The main difference seems to be the extent to which countries have adopted biometrics and storage of biometric data. This makes the UK stand out with several years of experience in the use of biometrics and (national) visa matching.

We also want to underline that UK has interesting reforms and experience about smarter electronic handling process and e-government and management of “Big data”.

The Home Office has begun a major internal change programme called ‘Our Agency 2015’. Considerable change has been and will be made in terms of databases integration, a central document check system and a system for complex electronic handling of applications.

In the next subchapters, we will present the main findings for the following main issues:

- legal framework
- institutional framework
- policy
- practices (including methods and investigations)
- practical dilemmas.

9.1.2 Legal framework

Regulation of ID

We find that all countries have some regulation of ID and that all countries have laid down a more detailed policy and process in guidelines and work instructions. In general, we find that the rules about establishing and assessing ID and the process to be taken are mainly given in decrees, guidelines and work instructions.

Both Norway and Sweden have in recent years updated and revised the circulars and internal guidelines. In the Netherlands, there have not been any major changes of practice in recent years in terms of ID.

In Sweden, the Migration court and the Supreme Migration Court have had an important part in the interpretation of the requirements for ID. This is different from the situation in Norway, the UK and the Netherlands. In the UK and the Netherlands, courts to some extent through court decisions have established and developed the contents of the ID requirements, but not to the same extent as in Sweden. In Norway, the courts have less interpreted and determined the contents of the ID requirements in immigration cases.

ID requirements in legislation

Sweden and Norway have quite similar rules. We find that in Norway and Sweden there are different legal rules regarding levels of ID for different permits.

Sweden¹³⁹ operates similar to Norway with three standards in terms of the foreign national's ID. In both Norway and Sweden, the general rule is documentation of ID to stay. However, we see that in both countries, an exception where it is enough that the ID is probable. This is typical of most asylum cases and some cases of family immigration.

¹³⁹ "styrkt/visat", "sannolikt" og "ikke-sannolikt

Both Norway and Sweden demand higher identification requirements for citizenship than application for residence permits.

ID requirements in the UK, is slightly different from the regulation in Sweden and Norway. There are no formal rules the legislation regarding the requirements for ID or proof of ID requirements are adequate. In the UK, the requirements for ID, is based on overall discretionary balancing of all factors. It is pr. spring of 2013 not any formal rules of graded requirements for ID for various immigration cases. The United Kingdom uses a case-by-case basis approach, where credibility is very central.

Norway has a special legal rule allowing limited residence permits if there is doubt regarding the immigrant's ID, if the need is temporary or when other particular reasons indicate so (see Immigration Act, Section 38, third paragraph). Where no valid passport is presented, a residence permit may be granted with certain limitations until the passport is presented. Such limitations preclude the right to family immigration and access to Norwegian language classes; we do not find a similar rule in Sweden, the Netherlands or UK.

Assessment of ID after application

We find that the main rule is that the ID in the asylum case is an important starting point that applies to procedures after the asylum case. The main rule in Norway and Sweden, are that there will not be a new *independent assessment* of ID when applying for other permits. In the Netherlands the rules are different. If an applicant applies for a regular residence permit after a rejection of the asylum application in the Netherlands, a new assessment of ID will take place. We have no data for the rules in UK.

9.1.3 Institutional framework

Authorities

We find some differences between the countries when it comes to national authorities with operational responsibility for establishing and assessing ID.

The main difference seems to exist between Sweden and UK on the one hand and Norway and the Netherlands on the other side.

In Sweden and in the UK we find the organisation responsible for establishing the ID of applicants for international protection is the same organisation that decides on the outcome of asylum applications. In Norway and the Netherlands there is a more mixed operational responsibility for *establishing and assessing* ID in asylum and international protection cases. We also find that in the Netherlands and partly also in Norway, there is a quite *complex organizational structure* for establishing and assessing ID in international protection cases.

In all countries, one organization has decision-making authority, and assesses ID in the asylum case.

We find that in family immigration, countries have the same actors involved in both the investigations and the assessments of ID.

Competence centres and other specialized units

We find that only Norway has established central competence centres (Norwegian ID Centre) with advisory / support functions that are independent of the organisations in charge of establishing the ID of asylum applicant's and / or rejected applicants.

However, Sweden, the Netherlands and UK all have *specialised units* with advisory/support functions.

Competence

We find that in all countries there are no formal requirements for ID-education and ID-competence. Training about ID is given in all countries. We do not have discovered significant differences between the countries.

To some extend identification assessment is part of the basic training and is given specific training in the identification questions.

9.1.4 Policy

ID and permits

Norway has, as referred, a special legal rule allowing limited residence permits if there is doubt re-

garding the immigrant's ID, cf. Immigration Act Section 38 and the Immigration Regulations Section 8-12. We do not find a similar rule in Sweden, the Netherlands or the UK.

ID and welfare rights

In general we do not find that unclear ID has a *direct economic* consequence for welfare rights.

We find one main exception: work during the asylum application process. The right to work for asylum applicants requires in Norway that asylum seekers may document their ID with a valid travel document. A similar rule is contained in Sweden. There is no connection between the right to work for asylum seekers and the requirement to document ID in the Netherlands or in the UK.

Evaluations

We find few specific evaluations of identification measures and regulations.

In recent years in Norway, there have been a number of evaluations in ID policy and legislation.

In the other countries, there are general evaluations of the organisations, which to some extent also include evaluations of the identification work. UK is an example where there are regularly conducted independent evaluations.

Reforms

There are several interesting reforms and proposed amendments in the various countries in terms of ID.

Especially interesting is the project VEFÖ in Sweden, which - a pilot project on controlling ID documents in Sweden. The objective was to minimize the risk that the documents might disappear, to ensure all documents being evaluated at the same time and all documents being controlled.

In the Norwegian context, we emphasize efforts to modernize the National Population Register.

In the UK it has been implemented several important changes in recent years and more are ongoing. In particular, we will highlight the work of

visa-matching and storage of biometric information.

9.1.5 Practice

Obligations for applicant and national authorities

All countries impose an obligation on the applicant to submit all documents relevant for the case. In all countries, the applicant should assist and cooperate in clarifying their ID through the application procedure.

There is also in all countries a difference in practice between applicants for international protection and other applicants/family immigration. An *asylum seeker* is not required to contact their home country in a manner that may conflict their need for protection.

Though the rules and practice seem to be similar in Norway, Sweden, the Netherlands and UK, Oxford Research found that there are *indications* of some differences in the level of burden on applicants and the consequences if their ID is not established.

The Netherlands seem to have a *strict practice* where ID doubts can lead to a negative decision. On the other side, Oxford Research found that Sweden is an example where in practice the rule is less strict. The issue of ID often has secondary implications since the permit is given in several cases where the ID is not probable

All countries in practice give the authorities a duty to establish/investigate ID. There only seem to be some small differences between the countries.

Documents and 'reliability'

The main finding is that reliability is given significant weight in all countries. Documents with low reliability is not emphasised or only to a limited extent as support.

The main finding is that even when a person has several identities, an *authentic passport* is highly valued. It is therefore possible that a valid passport is sufficient for those applicants who were operating with different identities, but it will depend on applicant country, other evidence and the concrete case.

There are probably some minor differences in the specific assessment and valuating of reliable documents between different countries. Oxford Research's main impression is that UK to a higher degree emphasises biometric ID and similar methods, while document reliability is more dependent on a 'holistic approach'. In the UK, they use a case-by-case approach where reliability of documents and credible information is essential. Fingerprint match is the strongest proof of ID and may be accepted by the courts at all levels.

Graded ID?

We find that both Norway and Sweden have a system and rules with graded ID. That means that there are different standards for ID requirement or proof of ID. In both Norway and Sweden, there are three main categories of ID.

The Netherlands also have a grading structure for establishing ID in asylum cases. According to the Identification and Labelling Protocol (PIL) a hierarchy in sources exists for the determination of ID. The Identification and Labelling Protocol includes a table representing eight levels. However, Oxford Research found in the interviews that this hierarchy in practice is two categories: 'documented' and 'not documented'. In the UK there does not exist formal rules gradient identification requirements.

Investigations – no documents

The overall picture is that all countries have several methods and ways to investigate the applicants' ID.

The main picture is that countries largely do the same investigations, but there are some differences in practice when it comes to the importance and the extent to which the various forms of investigations are used.

A significant difference is the degree to which they have implemented the systemic use of database verifications. The UK has introduced systematic matching of fingerprints through the visa system. The UK has also integrated data and stores them - they build data sets with large amount of data that also has data from a long time ago. Further, the UK is a member of "the Five Country Conference," which gives possibility to share a certain number of immigration fingerprints records for matching.

Furthermore, a number of minor differences between countries in terms of how to use and implement the various investigations.

Investigations – passport or travel document are presented

All countries have a system for controlling documents. There are some differences in responsibility and how the document control should be done.

In Norway, The NPIS makes a document control of the ID documents that the applicant in asylum cases has provided, mainly travelling documents. Generally, the first line in Norway (the police) or abroad (foreign service mission) is to make personal and document control in residence and visa cases. It is implemented document control of travelling documents, and in some cases national ID documents.

In Sweden, it is the Migration Board who has the main responsibility for controlling documents in asylum cases. To know whether a passport is trustworthy or not, there is an ID expert on each Asylum Examination Unit at the Swedish Migration Board. Not all documents are controlled. It is up to every single administrator to decide what should be sent to the ID unit. It is most common to control documents from specific countries. As mentioned in the chapter on policy, there has been initiated a pilot project, VEFÖ, where one of the main objectives was to strengthen and to make a more systematic documentary check.

The Netherlands has *three levels* of documentation control. The first line has only some training and equipment in order to detect fraud. The first line in the Netherlands are in asylum cases the alien police and IND. In residence cases and visa cases, the first line are the alien police, the IND or abroad (foreign service mission) The Netherlands has several expertise units and these can do a more documentation control.

There are two levels of control of document examination in UK. First level is basic forgery check – not every caseworker will have that training, but each team has a reasonable number of trained persons. Not every passport submitted is examined on a basic level. The second level of document control includes a more complex document control.

In the UK, a reform project aims to build a central-

ised document management system. The new system will allow all documents to be available electronically to relevant engaged units. All documents will be sent to central units and all documents will undergo verification check. In this way, the new system will allow caseworkers to receive scanned electronic documents, after the documents have been already verified in the central unit.

Verification

All countries have rules that enable verification of documents. To what extent verification against records is necessary and possible depends on the different countries of origin.

9.1.6 Practical dilemmas

In the study there were developed a small number of critical dilemmas in the form of very brief cases.

The main finding is that the case-countries mainly are assessing the practical dilemmas in the same way. The reasons for and details of the requirements can be somewhat different, yet similarities are the main impression. In some of the practical dilemmas, Norway differs somewhat in the result because of Norway having a special rule for limited license due to uncertainty about ID.

