



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

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EMN Focussed Study 2017

Challenges and practices for establishing applicants' identity in the migration process

Top-line “Factsheet” (National Contribution)

The National Contact Point of the European Migration Network declared to prepare the focus study called „The challenges and practices of applicants identification in the field of migration” in its 2017 annual work schedule. During both the Asylum, and Aliens policing processes (expulsion, preparation works before deportation) the identification has emphasized importance. Just as in the previous years, the Hungarian Authorities are facing day-to-day challenges with the refugee applicants who submit their applications without documents or evidence of their identity, which forces the Authorities into a difficult situation, and even the execution of their deportation. This analysis gathers the regulations of the above mentioned processes, the legal instruments of the Authorities, and touches the identification methods of the visa and residence permit processes. The analysis gives a view on the four processes, just as the asylum processes, the aliens policing, the visa and residence permit processes, and the asylum and aliens policing units practices.

The aim of the analysis is to give a highlight on the identification of asylum applicants and nominees for deportation, which is a cornerstone of the asylum, and the aliens policing processes. In respect of these the audience will have a detailed picture on the most important regulations, its institutional frame, and the applied criterions of methods and processes underlying the definition of the identification.

In the third part of the analysis the decision-making process will be introduced, while in the fourth part the possibility of management and forwarding of details in particular processes will be highlighted.

Section 1: The National Framework

SECTION 1.1 CHALLENGES IN RELATION TO IDENTITY MANAGEMENT IN THE MIGRATION PROCESS (IN RELATION TO PROCEDURES ON INTERNATIONAL PROTECTION, RETURN, VISA AND RESIDENCE PERMITS)

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

- a) Considering the need for international protection? **Yes, it is.**
- b) Preparing for the forced return of a rejected applicant for international protection to their (presumed) country of origin? **Yes, it is.**
and
- c) Verifying applications for the following categories:

- Visitors visa – **Yes, we do.**

Residence permits issued for:

- Family reasons - **Yes, we do.**
- Study reasons - **Yes, we do.**
- Remunerated activities - **Yes, we do.**
- Non-EU harmonised protection status (i.e. resident permit on humanitarian or medical grounds. - **Yes, we do.**

The question of ascertainment of identification appears also in visa and residence permit processes, as well as in asylum and pre return processes. However for the participating authorities it cause a different rate of problem amongst the identification processes of the undocumented aliens, but it is an elemental part of all processes. Most of the asylum petitioners applies for international protection without documents of identity, or with documents hidden from the authorities, so in this case identification has an emphasized value. In respect of the objective decision and reliability of the petitioners, the identification of asylum seekers is a crucial part of asylum processes.

Before the 2015-2016 migration crisis it was also common, that 90% of the asylum petitioners did not have original or copies of the identity document. This trend still did not change recently, while most of the applications are submitted without documents.

According to the current asylum regulations the authority responsible for asylum applications cannot contact the authorities of the petitioner's state of origin, so the first time it happens after the rejection of the asylum application, in the process of the pre return activities. Several states of origin – mainly those which are the most emissive of illegal migration – does not show cooperation in identification procedures, or their processes takes too long because of the slow communication between the central authorities and the diplomatic missions.

The least cooperative countries are: Afghanistan, Bangladesh, Morocco, Iraq, Tunisia.

SECTION 1.2 STATISTICAL INFORMATIONTable 1: Statistical information on international protection and return procedures

	2012	2013	2014	2015	2016
Number of applicants for international protection whom identity was not documented at the time when the application for international protection was lodged ¹	data not available				
Number of applicants for international protection for whom identity was wholly or partially established during the asylum procedure thereby allowing the relevant authorities to reach a particular decision on the application for international protection (e.g. grant, refuse, defer) ²	data not available				
Total Number of Positive Decisions for applicants for international protection whose identity was not documented at the time of application ³	data not available				
Total Number of Positive Decisions for applicants for international protection whose identity was considered sufficiently established by the decision-making authorities ⁴	data not available				

¹ The Hungarian authorities do not register this data in IT system, so this data is not applicable.

² The Hungarian authorities do not register this data in IT system, so this data is not applicable.

³ The Hungarian authorities do not register this data in IT system, so this data is not applicable.

⁴ The Hungarian authorities do not register this data in IT system, so this data is not applicable.

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Total Number of Negative Decisions for applicants for international protection whose identity was not documented at the time of application ⁵	data not available				
Total Number of Negative Decisions for applicants for international protection whose identity was not considered to be sufficiently established by the decision-making authorities ⁶	data not available				
Total Number of (Forced) <u>Returns undertaken</u> of all rejected applicants for international protection ⁷	data not available				
Total Number of (Forced) Returns of rejected applicants for international protection whose identity was established at the time of return ⁸	data not available				
Total Number of (Forced) Returns of rejected applicants for international protection whose return could not be executed due to the authorities of the (presumed) country of origin refusing to recognise their nationals or considering their identity as not sufficiently established ⁹	data not available				

⁵ The Hungarian authorities do not register this data in IT system, so this data is not applicable.

