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1090 Meeting, 7 July 2010

10 Legal questions

10.1 Committee of Experts on Terrorism (CODEXTER)

d. Synoptic and analytical report on the questionnaire on “false identity information as a challenge to immigration authorities”

1090 Réunion, 7 juillet 2010

10 Questions juridiques

10.1 Comité d'experts sur le terrorisme (CODEXTER)

d. Rapport synthétique et analytique relatif au questionnaire sur le « défi que représentent pour les autorités d'immigration les fausses informations d'identité »

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Foreword

Discussions regarding false identity information as a challenge to immigration authorities stem from the CODEXTER 2005 Progress report on future priority areas for the work of the Council of Europe in the fight against terrorism, and in particular from the item “Denial of residence to foreign terrorists”.

The CODEXTER began consideration of the issue as from its 11th meeting (4-6 December 2006) on the basis of a relevant non-paper, consultation with the European Committee on Legal Cooperation (CDCJ), an exchange of views with independent experts and the replies to the questionnaire on “False Identity Information as a Challenge to Immigration Authorities”.

At its 15th meeting (24-26 November 2008), the CODEXTER agreed to commission an independent study in order to *“analyse, on the basis of the information provided by Council of Europe’s member States and other international organisations, the legislation and practices of States concerning the challenge that false travel and identity documents and information pose to immigration authorities in the context of the fight against terrorism”*.

This report was prepared by Prof Kolb (University of Geneva) in the course of the year 2009 and is submitted to the 18th meeting of the CODEXTER (7-8 April 2010) for further consideration by the Committee.

Avant-Propos

Les discussions sur le défi que représentent pour les autorités d’immigration les fausses informations d’identité découlent du rapport d’avancement du CODEXTER de 2005 sur les futurs domaines prioritaires pour les travaux du Conseil de l’Europe dans la lutte contre le terrorisme et en particulier du point sur le « déni de statut de résident aux terroristes étrangers ».

Le CODEXTER a commencé son examen de la question dès sa 11^{ème} réunion (4-6 décembre 2006) sur la base d’un « non-paper », d’une consultation avec le Comité européen de coopération juridique (CDCJ), d’un échange de vues avec des experts indépendants et des réponses aux questionnaires sur « le défi que représentent pour les autorités d’immigration les fausses informations d’identité ».

Lors de sa 15^{ème} réunion (24-26 novembre 2008), le CODEXTER a convenu de commander une étude indépendante pour *« analyser, sur la base des informations fournies par les Etats membres du Conseil de l’Europe, les législations et les pratiques nationales concernant l’enjeu que représentent pour les autorités d’immigration les faux documents et les fausses informations d’identité et de voyage dans le contexte de la lutte contre le terrorisme »*.

Ce rapport a été préparé par le Professeur Kolb (Université de Genève) au cours de l’année 2009 et présenté à la 18^{ème} réunion du CODEXTER (7-8 avril 2010) pour un examen approfondi par le Comité.

SYNOPTIC AND ANALYTICAL REPORT ON THE QUESTIONNAIRE ON “FALSE IDENTITY INFORMATION AS A CHALLENGE TO IMMIGRATION AUTHORITIES”

Expert Report prepared by Mr. Robert Kolb,
Ordinary Professor at the Faculty of Law of the University of Geneva

I) PRELIMINARY CONSIDERATIONS

1. Consultant's identity

Born on 11 March 1967 in Rome, Robert Kolb holds a law degree from the University of Berne, an advanced studies diploma in public international law (IUHEI, Geneva), an LL.M. in the law of the sea (*University College, University of London*), a doctorate in international law from the IUHEI of Geneva and a *venia docendi* (lectureship) following a habilitation thesis at the University of Berne. He has worked as a legal adviser to the International Committee of the Red Cross (1998-1999), an occasional consultant to the Swiss Federal Ministry of Foreign Affairs, consultant to firms of lawyers, and assistant of the Swiss military forces, section “law of armed conflicts”. R. Kolb is currently an Ordinary Professor in the Law Faculty of the University of Geneva (since 2007).

2. Terms of reference issued to the consultant

2.1. In accordance with terms of reference issued by the Secretariat of CODEXTER¹, the consultant was asked to make a report using a combined synoptic and analytic approach, in the form of an independent study based on the questionnaire on “false identity information as a challenge to immigration authorities”.

2.2. CODEXTER's purview, and consequently the consultant's terms of reference, are confined to terrorism. It is nevertheless appropriate to recall in passing that the present study actually bears on the entire sphere of organised crime (trafficking in drugs, human organs and people, extortion, prostitution, etc.) or non-organised crime (persons seeking a haven to escape prosecution). The conclusions which may be drawn from this study therefore go beyond the ambit of the fight against terrorism; they concern the entire effort to prevent cross-border crime. This report, however, does not require any inference whatsoever to be drawn from this observation, or indeed any further reference to it.

¹ The Secretariat acted in accordance with CODEXTER's decision taken at its 15th meeting (24-26 November 2008). See document CODEXTER (2008) 44 and Appendix I to the present document.

RAPPORT SYNTHETIQUE ET ANALYTIQUE RELATIF AU QUESTIONNAIRE SUR LE « DEFI QUE REPRESENTENT POUR LES AUTORITES D'IMMIGRATION LES FAUSSES INFORMATIONS D'IDENTITE »

Rapport établi par M. Robert Kolb,
Professeur ordinaire à la Faculté de droit de l'Université de Genève

I) CONSIDÉRATIONS PRÉLIMINAIRES

1. L'identité du consultant

Né le 11 mars 1967 à Rome, Robert Kolb est titulaire d'une licence en droit de l'Université de Berne, d'un diplôme d'études supérieures en droit international public (IUHEI, Genève), d'un LL.M. en droit de la mer (*University College, University of London*), d'un doctorat en droit international de l'IUHEI de Genève et d'une *venia docendi* suite à une thèse d'habilitation à l'Université de Berne. Il a travaillé comme conseil juridique au Comité international de la Croix-Rouge (1998-1999), comme consultant occasionnel du ministère des Affaires étrangères helvétique, comme consultant pour des cabinets d'avocats, et comme collaborateur de l'armée suisse, section « droit des conflits armés ». R. Kolb est actuellement Professeur ordinaire à la Faculté de droit de l'Université de Genève (depuis 2007).

2. Le mandat imparti au consultant

2.1. Suivant un mandat octroyé par le Secrétariat du CODEXTER¹, le présent consultant a été prié de dresser un rapport à la fois de synthèse et d'analyse sous la forme d'une étude indépendante sur la base du questionnaire sur le "défi que représentent pour les autorités d'immigration les fausses informations d'identité".

2.2. La compétence du CODEXTER et par suite le mandat du présent consultant sont limités au terrorisme. Il sied toutefois de rappeler incidemment que la présente étude intéresse en réalité tout le domaine de la criminalité organisée (trafic de stupéfiants, trafic d'organes humains, trafic d'êtres humains, racket, prostitution, etc.) ou non organisée (personnes cherchant un refuge pour échapper à des poursuites pénales). Les conclusions qu'on pourra tirer de cette étude dépassent ainsi la sphère de la lutte contre le terrorisme. Elles intéressent toute la lutte contre la criminalité transfrontalière. Le présent rapport ne nécessite toutefois pas de tirer quelque conséquence que ce soit de ce constat, ni d'ailleurs d'y revenir.

¹ Le Secrétariat a agi suivant la décision du CODEXTER prise lors de sa 15^{ème} réunion (24-26 novembre 2008). Voir document CODEXTER (2008) 44 et l'Annexe I au présent document.

3. Overview of the problem

3.1. A close reading of all the available replies to the relevant questionnaire discloses, as a salient feature, the great diversity not to say disparity of national practices in relation to almost² every question. Behind these divergences of detail there sometimes lurk a few convergences of principle. These diversities cannot be expected to level out in the near or fairly near future, so this study should be taken as a means of apprehending the existing practices with their divergences and convergences. Given the wide variety of practices, voluntary co-operation between states is crucial if advances are to be achieved. These may consist in reduction of such and such a needless or burdensome gap between national practices, or in developing a more marked interoperability between systems. Beware, however, of thinking that the problem as stated raises only technical issues, for instance as regards the administrative practice followed or the compatibility of systems for pooling data. The differences stem just as much from divergent national traditions. This is so, for example, where data protection is concerned. As sensitive issues are addressed, not infrequently imbued with the memory of abuses that occurred at a given point in national history and endure in public opinion, it is hard to imagine that significant harmonisation can be achieved in areas affected by this data protection legislation.

3.2. A final preliminary remark is needed regarding the replies to the questionnaire which were available to the consultant. These replies are themselves of a highly varied nature. Some states answer the questions in detail while others give only schematic or sometimes even “yes” or “no” answers. Some replies are not very clear. In some places a given question may not be answered, or in others has plainly been misunderstood. Elsewhere, some states reply that they have no data or no experience in the ambit of a specific question (particularly question 11). Occasionally a member state concentrates on only this or that aspect (such as databases), neglecting others. The consultant will try to extract a maximum yield from the information in his possession.

² There are some questions that disclose fairly substantial convergence, particularly question 9. Sometimes convergences exist at a general level, although the subject matter remains interspersed with many differences of detail, for example as regards the existence of databases. See the following analysis under II.

3. Vue d'ensemble du problème

3.1. Une lecture attentive de toutes les réponses disponibles au questionnaire en cause révèle comme fait majeur la grande diversité, voire la disparité, des pratiques nationales sur presque² toutes les questions. Derrière ces divergences de détail se cachent parfois quelques convergences de principe. Il n'est pas possible de s'attendre à ce que ces variétés puissent être résorbées dans un proche ou moyen avenir. Dès lors, il faut considérer cette étude comme un moyen de prise de conscience des pratiques existantes dans leurs divergences et convergences. Au vu de la grande variété des pratiques, la coopération volontaire entre Etats est cruciale pour obtenir des avancées. Celles-ci peuvent consister en la réduction de tel ou tel écart inutile ou encombrant entre pratiques nationales ; ou alors dans le développement d'une interopérabilité plus prononcée des systèmes. Il faut se garder toutefois de penser que le problème posé ne soulève que des questions techniques, comme celles de la pratique administrative suivie ou de la compatibilité des systèmes en matière d'échanges de données. Les différences proviennent tout autant de traditions nationales divergentes. Il en est ainsi, par exemple, quant à la protection des données. S'agissant de questions sensibles, imprégnées non rarement du souvenir d'abus advenus à tel ou tel moment de l'histoire nationale et dont l'opinion publique se rappelle, il est difficile d'imaginer qu'une harmonisation significative pourra être obtenue dans des domaines affectés par ces législations de protection des données.

3.2. Une dernière remarque préliminaire s'impose à l'égard des réponses au questionnaire dont le présent consultant a pu disposer. Ces réponses sont elles-mêmes de nature très variée. Quelques Etats répondent aux questions en détail ; d'autres n'y répondent que dans les grandes lignes, voire parfois par des « oui » ou des « non ». Certaines réponses ne sont pas très claires. Parfois, il n'est pas répondu à telle ou telle question. D'autres fois, une question a été manifestement mal comprise. D'autres fois encore, des Etats répondent qu'ils n'ont pas de données ou pas d'expérience dans le domaine d'une question déterminée (notamment la question 11). Certaines fois, un Etat membre se concentre sur seulement tel ou tel aspect (par exemple : banques de données) en négligeant d'autres. Le consultant tentera de tirer le maximum des informations telles qu'il en dispose.

² Il y a certaines questions qui révèlent une assez grande convergence, notamment la question 9. Parfois, des convergences existent sur un plan général, bien que de nombreuses différences de détail continuent à émailler la matière : par exemple en matière d'existence de banques de données. Voir l'analyse ci-après, sous II.

II) ANALYSIS OF REPLIES AND POSSIBLE CONCLUSIONS

The most synoptic way to proceed is probably to consolidate the replies to the various questions into common categories, thereby forming “families” of like practices. This method allows the convergences to be seen at a glance (in groupings) as well as the disparities (by opposition of groups). It is expedient to add at the outset possible conclusions flowing from analysis under each item. This affords the reader full documentation under each item instead of having to consult sections dispersed within the document. The document ends with general conclusions.

1. Question 1: How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

Crux of the matter: means of verifying identity.

1.1. *General remark*: Two aspects influencing the content of the replies need to be pointed out. *First*, many states only mention a few identity checking methods or a given body responsible for assisting in this task. Which does not mean that there are no other methods or bodies; it is hard to tell whether the methods and bodies omitted are secondary and have gone unmentioned for that reason, or whether they are of importance but are not mentioned simply because of the succinctness of the reply. Thus it is not unlikely that in many cases the complete spectrum of methods and bodies mentioned below applies more or less in all states albeit no doubt in different proportions. *Second*, the ways of carrying out identification vary according to the context³. They are not the same when it is a matter of controlling entry at the border, granting a visa, checking an individual's identity within the national territory, etc. Different bodies tend to be engaged in these situations: border guards, diplomatic representations abroad, police forces, etc. The documents taken into account vary likewise. For example, residence permits will be checked only in the case of a foreign resident. A very marked difference is also apparent as regards cases of normal entry to the territory and cases of asylum requests. Where the latter are concerned, the aliens who come forward at the border are usually without identity documents, so verification of identity has to be carried out by other means than scrutiny of papers.