It also seems to be a difference in the concrete assessment of ID between Sweden, Norway and the Netherlands on the one hand and the United Kingdom, on the other. The first three countries have detailed regulations of Identification assessments in both regulations and internal policies. In the discussion of practical and specific dilemmas, it has been appropriate to discuss specific cases. In the UK, it seems increasingly to apply a "case by case"-approach. The UK has internal guidelines, but in this study, it has been challenging to get answers to specific dilemmas in ID-assessments¹⁴⁰.

ID assessment of family immigration cases from Somalia

We find a difference between Norway and Sweden regarding the ID requirement in family immigration cases from Somalia.

In Norway, applicants in family immigration cases from Somalia have to prove a probable ID. The main rule in Sweden in such cases, are that the ID should be established with a passport or other supporting documents. . However, there is an exception for families with common children where the family has been living together in Somalia. In such cases it is enough to prove a probable ID. The exception rule was first laid down in a case from the year 2012 (MIG 2012:1). The main rule for families from Somalia without children is still that the ID has to be established. This is as we have seen different in Norway where the ID requirement is probable for all applicants from Somalia in family immigration cases. Hence, the practice in Sweden is stricter.

¹⁴⁰ All countries underline that each case is given a concrete examination and that credibility is important for assessing ID.

Chapter 10. Best practices and recommendations

In this chapter we present best practices based on the experience and information considered in the comparative study. We also give recommendations to the Norwegian Immigration Authorities.

When considering best practices Oxford Research has especially considered the challenges for Norwegian Authorities and recommendations which can be efficient for better ID-management.

In this report, you will find more about facts and findings explaining best practice, in chapter 7 about practice, see especially the discussion in 7.4 and 7.5. There are also important findings in chapter 6 policy, see especially 6.4.

The discussions in these chapters show that biometric ID, Integrity in the system and Locked ID, could be efficient for better ID-management. A general experience is that more training and competence is needed in ID-management.

10.1 Biometric ID

Oxford Research finds better use of biometrics to be an important challenge for Norwegian Immigration Authorities. Existing knowledge and reports indicate that there is room for storing biometrics more extensively in Norway, and that biometrical systems could be better utilized¹⁴¹.

10.1.1 Best practices

From the perspective of effective ID management, we find that the approach used in the UK for databases, visa-matching and biometric IDs could be a case of best practice.

Building a long data set and integrating information

The main lesson learnt from the UK case study is the focus on building the system memory over

years as well as efficient tools for accessing available data. It was stressed several times that a hermetic system is only possible when operating with *historically long data set*. The Home Office is conscientious about building complex databases of biometric data and integrating information from available systems in the asylum process.

Databases and biometrical data

The key to this system is a complex database system supported with biometrical (fingerprints and photographs) data from both asylum and visa applications (also including applications for residence), supplemented with data from other databases and (which seems to be also very valuable) the Five Countries Conference.

Important for the system, is the continued collection and exchange of biometric data between available databases and countries. The information gathered during the visa application ideally shall be compared and investigated in context of the asylum application, since this has proven to be very efficient in all cases with doubtful identify or nationality. Information from other databases augments the available facts. The officers are trained on how to deal with cases of contradictory information from the two systems, especially during the interview. A training package for caseworkers was developed for that purpose.

International cooperation — Five Countries Conference

Since 2009 the Home Office has cross-checked its records with those of its international partners (Australia, Canada, USA, New Zealand and UK – members of the Five Countries Conference). Currently around 3000 records per year are exchanged with each of the countries.

In the chapter about practice and in the chapter about policy, Oxford Research has presented some results and numbers which indicate that the visa-

¹⁴¹ •Norwegian ID Centre (2013): Biometri og identitet. Utfordringer og nye muligheter for utlendingsforvaltningen.

matching system and using biometric have been efficient for more efficient ID-management. The numbers are based on information given *in interviews*. Here we repeat some of the most important results given from Home Office *in interviews* with Oxford Research in 2012:

From July 2011 to July 2012 around 52 % of all applications for asylum matched with previous visa applications¹⁴².

In 2012 alone, the Home Office recorded about 24 % matches with different identities claimed in United States when compared to UK. Overall, the Home Office's own systems indicate a match rate of just over 52 % in the biometric visa / asylum checks. This brings ID doubts to less than 10 % (indicative) of applications currently¹⁴³.

Still, around half of asylum applications result in no biometric match to visa applications. As already said, among those cases ID abuse is less than 10 %; as opposed to approximately 60-80 % of cases from before the biometric ID checks were introduced. Still there are no definitive statistics and the numbers show only *indicative* system efficiency in tracking ID fraud¹⁴⁴.

10.1.2 Recommendations

Recommendations for the Norwegian immigration authorities coming out from the experience in UK can be summarized in the following:

Establish biometric databases for matching

Norwegian authorities shall establish a system with the ability to gather, compare and analyse biometrical data from visa and asylum applicants. All biometric data should be recorded and maintained to assure long system memory. There should be a higher degree of central storing of biometrics¹⁴⁵.

¹⁴² Interview with Kevin Patel and Richard Browns, Data Sharing Team, recorded on July 2012

¹⁴³ Ibidem.

¹⁴⁴ Ibidem

¹⁴⁵ A similar recommendation is also given in a Norwegian ID Centre-report: Norwegian ID Centre (2013): Biometri og identitet. Utfordringer og nye muligheter for utlendingsforvaltningen

International cooperation — Five Countries Conference

It is recommended that Norway investigate possibilities for exchange of data *similar* to the Five Countries Conference, in order to obtain another method for ID checks in doubtful cases.

10.2 Integrity in the system

This comparative study indicates that in addition to building a complex database system supported with biometrical data (fingerprints and photographs) as in UK, it is important at the same time to build an organizational system that gives integrity to the information.

10.2.1 Best practice

The practice and reform agenda in UK can be of interest.

The main challenge for ID management in UK in the future seems to be its integrity. The individual case work systems will be gradually replaced with the functioning ID resolution tool which will pull together all the systems and make some things automatic. If there is a match, the system will join the information from all the integrated systems. There will be a central team looking for exemption cases. The 'Integrity' is the new system UK is investing in now. It shall be ready for implementation and come into life soon this year.

The system (in any application) as part of the casework process will enrol the fingerprints, search for any previous applications, get matching results, do a series of checks for biographies, documents, forgeries and photos. Results will arrive as ID resolution tools. Finally this information will go to automated process and arrive with ACCEPTED status to the caseworker. If there are different IDs traced for the persons before, the system will indicate various different procedural possibilities.

10.2.2 Recommendation

The Norwegian authorities should consider the integrity of the system if and when storing biometrics more extensively and reforming the current biometrical systems.

10.3 'Locked' ID

This comparative study focuses especially on cases where there are no or few documents with reliability. One challenge in some cases is problems with aliases, that is, if a person resides in the realm under numerous identities. This problem could be lessened through more centralised storing of biometrics.

10.3.1 Best practices

The UK approach can give some learning points.

UK: ID fixing procedures ('ID lock')

In the UK, there is an approach where the authorities try to fix the ID. If an individual has reliable ID documents, the case will usually proceed in that ID. If not (no reliable documents available, forged documents, missing documents) the persons are processed on the basis of the declared identity, unless the Home Office is able to match the applicant with different reliable ID.

ID is usually fixed at the screening interview, and connected to the biometric information (fingerprints) also collected before the case is routed to a caseworker.

Asylum applicants, including dependents over five years of age, will in all cases be fingerprinted, and those fingerprints will be checked against all available internal and external databases at the earliest opportunity.

The assigned ID can be updated at any stage of the process, if another ID is reliably established.

After the asylum seeker has made their application and undergone the screening, where their ID and immigration status are established, the processing route is determined.

10.3.2 Recommendations

Oxford Research finds that building complex databases and a central system to store biometric data should be combined with locking the ID. The important point is to ensure that there is at least one ID which is possible to verify and lock. This could in several cases be possible with biometric ID.

Not always possible to establish secure ID in all cases

It is important to emphasize that the immigration authorities are not able to always establish a secure ID. There are cases where there is reasonable assurance that the applicant meets the conditions for protection, or where there are very strong humanitarian considerations in favour of giving a residence permit, but where it is not possible for the immigration authorities to clarify exactly who the person is. If immigration authorities in such cases issue the person with an ID document, then the outside world can get the impression that the person's ID is more secure than what is actually the case.

10.4 Education and training

The experience in this comparative report is that there is a need for systematically and *continued* training in ID control and ID assessment.

10.4.1 Recommendations

First line immigration control

First, there is need for education in the first line:

- document control,
- tactical ID control,
- different technical methods for control, (like face comparison, checking mobile phones, photo comparison¹⁴⁶, and so on).

The Norwegian Directorate for Immigration (UDI)

Secondly, there should also be more focus and training based on experience in *practical dilemmas*. This is a recommendation especially to the Norwegian Directorate for Immigration (UDI). Oxford Research finds that even if there are detailed instructions and routines, there is some uncertainty

¹⁴⁶ For instance experience can be learnt from the Netherlands where the National Forensic Institute (NFI) study methods for photo comparison. In Germany there is an extensive course in the techniques used for photo comparison.

about how to apply the rules and practice in some situations.

10.5 Verifications

The experience in Norway, Sweden and the Netherlands, are that verifications are not used as much as could be done. In the interviews, different explanations are given as reasons for not using verifications as much as it ideally should have been done:

- Lacking systematic competence about possibilities
- Resources/Time consuming
- Not part of internal guidelines/check lists
- To little focus on verifications

In some cases, verifications are not possible. However, there seems to be an opportunity to use verifications more often where applicants come from countries with some documents, but the documents have low reliability.

Oxford Research has not identified best practice in how and when verifications should be done.

10.5.1 Recommendations

Norwegian immigration authorities could consider if their current routines and practice with verifica-

tions for the main applicant countries where there are documents with low reliability (and where verifications are possible).

Norwegian immigration authorities should consider the current training and competence about ID and verifications in immigration cases.

This requires adequate resources for piloting and to examine the possibilities for verification in different countries. Resources are also needed for training and doing verifications. In some cases verifications are in practices depended on Norwegian embassies. In some cases verifications are depended on lawyers (which are costly). Hence, more use of verifications will need more resources.

10.6 Provide expertise and other support to the applicant-country

In some countries (for instance Afghanistan and Iraq) ID documents have low reliability and often the administrative registration systems have low quality.

10.6.1 Recommendations

European countries could provide financial and/or expertise support to the administrations of those countries where the applicants originate in order to improve the quality of the countries' ID documents and registration systems.

This is an action which calls for international cooperation and a European common approach.