⁶ The Hungarian authorities do not register this data in IT system, so this data is not applicable.

⁷ The Hungarian authorities do not register this data in IT system until 2017, so this data for these periods is not applicable.

⁸ The Hungarian authorities do not have statistics for this, so this data is not applicable.

⁹ The Hungarian authorities do not have statistics for this, so this data is not applicable.

Table 2: Statistical information on other migration-related procedures

<i>Data</i>	2012	2013	2014	2015	2016
<i>Total Number of visas applied for in consulates in third countries¹⁰</i>					
<i>Total Number of visas refused in consulates in third countries¹¹</i>					
<i>Total Number of visas refused in consulates in third countries due to the applicant having presented a travel document which was false, counterfeit or forged¹²</i>	no data available				
<i>Total Number of residence permits for remunerated activities refused due to the identity of the applicant not being considered sufficiently established¹³</i>	no data available				
<i>Total Number of residence permits for study purposes refused due to the identity of the applicant not being considered sufficiently established¹⁴</i>	no data available				

¹⁰ Hungary is part of the Schengen area this statistics are collected at EU level and need not be repeated.

¹¹ Hungary is part of the Schengen area this statistics are collected at EU level and need not be repeated.

¹² The Hungarian authorities do not have statistics for this, so this data is not applicable.

¹³ The Hungarian authorities do not have statistics for this, so this data is not applicable.

¹⁴ The Hungarian authorities do not have statistics for this, so this data is not applicable.

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<i>Total Number of residence permits for family reasons refused due to the identity of the applicant/ the family relationship not being considered sufficiently established¹⁵</i>	no data available				
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Table 3 Statistical information on methods used to establish identity

<i>Data</i>	2012	2013	2014	2015	2016
<i>Total Number of Cases in which language analysis was performed to establish the identity of the third-country national¹⁶</i>	no data available				
<i>Total Number of Cases in which an age assessment was performed to determine whether the third-country national was a minor¹⁷</i>	no data available				
<i>Total Number of Cases in which a DNA Analysis was used to establish the family relationship in family reunification cases¹⁸</i>	no data available				

¹⁵ The Hungarian authorities do not have statistics for this, so this data is not applicable.

¹⁶ The Hungarian authorities do not have statistics for this, so this data is not available.

¹⁷ The Hungarian authorities do not have statistics for this, so this data is not available.

¹⁸ The Hungarian authorities do not have statistics for this, so this data is not available.

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<i>Total Number of Cases in which Interviews were used to determine probable country and/or region of origin¹⁹</i>	no data available				
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¹⁹ The Hungarian authorities do not have statistics for this, so this data is not available.

SECTION 1.3 RELEVANT EU AND NATIONAL LEGISLATION

1.3.1.

The legal background about the identification in the asylum processes have not changed since 2013. The Act LXXX. of 2007 regulates the obligations of the asylum seekers just as “a person seeking recognition shall be obliged to cooperate with the refugee authority, in particular to reveal the circumstances of his/her flight, to communicate his/her personal data and to facilitate the clarification of his/her identity, to hand over his/her documents.”

The legal background about the identification in the aliens policing processes has not changed since 2013. According to the Act. II of 2007 “ (4) Any third-country national who is unable to verify his/her lawful residence in Hungary or is unable to produce credible evidence of his/her identity, or who violates the provisions of this Act shall be apprehended and taken into custody by the immigration authority.” (67. § (4)) „ (5) If the grounds for residence of the third-country national or the identity of the third-country national mentioned above cannot be established while in custody, the third-country national may be kept in custody for an additional period of maximum twelve hours; this action may be contested.”(67. § (5)) “The immigration authority may order the detention of the third-country national prior to expulsion in order to secure the conclusion of the immigration proceedings pending, if his/her identity or the legal grounds of his/her residence is not conclusively established, or if the return of the third-country national under the bilateral readmission agreement to another Member State of the European Union is pending.” (55. § (1))

According to the regulations of the Act. II of 2007 it appears as a precondition in the process of deportation, that the returnee should have a travel document, which will be requested by the authority. The travel documents are being issued by the Embassy of the state of origin and its elemental precondition is identification. The method of this has not changed in the recent years, not even during the time of the migration crisis, which put Hungary under pressure.

1.3.2.

For visa and residence permit applications the applicant must submit his/her passport with the application, which is the base of their identity in these processes. In visa cases the obligation of submission of travel documents is being defined in the Visa Code, while in residence permit cases – as a criterion of general entry and stay, with all purposes – the Act. II of 2007 defines the rights.