1.2. **Identity**. The great majority of the states which answered the questionnaire give priority to *official travel documents* establishing identity⁴. These are chiefly passports and identity cards; where controls are performed inside the territory, residence permits too⁵ and, in the case of refugees, travel documents specially issued to refugees⁶. These documents must be official, that is issued by a competent foreign public authority. One member state⁷ says that this must be a state authority which it recognises, with the sole exception of Taiwan⁸. It is sometimes recorded that the identity documents in question must always bear a photo and a signature⁹. Some member states¹⁰ do not specify the requisite documents but merely point out that they must be *identity documents*. It may be presumed that these documents will be first and foremost the passport and the identity card.

³ As is explicitly mentioned by certain responses to questionnaires, for instance Austria; Finland; Portugal; Slovakia. The page numbers refer to the document presenting the replies to the questionnaire.

⁴ Austria; Belgium; Cyprus; Denmark; Estonia; Finland; Hungary; Iceland; Norway; Portugal; Spain; Switzerland.

⁵ See for example Spain.

⁶ See for example Finland.

⁷ Netherlands.

⁸ It should nevertheless be recalled that in public international law, for reasons of practicality and equity, identity documents, marriage certificates, death certificates and other equivalent documents of non-recognised states are generally accepted in respect of private individuals.

⁹ Bosnia and Herzegovina.

¹⁰ Luxembourg; Norway.

II) ANALYSE DES REPONSES ET EVENTUELLES CONCLUSIONS

La manière la plus synoptique de procéder est sans doute de regrouper les réponses aux diverses questions par catégories communes en établissant ainsi les « familles » de pratiques semblables. Ce procédé permet de révéler d'un seul coup d'œil les convergences (par regroupements) et les disparités (par opposition des groupes). Il est utile d'ajouter immédiatement d'éventuelles conclusions tirées des analyses conduites sous chaque point. Cela permet au lecteur de disposer d'une documentation complète sous chaque point, au lieu d'avoir à consulter des sections éparpillées dans le document. Le document se termine par des conclusions générales.

1. Question 1 : Comment l'identité d'un ressortissant étranger est-elle vérifiée ? Quelles autorités sont compétentes ? Quelles informations sont demandées ? Comment l'authenticité des documents est-elle vérifiée ? D'autres données (par exemple photos, empreintes, etc.) sont-elles collectées ?

Essence de la question : moyens de vérification de l'identité.

1.1. *Remarque générale* : Il faut signaler deux aspects influant sur le contenu des réponses. *Premièrement*, nombre d'Etats ne mentionnent que quelques procédés de vérification de l'identité et tel ou tel organe chargé de collaborer à cette tâche. Cela ne veut pas dire que d'autres procédés ou d'autres organes n'existent pas. Il est difficile de dire si les procédés et organes omis sont secondaires et n'ont pas été mentionnés à ce titre ; ou si ces autres procédés et organes ont de l'importance, mais n'ont pas été mentionnés simplement à cause de la brièveté de la réponse. Dès lors, il n'est pas improbable que dans nombre de cas la palette totale des procédés et organes mentionnés ci-après soit pertinente peu ou prou dans tous les Etats, mais sans doute avec des pondérations différentes. *Deuxièmement*, les moyens de procéder à l'identification varient selon le contexte³. Ils ne sont pas les mêmes lorsqu'il s'agit de contrôler l'entrée à la frontière, de procéder à la délivrance d'un visa, de contrôler l'identité d'un individu sur le territoire national, etc. Des organes différents seront engagés dans ces situations : gardes frontière, représentations diplomatiques à l'étranger, forces de police, etc. Les documents pris en compte varient aussi. Par exemple, les permis de résidence ne seront contrôlés que dans le cas d'un résident étranger. Une différence très nette ressort aussi pour des cas d'entrée ordinaire au territoire et pour des cas de demande d'asile. Dans ce dernier cas, les étrangers se présentant à la frontière ne sont le plus souvent pas munis de pièces d'identité. Il sera donc nécessaire de procéder à la vérification de l'identité par d'autres moyens que par l'examen de papiers.

1.2. **Identité.** La grande majorité des Etats ayant répondu au questionnaire donne la priorité aux *documents de voyage officiels*, établissant l'identité⁴. Il s'agit notamment de passeports et de cartes d'identité ; en cas de contrôle à l'intérieur du territoire, aussi du permis de résidence⁵ ; et en cas de réfugiés, de documents de voyage spécifiquement délivrés aux réfugiés⁶. Ces documents doivent être officiels, c'est-à-dire émis par une autorité publique étrangère compétente. Un Etat membre⁷ affirme qu'il doit s'agir d'un Etat reconnu par lui, avec la seule exception de Taiwan⁸. Il est parfois signalé que les documents d'identité en cause doivent en tout cas être munis d'une photo et d'une signature⁹. Certains Etats membres¹⁰ ne précisent pas les documents requis, mais soulignent simplement qu'il doit s'agir de *documents d'identité*. On peut supposer que ces documents seront en tout premier lieu le passeport et la carte d'identité.

³ C'est ce que signalent expressément certains questionnaires, par exemple : Autriche ; Finlande ; Portugal ; Slovaquie. Les numéros de pages renvoient au document contenant les réponses au questionnaire.

⁴ Autriche ; Belgique ; Chypre ; Danemark ; Estonie ; Finlande ; Hongrie ; Islande ; Norvège ; Portugal ; Espagne ; Suisse.

⁵ Voir par exemple Espagne.

⁶ Voir par exemple Finlande.

⁷ Pays-Bas.

⁸ Il faut toutefois rappeler qu'en droit international public, pour des raisons de praticabilité et d'équité, des documents d'identité, des actes de mariage, des attestations de décès et autres documents équivalents d'Etats non-reconnus sont généralement acceptés au bénéfice de personnes privées.

⁹ Bosnie-Herzégovine.

¹⁰ Luxembourg ; Norvège.

Other member states do not place a clear priority on a given document, but indicate that identity is established, according to the cases encountered, by *all available documents*. As much as to say that the relative status of types of documents is less clear-cut here. Sometimes it is specified that the check will be founded on all “available documents”¹¹ or all available documents which are “valid” at the time of the check¹². Other member states give more details about what they mean by these terms, as does Belgium for example¹³: passport, identity card, travel document, pass, driving licence, civil status certificate, etc. Some member states stress that the control is performed case by case in an integrated and cumulative fashion according to these various available documents. This is true of Romania and the Russian Federation.

The real difference between the two groups of states distinguished may not be as great as meets the eye. States in the first group have probably centred their attention on control at the border, those of the second group on all situations of control that may occur. As shown by the example of the Netherlands, even among the second group the passport and identity card remain prime instruments for ascertaining identity.

Identity checks can also be made using other means than the scrutiny of documents, particularly where there are none. Here states generally have questionnaires filled in. They also analyse the declarations of the subjects or witnesses¹⁴. Obviously, this also happens frequently under asylum procedure.

1.3. In connection with refugees / asylum requests, it is rather uncommon for the applicants to submit official or other documents to the authorities of the country of immigration. Thus the alternative means of certifying identity carry more weight here. The general rule seems to be that the control is performed in two stages, either concomitant or with one subsidiary to the other. If *identity documents* are produced, they will be examined in the first instance¹⁵. In their absence, or in addition to their examination, *interviews* will be held with the persons concerned¹⁶ and, if appropriate, relevant affidavits recorded¹⁷.

¹¹ Malta.

¹² Netherlands; “the former Yugoslav Republic of Macedonia”.

¹³ See also Finland; Hungary; Portugal; Turkey.

¹⁴ See for example Belgium.

¹⁵ Austria; Slovakia; Switzerland.

¹⁶ This is the most usual method: Austria; Denmark; Lithuania; Norway; Switzerland.

¹⁷ Estonia.

D'autres Etats membres n'accordent pas une priorité nette à tel ou tel document mais indiquent que l'identité est établie, selon les cas, par *tous documents disponibles*. C'est dire que la hiérarchie entre le type de documents est ici moins nettement tracée. Parfois, il est précisé qu'il sera fait fond sur tous les « documents disponibles »¹¹ ou tous les documents disponibles « valables » au moment du contrôle¹². D'autres Etats membres précisent davantage ce qu'ils entendent par de tels termes. C'est le cas, par exemple, de la Belgique¹³ : passeport, carte d'identité, titre de voyage, laissez-passer, permis de conduire, acte d'état civil, etc. Certains Etats membres insistent sur le fait que le contrôle se fait au cas par cas, de manière intégrée et cumulative, en fonction de ces documents divers disponibles. C'est le cas de la Roumanie ou de la Fédération de Russie.

La différence réelle entre les deux groupes d'Etats mis en exergue n'est probablement pas aussi grande qu'il paraît à première vue. Le premier groupe d'Etats a probablement focalisé son attention sur le contrôle à la frontière, le second groupe l'ensemble des situations de contrôle pouvant se présenter. Comme le montre l'exemple des Pays-Bas, même dans le second groupe le passeport et la carte d'identité restent des instruments primordiaux d'établissement de l'identité.

Des contrôles d'identité peuvent aussi être entrepris sur la base d'autres moyens que l'examen de documents, notamment en cas d'absence de ceux-ci. Les Etats procèdent alors généralement à faire remplir des questionnaires. Ils analysent aussi les déclarations des intéressés ou de témoins¹⁴. Tel est évidemment souvent le cas dans la procédure d'asile.

1.3. Dans le cadre des réfugiés / demandes d'asile, il est assez rare que les personnes intéressées soumettent aux autorités du pays d'immigration des documents officiels ou autres. Dès lors, les moyens alternatifs d'établir l'identité ont ici plus de poids. La règle générale semble être que le contrôle se fait en deux étapes, concomitantes ou subsidiaires l'une à l'autre. Si des *documents d'identité* sont soumis, ils seront examinés en premier lieu¹⁵. En l'absence de tels documents, ou en plus de l'examen de tels documents, il sera procédé à des *interviews* des personnes intéressées¹⁶ et, le cas échéant, au relevé de témoignages pertinents¹⁷.

¹¹ Malte.

¹² Pays-Bas ; « l'ex-République Yougoslave de Macédoine ».

¹³ Voir aussi Finlande ; Hongrie ; Portugal ; Turquie.

¹⁴ Voir par exemple Belgique.

¹⁵ Autriche ; Slovaquie ; Suisse.

¹⁶ Telle est la méthode la plus ordinaire : Autriche ; Danemark ; Lituanie ; Norvège ; Suisse.

¹⁷ Estonie.

1.4. **Authorities.** Authorities of the most varied kinds collaborate to differing degrees and more or less intensively in certifying the identity of foreign subjects. These are chiefly offshoots of the executive, possibly with input from the judiciary in the context of criminal proceedings for example. The three most important agencies in qualitative and quantitative terms are the *police*, the *immigration authorities* and the *Ministry of Foreign Affairs* (including diplomatic and consular representations abroad). Differences are to be pointed out, depending whether we are dealing with a federal or a centralised state¹⁸, and depending on the exact context of immigration¹⁹ (tourist visa, quotas of seasonal workers, asylum, control of foreign residents, etc.). Some member states²⁰ also make general reference to the “law enforcement bodies” as competent authorities, sometimes without further details, sometimes with a few specifications²¹. This is an umbrella term probably embracing the specific bodies which may be mentioned in the next paragraph.

1.5. The agencies specifically mentioned can be grouped as follows:

- law enforcement (police, border police, customs, etc.)²²;
- administrative bodies supervising aliens (immigration and refugee offices, etc.)²³;
- Ministry of Foreign Affairs²⁴, possibly contacting the competent bodies of the sending countries;
- the host state’s diplomatic and consular posts abroad²⁵, if necessary contacting authorities of the suspect aliens’ country of origin.

Among other bodies specifically mentioned the following should be indicated:

- municipal administrations (in respect of residents)²⁶;
- offices taking action in connection with forged documents²⁷;
- the judicial authorities²⁸, particularly in the context of criminal proceedings;
- other ministries than Foreign Affairs, e.g. Internal Affairs or Finance²⁹.

¹⁸ See for example Switzerland.

¹⁹ See for example Luxembourg.

²⁰ Armenia; Bosnia and Herzegovina; Cyprus; Georgia; Lithuania; Portugal.

²¹ For example Cyprus, “Immigration Unit”.

²² Police: Austria; Belgium; Denmark; Finland; France; Luxembourg; Norway; Portugal; Spain; Sweden. Border control authority: Austria; Bosnia and Herzegovina; Finland; France; Lithuania; Netherlands.