Appendices

Practical dilemmas (situations)

We assume here that *all other conditions* have been met to grant a permit to applicants and that *only the identification assessment remains*. Given the different characteristics of the cases below we will look for arguments, justification and answers to the following:

1. What are the *requirements for evidence*: supporting documents?
2. To what extent is *investigation* undertaken in cases where there is no evidence, and which investigations are made in the various cases? What kind of investigation is typically done in different cases?
3. What will the *outcome* of the application be, as a rule? Granted or denial? Is there a possibility to give a limited permit, for example, time limited?

Test cases to be discussed:

1) Afghanistan

1a) Asylum:

- The need for protection exists.
- No passport or other travel documents are available.
- No information that gives doubt about the applicant's ID is available.

1b) Humanitarian protection / humanitarian reasons:

- The applicant meets other conditions for the permit for humanitarian reasons.
- No passport or other travel documents are available.
- No information that gives doubt about the applicant's ID is available.

1c) Assessment of family immigration cases:

- Meets other conditions for permit.
- Submitted a passport.
- No information that gives doubt about the ID.

1d) From asylum to family immigration – in cases when the person applied for family immigration after rejection in asylum case:

- All other conditions for family immigration are met.
- Question 1: What are the requirements regarding a passport?
- Question 2: If the applicant for family immigration used another ID in another European country (that is, has been seeking asylum in another country with different ID before now): To what degree will a passport

that confirms the ID information the applicant gave in the asylum case be enough for residence on family immigration case?

2) Somalia

2a) Asylum:

- The need for protection exists.
- No ID documents.
- No information that gives doubt about the applicant's ID is available.

2b) Humanitarian protection / humanitarian reasons:

- The applicant meets other conditions for the permit for humanitarian reasons.
- No ID documents.
- No information that gives doubt about the applicant's ID is available.

2c) Assessment of family immigration permits:

- The applicant meets other conditions for the permit.
- No ID documents.
- No information that gives doubt about the ID.

3) Russia

3a) Asylum:

- The need for protection exists.
- No passport or other travel documents are available.
- No information that gives doubt about the applicant's ID is available.

3b) Humanitarian protection / humanitarian reasons:

- The applicant meets other conditions for the permit for humanitarian reasons.
- No passport or other travel documents are available.
- No information that gives doubt about the applicant's ID is available.

Descriptive findings and practical dilemmas

Sweden

Afghanistan

1a) Asylum:

- *The need for protection exists.*
- *No passport or other travel documents are available.*
- *No information that gives doubt about the applicant's ID is available.*

The applicant will probably be given a refugee status and obtain a permanent residence permit, given that the domicile can be considered as probable (and is an unsafe area). It will however be registered that the ID is not fully established.

Generally, in cases where ID is difficult to clarify, questions regarding home region and language analyses are important. The questions asked will however differ depending on the administrator handling the case. There are no guidelines on how many answers have to be correct for the applicant to be convincing.

The asylum applications of adult men should first and foremost be valued with regard to their home countries to see if they should be referred back as internal refugees – given that not all areas in that country are in conflict and hence dangerous. For example, it is considered that there are no conflicts or tensions in the northern parts of Afghanistan, which is why applications with men from that area will usually be declined with reference to internal refuge.

1b) Humanitarian protection / Humanitarian reasons:

- *The applicant meets other conditions for the permit for humanitarian reasons.*
- *No passport or other travel documents are available.*
- *No information that gives doubt about the applicant's ID is available.*

The applicant will probably obtain a permanent residence permit, if the home region can be made

probable (as in the previous scenario). It will however be registered that the ID is not established.

See discussion under case 2b.

1c) Assessment of family immigration cases:

- *Applicant meets other conditions for permit.*
- *Submitted a passport.*
- *No information that gives doubt about the ID.*

The applicant may be awarded a permit, given the assumptions and circumstances, but their request can also be rejected. It depends on the passport and if the passport and documents are supported by a convincing story.

A case from the Migration Court of Appeal a couple of years ago stated that in order to get a residence permit with reference to family connections, ID must be reasonably established. Recently the *Migration Court of Appeal* said that it is enough to make the ID probable.

One main concern is to investigate the passport. Many Afghans use a so-called 'Oslo passports', passports issued by the Afghan embassy in Oslo. When the Migration Board asks how these passports were issued, they learn that the applicant sent money to the embassy with a written testimony where two people verified that the applicant is the one they claim to be. So even though the passport is issued from an authority, *the Asylum Examination Unit puts no value on them*, given the circumstances in which these were issued (but other units of the Migration Board, such as the Return Unit, will probably accept these passports as a travel document). A passport must be issued in combination with a personal appearance.

In Afghanistan there might be some supporting documents, for example if an Afghan hands in a *taskira* (their ID document) it is considered to be of low verification — but is definitely better than nothing, even if it alone cannot grant a permit. If the *taskira* is combined with a *convincing story*, or if there is a reference person (perhaps a brother)

living in Sweden and their stories match, then a probable ID is more likely.

1d) from asylum to family immigration – in cases when the person applied for family immigration after rejection in their asylum case:

All other conditions for family immigration are met.

Question 1: What are the requirements regarding a passport?

See the discussion under 1c.

Question 2: If the applicant for family immigration used another ID in another European country (has been seeking asylum in another country with different ID than now), to what degree will a passport which confirms the ID information applicant gave in the asylum case be enough for residence on a family immigration case?

The answer to this was not clear or unified in the interviews.

In general, it was said that even when a person has several identities and their ID is doubtful, an *authentic passport* is highly valued. This is controlled at the ID Unit, and if there are other documents in that person's possession of alternate identities those are checked as well.

It is therefore possible that a valid passport is sufficient for those applicants who were operating with different identities, but it will depend of other evidence and the concrete case.

Somalia (southern and central)

2a) Asylum:

- *The need for protection exists.*
- *No ID documents.*
- *No information that gives doubt about the applicant's ID is available.*

The applicant will probably be given a refugee status and obtain a permanent residence permit. It will however be registered that the ID is not established (but that the domicile is probable). Language analyses are especially important for Somali cases. Of course the given information in interviews is also important, but here the assumption is that there is no information available that casts doubt about the applicant's ID.

If the applicant is born so recently that they might have acquired documents since the regime of Mohamed Siad Barre (dictator until 1991), there will probably be a little higher requirement that they should be able to show documentation. But very often these documents have disappeared, which is why it does not determine the outcome of the application.

Referring to internal refuge is harder for Somalia than for Afghanistan; the applicant must then be *estimated to belong to a majority clan or have a majority position* or have lived for a long time in Somaliland or Puntland. For Somalis it adds extra importance to the language analyses, which are almost a standard procedure in Somali cases.

2b) Humanitarian protection / humanitarian reasons:

- *The applicant meets other conditions for the permit for humanitarian reasons.*
- *No ID documents.*
- *No information that gives doubt about the applicant's ID is available.*

Usually this case is rarely an issue since a person from central or southern Somalia will receive a permanent residence permit due to need of protection.

Given the assumptions a permit based on humanitarian reasons is possible. But it should be according to the legal rules quite hard to get. The main rule is that the requirements for asylum based on particularly distressing circumstances or family connection are stricter than for asylum based on need of protection. Since February 2011, RCI (Rättschefens Instruktion) states that a residence permit based on particularly distressing circumstances is harder to get.

In particularly distressing circumstances (Synnerligen ömmande omständigheter), the ID of the applicant is not the most important aspect but rather where they *originate*. Establishing (or making probable) the domicile is hence the central issue for this case. The Asylum Examination Unit then looks at circumstances such as whether medical treatment is available in the home country.

One of those interviewed at the Swedish Migration Board says that ID does not even have to be made probable for an applicant to get a residence permit based on need of protection. But if a person should be granted a permit based on particularly distress-

ing circumstances the ID should, theoretically, be at least probable, if not fully established. But in practice, the requirements are not as strong as they should be. In these cases, the applicant is usually very sick, and then it is hard to decline their application. The ruling would then be:

You have not made your ID probable, but your home region is probable. We believe that you come from this country, and you are sick and there is no medical help in your home country. You are granted a residence permit.

When apathetic refugee children come to Sweden, ID is usually so unclear that the Migration Board does not even know which country they come from, or which country should be evaluated regarding the need of medical care. If the parents are with them, they might not want to cooperate with the Swedish authorities, and then the decision of whether permits should be granted or not becomes difficult: The child is innocent and just needs help, but providing help is harder when the parents are not cooperating and their home country is unknown. This is one of the most difficult cases.

Could the outcome be a time-limited permit?

Utlänningsförordningen says that if a permanent residence permit is not issued, the applicant must have a passport document. This means that if the permit is time limited, the applicant must apply for an alien's passport unless they have no passport of their own. And since hardly any travel documents are accepted from, for example, Afghanistan, a time limitation would also entail an alien's passport at the same time (but with a registration that ID has not been confirmed).

There is thus a possibility to grant a time limited residence permits when the applicant is in need of protection and when there are particularly distressing circumstances. The praxis, however, is that this is almost never done. It is both troublesome and takes a lot of resources to handle another application after the time has expired.

If the applicant has committed a crime, the Migration Board might time limit the residence permit. But in actual practice the time limitation is never used even if ID is unknown.

Normally a person needs a passport in which to put the residence permit. If the applicant is granted a residence permit, it becomes a formal process

where a Permit Unit (Tillståndsenhet) physically gives the permit to the applicant. But if the applicant has no passport they are given an alien's passport, which then says that the ID is not established. The same goes for travel documents that refugees normally get. This evaluation, that ID has not been established, follows the person in question throughout their encounters with society.

2c) Assessment of family immigration permits:

- *The applicant meets other conditions for the permit.*

- *No ID documents.*
- *No information that gives doubt about the ID.*

The outcome in this case is to a high degree dependent on the credibility of the situation and if investigations can prove the ID and relationship.

See the general considerations in family immigration residence permits, case 1c.

When it comes to Somalia, there are no documents that the Migration Board accepts or at least gives any weight, so the lack of documents is not a deciding factor.

However, the problem is that many Somalis have problems even with making their identifications clear and hence relationships probable. The Migration Board has interpreted that, for Somalis, kinship is enough if DNA-analysis support the relationship is probable.

Russia

3a) Asylum:

- *The need for protection exists.*
- *No passport or other travel documents are available.*
- *No information that gives doubt about the applicant's ID is available.*

For an applicant from Russia to apply for asylum on the basis of protection, that person has to demonstrate that there is a personal threat. The *requirement on identification is high*, since the applicants have to show that they are in danger (but that is the assumption in any case). Russians are rarely granted residence permits for need of protection.

But if the applicants can convince officials that they are in need of protection, and that they are from where they say, and have a convincing story why their ID documents are missing, they would be granted a permanent residence permit. If a person from Chechnya applied for asylum they would probably be accepted much more easily (but it rarely happens in Sweden).