If the suspicion appears, that the travel document is fake or forged, (in visa cases) the consul or the immigration authority (in case of residence permit application) according to the document screening expert’s analysis the application is rejected according to the mandatory purpose of rejection.

SECTION 1.4 THE INSTITUTIONAL FRAMEWORK AT NATIONAL LEVEL

1.4.1.

Since the 2013 EMN analysis in the field of identification the institutional frame has not experienced radical changes. From January 2017, the Office of Immigration and Nationality have changed its name to Immigration and Asylum Office, and it has continuously performs its tasks in the field of asylum processes and immigration processes.

According to the applicable regulations of the Act LXXX. of 2007 the Office is responsible for asylum processes, and the competent asylum unit is responsible for the identification of the applicant.

At Immigration processes the competent aliens policing unit is responsible for the identification of the applicant.

If the applicant has been expelled during the asylum, or the immigration process, and does not hold a travel document, the scope of identification could get to two units. If the applicant has been expelled to a country with which Hungary or the European Union does not have a readmission agreement for the deportation via air the Coercive Measures and Return Unit contributes for the identification and for the issuance of travel documents. If the deportation is executed due to a readmission agreement the Hungarian Police Headquarters contributes to the identification and issuance of travel documents.

1.4.2.

In visa cases (purpose of visit) the identification is made by the consul.

In residence permit cases (purpose of study, family reunification, work) the task of identification is distributed according to the place of submission of the application, where it could be the consul, or the regional unit of the Immigration and Asylum Office (IAO). If the residence permit is submitted at any diplomatic missions of Hungary, for the identification the consul is responsible, but if the application is submitted within Hungary, the regional unit of the IAO is responsible for the identification.

At the process of extending residence permit it should be highlighted, that it could be only submitted at the competent regional directorate of the IAO, so in these cases evidently the IAOs regional units responsibility is the identification.

1.4.3.

See responses in the summary table provided in Annex 1.

1.4.4.

During the migration crisis there were no special processes introduced for the transit zones.

1.4.5.

Currently there is no central institution in Hungary, which would deal with identification with centralized way.

If the suspicion appears in visa cases, that the document submitted for the identification is fake or forged, the consul can request the assistance of the proper regions other diplomatic mission's document screening expert's analysis (even in the frame of consular liaison/cooperation). If the document screening expert analysis declares, that the document is not genuine it gives a simplified analysis to the consul about this fact.

In asylum process, process of extension of residence permit, and aliens policing process (in the process of pre return activities) documents submitted by the applicants are being verified by the document screening experts of Special Service for National Security's Institution for Experts for the request of the IAO. After the screening of the original documents, the experts gives a detailed analysis to the authority, which gives a clear resolution if the screened document is fake, forged, or genuine.

Within the institution of Hungarian Police Headquarter during the aliens policing processes the Document Unit of the Boarder Control Department, while at the regional police headquarters the locally serving document screening experts gives the analysis of the documents related to the identification.

1.4.6.

The authorities and employees working with the asylum, aliens policing, residence permit and visa processes have special access to those databases which helps them in their duties.

Through the consular IT system the consul have access to the VIS and SIS II systems, and to the national immigration databases. At residence permit cases (extension) the authority has access amongst the national immigration system to the EURODAC, SIS II, VIS databases as well. At asylum cases the officials has access only to the EURODAC database.

Section 2: Methods for Establishing Identity

SECTION 2.1: DEFINITION AND DOCUMENTS REQUIRED FOR ESTABLISHING IDENTITY

2.1.1.

The Hungarian asylum and immigration regulations do not define the word identity. The visa and residence permit processes for the identification travel document is accepted. Submission of the proper travel document is a requirement from applicants in both process, without it, the process cannot be continued.

Within the immigration processes, in practice, the identification is based on the identity documents, and if there isn't any, according to the declared personal data of the foreigner. At the pre return activities the declared personal data is sent to the Embassy of the state of origin together with the fingerprint and passport photo of the returnee, and with the help of these data (and the consular interview) the identification of the person can be executed. Evidently the process gets quicker by every personal documents from the state of origin: identity card, birth certificate, etc.

In the asylum process the applicant should submit all his/her personal documents to help the identification, and these documents individually, by measuring all the circumstances of the case will be evaluated in the process to prove the identification.

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

<i>Type of document</i>	(a) applicants for international protection	(b) for the return process	(c) third country applicants for visitors visa and permits for the purposes of study, family reunification and remunerated activities
<i>Official travel documents: Passports, ID cards</i>	Yes	Yes	Yes
<i>Other documents: birth certificates, driving license, divorce certificates, marriage licenses, qualification certificates, house books etc.</i>	Yes	Yes	No
<i>Informal (residence) documents, such as UNHCR registration documents</i>	Yes	No	No

According to the applicable laws and regulations within the process of visa and residence permit applications only the applicant's valid travel document can be accepted as identity document, and the identity could not be verified with other documents, those could only be support to the personal circumstances as relevant documents.