²³ Belgium; Bosnia and Herzegovina; Czech Republic; Denmark; Estonia; Finland; Germany; Netherlands; Norway; Romania; Sweden; Switzerland; Turkey (*Directorate of Civil Registration and Nationality*); United Kingdom. Luxembourg, explicitly mentions the asylum authorities.

²⁴ Armenia; Georgia. Also *v. infra*, under “Verification”.

²⁵ Belgium; Bosnia and Herzegovina; Finland; Norway; Switzerland.

²⁶ Belgium.

²⁷ Belgium. Also *v. infra*, under “Verification”.

²⁸ Belgium.

²⁹ Georgia.

1.4. **Autorités.** Les autorités les plus diverses collaborent, à des degrés et avec des niveaux d'intensité divers, à l'établissement de l'identité de sujets étrangers. Il s'agit surtout d'organes émanant de la branche exécutive, sous réserve de l'apport du pouvoir judiciaire, par exemple dans le cadre de procédures pénales. Les trois organes les plus importants, qualitativement et quantitativement, sont la *police*, les *autorités d'immigration* et le *ministère des Affaires étrangères* (y compris les représentations diplomatiques et consulaires à l'étranger). Il sied de signaler des différences selon que l'on a affaire à un Etat fédéral ou centralisé¹⁸, et selon le contexte précis de l'immigration¹⁹ (visa de tourisme, quotas de travailleurs saisonniers, asile, contrôle des étrangers résidents, etc.). Certains Etats membres²⁰ mentionnent d'ailleurs en général les *law enforcement bodies* comme organes compétents, parfois sans précisions supplémentaires, parfois avec quelques spécifications²¹. Il s'agit là d'un terme parapluie, qui recouvre sans doute les organes particuliers qu'on pourra mentionner dans le prochain paragraphe.

1.5. Les organes spécifiquement mentionnés peuvent être regroupés comme suit :

- les organes policiers (police, police des frontières, douane, etc.)²² ;
- les organes administratifs de contrôle des étrangers (offices de l'immigration, des réfugiés, etc.)²³ ;
- le ministère des Affaires étrangères²⁴, contactant le cas échéant les organes compétents des pays de provenance ;
- les postes diplomatiques et consulaires de l'Etat d'accueil à l'étranger²⁵, contactant si nécessaire des autorités du pays d'origine des étrangers en cause.

Parmi d'autres organes spécifiquement mentionnés, il faut faire état des suivants :

- les administrations communales (en matière de résidents)²⁶ ;
- les offices de répression de faux documents²⁷ ;
- les autorités judiciaires²⁸, notamment dans le cadre de procédures pénales ;
- d'autres ministères que celui des Affaires étrangères, par exemple le ministère de l'Intérieur ou des Finances²⁹.

¹⁸ Voir par exemple Suisse.

¹⁹ Voir par exemple Luxembourg.

²⁰ Arménie ; Bosnie-Herzégovine ; Chypre ; Géorgie ; Lituanie ; Portugal.

²¹ Par exemple Chypre, « Immigration Unit ».

²² Police : Autriche ; Belgique ; Danemark ; Finlande ; France ; Luxembourg ; Norvège ; Portugal ; Espagne ; Suède. Corps de contrôle des frontières : Autriche ; Bosnie-Herzégovine ; Finlande ; France ; Lituanie ; Pays-Bas.

²³ Belgique ; Bosnie-Herzégovine ; Rép. Tchèque ; Danemark ; Estonie ; Finlande ; Allemagne ; Pays-Bas ; Norvège ; Roumanie ; Suède ; Suisse ; Turquie (*Directorate of Civil Registration and Nationality*) ; Royaume-Uni. Le Luxembourg mentionne expressément les autorités de l'asile.

²⁴ Arménie ; Géorgie. Voir aussi *infra*, sous vérification.

²⁵ Belgique ; Bosnie-Herzégovine ; Finlande ; Norvège ; Suisse.

²⁶ Belgique.

²⁷ Belgique. Voir aussi *infra*, sous vérification.

²⁸ Belgique.

²⁹ Géorgie.

1.6. **Verification.** It may be necessary to verify the authenticity of the documents produced. It will often be indispensable to determine the truth of the recorded information by conversing with the subject. A wide variety of means are employed for this purpose. Apart from the states which simply replied that “any legal means”³⁰ may be used to this end, or that careful controls are applied without specifying the means thereof³¹, the replies can be grouped as follows:

- verification by expert laboratories³², often with ultraviolet rays, specimens of passports, etc. This method is used for documents;
- verification on computer-accessed databases³³, for example, depending on the case, ARGUS passport control system³⁴, databases of the police³⁵ or the immigration authorities³⁶, INTERPOL databases³⁷, databases for fingerprints³⁸, including EURODAC³⁹, etc. In some cases biometric databases are being prepared⁴⁰;
- verification of documents by electronic detection equipment⁴¹, especially during border controls;
- verification through co-operation with the authorities of the aliens’ countries of origin⁴², contacted via the Ministry of Foreign Affairs or the diplomatic representations. An exception is made in the case of international protection, particularly asylum;
- among the other methods reported, mention can be made of comparative analyses of photos⁴³ (evidently manual?), linguistic analyses to establish the origin of persons who arrive with false papers or none⁴⁴, or analysis of a person’s “excretion”⁴⁵.

It cannot be asserted that states use all these methods together; not all have the same technical resources at their disposal. Probably one should take it that here a member state’s silence about a given method is tantamount rather to admitting that the method is not used. On the whole it can be concluded that for documents, technical means of verification outweigh enquiries in which various national services would collaborate. In case of difficulties, the sending country’s authorities are quite often contacted.

1.7. Where asylum procedures are concerned, the frequent mention of the EURODAC database is to be noted⁴⁶. Photographs and fingerprints are very often used in this context. Alternatively, enquiries are made and foreign diplomatic representations or state authorities are contacted for assistance.

³⁰ Luxembourg.

³¹ Norway.

³² Bosnia and Herzegovina; Cyprus; Czech Republic; Finland; Iceland; Malta; Portugal; Romania; Slovakia; Sweden; “the former Yugoslav Republic of Macedonia”; United Kingdom.

³³ Latvia; Turkey.

³⁴ Austria.

³⁵ Finland.

³⁶ Czech Republic; Germany.

³⁷ Georgia.

³⁸ Georgia.

³⁹ Romania.

⁴⁰ Latvia.

⁴¹ Belgium; France; Hungary; Spain.

⁴² Belgium; Estonia; Malta; Romania; Slovakia; “the former Yugoslav Republic of Macedonia”.

⁴³ Armenia.

⁴⁴ Finland; Germany; Switzerland (under the asylum procedure).

⁴⁵ Georgia. *Note of the Secretariat*: Excretion designates the action through which any organism discharges into the exterior gas, solid or liquid substances that have become useless or toxic. See also footnote 79.

⁴⁶ See for example Estonia ; Finland ; Romania ; Slovakia. Also *infra*, question 2.

1.6. **Vérification.** Parfois, il sera nécessaire de vérifier l'authenticité des documents soumis. Souvent, il sera indispensable de déterminer la véracité des informations relevées par des échanges avec l'intéressé(e). Les moyens les plus divers sont utilisés à cette fin. Mis à part les Etats qui ont répondu simplement que « tout moyen légal »³⁰ pourra servir à cette fin, ou que des contrôles méticuleux seront effectués sans en préciser les moyens³¹, il est possible de regrouper les réponses comme suit :

- vérification par laboratoires d'experts³², souvent avec des ultraviolets, des spécimens de passeports, etc. Ce moyen est utilisé pour des documents ;
- vérification sur banques de données accessibles par ordinateur³³, par exemple, selon les cas, système ARGUS de contrôle des passeports³⁴, banques de données de police³⁵ ou des autorités d'immigration³⁶, banques de données INTERPOL³⁷, banques de données pour des empreintes digitales³⁸, y compris EURODAC³⁹, etc. Parfois, des banques de données biométriques sont en préparation⁴⁰ ;
- vérification de documents par des appareils de détection électroniques⁴¹, notamment lors des contrôles aux frontières ;
- vérification à travers la collaboration des autorités des pays d'origine de l'étranger⁴², contactés à travers le ministère des Affaires étrangères ou les représentations diplomatiques. Une exception est faite dans les cas de protection internationale, notamment d'asile ;
- parmi les autres méthodes mentionnées, on peut faire état des analyses comparatives de photos⁴³ (apparemment manuelle ?) ; des analyses linguistiques pour déterminer l'origine de personnes se présentant sans papiers ou avec de faux papiers⁴⁴ ; ou de l'analyse des excréments d'une personne⁴⁵.

Il n'est pas possible d'affirmer que les Etats utilisent tous ces moyens cumulativement. Tous les Etats n'ont pas les mêmes moyens techniques à leur disposition. Il faut probablement penser que le silence d'un Etat membre sur un moyen déterminé équivaut ici plutôt à une admission que le moyen n'est pas employé. Dans l'ensemble, on peut conclure que pour des documents, les moyens techniques de vérification prévalent sur des enquêtes auxquelles collaboreraient divers services de l'Etat. En cas de difficultés, les autorités du pays de provenance seront contactées assez souvent.

1.7. En matière de procédures d'asile, il faut signaler que la banque de données EURODAC est souvent mentionnée⁴⁶. On recourt dans ce contexte très souvent à des photographies et à des empreintes digitales. Alternativement, des enquêtes sont menées et des représentations diplomatiques étrangères ou des Etats étrangers contactés à des fins d'aide.

³⁰ Luxembourg.

³¹ Norvège.

³² Bosnie-Herzégovine ; Chypre ; Rép. Tchèque ; Finlande ; Islande ; Malte ; Portugal ; Roumanie ; Slovaquie ; Suède ; « l'ex-République Yougoslave de Macédoine » ; Royaume-Uni.

³³ Lettonie ; Turquie.

³⁴ Autriche.

³⁵ Finlande.

³⁶ Rép. Tchèque ; Allemagne.

³⁷ Géorgie.

³⁸ Géorgie.

³⁹ Roumanie.

⁴⁰ Lettonie.

⁴¹ Belgique ; France ; Hongrie ; Espagne.

⁴² Belgique ; Estonie ; Malte ; Roumanie ; Slovaquie ; « l'ex-République Yougoslave de Macédoine ».

⁴³ Arménie.

⁴⁴ Finlande ; Allemagne ; Suisse (dans le cadre de la procédure d'asile).

⁴⁵ Géorgie. *Note du Secrétariat* : L'excrétion désigne l'action par laquelle l'organisme rejette à l'extérieur des substances gazeuses, solides ou liquides sous forme de substances devenues inutiles ou toxiques. Voir aussi note de bas de page 79.

⁴⁶ Voir par exemple Estonie ; Finlande ; Roumanie ; Slovaquie. Voir aussi *infra*, question 2.

1.8. **Data.** The data recorded depend on the type of identification in question. The most usual methods for ascertaining identity are the hardest to foil because of their very advanced personalisation. Chiefly photos and fingerprints are involved here. Yet the questionnaire does not always clearly indicate the exact circumstances in which these data may be recorded. Practice is perfectly clear in the sole instance of asylum seekers who apply without valid documents or are undocumented. Photos and fingerprints are systematically taken here, at all events when dealing with adults⁴⁷. In other cases too, photos and fingerprints are taken. However, the precise conditions under which this procedure is allowed vary considerably between states and do not always clearly emerge from the replies to the questionnaire⁴⁸. Biometric techniques are so far only at an early stage of sophistication, at all events in the timeframe of the replies to the questionnaire⁴⁹. DNA testing is infrequent, hitherto applied only in the framework of criminal proceedings⁵⁰. Otherwise, the standard data (name, forename, nationality, address, civil status, etc.) are gathered⁵¹ in connection with residence permits.

Under asylum procedure, as has already been said, searches based on photos and fingerprints are much more widespread. One member state⁵² says that it also records descriptions of physical characteristics and signatures.

1.9. Possible conclusions

Regarding *competent authorities*, each state makes arrangements as it sees fit. This is what we call constitutional autonomy. The sole essential issue is that the relevant departments can work swiftly and effectively, for which purpose care must be taken to give them the necessary resources and staff, besides ensuring that their operation is not complicated by a proliferation of bodies and by multiple, possibly inextricable, overlapping of remits.

Regarding *verification*, it would be expedient to develop international databases readily accessible to local authorities. The considerable present mobility renders purely local databases difficult and inefficient to use. Furthermore, it would be appropriate to develop the technical means of verification, especially those at the leading edge. Not all states seem to have them. That would be a potentially useful and productive field of co-operation between Council of Europe member states.

For *data*, an important way to contend with false information is of course to develop biometrics and last-generation databases with photos and fingerprints. The considerable multiplicity of data protection legislation may nevertheless impose fairly narrow limits. Is rethinking of the relationship between the demands of data security and data protection necessary? This is a question which the consultant does not feel qualified to answer.

⁴⁷ Austria; Denmark; Estonia; Finland; Germany; Lithuania; Luxembourg; Sweden; Switzerland; United Kingdom.