3b) Humanitarian protection / humanitarian reasons:

- *The applicant meets other conditions for the permit for humanitarian reasons.*

- *No passport or other travel documents are available.*

- *No information that gives doubt about the applicant's ID is available.*

Theoretically, the Migration Board could approve a permit without a passport or ID documents, but at the same time they would probably say that if the person has no need of protection against Russia, they can go to the Russian embassy and there get a travel document. The requirements that the applicant should go to Russian authorities are stricter.

But the Asylum Examination Unit would probably grant residence permits on these grounds if the request for protection would be rejected – if there are proofs strong enough to convince them it is needed.

The Netherlands

Afghanistan

1a) Asylum:

- *The need for protection exists.*

- *No passport or other travel documents are available.*

- *No information that gives doubt about the applicant's ID is available.*

In this case there was agreement that the outcome will probably be asylum if:

- the asylum seeker can explain their claim for protection;
- IND's expectations of full openness are met;

- the story is plausible;
- the explanations are consistent.

It is very important that we start with the concept of 'the benefit of the doubt'. However, in Dutch asylum cases the burden of proof rests primarily upon the asylum applicant. In general, an asylum seeker is granted the benefit of the doubt if their statements given during the asylum procedure are consistent and not improbable on a general level.

This means that if the applicant cannot get documents there has to be a reasonable explanation. This means that if the applicant cannot get documents there has to be a reasonable explanation. As described in chapter 7 (practice), a more stringent threshold of credibility ('positive persuasiveness') is then applied with regard to the applicant's statements.

This will in practice depend on the situation and the country of origin. A permit can be granted although the ID has not been established.

Although the establishment of ID usually precedes the assessment of the asylum account, in some cases despite doubt about a person's ID it may still be decided that the asylum seeker qualifies for a permit. The mere situation in the country of origin can be decisive in this respect. If it has been established, for instance, that a person originates from a specific country or region in a country where the safety situation is very bad or they belong to a specific ethnic group, a permit may be granted¹⁴⁷.

1b) Humanitarian protection / humanitarian reasons:

- *The applicant meets other conditions for the permit for humanitarian reasons.*

- *No passport or other travel documents are available.*

- *No information that gives doubt about the applicant's ID is available.*

In this case there was agreement that the outcome will probably be asylum if:

¹⁴⁷ EMN FOCUSED STUDY 2012: Establishing Identity for International Protection: Challenges and Practices. National Contribution from the Netherlands.

- the asylum seeker can explain their claim for protection;
- IND's expectations of full openness are met;
- the story is plausible;
- the explanations are consistent.

In Oxford Research's interviews authorities in the Netherlands said that they do not see any difference between humanitarian protect and asylum.

1c) Assessment of family immigration cases:

- *Meets other conditions for permit.*
- *Submitted a passport.*
- *No information that gives doubt about the ID.*

The applicant may be granted a permit, given the assumptions and circumstances, but can also be rejected. It depends on the passport and if passport and documents are supported by a convincing story.

In family immigration cases the obligation for the applicant to establish and clarify their ID is stronger. As a rule the applicant should *establish and clarify the ID with documents*. In some cases there is the possibility to take DNA.

Normal applicants for family immigration have to have documents to show that they are who they say. *If it is impossible to get documents, authorities ask questions to identify the person and the relationship.* The benefit of doubt (as compared with asylum seekers) is to a less degree relevant in these family immigration cases. Normally the applicant should have the possibility to contact the home country. Sometimes we take DNA to prove relationship of parents and children¹⁴⁸.

1d) From asylum to family immigration – in cases when the person applied for family immigration after rejection in asylum case:

All other conditions for family immigration are met.

Question 1: What are the requirements regarding a passport?

See the discussion under 1c.

Question 2: *If the applicant for family immigration used another ID in another European country (has been seeking asylum in another country with different ID than now), to what degree will a passport that confirms the ID information an applicant gave in the asylum case be enough for residence on a family immigration case?*

A valid passport will have considerable weight¹⁴⁹.

In the Netherlands a *valid passport* may to some extent suffice to eliminate doubts regarding ID, but first its validity or '*reliability*' is determined by examining how the passport was issued (in-person or not).

One interview indicates that it is possible, but hard to judge to what degree a *valid passport* may to some extent suffice to eliminate doubts regarding ID:

'It is difficult because I think it also depends on the country of origin and how the passport was issued..... It is a very difficult issue, because if there is a real true passport and we find that the passport is authentic, it is really difficult for us to reject the application only based on the earlier statement or ID doubt....'

But in this case the IND will probably make some investigations, to make sure there are no ID doubts.

10.6.2 Somalia (southern and central)

2a) Asylum:

- *The need for protection exists.*
- *No ID documents.*
- *No information that gives doubt about the applicant's ID is available.*

¹⁴⁸ Interview IND, decision makers family reunification.

¹⁴⁹ Interview IND.

2b) Humanitarian protection / humanitarian reasons:

- *The applicant meets other conditions for the permit for humanitarian reasons.*

- *No ID documents.*

- *No information that gives doubt about the applicant's ID is available.*

There is no difference between these cases 2a and 2b.

The same process applies as in 1a):

- the asylum seeker has to explain their claim for protection;
- IND expects full openness;
- the story needs to be plausible;
- the explanations need to be consistent.

The asylum seeker from Somali needs to convince the case handler of their origin. Language tests can be employed, and if the asylum seeker passes the test, the information about the asylum seeker's origin will be assessed by a country expert. If the applicant is a Somali, the IND expects the asylum seeker to give information about their *clan* in five stages.

2c) Assessment of family immigration permits:

- *The applicant meets other conditions for the permit.*

- *No ID documents.*

- *No information that gives doubt about the ID.*

The outcome in this case is dependent on the situation, and a permit is possible. The outcome depends to a high degree on the credibility of the applicant and if investigations can prove their ID and family relationships.

Normally applicants for family immigration have to have documents to show that they are who they say. If it is impossible to get documents, Dutch authorities ask questions to identify the person and the relationship. The benefit of doubt (as compared with asylum seekers) is to a less degree relevant in these cases. Normally the applicant should have the possibility to contact the home

country. Sometimes officials take DNA to prove relationships between parents and children.

10.6.3 Russia

3a) Asylum:

- *The need for protection exists.*

- *No passport or other travel documents are available.*

- *No information that gives doubt about the applicant's ID is available.*

The same process as 1a):

- the asylum seeker has to explain their claim for protection;
- IND expects full openness;
- the story needs to be plausible;
- the explanations need to be consistent.

The same general rule applies here: If there is no reasonable explanation and the applicant does not submit all the documents that the IND considers necessary for the assessment of the application, the applicant is considered accountable for the lack of documents. However, in practice, the level of documentation requirements is higher for this nationality, since Russian applicants are supposed to be well documented.

3b) Humanitarian protection / humanitarian reasons:

- *The applicant meets other conditions for the permit for humanitarian reasons.*

- *No passport or other travel documents are available.*

- *No information that gives doubt about the applicant's ID is available.*

Probably not applicable, since the person has no need of protection against Russia, and they can go to the Russian embassy to get a travel document. The requirements that the applicant should go to Russian authorities are stricter here.

Statistics

Statistics EMN-study 2012-2013

Table 17: Statistics EMN-study 2012-2013

States	2007	2008	2009	2010	2011	Total
						
Total Number of applicants for international protection	36 205	24 860	24 194	31 819	29 648	146 726
Number of applicants for whom ID was not documented at the time of application	34 033	23 866	22 984	29 910	26 980	137 772
Percentage of applicants for whom ID was not documented at time of application	94 %	96 %	95 %	94 %	91 %	94 %
						
Total Number of applicants for international protection	6 528	14 431	17 226	10 064	9 053	57 302
Number of applicants for whom ID was not documented at the time of application*	6 136	13 854	16 365	9 058	8 238	53 651
Percentage of applicants for whom ID was not documented at time of application*	94 %	96 %	95 %	90 %	91 %	94 %
						
Total Number of applicants for international protection	23 431	25 932	24 487	17 916	19 865	111 631
Number of applicants for whom ID was not documented at the time of application	-	-	-	-	-	-
Percentage of applicants for whom ID was not documented at time of application	-	-	-	-	-	-
						
Total Number of applicants for international protection	7 100	13 400	14 905	13 335	11 590	60 330
Number of applicants for whom ID was not documented at the time of application	-	-	-	-	-	-
Percentage of appli-	-	-	-	-	-	-

cants for whom ID was not documented at time of application						-
Source: Establishing ID for International Protection: Challenges and Practices produced by the European Migration Network February 2013/Oxford Research						