At the execution of the deportation, the foreigner is only accepted back to its country of origin by the local authorities, if the person is in possession of a valid travel document issued by its country of origins Embassy. During the pre return activities the authority send all those documents to the Embassy, which could help or speed up the process of identification (birth certificates, driving license, etc.)

During the asylum process the applicants could submit any kind of documents, which proves their identity, or which supports their application, but amongst these evidently there are some – mainly informal documents – which could not provide information about identity.

2.1.2.

For visa and residence permit processes officially the supporting documents should be submitted in original, or should be presented to the acting authority. According to Act CXL of 2004 on the general rules of administrative proceedings and services „ An authentic instrument made out abroad, and any private document certified by a foreign court, administrative body, notary public or any other person vested with authenticity shall - unless any legal regulation pertaining to the case in question, an international agreement or the principle of reciprocity suggests otherwise - be considered affirmative proof according to Hungarian laws if endorsed by the Hungarian foreign mission in the country where it was issued. Any instrument made out in a language other than Hungarian shall be accepted only with the official translation attached, unless otherwise prescribed by any legal regulation pertaining to the type of case in question.”

“Any instrument made out in a language other than Hungarian shall be accepted only with the official translation attached, unless otherwise prescribed by any relevant legislation pertaining to the type of case in question, however, the client may offer a statement concerning a fact that is to be verified in place of a document that may be unreasonably difficult to obtain. In such cases the client has to be advised concerning the legal consequences for making a false statement.”

At immigration processes to get more details about the information submitted by the foreigner on the purpose of identification, there is a chance to submit the copies of the documents, which could be forwarded by the immigration authority to the Embassy of the country of origin.

At asylum processes the above mentioned (Act CXL of 2004) regulation does not prevail, while it has been regulated by the Act LXXX. of 2007. 41.§ (3)-(4) The refugee authority may accept a public deed issued abroad or a private deed authenticated by a foreign court, state administration agency, notary or any other person vested with public authenticity submitted by the person seeking recognition as a deed with probative force even in the absence of the diplomatic authentication thereof by the Hungarian foreign representation authority operating in the state of the place of issuance and a deed issued in a language other than Hungarian may also be accepted without an authenticated Hungarian translation.

2.1.3.

As it has been mentioned above all verification on the genuineness of the documents appearing in the processes touched by this analysis has been screened by Special Service for National Security's Institution for Experts, or the

document screening experts of the Police. In respect of those countries where the document security is relatively low, it gives a great challenge in visa and residence permit cases to the acting authority (consul and the decision-making officer). Both the consular officers, and the decision-making officers' trainings about document security is continuous, and with this help, they could easily and confidently filter out the fake or forged documents, and forward them to the document screening experts.

At aliens policing processes, to avoid deportation the returnees often submit fake, or forged documents or use fake names. In these cases, because of the false information, the process of identification takes much more time, because the authority could only rely on the available fingerprint and the photo, and maybe on the wish of the foreigner to later on cooperate in the identification process.

Within the asylum process in many cases it turns out about the submitted supporting documents that they are fake or forged, but we should highlight that in the asylum process the forgery itself does not automatically mean the rejection of the application.

There are no significant changes about the above mentioned processes since the 2012 EMN analysis.

2.1.4.

There is no leading member state regarding to the process of verifying fake or forged documents. The IAO a document verification module in its own data bases and intranet, which contains useful information in general, and to specific document types, and kinds. Further on the IAO regularly organize document screening training for its employees, where there is theoretical and practical parts.

The IAO has limited number of general access to NEKOR for its appointed employees, and more of this the IAO employees has PRADO system access through the internet.

2.1.5.

In connection with visa application process the forged documents are commonly detected by the consular officer's suspicion which indicates a document expert examination.

In connection with residence permit application process the forged documents are commonly detected by the consular officer and the immigration officer. If the applicant submits its application at the competent consulate or embassy of Hungary, the original documents as supporting documents are submitted at the embassy, so in this case the consular officer has the task to check the submitted documentation. If the consular officer suspects that one of the file or document is fake or falsified, the document will be forwarded to the IAO and the Office arranges the examination of the document. If the applicant submits its application at the competent regional office of the IAO, on the basis of the suspicion of the immigration officer (case worker) the Office initiate a document expert examination.

2.1.6.

In the visa and residence permit application procedure there is an obligation for the applicants to present an official travel document, there is no exemption under this rule according to the Hungarian law.

According to the Visa Code²⁰ the applicant shall present a valid travel document satisfying the following criteria:

- its validity shall extend at least three months after the intended date of departure from the territory of the Member States or, in the case of several visits, after the last intended date of departure from the territory of the Member States. However, in a justified case of emergency, this obligation may be waived;
- it shall contain at least two blank pages;
- it shall have been issued within the previous 10 years.