⁴⁸ Armenia (if necessary); Belgium (in case of illegal presence in the territory); Czech Republic (in certain cases, especially criminal proceedings); Hungary (unclear which cases); Iceland (where identity is in doubt); Malta (unclear which cases); Norway (if without identity papers); Portugal (if identity unclear); Romania (in certain cases); Russian Federation (in certain cases); Slovakia (if without valid documents), Spain (unclear which cases); Switzerland (apparently general jurisdiction); United Kingdom (foreign residents, *de lege ferenda*).

⁴⁹ Some States are preparing for it; see for example the replies from Portugal or the United Kingdom.

⁵⁰ Portugal.

⁵¹ See for example Austria; Netherlands.

⁵² Austria.

1.8. Données. Les données relevées dépendent du type d'identification en cause. Les moyens les plus usuels pour s'assurer de l'identité sont ceux qu'il est le plus difficile de fausser au vu de leur très grande individualisation. Il s'agit ici notamment de photos et d'empreintes digitales. Il ne ressort toutefois pas toujours clairement du questionnaire dans quelles circonstances précises ces données peuvent être relevées. La pratique est très claire uniquement pour les demandeurs d'asile qui se présentent sans documents ou sans documents valables. Les photos et les empreintes sont ici systématiquement relevées, en tout cas quand il s'agit d'adultes⁴⁷. Dans d'autres cas, des photos et des empreintes digitales sont aussi relevées. Toutefois, les conditions exactes dans lesquelles ce procédé est permis varient considérablement d'Etat à Etat et ne ressortent pas toujours clairement des réponses au questionnaire⁴⁸. Les techniques biométriques ne sont encore qu'à un stade peu avancé, en tout cas à l'époque des réponses au questionnaire⁴⁹. Les tests ADN ne sont pas fréquents ; on y recourt jusqu'ici seulement dans le cadre de procédures pénales⁵⁰. Par ailleurs, les données habituelles (nom, prénom, nationalité, adresse, état civil, etc.) sont collectées⁵¹ dans le cadre des permis de résidence.

Dans le cadre de la procédure d'asile, comme il a déjà été dit, les recherches par photos et empreintes digitales sont beaucoup plus généralisées. Un Etat membre⁵² affirme qu'il relève par ailleurs des descriptions de caractéristiques physiques et des signatures.

1.9. Eventuelles conclusions.

Quant aux *autorités compétentes*, chaque Etat s'organise comme il l'entend. C'est ce qui s'appelle l'autonomie constitutionnelle. Le seul point essentiel est que les services compétents puissent rapidement et efficacement travailler. A cette fin, il faut veiller à les doter des moyens et du personnel nécessaires, ainsi que de ne pas compliquer leur fonctionnement par une prolifération d'organes et par des chevauchements de compétence multiples, voire inextricables.

Quant à la *vérification*, il serait utile de développer des banques de données internationales facilement accessibles par les autorités locales. La mobilité actuelle considérable rend les bases de données purement locales difficiles et peu efficaces. Par ailleurs, il s'agirait de développer les moyens techniques de vérification, surtout ceux de pointe. Tous les Etats ne semblent pas les posséder. Il y aurait là un champ de coopération entre Etats membres du Conseil de l'Europe potentiellement utile et fructueux.

Quant aux *données*, une piste importante pour contrer les fausses informations est certainement de développer la biométrie et les banques de données de dernière génération à photos et empreintes digitales. Les législations de protection des données, d'ailleurs assez multiples, imposent ici cependant des limites parfois assez étroites. Faut-il repenser le rapport entre les exigences de sécurité et de protection des données ? C'est une question à laquelle le présent consultant ne se sent pas compétent de répondre.

⁴⁷ Autriche ; Danemark ; Estonie ; Finlande ; Allemagne ; Lituanie ; Luxembourg ; Suède ; Suisse ; Royaume-Uni.

⁴⁸ Arménie (si nécessaire) ; Belgique (si présence irrégulière sur le territoire) ; Rép. Tchèque (dans certains cas, notamment dans la procédure pénale) ; Hongrie (pas clair dans quels cas) ; Islande (en cas de doute sur l'identité) ; Malte (pas clair dans quels cas) ; Norvège (si dépourvu de documents d'identité) ; Portugal (si l'identité n'est pas claire) ; Roumanie (dans certains cas) ; Fédération de Russie (dans certains cas) ; Slovaquie (si pas muni de documents valables), Espagne (pas clair dans quels cas) ; Suisse (compétence apparemment générale) ; Royaume-Uni (résidents étrangers, *de lege ferenda*).

⁴⁹ Certains Etats s'y préparent, voir par exemple les réponses du Portugal ou du Royaume-Uni.

⁵⁰ Portugal.

⁵¹ Voir par exemple Autriche ; Pays-Bas.

⁵² Autriche.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

Crux of the matter: verification of identity in the absence of reliable identity documents. *V. supra*, 1.6 initially.

2.1. A methodological comment is called for. The fact that a member state mentions an array of means applied for checking uncertain identities does not automatically signify that every other means is excluded, but most likely that the specified means are the most usual and frequent, those not mentioned the more exceptional. Sometimes a member state indicates that a given means is not applied, whether in general or outside a specific context, for example criminal proceedings. Special reference will then be made to such cases. It should be added that some member states⁵³ explicitly say they use "all appropriate means", referring to a singularly wide and undefined range of means. Moreover, as with question 1, diverse situations must be taken into account: settlement and residence procedure, family reunion with the need to prove parentage, asylum procedure, trial, border control, etc. Some member states⁵⁴ moreover take pains to point out these differences. Overall, it can be said that where verification of dubious identities is concerned, use of fingerprinting and comparison of photos is the most frequent method. A whole series of other means is also of greater or lesser importance depending on the case.

2.2. The means of ascertaining identity in the absence of reliable identity documents are as follows:

- Comparison of *fingerprints*⁵⁵ and *photos*⁵⁶. With fingerprints, use of the AFIS system (fingerprint database) is especially favoured. Some states only take fingerprints in certain well-defined cases. Luxembourg for instance resorts to it only on suspicion of a forged document, and evidently not where there is no document at all. As to photos, it will be observed that the list of member states making use of this means is not strictly identical to the one for fingerprints. Thus, for example, Luxembourg does not mention photos whereas it makes reference to fingerprints. Lithuania, on the contrary, mentions photos but not fingerprints. Moreover, some states specify that they can compare photos, but without an electronic database⁵⁷. Sweden reports that it only makes exceptional use of photo comparison. Austria says that information on physical characteristics is recorded in its aliens file⁵⁸. INTERPOL files are consulted in connection with criminal proceedings⁵⁹.

- *Collaboration via embassies*⁶⁰ and *consulates*⁶¹ of foreign countries. Some member states⁶² designate this as the principal or almost exclusive procedure where dubious identities are concerned.

⁵³ Austria.

⁵⁴ See for example Finland, distinguishing between the residence certificate procedure, the asylum procedure and the citizenship procedure.

⁵⁵ Armenia; Belgium; Bosnia and Herzegovina; Estonia; Finland; Georgia; Germany; Hungary; Latvia; Luxembourg; Malta; Netherlands; Norway; Portugal; Romania; Russian Federation; Slovakia; Switzerland.

⁵⁶ Armenia; Belgium; Bosnia and Herzegovina; Estonia; Finland; Hungary; Latvia; Lithuania; Malta; Netherlands; Norway; Portugal; Romania; Russian Federation; Slovakia; Sweden.

⁵⁷ Latvia.

⁵⁸ "description of physical distinguishing marks of an alien listed in the Aliens' Register".

⁵⁹ Austria; Lithuania; Romania.

⁶⁰ Czech Republic; Romania; Slovakia; Turkey; United Kingdom. *V. supra*, 1.6.

⁶¹ France; Spain.

2. En l'absence de documents d'identité probants, comment l'identité d'un ressortissant étranger est-elle vérifiée ? L'identité d'un ressortissant étranger peut-elle être établie en recourant, par exemple, à une étude médicale de l'âge osseux, à une confrontation des empreintes digitales, à des test ADN ou à des comparaisons photographiques ? Dans l'affirmative, dans quel contexte ces méthodes sont-elles employées et ces données sont-elles confrontées à celles communiquées lors d'autres procédures ?

Essence de la question : vérification de l'identité en l'absence de documents d'identité probants. Voir déjà *supra*, 1.6.

2.1. Une remarque méthodologique s'impose. Le fait qu'un Etat membre mentionne une panoplie de moyens mis en œuvre pour contrôler des identités incertaines ne signifie pas automatiquement que tout autre moyen soit exclu. La signification la plus probable est que les moyens mentionnés sont les plus usuels et les plus fréquents, ceux non mentionnés restant plus exceptionnels. Parfois, un Etat membre indique qu'un certain moyen n'est pas utilisé, soit en général, soit en dehors d'un certain contexte, par exemple celui d'une procédure pénale. Ces cas seront spécialement signalés. Il faut ajouter que certains Etats membres⁵³ affirment explicitement qu'ils recourent à « tous les moyens appropriés », ce qui renvoie à une gamme de moyens particulièrement large et indéfinie. De plus, comme pour la question 1, des situations diverses doivent être prises en compte : procédure d'établissement et de résidence, regroupement familial avec nécessité d'établir la filiation, procédure d'asile, procédure pénale, contrôle à la frontière, etc. Certains Etats membres⁵⁴ s'évertuent d'ailleurs à rappeler ces différences. De manière générale, il est possible de dire qu'en matière de vérification d'identités douteuses, le recours aux empreintes digitales et aux comparaisons de photos est le procédé le plus fréquent. Toute une série d'autres moyens sont aussi plus ou moins importants, selon les cas.

2.2. Les moyens de vérifier l'identité en l'absence de documents d'identité probants sont les suivants :

- Comparaison d'*empreintes digitales*⁵⁵ et de *photos*⁵⁶. Pour les empreintes digitales, l'appel au système AFIS (banque de donnée d'empreintes digitales) est particulièrement prisé. Quelques Etats ne relèvent les empreintes digitales que dans certains cas bien délimités. Ainsi, le Luxembourg n'y a recours qu'en cas de soupçon d'un document contrefait, et apparemment non en cas d'absence de tout document. Quant aux photos, on remarquera que la liste des Etats membres recourant à ce moyen n'est pas exactement identique à celle des empreintes digitales. Ainsi, par exemple, le Luxembourg ne mentionne pas les photos alors qu'il fait état des empreintes digitales. La Lituanie, au contraire, mentionne les photos mais non les empreintes digitales. De plus, certains Etats signalent qu'ils peuvent comparer des photos, mais sans base de données électronique⁵⁷. La Suède signale qu'elle ne recourt à la comparaison de photos qu'exceptionnellement. L'Autriche affirme qu'elle relève des informations concernant les caractéristiques physiques dans son fichier des étrangers⁵⁸. Les fichiers INTERPOL sont consultés dans le cadre de procédures pénales⁵⁹.

- *Collaboration à travers les ambassades*⁶⁰ et les *consulats*⁶¹ étrangers. Certains Etats membres⁶² signalent que c'est là le procédé principal, voire presque exclusif, de procéder en matière d'identités douteuses.

⁵³ Autriche.

⁵⁴ Voir par exemple Finlande, distinguant entre la procédure de certificat de résidence, la procédure d'asile et la procédure de citoyenneté. .

⁵⁵ Arménie ; Belgique ; Bosnie-Herzégovine ; Estonie ; Finlande ; Géorgie ; Allemagne ; Hongrie ; Lettonie ; Luxembourg ; Malte ; Pays-Bas ; Norvège ; Portugal ; Roumanie ; Fédération de Russie ; Slovaquie ; Suisse.

⁵⁶ Arménie ; Belgique ; Bosnie-Herzégovine ; Estonie ; Finlande ; Hongrie ; Lettonie ; Lituanie ; Malte ; Pays-Bas ; Norvège ; Portugal ; Roumanie ; Fédération de Russie ; Slovaquie ; Suède.

⁵⁷ Lettonie.

⁵⁸ "description of physical distinguishing marks of an alien listed in the Aliens' Register".

⁵⁹ Autriche ; Lituanie ; Roumanie.

⁶⁰ Rép. Tchèque ; Roumanie ; Slovaquie ; Turquie ; Royaume-Uni. Voir déjà *supra*, 1.6.

⁶¹ France ; Espagne.

⁶² Turquie ; Royaume-Uni.