Figure 5: Total Number of applicants for international protection

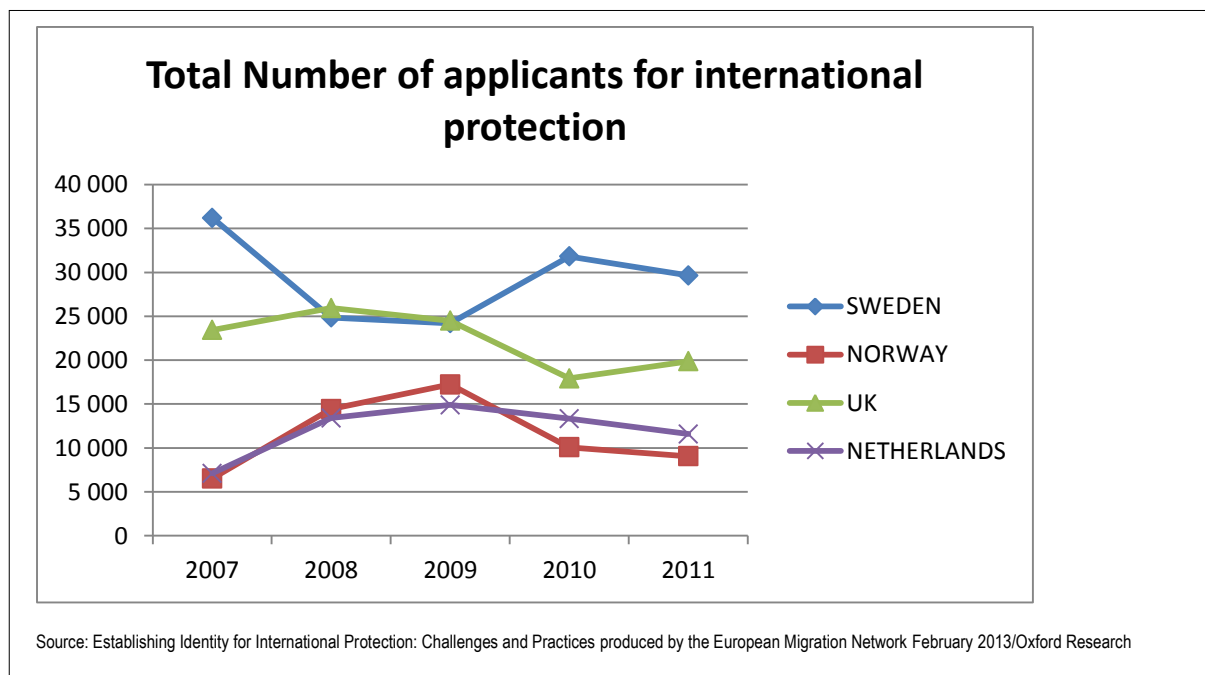
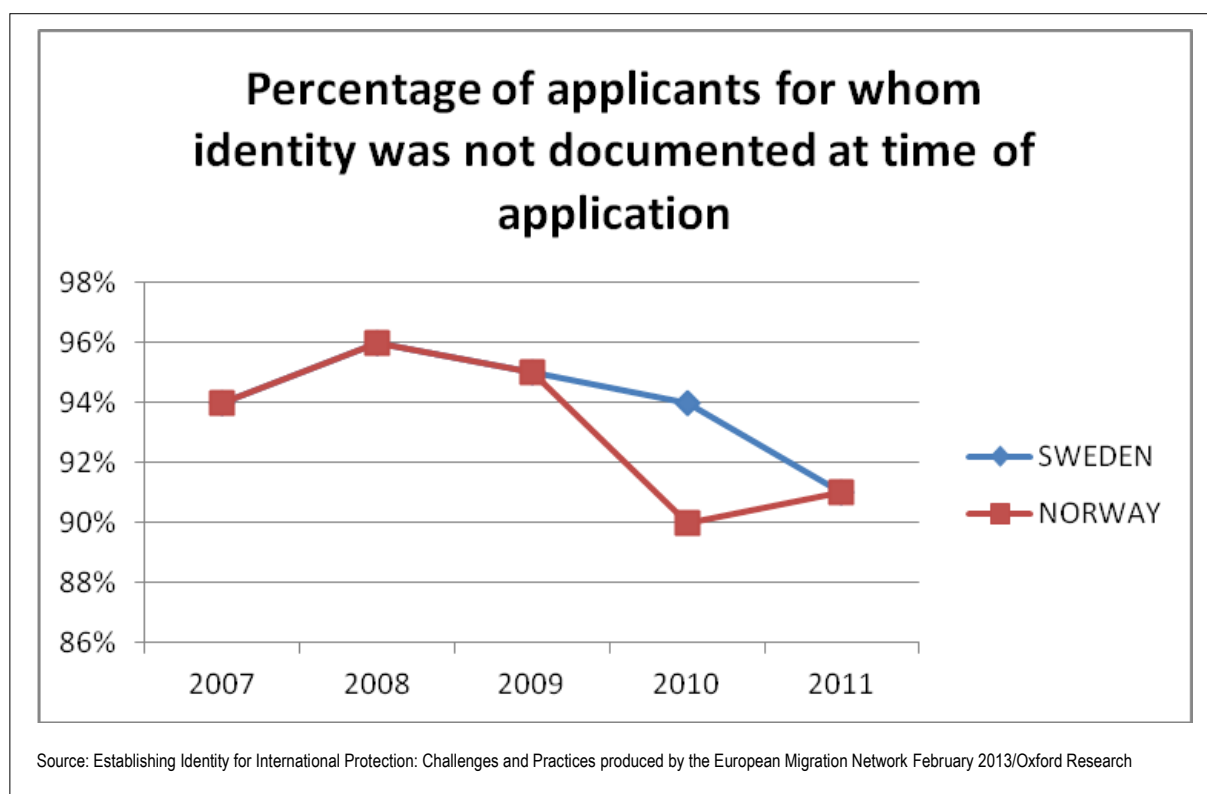


Figure 6: Percentage of applicants of whom ID was not documented at time of application



OECD-statistics

In the following we present OECD-statistics for asylum seekers in the period 2000-2009. We have highlighted the countries of Afghanistan, Somalia and Russian Federation, as these countries are considered particularly interesting by the UDI.

Table 18: Inflows of asylum seekers by nationality. Norway 2000-2009

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Afghanistan	326	603	786	2 050	1 059	466	224	234	1 363	3 871
Eritrea	51	132	269	201	110	177	316	789	1 799	2 667
Somalia	910	1 080	1 534	1 623	958	667	632	187	1 293	1 901
Iraq	766	1 056	1 624	971	412	671	1 002	1 227	3 137	1 214
Russian Federation	471	1 318	1 719	1 923	937	545	548	863	1 078	867
Ethiopia	96	173	325	293	148	100	143	241	354	706
Nigeria	14	27	139	241	205	94	54	108	436	582
Iran	327	412	450	621	394	279	218	222	720	574
Serbia	4 188	928	2 460	2 216	859	468	369	585	675	406
Syria	60	57	80	97	71	79	49	49	115	278
Sudan	31	47	94	67	33	45	36	37	118	251
Sri Lanka	165	164	87	65	58	58	106	238	342	212
Algeria	72	346	468	191	103	45	37	27	100	161
Uzbekistan	4	105	206	95	51	42	52	38	148	145
Pakistan	220	186	216	95	48	33	26	43	38	139
Other countries	3 141	8 148	7 023	5 210	2 499	1 633	1 508	1 640	2 715	3 252
Total	10 842	14 782	17 480	15 959	7 945	5 402	5 320	6 528	14 431	17 226

Source: Oxford Research AS/OECD

Table 19: Inflows to Sweden 2000-2009

Land	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Somalia	260	525	1 107	3 069	905	422	1 066	3 349	3 361	5 874
Iraq	3 499	6 206	5 446	2 700	1 456	2 330	8 951	18 559	6 083	2 297
Serbia	..	..	..	..	..	..	..	2 500	1 989	1 806
Afghanistan	374	593	527	811	903	435	594	609	784	1 694
Iran	739	780	762	787	660	582	494	485	799	1 144
Russian Federation	590	841	1 496	1 361	1 288	1 057	755	788	933	1 058
Eritrea	127	151	266	641	395	425	608	878	857	1 000
Mongolia	38	259	376	342	346	326	461	519	791	753
Syria	335	441	541	666	411	392	433	440	551	587
Azerbaijan	60	158	778	1 032	1 041	431	247	230	390	487
Libya	26	114	456	435	419	451	318	420	646	367
Georgia	59	166	439	537	403	183	134	143	211	359
Belarus	231	327	722	901	519	372	432	365	361	347
Nigeria	28	58	164	452	429	154	104	136	176	321
Uzbekistan	36	344	640	403	258	349	446	416	741	298
Other countries	9 901	12 552	19 296	17 211	13 728	9 621	9 279	6 536	5 680	5 802
Total	16 303	23 515	33 016	31 348	23 161	17 530	24 322	36 373	24 353	24 194

Source: OECD, International Migration Outlook 2011/Oxford Research AS

Table 20: Inflows to The Netherlands 2000-2009

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Somalia	2 110	1 098	533	451	792	1 315	1 462	1 874	3 842	5 889
Iraq	2 773	1 329	1 020	3 473	1 043	1 620	2 766	2 004	5 027	1 991
Afghanistan	5 055	3 614	1 067	492	688	902	932	143	395	1 281
Iran	2 543	1 519	663	555	450	557	921	187	322	502
Eritrea	260	213	152	123	148	204	175	153	236	475
Georgia	291	298	216	116	73	213	156	66	64	412
Armenia	812	529	417	203	247	197	280	97	208	349
China	1 406	706	534	298	285	356	318	243	563	304
Mongolia	267	254	239	127	66	118	110	96	103	237
Guinea	1 394	1 467	475	199	116	105	116	102	154	235
Sri Lanka	975	676	294	95	76	93	147	104	216	193
Russian Federation	1 021	918	426	245	206	285	254	81	95	151
Nigeria	282	401	550	414	223	155	243	179	97	151
Sierra Leone	2 023	2 405	1 615	314	138	189	203	130	129	121
Azerbaijan	1 163	634	326	265	253	287	384	35	58	120
Other countries	21 520	16 518	10 140	6 032	4 978	5 751	5 998	1 608	1 890	2 494
Total	43 895	32 579	18 667	13 402	9 782	12 347	14 465	7 102	13 399	14 905

Source: OECD, International Migration Outlook 2011/Oxford Research AS

Table 21: Inflows to United Kingdom 2000-2009

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Zimbabwe	1 010	2 140	8 695	4 020	2 520	1 390	2 145	2 300	4 475	7 610
Afghanistan	5 555	8 920	8 065	2 590	1 605	1 775	2 660	2 815	3 725	3 540
Iran	5 610	3 420	3 370	3 495	3 990	3 505	2 685	2 510	2 595	2 145
Pakistan	3 165	2 860	3 780	3 145	3 030	2 290	1 850	1 765	2 075	2 100
China	4 015	2 400	3 725	3 495	2 410	1 775	2 030	2 185	1 615	1 585
Sri Lanka	6 395	5 510	3 485	810	400	480	620	1 250	1 865	1 445
Eritrea	505	620	1 315	1 070	1 265	1 900	2 735	1 905	2 335	1 410
Somalia	5 020	6 420	9 425	7 195	3 295	2 105	2 175	1 960	1 575	1 105
Iraq	7 475	6 680	15 635	4 290	1 880	1 595	1 315	2 075	2 040	995
Nigeria	835	810	1 220	1 110	1 210	1 230	990	905	1 070	910
India	2 120	1 850	1 975	2 410	1 485	1 000	715	600	775	715
Bangladesh	795	510	825	820	550	465	495	590	510	495
Viet Nam	180	400	880	1 175	790	400	95	185	235	470
Gambia	50	65	130	100	110	110	135	135	210	400
Algeria	1 635	1 140	1 300	730	610	310	260	295	385	265
Other countries	35 935	27 265	39 285	23 585	15 470	10 485	7 430	6 405	5 830	5 485
Total	80 300	71 010	103 110	60 040	40 620	30 815	28 335	27 880	31 315	30 675