According to the Visa Code there is no exemption under this obligation.

By the Act II. of 2007 the third country nationals for entry into the territory of Hungary and for stays in the territory of Hungary for an intended duration of more than ninety days shall present its valid travel document²¹ at the time of the application. According to the national law this is a general criterion, there is no exemption under this obligation.

SECTION 2.2: METHODS USED IN THE ABSENCE OF DOCUMENTARY EVIDENCE OF IDENTITY IN THE ASYLUM/RETURN PROCEDURE

2.1.1.

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

<i>Method</i>	Applicants for international protection	Return of rejected applicants for international protection
<i>Language analysis to determine probable country and/or region of origin</i>	standard practice	standard practice
<i>Age assessment to determine probable age</i>	optional	optional
<i>Interviews to determine probable country and or region of origin (or other elements of identity, such as faith and ethnicity)</i>	standard practice	standard practice
<i>Identity related paper and e-transactions with the authorities (e.g. tax, social benefits)</i>	optional	not applicable
<i>Identity related paper and e-transactions with the private sector (e.g. bank)</i>	not used	not used

²⁰ Visa Code Section 12.

²¹ Act II of 2007. Point a) Subsection 1, Section 13.

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<i>Identity related e-transactions in connection with social media</i>	optional	standard practice
<i>Smartphones and other digital devices</i>	not applicable	not applicable
<i>Other</i>	not applicable	not applicable

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

Method	Applicants for international protection		Return of rejected applicants for international protection	
	National database	European database	National database	European database
<i>Fingerprints for comparison with National and European databases</i>	not used	obligatory	not used	not used
<i>Photograph for comparison with National and European databases</i>	not used	not used	not used	not used
<i>Iris scans for comparison with National databases</i>	not used	not used	not used	not used
<i>DNA analysis</i>	not used	not used	not used	not used
<i>Other (please describe e.g. type of co-operation with or contacts in third countries, such as diplomatic missions)</i>	not used	not used	not used	not used

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

Method	Applicants for international protection	Return of rejected applicants for international protection
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<i>Language analysis to determine probable country and/or region of origin?</i>	used	used
<i>Age assessment to determine probable age</i>	used	used
<i>Interviews to determine probable country and or region of origin (or other elements of identity, such as faith and ethnicity)</i>	used	used
<i>Identity related paper and e-transactions with the authorities (e.g. tax, social benefits)</i>	used	not planned
<i>Identity related paper and e-transactions with the private sector (e.g. bank)</i>	not planned	not planned
<i>Identity related e-transactions in connection with social media</i>	used	used
<i>Smartphones and other digital devices</i>	not planned	planned
<i>Other</i>	not planned	not planned

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

Method	Applicants for international protection		Return of rejected applicants for international protection	
	National database	European database	National database	European database
<i>Fingerprints for comparison with National and European databases</i>	used	used	used	used
<i>Photograph for comparison with National and European databases</i>	used	used	planned	planned
<i>Iris scans for comparison with National databases</i>	not planned	not planned	not planned	not planned
<i>DNA analysis</i>	not planned	not planned	not planned	not planned
<i>Other (please describe e.g. type of co-operation with or contacts in third countries, such as diplomatic missions)</i>	not planned	not planned	not planned	not planned

2.2.2.

According to the current practice biometric identifiers in the asylum process are not submitted to VIS system.

Due to the workload caused by the migration crisis there were no changes in the methods of personal identification and at the moment there is no guideline or best practice related to the methods of identification.

SECTION 2.3: METHODS USED TO VERIFY THE IDENTITY OF THIRD-COUNTRY NATIONALS IN OTHER MIGRATION PROCEDURES

2.3.1.

The Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals regulates the obligation of processing a valid travel document among the general conditions of enter and stay. The applicant has to show/submit the travel document to the authority along with the handing in of the residence permit and according to the valid rules there can be no exemption given.

Table 9 Methods used for establishing identity

Method	Short stay visas	
	National database	European database
<i>Fingerprints for comparison with National and European databases</i>	not used	obligatory
<i>Photograph for comparison with National and European databases</i>	not used	not used
<i>Others</i>	not used	not used

Method	Residence permit for study reasons	
	National database	European database
<i>Fingerprints for comparison with National and European databases</i>	not used	not used
<i>Photograph for comparison with National and European databases</i>	not used	not used
<i>Others</i>	not used	not used

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Method	Residence permits for the purposes of remunerated activities	
	National database	European database
<i>Fingerprints for comparison with National and European databases</i>	not used	not used
<i>Photograph for comparison with National and European databases</i>	not used	not used
<i>Others</i>	not used	not used