- *Interview* with the subjects⁶³. Some member states⁶⁴ designate this as the principal or almost exclusive procedure in the matter. The Netherlands also mention language tests.
- Norway mentions in a general way *exchange of information* between different bodies.
- Austria mentions *examination of signatures*.
- *DNA testing* is subject to different regulations. In most cases DNA is not generally used for identifying persons but for other purposes such as certifying parentage⁶⁵, family reunion⁶⁶, ascertaining the age of minors⁶⁷ or proving criminal responsibility⁶⁸. In some member states, all DNA testing (no doubt apart from criminal procedure) presupposes the subject's consent⁶⁹ or the authorisation of the judicial authority⁷⁰. Some member states indicate that they never resort to such tests, in accordance with their domestic legislation⁷¹. Others say that such tests can be used for identification, without further details⁷². Still others indicate that they apply these tests in exceptional circumstances⁷³, for example special cases like a person's death or disappearance⁷⁴. Some restraint is discernible regarding what is a highly intrusive method of investigation for the private sphere. Regulations and practices are at all events very disparate.
- *Physical examinations* are used to ascertain the age of subjects for purposes of establishing personal identity. States use bone age measurement⁷⁵ (except, in all circumstances, France), a medical checkup⁷⁶ or dental analysis⁷⁷.
- Modern *biometric data* are still but seldom mentioned⁷⁸.
- Among the other methods mentioned, attention should be drawn to examination of "excretions" (in English the term embraces bodily wastes such as urine, sweat or excreta)⁷⁹; it is not specified what exact purpose these analyses serve.

⁶² Turkey; United Kingdom.

⁶³ Cyprus; France; Lithuania.

⁶⁴ Cyprus.

⁶⁵ Belgium.

⁶⁶ Austria (with the consent of the person concerned); Finland; Switzerland.

⁶⁷ Netherlands.

⁶⁸ Czech Republic; Malta.

⁶⁹ Austria; Sweden; Switzerland.

⁷⁰ Portugal.

⁷¹ France; Iceland.

⁷² Armenia; Latvia.

⁷³ Hungary, which otherwise claims not to have experience of this method.

⁷⁴ Spain.

⁷⁵ Armenia; Austria (but not in respect of asylum); Belgium (in the context of family reunion); Czech Republic; Denmark; Hungary (as an exceptional measure); Iceland; Malta; Switzerland.

⁷⁶ Belgium; Czech Republic; Hungary; Switzerland; "the former Yugoslav Republic of Macedonia".

⁷⁷ Sweden; Switzerland.

⁷⁸ Portugal. See also Latvia, under question 1.

⁷⁹ Georgia.

- *Interview* avec les intéressés⁶³. Certains Etats membres⁶⁴ signalent qu'il s'agit là du moyen principal, voire presque exclusif, de procéder en la matière. Les Pays-Bas mentionnent aussi des tests de langue.
- La Norvège mentionne généralement *l'échange d'informations* entre organes divers.
- L'Autriche mentionne *l'examen de signatures*.
- *L'examen de l'ADN* est soumis à des réglementations différentes. Le plus souvent, l'ADN n'est pas utilisé généralement pour l'identification de personnes mais à d'autres fins, comme l'établissement de la filiation⁶⁵, le regroupement familial⁶⁶, l'établissement de l'âge de mineurs⁶⁷ ou l'établissement de la responsabilité pénale⁶⁸. Dans certains Etats membres, tout test ADN (probablement hors procédure pénale) suppose l'aval de l'intéressé⁶⁹ ; ou alors l'autorisation de l'autorité judiciaire⁷⁰. Certains Etats membres indiquent qu'ils ne recourent jamais à de tels tests, en conformité avec leur législation interne⁷¹. D'autres affirment que de tels tests peuvent servir à l'identification, sans préciser davantage⁷². Encore d'autres indiquent qu'ils recourent exceptionnellement à ces tests⁷³, par exemple dans des cas particuliers comme le décès ou la disparition d'une personne⁷⁴. On sent une certaine retenue face à ce moyen d'enquête très intrusif pour la sphère de la vie privée. Les réglementations et les pratiques sont en tout cas très disparates.
- Les *examens corporels* sont utilisés pour établir l'âge des intéressés, pas à des fins de détermination de l'identité personnelle. Les Etats recourent à l'examen des os⁷⁵ (sauf, en tout cas, en France), à un examen médical corporel⁷⁶ ou à l'analyse de la dentition⁷⁷.
- Les *données biométriques* modernes ne sont encore que rarement mentionnées⁷⁸.
- Parmi les autres moyens mentionnés, il faut relever l'examen des excréments⁷⁹ ; il n'est pas précisé à quelle fin ces analyses servent exactement.

⁶³ Chypre ; France ; Lituanie.

⁶⁴ Chypre.

⁶⁵ Belgique.

⁶⁶ Autriche (avec l'accord de l'intéressé) ; Finlande ; Suisse.

⁶⁷ Pays-Bas.

⁶⁸ Rép. Tchèque ; Malte.

⁶⁹ Autriche ; Suède ; Suisse.

⁷⁰ Portugal.

⁷¹ France ; Islande.

⁷² Arménie ; Lettonie.

⁷³ Hongrie, qui affirme par ailleurs ne pas avoir d'expérience de ce moyen.

⁷⁴ Espagne.

⁷⁵ Arménie ; Autriche (mais pas en matière d'asile) ; Belgique (dans le contexte du regroupement familial) ; Rép. Tchèque ; Danemark ; Hongrie (exceptionnellement) ; Islande ; Malte ; Suisse.

⁷⁶ Belgique ; Rép. Tchèque ; Hongrie ; Suisse ; « l'ex-République Yougoslave de Macédoine ».

⁷⁷ Suède ; Suisse.

⁷⁸ Portugal. Voir aussi Lettonie, sous la question 1.

⁷⁹ Géorgie.

2.3. In matters of *asylum*, the method most widely used is searching in fingerprint databases (AFIS, EURODAC, etc.)⁸⁰. Comparison of photos is also frequent, but member states mention it more often under item 1 than item 2 of the questionnaire⁸¹. Interviewing⁸² is of special importance in the context of asylum, given that most asylum seekers are without papers. Besides, the member states apply language tests⁸³ (to determine the region of origin), DNA examinations⁸⁴ (in certain cases; Slovakia never uses this method in the asylum context) and, for one country, X-raying of the wrist⁸⁵ (to determine age). The bone and body examinations mentioned under 2.1 are also used in the context of asylum.

2.4. Possible conclusions

Also *v. supra*, 1.9. Where terrorism is concerned, information relating to the person's identity, record of convictions and prior activities is essential. Precautions against the dangers that stem from false information can thus be stimulated above all by perfecting internationally accessible databases (photos, fingerprints, biometric data especially), as far as is compatible with the relevant legislation. At the same time, in all cases not covered by these databases, enhancement of diplomatic and police co-operation with the states of origin is crucial. Plainly, the task here is at once extensive, protracted and most arduous. It remains rather hit or miss. The conclusion of bilateral co-operation agreements (on the basis of a model prepared within the Council of Europe) could nonetheless be contemplated.

⁸⁰ Austria; Belgium; Denmark; Iceland; Luxembourg; Slovakia; Sweden; United Kingdom.

⁸¹ Mentioned under question 2 by Denmark and Slovakia.

⁸² Denmark; Norway; Slovakia; United Kingdom.

⁸³ Denmark.

⁸⁴ Denmark (to determine whether underage or adult, in the framework of family reunion); Estonia (to establish parentage).

⁸⁵ Estonia.

2.3. En matière *d'asile*, le moyen le plus largement utilisé consiste en la recherche dans des banques de données relatives aux empreintes digitales (AFIS, EURODAC, etc.)⁸⁰. La comparaison de photos est également fréquente, mais les Etats membres la mentionnent plus souvent sous la question 1 que sous la question 2 du questionnaire⁸¹. L'interview⁸² revêt dans le contexte de l'asile une importance particulière, au vu du fait que le plus grand nombre des demandeurs d'asile sont dépourvus de papiers. Par ailleurs, les Etats membres recourent à des tests de langue⁸³ (pour déterminer la région d'origine), à des examens ADN⁸⁴ (dans certains cas ; la Slovaquie n'utilise jamais cette méthode dans le contexte de l'asile) et, pour l'un d'entre eux, à des radiographies du poignet⁸⁵ (pour déterminer l'âge). Les examens osseux et les visites corporelles mentionnés sous 2.1. sont aussi utilisés dans le contexte de l'asile.

2.4. Eventuelles conclusions

Voir aussi *supra*, 1.9. En matière de terrorisme, les informations liées à l'identité de la personne, à son casier judiciaire et à ses activités précédentes sont essentielles. La lutte contre les dangers provenant de fausses informations peut dès lors être stimulée surtout par le perfectionnement des banques de données internationalement accessibles (photos, empreintes digitales, données biométriques notamment), dans les limites de ce qui est compatible avec les législations pertinentes. En même temps, pour tous les cas non couverts par ces banques de données, le renforcement de la coopération diplomatique et policière avec les Etats d'origine est crucial. Il est manifeste que la tâche est dans ce domaine à la fois de grande envergure, de longue haleine et de grande difficulté. Elle demeure quelque peu aléatoire. La conclusion d'accords bilatéraux de coopération (sur la base d'un modèle élaboré au sein du Conseil de l'Europe) pourrait toutefois être envisagée.

⁸⁰ Autriche ; Belgique ; Danemark ; Islande ; Luxembourg ; Slovaquie ; Suède ; Royaume-Uni.

⁸¹ Elle est mentionnées sous la question 2 par le Danemark et la Slovaquie.

⁸² Danemark ; Norvège ; Slovaquie ; Royaume-Uni.

⁸³ Danemark.

⁸⁴ Danemark (pour déterminer l'âge mineur ou majeur, dans le cadre du regroupement familial) ; Estonie (pour établir la filiation).

⁸⁵ Estonie.

3. In the absence of a reliable identity document, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

Crux of the matter: co-operation with the countries of origin in establishing identity. *V. supra*, questions 1 and 2 to begin with.

3.1. In a general perspective, the reply to question 3 reveals that the member states make contact with the countries of origin, normally through foreign representations in their territory. However, the type of contact and the documents requested vary according to the states of origin concerned⁸⁶. The same applies to the situations prompting this contact. In some member states⁸⁷, contact with the countries of origin seems to occur over a spectrum of quite varied situations, so contact seems to be regularly sought.

Other states explain that they resort to such contacts (chiefly?) in the following situations:

- Where the person concerned has no identity papers or they are unreliable⁸⁸, or generally to verify a dubious identity⁸⁹.
- In the context of expulsion procedures⁹⁰.
- To verify the authenticity of documents⁹¹.
- In criminal proceedings⁹².
- In "certain cases", without further details⁹³.

3.2. Under *asylum procedures*, the great majority of states do not contact or convey information to the country of origin⁹⁴. Some member states, however, mention exceptions, whether false or real ones. Firstly, an exchange of information remains possible with other states than the state of origin, particularly within the Schengen system⁹⁵. This is not a real exception, as the state of origin is not concerned. Secondly, one member state reports that contact with the country of origin remains possible where asylum requests are patently abused, for example if it is an obvious case of "economic refugees"⁹⁶; that is a real exception.

3.3. Possible conclusions

In general, contacts and co-operation with countries of origin can only be encouraged for their high importance in the identification of persons. Some member states note that this co-operation is not always easy, that they do not always receive responses to their requests, or that the responses are delayed. Here there is most certainly an important field of action to explore. In cases of application for international protection (refugees), contact with the country of origin proves more difficult. It encounters obstacles of international law and humanitarian impediments. It is therefore all the more important to strengthen co-operation in the Schengen area, particularly via efficient common databases.

⁸⁶ Belgium writes that "the identification procedure differs greatly according to sending country. Some countries wish to interview persons claiming to be a national of theirs. Others stipulate the completion of a questionnaire. Still others rely on information conveyed to them by letter or any other form of correspondence. Lastly there are countries which only want to confirm the nationality or identity on the basis of original documents (whether valid or expired – as the case may be) or of copies of documents"

⁸⁷ Belgium; Czech Republic; Finland; France; Germany; Hungary; Lithuania; Malta; Netherlands; Norway; Romania; Slovakia; Spain; "the former Yugoslav Republic of Macedonia"; United Kingdom.

⁸⁸ Armenia; Bosnia and Herzegovina; Estonia; Lithuania; Portugal; Russian Federation.

⁸⁹ Romania; Turkey.

⁹⁰ Austria; Sweden; Switzerland.

⁹¹ Finland.

⁹² Iceland; Luxembourg (in the case of falsified papers, for instance).

⁹³ Denmark.

⁹⁴ This abstention is noted in many replies: Austria; Denmark; Estonia; Finland; Iceland; Latvia; Luxembourg; Malta; Norway; Slovakia.

⁹⁵ Finland.

⁹⁶ Luxembourg.

3. En l'absence de documents d'identité probants, le pays d'origine s'implique-t-il dans l'établissement de l'identité d'un ressortissant étranger ? L'aide des autorités du pays d'origine pour vérifier l'identité est-elle demandée et comment ?

Essence de la question : la coopération avec les pays d'origine dans l'établissement de l'identité. Voir déjà *supra*, questions 1 et 2.

3.1. D'un point de vue général, la réponse à la question 3 révèle que les Etats membres établissent le contact avec les pays d'origine, normalement par le truchement des représentations étrangères sur leur territoire. Toutefois, le type de contact et les pièces demandées diffèrent selon les Etats d'origine en cause⁸⁶. Il en va de même pour les situations donnant lieu à une telle prise de contact.