Source: OECD, International Migration Outlook 2011/Oxford Research AS

Table 22: Inflows to OECD countries land 2000-2010

Land	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Australia	13 065	12 366	5 863	4 295	3 201	3 204	3 515	3 980	4 771	6 206
Austria	18 284	30 135	39 354	32 359	24 634	22 461	13 349	11 921	12 841	15 821
Belgium	42 691	24 549	18 805	16 940	15 357	15 957	11 587	11 115	12 252	17 186
Canada	34 252	44 038	39 498	31 937	25 750	20 786	22 873	28 342	34 800	33 970
Chile	69	81	43	87	203	380	573	756	872	..
Czech Republic	8 788	18 094	8 484	11 396	5 459	4 160	3 016	1 878	1 711	1 355
Denmark	12 200	12 512	6 068	4 593	3 235	2 260	1 918	1 852	2 360	3 819
Estonia	3	12	9	14	14	11	7	14	14	36
Finland	3 170	1 651	3 443	3 221	3 861	3 574	2 331	1 434	4 016	5 910
France	38 747	54 291	58 971	59 768	58 545	49 733	30 748	29 387	35 404	42 118
Germany	78 564	88 287	71 127	50 563	35 607	28 914	21 029	19 164	22 085	27 649
Greece	3 083	5 499	5 664	8 178	4 469	9 050	12 267	25 113	19 884	15 928
Hungary	7 801	9 554	6 412	2 401	1 600	1 609	2 117	3 425	3 118	4 672
Iceland	24	52	117	80	76	88	39	42	77	35
Ireland	10 938	10 325	11 634	7 900	4 769	4 324	4 314	3 988	3 866	2 689
Israel	6 148	456	355	..	922	909	1 348	5 382	7 738	809
Italy	15 564	9 620	16 015	13 455	9 722	9 548	10 348	14 053	30 324	17 603
Japan	216	353	250	336	426	384	954	816	1 599	1 388
Korea	43	39	37	86	145	412	278	717	364	324
Luxembourg	621	687	1 043	1 549	1 577	802	523	426	463	477
Mexico	277	415	257	275	404	687	480	374	317	680
Netherlands	43 895	32 579	18 667	13 402	9 782	12 347	14 465	7 102	13 399	14 905
New Zealand	1 551	1 601	997	841	580	348	276	245	254	336
Norway	10 842	14 782	17 480	15 959	7 945	5 402	5 320	6 528	14 431	17 226
Poland	4 589	4 529	5 170	6 909	8 079	6 860	4 430	7 205	7 203	10 587
Portugal	224	234	245	88	113	114	128	224	161	139
Russian Federation	1 467	1 684	876	737	910	960	1 170	3 369	5 418	5 701
Slovak Republic	1 556	8 151	9 743	10 358	11 395	3 549	2 871	2 643	910	822
Slovenia	9 244	1 511	702	1 100	1 173	1 596	518	425	238	183
Spain	7 926	9 489	6 309	5 918	5 535	5 254	5 297	7 662	4 517	3 007
Sweden	16 303	23 515	33 016	31 348	23 161	17 530	24 322	36 370	24 353	24 194
Switzerland	17 611	20 633	26 125	20 806	14 248	10 061	10 537	10 387	16 606	16 005
Turkey	5 685	5 041	3 795	3 952	3 908	3 921	4 553	7 646	12 981	7 834
United Kingdom	98 900	91 600	103 080	60 050	40 625	30 840	28 320	28 300	31 315	30 675
United States	40 867	59 432	58 439	43 338	44 972	39 240	41 101	40 449	39 362	38 080

Source: OECD, International Migration Outlook 2011/Oxford Research AS

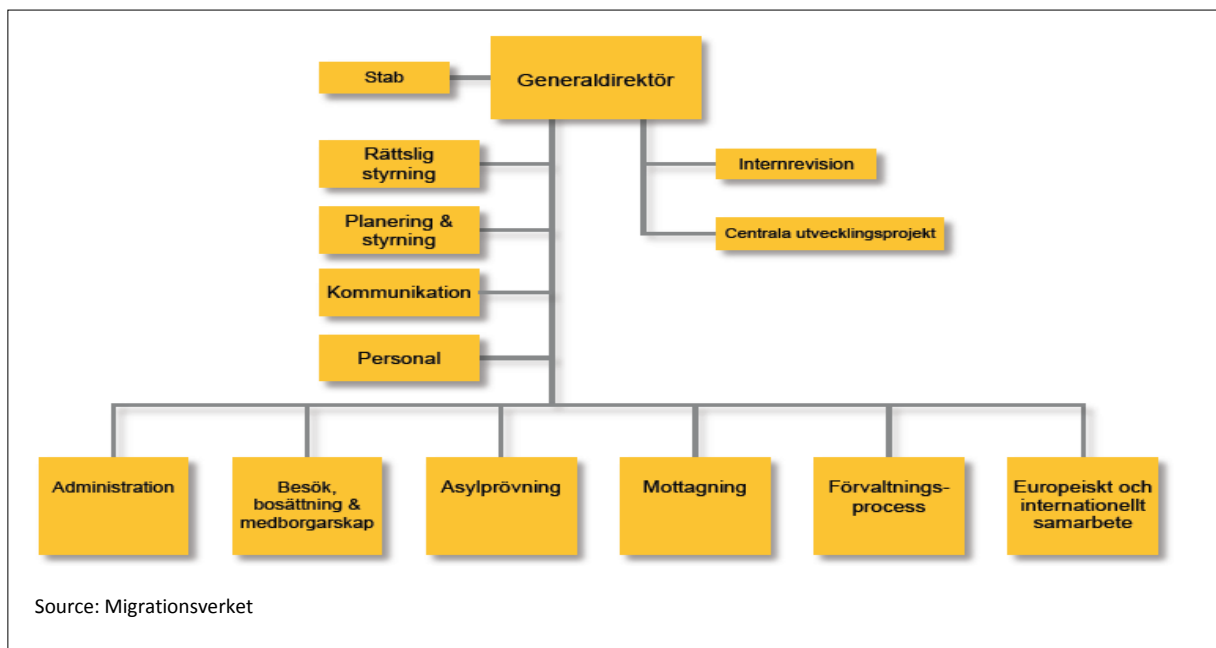
Asylum procedures

Sweden

The text is from Oxford Research 2010: «*Comparative study of asylum processing in the first instance*»

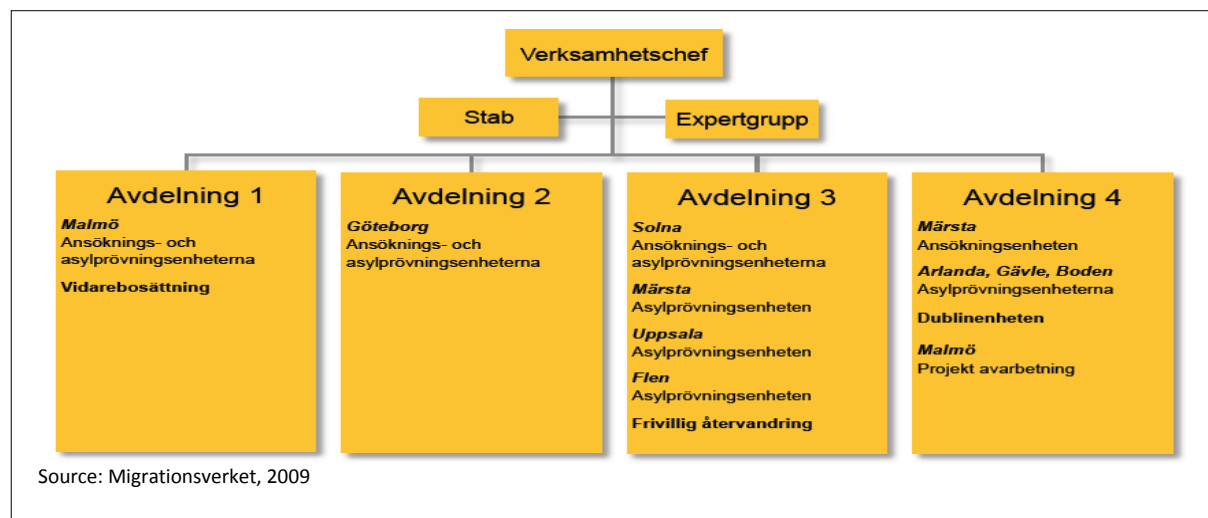
The migrations system in Sweden has a line-organisation structure, where the system is divided into activity areas (verksamhetsområde) at the national level. The asylum system is based on several activity areas, which has implications upon the asylum processing. The responsibility for the asylum process is thus shared by different activity areas such as asylum processing (asylprövning), reception (mottagning), and appeals representation (förvaltningsprocess).

Figure 7: Migrationsverkets organisation



The organization of asylum processing activity area (asylprövning verksamhetsområde) in Sweden has a regional structure, based on four divisions (avdelning). The divisions usually include one unit for application and three units for asylum processing. The Dublin unit and the units processing the legacy cases (balansärendena) are based in the Malmö division. There is a Stab supporting the lead group with strategic issues and the expert group is supporting the asylum processing personnel with legal issues (rättsligstöd). In practice there are two heads of the activity area Asylum Processing (Asylprövning), one is working with the four divisions and close with the Stab, having a managerial role and the other one is working closely with the Expert group and has a role of guarding the legal security (rättssäkerhet) and quality (kvalitetsfrågor) of the asylum processing.

Figure 8: Asylprövning organisation



A range of public agencies are involved in the asylum system in Sweden. The agencies with mandates in this area are the Migration Board (Migrationsverket), the Migration Courts (Migrationsdomstol), the Migration Court of Appeal (Migrationsoverdomstol), the Swedish Police, the Swedish Customs, the Swedish Coast Guard, the Prison and Probation Service (Transport Service), Swedish missions abroad, and the County Administrative Boards (Kommuner). Migrationsverket independently examines and handles applications for asylum in the first instance.

Since Migrationsverket is independently dealing with asylum applications in the first instance cooperation with other agencies is not central for the asylum processing in the first instance.

Smooth interagency cooperation is essential though for achieving greater efficiency of the entire asylum process. The Migration Board has the mandate as the central administrative authority for all matters related to migration and is tasked with deepening and improving cooperation with other relevant agencies. A cooperation delegation has been created for the purpose among the Migrationsverket, the County Administrative Boards (Kommuner) and the Public Employment Service (Arbetsförmedlingen). The Swedish Association of Local Authorities and Regions is also represented.

Cooperation with the Police is more relevant at the end of the asylum process, in the return stage. At central level, the Migration Board cooperates with the National Police Board, including through the cooperative forum SAMSYN, which is made up of central representatives of the Police, the Migrationsverket, the National Courts Administration, the Coast Guard, the Ministry of Justice and the Prison and Probation Service (Transport Service). SAMSYN meets two or three times a year.