Method	Residence permit for family reasons	
	National database	European database
<i>Fingerprints for comparison with National and European databases</i>	not used	not used
<i>Photograph for comparison with National and European databases</i>	not used	not used
<i>Others</i>	not used	not used

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

Method	Short stay visas	
	National database	European database
<i>Fingerprints for comparison with National and European databases</i>	not planed	used
<i>Photograph for comparison with National and European databases</i>	planed	planed
<i>Others</i>	not planed	not planed

Method	Residence permit for study reasons	
	National database	European database
<i>Fingerprints for comparison with National and European databases</i>	not planed	not planed

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<i>Photograph for comparison with National and European databases</i>	planned	planned
<i>Others</i>	not planned	not planned

Method	Residence permits for the purposes of remunerated activities	
	National database	European database
<i>Fingerprints for comparison with National and European databases</i>	not planned	not planned
<i>Photograph for comparison with National and European databases</i>	planned	planned
<i>Others</i>	not planned	not planned

Method	Residence permit for family reasons	
	National database	European database
<i>Fingerprints for comparison with National and European databases</i>	not planned	not planned
<i>Photograph for comparison with National and European databases</i>	planned	planned
<i>Others</i>	not planned	not planned

Section 3: Decision-Making Process

SECTION 3.1 STATUS AND WEIGHT OF DIFFERENT METHODS AND DOCUMENTS TO DETERMINE IDENTITY

3.1.1.

In the asylum process there is practically no hierarchy between the above mentioned proving methods, examination of fingerprints, personal hearings, - and the evaluation of the creditability within this process – are to be conducted obligatory in every case.

If the competent authority doubts concerning the possibility of the applicant being a minor, than a judicative medical examination is initiated to determine the age. It should be emphasized that from the above mentioned processes, the personal interview has the lowest proving potential for identifying the personality in the asylum authority's practice, as the fingerprint examination is considered to be objective and reliable.

There can be linguistic analysis during the interview with the help of participating interpreters. Creditability tests were not introduced in the asylum process, nevertheless evaluation and analysis of questions related to the knowledge on the country (country information) and the region are elements of the asylum process. The examination of fingerprints and photo checks in national and international register systems are conducted in every case. There is no DNA or IRIS examination in the asylum process. The personal hearing of the applicant is obligatory in the asylum process, unless exempted by the law. There should be a record taken on personal hearing. The asylum authority can neglect the personal hearing if the asylum applicant is not in a proper condition for the interview. During the hearing the asylum applicant has to submit all the documents that are to prove the asylum application and were not submitted before to the asylum authority.

During the hearing of the applicant the authority shall gather data on his/her marital status, place and date of his/her marriage, forename and surname of his/her spouse and his/her children, his/her school qualification, address in his/her country of origin, accommodation or residence in Hungary, his/her income and property. Beside medical experts, document experts are also involved in asylum procedure and their tasks are to examine the submitted documents. The examination in general deals with the form and the technical features of the document, the experts cannot give information on the content of the document.

3.1.2.

In the aliens policing process there is practically no hierarchy between the above mentioned proving methods - apart from the submitted travel document -, examination of fingerprints, personal hearings, - and the evaluation of the creditability within this process – are to be conducted obligatory in every case. If the competent authority doubts concerning the possibility of the applicant being a minor, than a judicative medical examination is initiated to determine the age. There can be linguistic analysis during the interview with the help of participating interpreters. These can help to determine the country of origin or the region of the foreigner. Evaluation and analysis of questions related to the knowledge on the country (country information) and the region are elements of the aliens policing process before issuing the expulsion order. The examination of fingerprints and photo control in national and international register systems are conducted in every case. There is no DNA or IRIS examination in the aliens policing process. In order to prepare the implementation of the expulsion personal hearings of third country nationals are conducted with most embassies. The personal hearing is the most important part of the identification process. The documents and/or copies

of documents submitted to the embassies are not clear evidence for identification, not always enough for the successful identification.

3.1.3

According to the effective regulation the client has to proof the evidences **in the visa and residence permit process**. The applicant has to submit to the competent authority the entry and residence conditions and his/her identity proof. In the case the authority does not see any condition or circumstance adequately certified, the authority can ask the applicant to enclose further documents toward to clarify the bearings of the case. During the procedures the principle of free proving is prevails, the authority shall assess each piece of evidence separately and on the aggregate.

3.1.4.

Concerning to the position and importance of various methods serving the determination of the personal identity there was no change in the national law or in the practice and there no plans for such changes at all.

SECTION 3.2 DECISIONS TAKEN BY THE COMPETENT AUTHORITIES ON THE BASIS OF THE OUTCOMES OF THE IDENTITY MANAGEMENT PROCEDURES

3.2.1.

The authority evaluates the evidences and facts one by one and on the whole in the asylum process. If only the citizenship can be proved, but identity cannot be established, international protection could be given to the applicant. There were no relevant changes since 2012 study concerning the deliberate aspects of the decision making process, there was no change in connection with the decision making in the migration crisis, and there was no change in the evaluation of the methods and results as well.