Dans certains Etats membres⁸⁷, le contact avec les pays d'origine semble intervenir dans certaines situations assez variées. C'est dire que le contact semble être régulièrement recherché. D'autres Etats précisent qu'ils recourent à de tels contacts (surtout ?) dans les situations suivantes :

- Si la personne en cause ne possède pas de papiers d'identité ou pas de papiers d'identité fiables⁸⁸ ; ou généralement pour vérifier une identité douteuse⁸⁹.
- Dans le contexte de procédures d'expulsion du territoire⁹⁰.
- Pour vérifier l'authenticité de documents⁹¹.
- Dans le cadre d'une procédure pénale⁹².
- Dans « certains cas », sans précisions supplémentaires⁹³.

3.2. Dans le cadre de *procédures d'asile*, la grande majorité des Etats ne contacte pas et ne transmet pas d'informations au pays d'origine⁹⁴. Quelques Etats membres notent toutefois des exceptions, fausses ou vraies. Premièrement, un échange d'informations reste possible avec d'autres Etats que l'Etat d'origine, notamment au sein du système Schengen⁹⁵. Il ne s'agit pas d'une vraie exception, l'Etat d'origine n'étant pas concerné. Deuxièmement, un Etat membre signale qu'un contact avec le pays d'origine reste possible en cas d'abus manifestes de demandes d'asile, par exemple s'il s'agit à l'évidence de « réfugiés économiques »⁹⁶. Il y a là une vraie exception.

3.3. Eventuelles conclusions

En général, on ne peut qu'encourager les contacts et la coopération avec des pays d'origine. Ils sont très importants dans l'identification d'une personne. Certains Etats membres notent que cette coopération n'est pas toujours aisée ; qu'ils ne reçoivent pas toujours des réponses à leurs sollicitations ; ou que ces réponses tardent à venir. Il y a ici très certainement un champ d'action important à explorer. Pour les cas de demande de protection internationale (réfugiés), un contact avec le pays d'origine s'avère plus difficile. Il se heurte à des obstacles de droit international et à des ornières humanitaires. Il serait dès lors d'autant plus important de renforcer la coopération dans l'espace Schengen, notamment par les banques de données communes performantes.

⁸⁶ La Belgique écrit : « La procédure d'identification est très différente par pays de provenance. Certains pays veulent auditionner les personnes qui prétendent être un de leurs ressortissants. D'autres pays exigent qu'un questionnaire soit rempli. D'autres pays encore se fondent sur les renseignements qui leur sont communiqués par lettre ou toute autre forme de correspondance. Enfin il y a des pays qui veulent seulement confirmer la nationalité ou l'identité sur base de documents originaux (valables ou périmés – selon les cas) ou de copies de documents ».

⁸⁷ Belgique ; Rép. Tchèque ; Finlande ; France ; Allemagne ; Hongrie ; Lituanie ; Malte ; Pays-Bas ; Norvège ; Roumanie ; Slovaquie ; Espagne ; « l'ex-République Yougoslave de Macédoine » ; Royaume-Uni.

⁸⁸ Arménie ; Bosnie-Herzégovine ; Estonie ; Lituanie ; Portugal ; Fédération de Russie.

⁸⁹ Roumanie ; Turquie.

⁹⁰ Autriche ; Suède ; Suisse.

⁹¹ Finlande.

⁹² Islande ; Luxembourg (pour papiers falsifiés, par exemple).

⁹³ Danemark.

⁹⁴ Cette abstention est notée dans nombre de réponses : Autriche ; Danemark ; Estonie ; Finlande ; Islande ; Lettonie ; Luxembourg ; Malte ; Norvège ; Slovaquie.

⁹⁵ Finlande.

⁹⁶ Luxembourg.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

Crux of the matter: databases.

4.1. A single member state⁹⁷ replied that it did not currently have a data system, while adding that a system of this kind was in preparation. Many states have a whole range of databases, which they either specify⁹⁸ or do not⁹⁹. The most common registers are of aliens¹⁰⁰ (nearly every member state has one) and the register of asylum seekers¹⁰¹. Some member states also mention other databases:

- for recipients of state welfare benefits, foreigners included¹⁰²;
- for fingerprints¹⁰³;
- for extremely varied categories of persons in the national territory¹⁰⁴;
- a register of lost documents which have been returned¹⁰⁵;
- a register of foreigners who have committed crimes or are being prosecuted¹⁰⁶;
- record of convictions¹⁰⁷.

Some member states specifically mention 'Schengen' data storage systems¹⁰⁸.

4.2. The *content* of these databases varies, and all the data recorded therein cannot possibly be conveyed in this brief synoptic report. The aliens register is the most widespread system. Two representative examples of its content may be given here. In the database of Cyprus¹⁰⁹, there appear as the case may be: given names and surname, date of birth, place of birth, country of birth, nationality, passport number, date of issue and expiry of passport, aliens registration number, migration file number, visa number, type and expiry date of visa, occupation, address in Cyprus, dates of arrival and departure, driving licence, telephone number. The database of the Czech Republic contains, as the case may be: "basic information as name, surname, including previous names and surnames, dates of birth (day, month, year), sex, country of citizenship, birth register number, pictorial image and fingerprints of a foreigner. The alien information system contains also the information on: issuing of visas [...]: issuing of a foreigner's passport, a travel identity document; issuing of a departure order; an invitation; an entry denial; an undesirable person; a subscriber of international protection proceeding; an arrival and departure of visa foreigners".

⁹⁷ Armenia.

⁹⁸ Austria: Asylum seekers database, Database for State support information, Central Alien's Register; United Kingdom: registers for visa applicants, persons seeking residence in the UK, those refused entry, those seeking citizenship and those seeking asylum.

⁹⁹ Malta: only "data systems" are mentioned without further details.

¹⁰⁰ Austria; Belgium; Bosnia and Herzegovina; Cyprus; Czech Republic; Denmark; Estonia; Finland; France; Georgia; Germany; Hungary; Latvia; Lithuania; Netherlands; Norway; Portugal; Romania; Russian Federation (being prepared); Slovakia; Spain; Sweden; Switzerland; Malta; Turkey.

¹⁰¹ Austria; Belgium; Iceland; Luxembourg; Norway; Slovakia; Switzerland.

¹⁰² Austria.

¹⁰³ Belgium.

¹⁰⁴ Estonia (containing data on eight categories of persons); Luxembourg (file of natural and legal persons).

¹⁰⁵ Germany.

¹⁰⁶ Iceland.

¹⁰⁷ Belgium.

¹⁰⁸ Belgium; Germany; Norway.

¹⁰⁹ Cyprus.

4. Existent-ils des systèmes de données officiels contenant des informations sur les ressortissants étrangers ? Quelles informations contiennent-ils ? Ces informations peuvent-elles être comparées avec des informations d'autres systèmes de données ?

Essence de la question : banques de données.

4.1. Un seul Etat membre⁹⁷ a répondu qu'il ne disposait pas à l'heure actuelle de système de données, tout en ajoutant qu'un tel système était en préparation. Un grand nombre d'Etats possèdent toute une série de banques de données, qu'ils précisent⁹⁸ ou non⁹⁹. Les registres les plus fréquents sont celui des étrangers¹⁰⁰ (presque chaque Etat membre en possède) et celui pour les demandeurs d'asile¹⁰¹. Certains Etats membres font état aussi d'autres banques de données :

- pour les receveurs de prestations sociales de l'Etat, y compris les étrangers¹⁰² ;
- pour les empreintes digitales¹⁰³ ;
- pour les catégories les plus diverses de personnes sur le territoire national¹⁰⁴ ;
- un registre de documents trouvés¹⁰⁵ ;
- un registre des étrangers ayant commis des crimes ou faisant l'objet d'une poursuite pénale¹⁰⁶ ;
- le casier judiciaire¹⁰⁷.

Certains Etats membres mentionnent particulièrement des systèmes de banque de données 'Schengen'¹⁰⁸.

4.2. Le *contenu* de ces banques de données varie et il n'est pas possible, dans ce bref rapport de synthèse, de faire part de toutes les données enregistrées en leur sein. Le registre des étrangers est le système le plus répandu. Il est possible de donner ici deux exemples représentatifs de ses contenus. Dans la banque de données de Chypre¹⁰⁹, figurent, selon les cas : nom, prénoms, date de naissance, lieu de naissance, pays de naissance, nationalité, numéro de passeport, date d'émission et date d'échéance du passeport, numéro d'enregistrement de l'étranger, numéro du dossier de migration, numéro de visa, type de visa, date d'expiration du visa, profession, adresse à Chypre, dates d'arrivée et de départ sur le territoire, permis de conduire, numéro de téléphone. Dans la banque de données de la République Tchèque, figurent, selon les cas : « basic information as name, surname, including previous names and surnames, dates of birth (day, month, year), sex, country of citizenship, birth register number, pictorial image and fingerprints of a foreigner. The alien information system contains also the information on: issuing of visas [...]: issuing of a foreigner's passport, a travel identity document; issuing of a departure order; an invitation; an entry denial; an undesirable person; a subscriber of international protection proceeding; an arrival and departure of visa foreigners ».

⁹⁷ Arménie.

⁹⁸ Autriche : « Asylum seekers database », « Database for State support information », « Central Alien's Register » ; Royaume-Uni : « registers for visa applicants », « persons seeking residence in the UK », « those refused entry », « those seeking citizenship » et « those seeking asylum ».

⁹⁹ Malte : ne sont évoqués que des « data systems » sans autre détail.

¹⁰⁰ Autriche ; Belgique ; Bosnie-Herzégovine ; Chypre ; Rép. Tchèque ; Danemark ; Estonie ; Finlande ; France ; Géorgie ; Allemagne ; Hongrie ; Lettonie ; Lituanie ; Pays-Bas ; Norvège ; Portugal ; Roumanie ; Fédération de Russie (en voie d'élaboration) ; Slovaquie ; Espagne ; Suède ; Suisse ; Malte ; Turquie.

¹⁰¹ Autriche ; Belgique ; Islande ; Luxembourg ; Norvège ; Slovaquie ; Suisse.

¹⁰² Autriche.

¹⁰³ Belgique.

¹⁰⁴ Estonie (contenant des données pour huit catégories de personnes) ; Luxembourg (fichier des personnes physiques et morales).

¹⁰⁵ Allemagne.

¹⁰⁶ Islande.

¹⁰⁷ Belgique.

¹⁰⁸ Belgique ; Allemagne ; Norvège.

¹⁰⁹ Chypre.

4.3. In a majority of member states, the data from these different systems can be compared¹¹⁰; in a minority of states, such comparison is not possible¹¹¹. In certain states, a direct comparison is not possible, but parallel searches in several databases are¹¹². Some states explain that such comparison is only possible in the framework of each body's specific competences¹¹³. One member state notes that a comparison is possible "in certain cases", according to the legal stipulations and the practice followed¹¹⁴.

4.4. Possible conclusions

Obviously the existence of efficient, interoperative electronic information systems is a major asset in combating false identities. It is important that these systems should be constantly updated, that the most modern technology should be used, that the specialists needed to obtain the maximum effect from them should be trained, and that co-operation between member states (through common data systems *inter alia*) should be reinforced. The limits to these practices must be set according to the constraints of respect for privacy and of data protection (*v. infra*, III). From the standpoint of combating false identities, it is distinctly preferable for the data from the various systems to be compared and cross-referenced. Domestic legislation, which differs according to countries, does not always allow this.

¹¹⁰ Czech Republic; Finland; Netherlands; Russian Federation; Spain; Switzerland.

¹¹¹ Lithuania; Luxembourg.

¹¹² Austria.

¹¹³ Cyprus.

¹¹⁴ Belgium.

4.3. Dans une majorité d'Etats membres, les données de ces différents systèmes peuvent être comparées¹¹⁰ ; dans une minorité d'Etats, une telle comparaison n'est pas possible¹¹¹. Dans certains Etats, une comparaison directe n'est pas possible, mais des recherches parallèles dans plusieurs banques de données sont possibles¹¹². Certains Etats précisent qu'une telle comparaison n'est possible que dans le cadre des compétences spécifiques de chaque organe¹¹³. Un Etat membre note qu'une comparaison est possible « dans certains cas », selon les prescriptions légales et la pratique suivie¹¹⁴.

4.4. Eventuelles conclusions

Il est manifeste que l'existence de systèmes de renseignements performants, électroniques et inter-opérationnels, est un atout majeur dans la lutte contre les fausses identités. Il est important que ces systèmes soient constamment mis à jour ; que la technologie la plus moderne soit utilisée ; que les spécialistes nécessaires pour en tirer le maximum d'effet soient formés ; et que la coopération entre Etats membres (y compris par des systèmes de données communs) soit renforcée. Les limites à ces pratiques doivent être trouvées dans les exigences du respect de la vie privée et de la protection des données. Du point de vue de la lutte contre les fausses identités, il est nettement préférable que les données des divers systèmes puissent être comparées et croisées. La législation interne, différente selon les pays, ne le permet pas toujours.