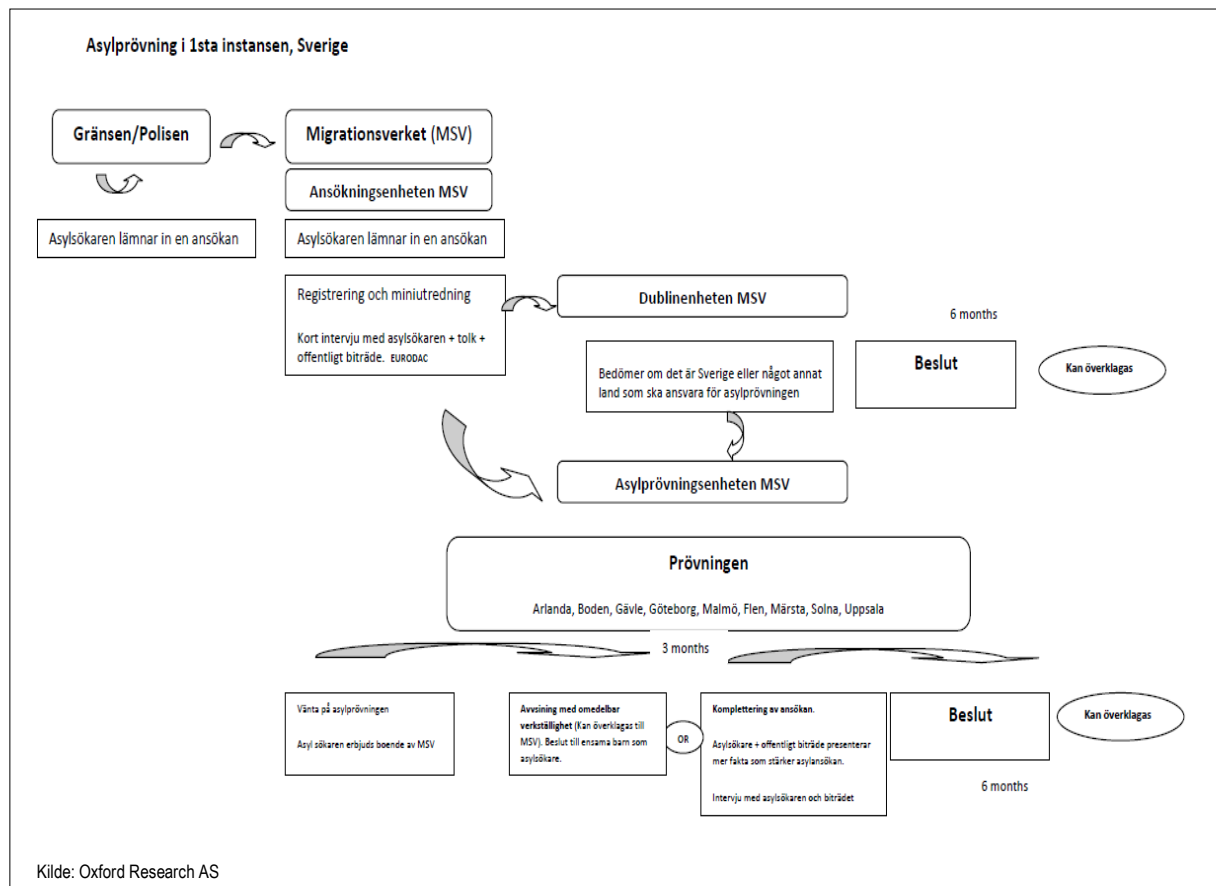
Entry procedure

Application for asylum can be done at the border or at any Migrationsverket office, where there is an application unit, in Stockholm, Göteborg, Märsta and Malmö. If the application is done at the border, the Police, who are responsible for border control, transfer the case to the Migration Board. Most asylum seekers apply after entering the country.

The Migration Board's investigation of the case begins with an interview of the applicant, assisted by an interpreter if required. The initial asylum investigation (inledande utredning) includes establishing ID, explaining connections to Sweden, ethnic and religious affiliation, state of health, the reasons for the application for asylum, and the taking into custody and duplication of relevant documents. At this stage the cases are investigated whether they apply for the **Dublin Regulation** procedure. Migrationsverket is providing housing facilities if the asylum seeker need it.

A legal representative (offentlig biträde) is commissioned after the initial asylum application based on a need assessment. If the application is assessed to result in a grant of asylum, a legal representative is not offered.

Figure 9: Asylum process Sweden



Fast-track procedures

Those cases which are assessed to be leading to a negative decision (avvisning) and immediate enforcement (omedelbar verksamhet) are processed in the fast track procedures. Those cases which are assessed to be granted asylum, after an additional investigation, are also processed in the fast-track procedure. In some cases the asylum seekers are detained.

In case of **refusal and immediate return** to the home country (avvisning till hemlandet), the asylum officer (handläggaren) is to carry out an asylum investigation (asylutredning) in connection with the initial investigation (initiala utredningen). At this stage the asylum seeker is informed about the right to a legal representative and the following stages in the asylum process.

In case of involvement of **third countries** previously to the asylum application in Sweden, the Dublin Regulations are applied. The asylum investigation stops at the moment the application is classified as a Dublin case (Dublinärende) and a request of handling the case is issued to the third country. The asylum-seeker is to return to the country where he first applied for asylum.

In those cases that are assessed to lead to **granting of a permanent residence permit** (permanent uppehållstillstånd) the asylum seeker will be informed about the limitation in the right for a legal representative. The asylum investigation (asylutredning) is carried out by an asylum officer. The decision is made by an asylum decision maker.

The Normal Procedure

Some changes regarding the management of cases are imposed by the new work model that is being introduced since 2009 gradually by the project Kortare Väntan.

The Lean-model

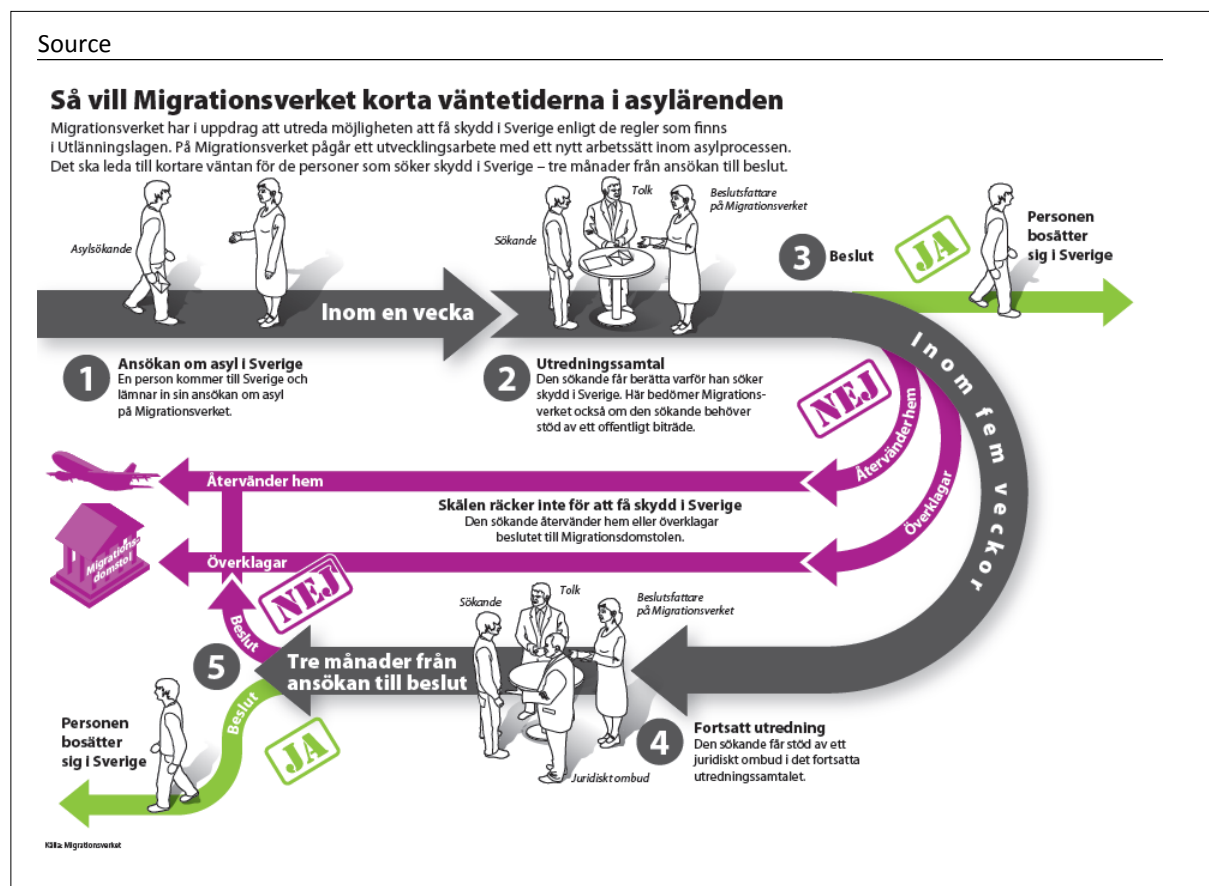
The model aims to shorten the processing time of the asylum applications. It was emphasized in the interviews that the model targets the passive time (liggtiden) in the process, not the active time used for processing the applications. *'We actually work more on the case. We have shortened the time the case lies on the shelf'*, was pointed out by the interviewees.

The model evolved based on a thorough analysis of the work organization, modes of operations and a collection of recommendations for improvement from the staff. The new model, based on lean-method, builds on teams, continuous work flow and coaching team-leaders (team ledare). The new model is not dealing with the legacy cases.

The team is the basic unit in the model. It is the team who faces the work flow and challenges on a daily basis, not the individual. The team-leader surveys the amount and the nature of cases (ärende), distributes the amount of work and follows up the performance.

A fundamental idea of the model is that the weight of the work process is shifted in the beginning of the process, concentrating on the first investigation (utredning). The most experienced staff is working in the beginning of the process channelling the flow of cases towards the relevant procedures. The presumption is that when the first investigation is done correctly, the work is easier to carry out in the subsequent stages.

Figure 10: "Kortare väntan"



The lean method provides tools for discovering and following up the problems in an early stage of the process, with the possibility of escalating the problems to the higher levels in the organization. The chief of the expert group for asylum explained that the model has the capacity to uncover an eventual legal vacuum in the process, which through the escalation of the problem to the expert group; can immediately be tackled, by feeding back or by further escalation to the Rättslig Styrning unit. This, in consequence, poses a demand on the expert group to be fast in their work, which he is not sure that they will be able to manage in the future.

This is not a model that saves money or other resources in the short run; it was emphasized in the interviews. In fact, 'we need additional staffing in order to process asylum applications faster', pointed out the Chief of the expert group for Asylum. However, by investing resources in shortening the asylum processing time, the costs for the reception, support and return may be decreased in the long run, it was explained.

The manager of Kortare Väntan emphasised that the process orientation is important to have in mind when understanding the model. Indicators and functional statistics are developed together with the team-members so as to support them in shaping and following up their daily work. Before the aggregated numbers were showing a balance problem at the unity level and tracing the problem down to the local level was difficult. 'You do not become aware of the problem in the same way and then the solving defaults.' Today the figures can show for everybody exactly where the process is being disrupted and the teams are given the possibilities to discover the stop in the process at an early stage and have the responsibility to tackle it. 'So the idea is to uncover the problem and then to provide the possibility to solve it. You cannot solve everything locally either, but you should have the possibility to react. Thus process orientation is a precondition in this respect.'

The Netherlands

The text is quoted from EMN (2012). *'The Organisation of Asylum and Migration Policies in the Netherlands'* — 2012.