3.2.2.

In order to carry out expulsion, travel document shall be issued by the Embassy of third country for undocumented foreigners. Other relevant evidence available for the authority is not enough to carry out expulsion, if the competent embassy does not cooperate with the aliens policing authorities. The statement of facts and the data in connection with the foreigner's identification revealed in refugee procedure can also be applied in the aliens policing procedure. If the deportation is based on readmission agreement, the agreement contains the necessary data and steps of the process in order to identify the foreigner. If deportation is not carried out on the base of a readmission agreement, identification request are sent to the embassy of the third country with fingerprint card in origin, photos other relevant data, and documents or copies of documents (e.g. identity card, birth certificate etc.) that help the identification process. Most embassies conduct personal hearing with the foreigner, the embassies declare on the citizenship of the foreigner after the interview.

3.2.3.

If the applicant in the visa and residence permit process does not prove his/her identity with a valid travel document, or the document is false or forged, his/her request shall be denied.

Section 4: Databases and data procedures

During the aliens policing and the asylum procedure the data stored in the aliens policing and the asylum system are data that can be forwarded only according to the legal authorisation of the Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals and the Act LXXX of 2007 on Asylum. Any relating cooperation agreement has not signed with any organisation or government body.

According to the provisions of the Act II of 2007 the immigration authority shall process the following data of third-country nationals in connection with **visa applications** and the visa issued:

- a) natural identification data;
- b) facial photograph;
- c) travel document particulars;
- d) the purpose of entry and the planned duration of stay, and the country of previous usual residence;
- e) particulars of the documents provided in support of the conditions required for entry and stay;
- f) the fact and reasons for the refusal of a new visa or for the renewal of an existing one, and for the withdrawal of a visa;
- g) the number and validity period of the visa issued (extended) and information relating to restricted territorial access;
- h) the date and place of entry and exit, and the country of next usual residence;
- i) address of the place of accommodation;
- j) technical connecting number ordered to the facial photograph determined in the Act CLXXXVIII of 2015 on the facial photograph analysis register and the facial photograph analysis system.

The data mentioned below are fixed in the Visa Information System (VIS), which system contains biometric identifiers too.

According to the Act II of 2007 the immigration authority shall process the following data of third-country nationals in connection with **applications for residence permits** and the residence permits issued:

- a) natural identification data;
- b) facial photograph;
- c) travel document particulars;
- d) the purpose of entry and the planned duration of stay, and the country of previous usual residence.
- e) particulars of the documents provided in support of the conditions required for entry and stay;
- f) the fact and reasons for the refusal of a new residence permit or for the extension of an existing one, and for the withdrawal of a residence permit;
- g) the number, serial number and validity period of the residence permit issued (extended);
- h) the date of first entry and final exit, and the country of next usual residence.
- i) address of the place of accommodation.
- j) facial images and fingerprint images taken in accordance with Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals and Council Regulation (EC) No. 380/2008 of 18 April 2008 amending Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals;

k) technical connecting number ordered to the facial photograph determined in the Act CLXXXVIII of 2015 on the facial photograph analysis register and the facial photograph analysis system.

Pursuant to the effective law the immigration authority shall process the following data of a third-country national who has been ordered to leave the territory of Hungary or the territory of all Member States of the European Union, or who is subject to compulsory confinement, expulsion ordered under immigration laws, **expulsion** ordered by the refugee authority, **expulsion by court order**, detention prior to expulsion or detention under immigration laws:

- a) natural identification data;
- b) facial photograph and fingerprint;
- c) name of the ordering authority and the number of the relevant decision; and
- d) the legal grounds for the measure, order or decision, and the related deadline or duration.

The data mentioned below are fixed in the aliens policing register.

According to the provisions of the Act LXXX of 2007 **the refugee records** shall contain the following details of a person coming under the effect of the Act:

- a) natural identification data;
- b) facial image;
- c) fingerprints of persons older than fourteen years of age;
- d) if the applicant is an unaccompanied minor, this fact;
- e) if the applicant was taken over in the Dublin procedure, this fact and the date of the take-over;
- f) the date of submission of the application for recognition as refugee or beneficiary of subsidiary or temporary protection as well as the date of the withdrawal of such application;
- g) the fact and the date of recognition as refugee or beneficiary of subsidiary or temporary protection, the name of the authority or court issuing the recognition decision as well as the number of persons covered by the decision,
- h) the fact, reason and date of rejecting the application for recognition, the discontinuation of the procedure and the revocation of the recognition; the name of the authority or court that made the decision, and the number of persons covered by the decision;
- i) the fact and reason of the hand-over of the applicant in Dublin procedure, the dates of the resolution providing for the hand-over as well as of the actual hand-over, and the number of persons covered by the resolution;
- j) marital status, occupation, education of the person seeking recognition;
- k) place of residence, place of stay and accommodation of the person seeking recognition, as well as the beneficiary of subsidiary and temporary protection receiving provisions and benefits under this Act;
- l) name of country of origin;
- m) from among data relating to racial or national affiliation, membership of particular social group, religion or political convictions, those which the person referred to in the reasoning part of his/her application;
- n) data of identification and travel documents (identification mark and number of document, term of validity, date of issuance, name of issuing authority, place of issuance);
- o) natural identification data of family members arriving together with him/her and the legal title of residence in Hungary;