¹¹⁰ Rép. Tchèque ; Finlande ; Pays-Bas ; Fédération de Russie ; Espagne ; Suisse.

¹¹¹ Lituanie ; Luxembourg.

¹¹² Autriche.

¹¹³ Chypre.

¹¹⁴ Belgique.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

Crux of the matter: entry of alternative information.

5.1. The term “alternative information” is not very clear at the outset. This is all the more true considering that one cannot really tell which is the principal or non-alternative information, except of course the data which are essential to the ascertainment of identity. In fact, this alternative information chiefly involves alternative or false names (*aliases*), criminal information or information on family status. In general, member states’ replies to this question have been discernibly rather concise, sometimes consisting in yes or no.

5.2. In a fairly significant majority of member states, the recording of such alternative information is possible¹¹⁵. Some states¹¹⁶ emphasise the importance of these data and stress that their systems allow the entry of alternative data in any form. The most commonly mentioned alternative entry is of *aliases*, that is assumed names¹¹⁷. Some member states lay down restrictive conditions for acquiring alternative information of this kind: need for special permission from a competent Inspectorate¹¹⁸; stipulated authenticity of data¹¹⁹; exclusion of data linked with a person’s racial or religious background¹²⁰; impossibility of entering alternative data except in connection with criminal justice procedure¹²¹. Some states confine themselves to a general recapitulation of their domestic legislation on data protection¹²².

5.2. This group of permissive states contrasts with a sizeable minority of states where it is not possible to enter alternative information¹²³. The necessary conclusion is therefore that member states’ practice is far from unitary.

5.3. Possible conclusions

There can be no doubt that with regard to measures against false identities, additional information capable of assisting in a person’s identification may prove most useful. The more cogent information there is, the more easily an identification can take place. Data protection legislation must nevertheless provide a framework and set a limit. Considering the very contrastive sensibilities in the different member states, it is unlikely that harmonisation of the practice followed can be achieved. Exchanges of views on the subject might be of some use.

¹¹⁵ Armenia (system under construction); Belgium; Czech Republic; Denmark; Estonia; Finland; Lithuania; Malta; Portugal; Romania; Russian Federation; Slovakia; Sweden; United Kingdom.

¹¹⁶ Finland.

¹¹⁷ See for example Belgium; United Kingdom.

¹¹⁸ Norway.

¹¹⁹ Bosnia and Herzegovina.

¹²⁰ France.

¹²¹ Turkey.

¹²² Latvia; Luxembourg, particularly in the area of criminal offences.

¹²³ Hungary; Netherlands; Spain; Switzerland; “the former Yugoslav Republic of Macedonia”.

5. Les autorités peuvent-elles saisir dans leur fichier de données personnelles des renseignements alternatifs concernant un ressortissant étranger ?

Essence de la question : saisie d'informations alternatives.

5.1. Le terme « renseignements alternatifs » n'est pas d'emblée très clair. C'est d'autant plus vrai qu'on ne sait pas très bien quels sont les renseignements principaux ou non-alternatifs, sauf évidemment les données essentielles à l'établissement de l'identité. En fait, ces renseignements alternatifs recouvrent surtout des noms alternatifs ou de faux noms (*alias*), des informations pénales ou des informations sur la situation familiale. D'une manière générale, on peut observer que les réponses des Etats membres à cette question ont été plutôt concises. Parfois, la réponse tient en un oui ou un non.

5.2. Dans une majorité assez significative d'Etats membres, la saisie de telles informations alternatives est possible¹¹⁵. Certains Etats¹¹⁶ mettent l'accent sur l'importance de ces données et soulignent que leurs systèmes permettent de saisir toute forme de donnée alternative. L'entrée alternative la plus souvent mentionnée est celle des *alias*, c'est-à-dire des noms d'emprunt¹¹⁷. Certains Etats membres énoncent des conditions restrictives dans la saisie de tels renseignements alternatifs : la nécessité d'une permission particulière par un Inspectorat compétent¹¹⁸ ; le fait qu'il doit s'agir de données authentiques¹¹⁹ ; le fait qu'il ne doit pas s'agir de données liées à l'origine raciale ou religieuse d'une personne¹²⁰ ; ou le fait qu'il n'est possible de saisir que des données alternatives relatives à une procédure pénale¹²¹. Certains Etats se bornent à rappeler généralement leur législation interne sur la protection des données¹²².

5.2. A ce groupe d'Etats permissifs s'oppose une minorité non négligeable d'Etats dans lesquels il n'est pas possible de saisir des renseignements alternatifs¹²³. Dès lors, il faut conclure que la pratique des Etats membres est loin d'être unitaire.

5.3. Eventuelles conclusions

Il ne saurait faire de doute que, du point de vue de la lutte contre les fausses identités, des renseignements complémentaires pouvant aider à l'identification d'une personne peuvent s'avérer très utiles. Plus il y aura d'informations pertinentes, plus facilement une identification pourra avoir lieu. Les législations sur la protection des données doivent toutefois fournir un cadre et une limite. Au regard des sensibilités très diverses dans les différents Etats membres, il est peu probable de pouvoir arriver à une harmonisation de la pratique suivie. Des échanges de vue sur ce sujet pourraient avoir une certaine utilité.

¹¹⁵ Arménie (le système est en construction) ; Belgique ; Rép. Tchèque ; Danemark ; Estonie ; Finlande ; Lituanie ; Malte ; Portugal ; Roumanie ; Fédération de Russie ; Slovaquie ; Suède ; Royaume-Uni.

¹¹⁶ Finlande.

¹¹⁷ Voir par exemple Belgique ; Royaume-Uni.

¹¹⁸ Norvège.

¹¹⁹ Bosnie-Herzégovine.

¹²⁰ France.

¹²¹ Turquie.

¹²² Lettonie ; Luxembourg, notamment en matière d'infractions pénales.

¹²³ Hongrie ; Pays-Bas ; Espagne ; Suisse ; « l'ex-République Yougoslave de Macédoine ».

6. Can data recorded in the authorities' personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

Crux of the matter: exchange of information with other national or foreign authorities.

6.1. The practice of the member states shows major divergences in this respect. The great majority of states pass information to national and foreign authorities. The actual conditions and arrangements for this transmission differ considerably, however. Some member states transmit no information¹²⁴, or transmit information to national authorities only¹²⁵.

As to the states forming the majority, which transmit information to national and foreign authorities, the following arrangements should be pointed out.

- Concerning transmission of data at *national level*, the great majority of states in question recall that the transmission can only take place in accordance with their national legislation on data protection and privacy¹²⁶. This legislation varies from state to state. It may be more or less stringent¹²⁷. Some member states recall that the body requesting the information must be acting within the framework of its responsibilities¹²⁸. This requirement can therefore equate to a more or less significant restriction. Other states do not mention such legislation. Their replies hint that the transmission of the information can be carried out quite easily¹²⁹. One state recalls that its domestic law places special restrictions on all information obtained from the authorities dealing with asylum¹³⁰.

- Concerning transmission of data at *international level*, only one member state says that it is done without ostensible restrictions¹³¹. The other states point out the following limits: transmission is performed only if provided by domestic law¹³² and within its limits¹³³; where there is a relevant bilateral¹³⁴ or multilateral agreement¹³⁵, or another international obligation; where the requesting country has data protection of an equivalent standard to that of the requesting country¹³⁶; at all events with the consent of the person concerned¹³⁷. A member state recalls that it transmits information via EURODAC¹³⁸.

6.2. Possible conclusions

Here again it is obvious that precautions against the dangers posed by false identities will be facilitated by more easy, swift and effective exchanges of information. It is also obvious that regard must be had to the demands of data protection and protection of privacy. As national legislation and practices concerning this sensitive issue are fairly divergent, it is hardly possible to do more than suggest that the question be the subject of an exchange of views among member states.

¹²⁴ Netherlands.

¹²⁵ France; Turkey.

¹²⁶ Austria; Belgium; Bosnia and Herzegovina; France; Hungary; Lithuania; Luxembourg; Norway; Portugal; Romania; Slovakia; Spain; Sweden; "the former Yugoslav Republic of Macedonia"; United Kingdom.

¹²⁷ In the United Kingdom, it seems particularly stringent, so much so that the exchange of information may perhaps only occur by way of an exception. France also seems to be a state whose legislation is quite restrictive.

¹²⁸ Estonia; Switzerland.

¹²⁹ Armenia; Czech Republic; Finland; Iceland; Malta.

¹³⁰ Austria.

¹³¹ Iceland.

¹³² Estonia; Finland; "the former Yugoslav Republic of Macedonia".

¹³³ Austria; Belgium.

¹³⁴ Bosnia and Herzegovina; Czech Republic; Denmark; Estonia; Russian Federation.

¹³⁵ Like the Schengen system, see Denmark.

¹³⁶ Luxembourg; Switzerland (except where there are international agreements on readmission).

¹³⁷ Denmark.

¹³⁸ Lithuania.

6. Les renseignements enregistrés dans les fichiers de données personnelles des autorités peuvent-ils être communiqués à d'autres autorités nationales et aux autorités d'autres Etats aux fins d'établir l'identité d'un ressortissant étranger ?

Essence de la question : échange d'informations avec d'autres autorités nationales ou étrangères.

6.1. La pratique des Etats membres révèle en la matière d'importantes divergences. La grande majorité d'Etats transmettent des informations à des autorités nationales et étrangères. Les conditions et les modalités concrètes de cette transmission diffèrent toutefois considérablement. Certains Etats membres ne transmettent aucune information¹²⁴, ou ne transmettent des informations qu'à des autorités nationales¹²⁵.

Quant aux Etats de la majorité, qui transmettent des informations à des autorités nationales et étrangères, il y a lieu de souligner les modalités suivantes.

- Pour la transmission de données au *niveau national*, la grande majorité des Etats en cause rappelle que cette transmission ne peut se faire qu'en conformité avec leur législation nationale en matière de protection des données et de la vie privée¹²⁶. Cette législation diffère d'Etat en Etat. Elle peut être plus ou moins stricte¹²⁷. Certains Etats membres rappellent que l'organe requérant l'information doit agir dans le cadre de ses compétences¹²⁸. Cette exigence peut donc équivaloir à une restriction plus ou moins significative. D'autres Etats ne font pas mention d'une telle législation. Leur réponse laisse entendre que la transmission des informations peut se faire assez facilement¹²⁹. Un Etat rappelle que son droit interne prévoit des restrictions particulières pour toute information obtenue de la part des autorités traitant de l'asile¹³⁰.

- Pour la transmission de données au *niveau international*, seul un Etat membre affirme qu'il la pratique sans restrictions apparentes¹³¹. Les autres Etats font valoir les limites suivantes : la transmission est opérée seulement si la loi interne le prévoit¹³² et dans les limites de cette dernière¹³³ ; s'il existe un accord bilatéral¹³⁴ ou multilatéral¹³⁵ pertinent, ou s'il existe une autre obligation internationale ; s'il existe dans le pays requérant une protection des données équivalente à celle du pays requis¹³⁶ ; en tout cas, s'il y a l'accord de la personne intéressée¹³⁷. Un Etat membre rappelle qu'il transmet des informations via Eurodac¹³⁸.

6.2. Eventuelles conclusions

Il est manifeste ici encore que la lutte contre les dangers que représentent les fausses identités sera d'autant plus facilitée que les échanges d'informations seront aisées, rapides et efficaces. Il est évident aussi qu'il faudra tenir compte des exigences de la protection des données et de la vie privée. Comme les législations et les pratiques nationales sur cette question sensible sont passablement divergentes, il n'est guère possible de faire plus que de suggérer que la question fasse l'objet d'un échange de vues entre les Etats membres.

¹²⁴ Pays-Bas.

¹²⁵ France ; Turquie.

¹²⁶ Autriche ; Belgique ; Bosnie-Herzégovine ; France ; Hongrie ; Lituanie ; Luxembourg ; Norvège ; Portugal ; Roumanie ; Slovaquie ; Espagne ; Suède ; « l'ex-République Yougoslave de Macédoine » ; Royaume-Uni.

¹²⁷ Au Royaume-Uni, elle semble être particulièrement exigeante, si bien que l'échange d'informations ne pourra peut-être qu'exceptionnellement intervenir. La France semble aussi un Etat dont la législation est passablement restrictive.

¹²⁸ Estonie ; Suisse.

¹²⁹ Arménie ; Rép. Tchèque ; Finlande ; Islande ; Malte.

¹³⁰ Autriche.

¹³¹ Islande.

¹³² Estonie ; Finlande ; « l'ex-République Yougoslave de Macédoine ».

¹³³ Autriche ; Belgique.

¹³⁴ Bosnie-Herzégovine ; Rép. Tchèque ; Danemark ; Estonie ; Fédération de Russie

¹³⁵ Comme le système de Schengen, voir Danemark.

¹³⁶ Luxembourg ; Suisse (sauf en cas d'accords internationaux de réadmission).