On 1 July 2010, the so-called Improved Asylum Procedure entered into force in the Netherlands. In the situation prior to this new asylum procedure, the asylum procedure for applications that were not decided within 48 hours lasted longer than considered desirable by the government. The former 48-hour procedure (which aimed at deciding on an asylum application within 48 hours) was extended by the implementation of this new procedure into a General Asylum Procedure of eight days. With this legislative amendment, the former government sought to ensure that more asylum seekers in the application centres would obtain clarity sooner about their asylum application, and that the asylum procedure would be carried out in a more meticulous and careful manner. This means that more applications are supposed to be handled in the General Asylum Procedure than was previously the case in the 48-hour procedure. In principle, it should be possible to handle the applications that are still referred to the Extended Asylum Procedure more rapidly, as the detailed interview and the corrections and supplements will always be dealt with in the General Asylum Procedure.

In the Improved Asylum Procedure, other aspects relating to the asylum seeker are also included, to the extent possible, in the asylum procedure itself or in a parallel procedure. These aspects include, for instance, medical circumstances and being a victim of human trafficking. In the former asylum procedure, these aspects were still dealt with in separate procedures after completion of the asylum procedure. Where there is reason to do so, the assessment of these aspects is – to the extent possible – now included in the same decision-making process, in order to prevent subsequent procedures. The new procedure also enables the court to take account of relevant new circumstances and policy changes in a possible appeal phase.

Figure 11: Asylum Procedure in the Netherlands

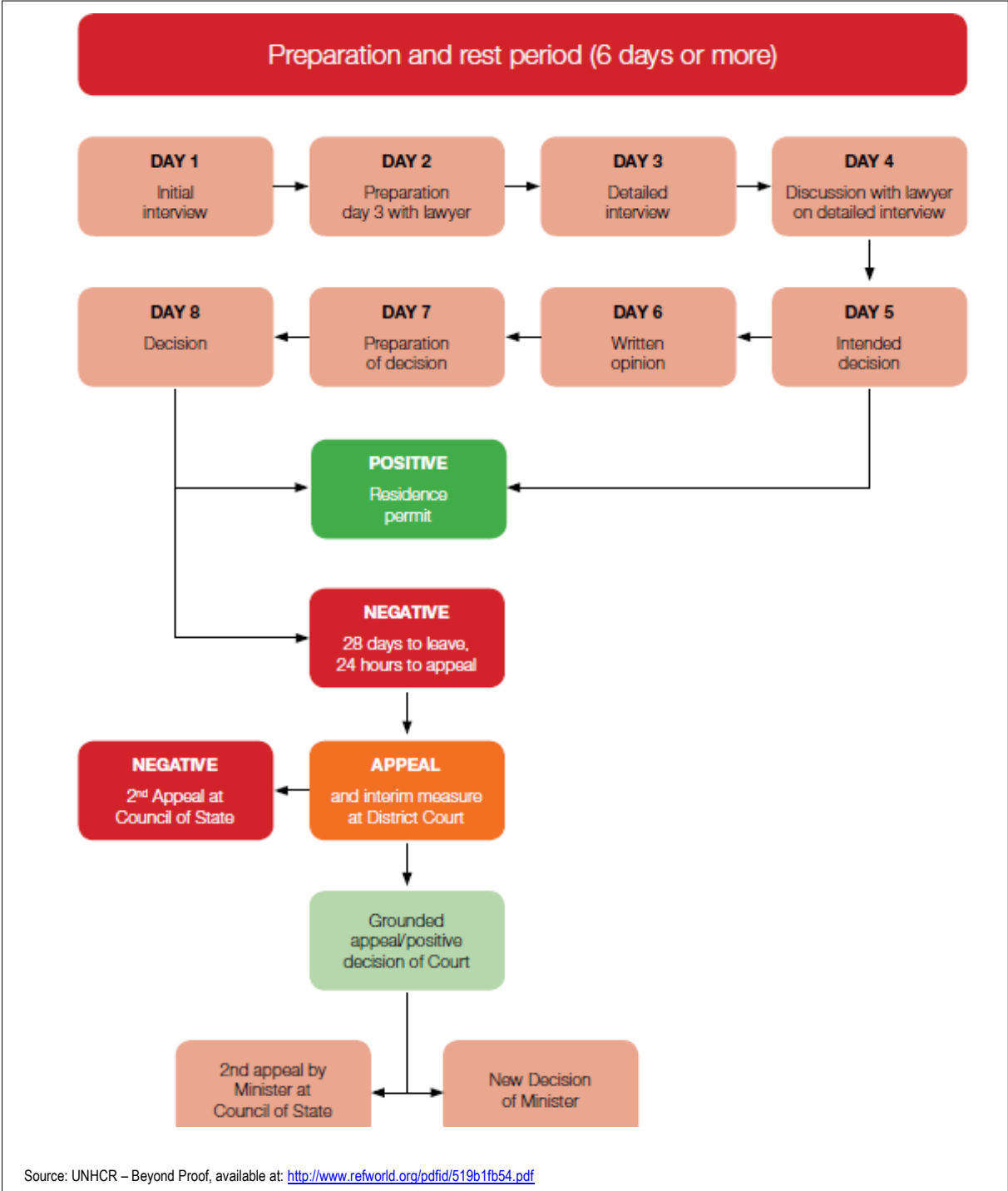
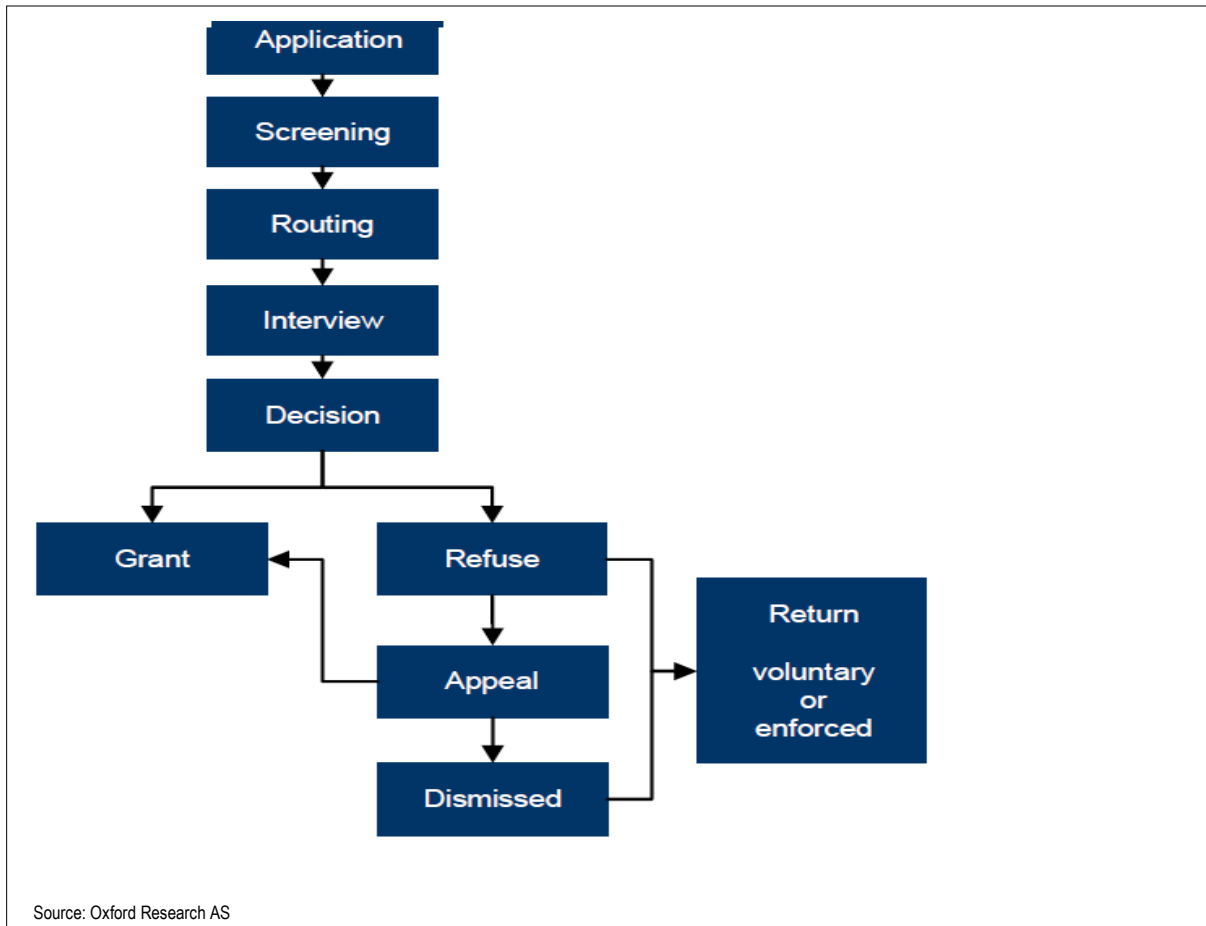


Figure 12: Asylum process UK



The Application Process

An application for asylum in the UK must be made in person as soon as possible after arrival and should be made at the port of entry. Many applications are made after arrival in the UK at the Asylum Screening Unit in Croydon. Applications are also made at local Immigration, Compliance and Enforcement (ICE) team offices, typically following an immigration enforcement operation or after contact with the police.

The first stage in the asylum process is screening, which includes establishing the ID of asylum applicants and a short interview about their personal circumstances and the basis of their asylum claim. The asylum seeker's case is then routed to an appropriate location in the UK and is allocated to an asylum caseworker.

Whilst no substantive asylum decision is made at the screening and routing stage about the merits of the claim, it is important for subsequent handling, including determining whether the case is suitable for the detained fast track process.

Processing of the Claim

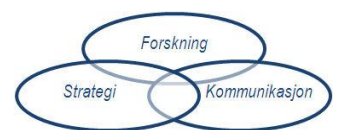
At the **substantive interview** between the applicant and the caseworker, the applicant will be asked to explain why he is in need of international protection. An interpreter is provided by the authority at this stage, if required.

The Caseworker will interview the asylum seeker and make a decision on their claim. A legal representative can accompany the applicant to the interview, although this is not usually practiced¹⁵⁰. Based on the interview the caseworker takes the decision whether to grant or refuse asylum. The applicant receives the decisions in written form and is advised about further steps in the process.

If asylum is refused there is usually a right of appeal to an independent immigration judge. Once all suspensive appeal rights are exhausted, failed asylum seekers are expected to return to their home country. This may happen voluntarily or, if necessary, will be enforced.

In some cases, where the application is certified as clearly unfounded under Section 94 of the Immigration, Asylum and Nationality Act, the applicant will be given a right of appeal that is exercisable only from outside of the United Kingdom. Such decisions are subject to particular safeguards, and may be judicially reviewed.

¹⁵⁰ Management of Asylum Applications by the UK Border Agency, National Audit Office 2009.



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