- p) data relating to his/her income and pecuniary situation which were contained in his/her declaration, the document supplied by him/her or in the data supplied by the tax authority and/or the agency fulfilling social security responsibilities;
- q) the fact and date of the proceedings initiated ex officio;
- r) the fact and date of the procedural actions carried out during the asylum proceedings on the basis of the Act;
- s) the legal base, time limit or duration, location, name of ordering authority, number of decision ordering asylum detention of the person seeking recognition;
- t) the legal base, number of decision, name of authority ordering a designated place of stay as well as the parameters of the designated place of stay;
- u) the amount of asylum bail and the date of the deposit, return and transfer to the state.
- v) technical connecting number ordered to the facial photograph determined in the Act CLXXXVIII of 2015 on the facial photograph analysis register and the facial photograph analysis system.

The data mentioned below are fixed in the national refugee register.

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

	VIS	SIS	EURODAC	National databases and watch lists
<i>International protection</i>	No	No	Yes	Yes
<i>Return</i>	Yes	Yes	Yes	No
<i>Short stay visas</i>	Yes	Yes	No	Yes
<i>Long stay visas and residence permit for study reasons</i>	No	Yes	No	Yes
<i>Long stay visas and residence permits for family reasons</i>	No	Yes	No	Yes
<i>Long stay visas and residence permits for the purposes of remunerated activities</i>	No	Yes	No	Yes

Connecting with the above changes or starting pilot projects are not planned in the near future in Hungary.

CONCLUSIONS

The difficulties relating to the identification are really actual problem during the asylum procedure as well during the aliens policing procedure not only in Hungary but in the whole European Union too.

In the period of the migration crisis the question of the identification is more relevant than ever before because the failure of the identification means a security risk on its own. The Hungarian experiences regarding to the identification – similarly to other Member States – give an unfavourable picture. The Hungarian authorities become overloaded due to the rising number of the applicants, the long-drawn-out procedures and the fact that almost every applicant arrives in Hungary without any document allowing for the identification of individuals.

The advantage of the Hungarian system in the asylum procedure is the fact that the probative stage of the asylum procedure is adequately flexible due to the free probative system, but at the same time in the last years the asylum-seekers do not cooperate with the authorities in their identification although it is an obligation specified in the effective law. The refugee authority cannot step up effectively against that phenomenon because the violation of the obligation of cooperation from the side of the asylum-seekers has a little legal consequence.

In the consequence of the transit country character of Hungary too the cooperation willingness of the foreign representation of the countries of origin in the identification process during the preparation of the deportation is really narrow or wavering so the expulsions cannot be carried out effectively, because in absence of the concrete positive identification and the travel document issued by the foreign representation of the country of origin the expulsions cannot be executed.

On the whole we can say that in the asylum procedure as well in the aliens policing procedure the identification process is a continuous cat-and-mouse game, a rhapsodic procedure with a continuously changing percentage which is exposed to the effect of the changing steps and situations of the politics of the world and the European Union.

Annex 1

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

	International protection	Return	Short stay visas	Long stay visas/ permits for family reasons	Long stay visas/ permits for family reasons
<i>Consulates/Embassies</i>			X	X	
<i>Immigration authorities</i>		X		X	
<i>Asylum authorities</i>	X				
<i>Police</i>		X			
<i>Border guard</i>	-	-	-	-	
<i>Security services</i>	X				
<i>Identification centre</i>	-	-	-	-	
<i>Other</i>	-	-	-	-	

Annex 2

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

Migration procedure	Steps in the procedure to establish identity
<i>International protection</i>	taking fingerprints- checking in EURODAC - country of origin interview -
<i>Forced return</i>	taking fingerprints- checking in EURODAC and VIS and in other national data interview by the embassy staff of the probably country of origin - the country positive reply by the Central Authority
<i>Short stay visas</i>	passport control - taking fingerprints - checking in VIS - the decision
<i>Long stay visas/ permits for family reasons</i>	passport control - the decision maker state t
<i>Long stay visas/ permits for study reasons</i>	passport control - the decision maker state t
<i>Long stay visas/ permits for the purposes of remunerated activities</i>	passport control - the decision maker state t