¹³⁷ Danemark.

¹³⁸ Lituanie.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

Crux of the matter: procedure where information in the documents is divergent.

7.1. This question, like the previous one, discloses considerable divergences in national practices. These are sometimes due to the different contexts in which this conflicting information may appear, for example procedures to grant residence, asylum or citizenship¹³⁹. More often, the divergences are deeper, in which case they stem from different approaches to the question.

7.2. *By and large*, it can be said that in these cases most states give priority to the *passport or other official travel documents*. Some give absolute priority to the passport¹⁴⁰, others either to the passport or to the official identity card¹⁴¹, still others to travel documents in general¹⁴², essentially comprising passports and identity cards while extending slightly beyond these. Some member states specify that they give priority to any foreign official document¹⁴³, possibly to any official document bearing a photo and signature¹⁴⁴. Where these documents are not at all clear or reveal overly significant divergences, many member states turn to the embassy of the state of origin or directly to that state (via the Ministry of Foreign Affairs)¹⁴⁵. In these cases, the member states may also resort to questioning the person concerned¹⁴⁶, demand that he/she provide other information¹⁴⁷, carry out additional investigations (possibly of a criminal nature)¹⁴⁸, or use the EURODAC file¹⁴⁹.

7.3. Some member states give *no priority to any given document* but prefer to proceed case by case according to an individual assessment of the situation¹⁵⁰, hence they have no specific rules for the case in point – as one member state explicitly acknowledges¹⁵¹.

¹³⁹ Finland.

¹⁴⁰ Armenia; Cyprus; Latvia; Portugal; Romania; Turkey; United Kingdom.

¹⁴¹ Lithuania; Spain; Switzerland.

¹⁴² Austria; Bosnia and Herzegovina; Czech Republic; Finland; Hungary; Luxembourg; Sweden.

¹⁴³ Hungary; Malta; Norway; Russian Federation.

¹⁴⁴ Bosnia and Herzegovina (as an adjunct to travel documents).

¹⁴⁵ Czech Republic; Lithuania; Portugal; Romania; Russian Federation; "the former Yugoslav Republic of Macedonia"; Turkey.

¹⁴⁶ Austria.

¹⁴⁷ Estonia; Hungary.

¹⁴⁸ Belgium; Netherlands; United Kingdom.

¹⁴⁹ Lithuania.

¹⁵⁰ Denmark; Estonia; France; Iceland.

¹⁵¹ Iceland.

7. Comment les autorités réagissent-elles lorsque les documents d'identité d'un ressortissant étranger comportent des renseignements divergents ? Privilégie-t-on un document – et les données qui y figurent – par rapport à d'autres ?

Essence de la question : procédé en cas d'informations divergentes dans les documents.

7.1. Dans cette question, comme dans la précédente, de grandes divergences de pratiques nationales se font jour. Parfois elles sont dues à des contextes divers dans lesquels ces informations non conformes peuvent se présenter, par exemple des procédures de délivrance de permis de séjour, d'asile ou de citoyenneté¹³⁹. Plus souvent, les divergences sont plus profondes. Elles relèvent alors d'approches différentes à la question.

7.2. Dans l'ensemble, il est possible de dire que la majorité des Etats privilégie dans ces cas le *passport ou d'autres documents de voyage officiels*. Certains donnent la priorité absolue au passeport¹⁴⁰ ; d'autres donnent la priorité soit au passeport soit à la carte d'identité officielle¹⁴¹ ; d'autres encore aux documents de voyage en général¹⁴², ce qui recouvre essentiellement les passeports et les cartes d'identité, tout en allant légèrement au-delà. Certains Etats membres précisent qu'ils octroient la priorité à tout document officiel étranger¹⁴³, éventuellement à tout document officiel muni de photo et signature¹⁴⁴. Dans le cas où ces documents ne seraient absolument pas clairs ou révéleraient des divergences trop significatives, nombre d'Etats membres recourent à l'ambassade de l'Etat d'origine ou directement à l'Etat d'origine (par le truchement du ministère des Affaires étrangères)¹⁴⁵. Dans ces cas, les Etats membres peuvent aussi recourir à des interrogatoires de l'intéressé¹⁴⁶ ; exiger de ce dernier qu'il fournisse d'autres renseignements¹⁴⁷ ; entreprendre des enquêtes complémentaires (éventuellement pénales)¹⁴⁸ ; ou recourir au fichier EURODAC¹⁴⁹.

7.3. Certains Etats membres n'accordent *aucune priorité à un document déterminé* et préfèrent procéder au cas par cas selon une appréciation individuelle de la situation¹⁵⁰. C'est dire qu'ils ne connaissent pas de règles spécifiques pour notre cas de figure. C'est d'ailleurs ce qu'admet explicitement un Etat membre¹⁵¹.

¹³⁹ Finlande.

¹⁴⁰ Arménie ; Chypre ; Lettonie ; Portugal ; Roumanie ; Turquie ; Royaume-Uni.

¹⁴¹ Lituanie ; Espagne ; Suisse.

¹⁴² Autriche ; Bosnie-Herzégovine ; Rép. Tchèque ; Finlande ; Hongrie ; Luxembourg ; Suède.

¹⁴³ Hongrie ; Malte ; Norvège ; Fédération de Russie.

¹⁴⁴ Bosnie-Herzégovine (subsidairement aux documents de voyage).

¹⁴⁵ Rép. Tchèque ; Lituanie ; Portugal ; Roumanie ; Fédération de Russie ; « l'ex-République Yougoslave de Macédoine » ; Turquie.

¹⁴⁶ Autriche.

¹⁴⁷ Estonie ; Hongrie.

¹⁴⁸ Belgique ; Pays-Bas ; Royaume-Uni.

¹⁴⁹ Lituanie.

¹⁵⁰ Danemark ; Estonie ; France ; Islande.

¹⁵¹ Islande.

7.4. Possible conclusions

The differences between member states, far-reaching at first glance, may be less so on closer scrutiny. In practice, it is often advantageous for the information in the passport or identity card to be presumed correct, given that these are the main identity documents and the least readily falsifiable. Yet the states which give these documents priority where there is doubt obviously do not forgo investigation with the help of all the additional means which they can command if a significant doubt arises or if deep divergences appear between the documents in question. One could suggest, depending on the procedure at issue, to give priority to the most important documents (for minor inconsistencies) and investigate serious divergences by all available means, particularly application to the countries of origin. It should be noted that application to the country of origin is not possible in numerous cases of international protection (asylum).

On balance, here again the existence of good databases operating with leading edge technology, internationally accessible if possible, and improvement of co-operation with the countries of origin, will be of great practical importance. Suffice it to recall the suggestions already made for the preceding questions.

7.4. Eventuelles conclusions

Les différences entre les Etats membres, profondes à première vue, le sont peut-être moins à regarder de plus près. Dans la pratique, il sera souvent utile de présumer que les informations du passeport ou de la carte d'identité sont correctes, étant donné qu'il s'agit des documents d'identité les plus importants et les moins facilement falsifiables. Or, il est manifeste que les Etats accordant la priorité à ces documents en cas de doute ne se privent pas d'enquêter à l'aide de tous les moyens complémentaires dont ils pourront disposer si une incertitude significative survient ou si des divergences profondes entre les documents en cause apparaissent. Il pourrait sans doute être suggéré, selon la procédure en cause, de donner la priorité aux documents les plus importants (pour les divergences vénielles) et d'enquêter avec tous les moyens disponibles, notamment à travers un recours aux pays d'origine, dans les cas de divergences graves. Il faut noter que le recours au pays d'origine ne sera pas possible dans nombre de cas de protection internationale (asile).

En définitive, ici encore, l'existence de bonnes banques de données, fonctionnant selon la technologie la plus avancée, accessibles si possible internationalement, ainsi que l'amélioration de la coopération avec les pays d'origine, seront de grande importance pratique. Il suffit ici de renvoyer aux suggestions déjà faites dans le contexte des questions précédentes.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

Crux of the matter: consideration of alternative spellings of names.

8.1. Most member states have systems for tracing names and individuals by means of various identification criteria. The most usual way is to search the system of databases with tools that allow the different written variants of a name to be detected¹⁵². Various member states give particular prominence to the search engine enabling them to find assumed names (aliases)¹⁵³, or phonetic search¹⁵⁴. A fair number of states have sophisticated systems with which identities can be traced by alternative data (date of birth, address, etc.)¹⁵⁵. Germany has systems allowing specialised searches according to country of origin. Finally, some states emphasise that in these cases they attach overriding significance to the spelling as in the official travel documents¹⁵⁶.

8.2. A minority of states say that the systems which they have cannot accommodate alternative spellings¹⁵⁷. One member state¹⁵⁸ acknowledges that the problem is important and that it has not found a solution for it.

8.3. Possible conclusions

It seems obvious that sophisticated systems allowing numerous identification algorithms to be combined are preferable, considering the danger posed by false information about identity, to less advanced systems, and still more emphatically to the lack of any alternative search facility. It would be particularly interesting if more States would be capable of initiating specialised searches by region or by sending country.

¹⁵² Bosnia and Herzegovina; Czech Republic; Finland; Luxembourg; Malta; Portugal; Russian Federation; Spain; Switzerland (in the context of asylum requests); United Kingdom.

¹⁵³ Belgium; Iceland; Lithuania; Slovakia.

¹⁵⁴ Austria; Belgium; France; Germany; Switzerland (in the context of asylum; envisaged for foreigners generally under a new data system).

¹⁵⁵ Belgium; Czech Republic; Estonia; Finland; Latvia; Malta; Romania.

¹⁵⁶ Austria; Sweden.

¹⁵⁷ Armenia; Denmark; Hungary.

¹⁵⁸ Norway.

8. Comment les variantes orthographiques du nom – observées entre différents documents concernant un même ressortissant étranger – sont-elles prises en compte dans les fichiers de données personnelles que possèdent les autorités et dans les recherches effectuées sur ces fichiers ?

Essence de la question : prise en compte de variantes orthographiques du nom.

8.1. La majorité des Etats membres possède des systèmes permettant la recherche de noms et de personnes par divers critères d'identification. La manière la plus usuelle consiste à chercher dans le système de banques de données à travers des outils permettant de détecter les diverses variantes d'écriture d'un nom¹⁵². Divers Etat membres mettent particulièrement en exergue l'outil de recherche leur permettant de trouver des noms d'emprunt (alias)¹⁵³ ; ou encore la recherche phonétique¹⁵⁴. Un nombre non négligeable d'Etats possède des systèmes sophistiqués, permettant de rechercher des identités par des données alternatives (date de naissance, adresse, etc.)¹⁵⁵. L'Allemagne possède des systèmes permettant des recherches spécialisées selon le pays d'origine. Enfin, certains Etats soulignent qu'ils accordent dans ces cas un poids prépondérant à l'orthographe selon les documents de voyage officiels¹⁵⁶.

8.2. Une minorité d'Etats affirme que des variantes orthographiques ne peuvent pas être prises en considération dans les systèmes dont ils disposent¹⁵⁷. Un Etat membre¹⁵⁸ admet que le problème est important et qu'il n'a pas trouvé de solution à son égard.

8.3. Eventuelles conclusions

Il paraît évident que des systèmes sophistiqués permettant de combiner de nombreux algorithmes d'identification sont préférables, du point de vue du danger que représentent les fausses informations d'identité, à des systèmes moins développés, et a plus forte raison à l'absence de toute possibilité de recherche alternative. Il serait particulièrement intéressant que davantage d'Etats soient capables de lancer des recherches spécialisées par région ou par pays de provenance.

¹⁵² Bosnie-Herzégovine ; Rép. Tchèque ; Finlande ; Luxembourg ; Malte ; Portugal ; Fédération de Russie ; Espagne ; Suisse (dans le contexte de demandes d'asile) ; Royaume-Uni.

¹⁵³ Belgique ; Islande ; Lituanie ; Slovaquie.

¹⁵⁴ Autriche ; Belgique ; France ; Allemagne ; Suisse (dans le contexte de l'asile ; prévu pour les étrangers en général dans un nouveau système de données).

¹⁵⁵ Belgique ; Rép. Tchèque ; Estonie ; Finlande ; Lettonie ; Malte ; Roumanie.

¹⁵⁶ Autriche ; Suède.

¹⁵⁷ Arménie ; Danemark ; Hongrie.

¹⁵⁸ Norvège.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

Crux of the matter: procedure in case of false documents.

9.1. The most common practice regarding falsified documents is to *impound* and transmit them to the *criminal justice authorities* for an investigation to be opened¹⁵⁹. Often these falsified documents are subsequently (or straightway) delivered to the authorities of the state of origin¹⁶⁰. According to one member state¹⁶¹, an exception may be made in the context of asylum: falsification of documents may constitute a means of escape from the territory of a state where persecution occurs. Another member state¹⁶² stresses that it is possible to leave the false papers in the bearer's possession if it proves absolutely necessary for his return to a third country after removal.

Otherwise, confirmation that a person is using false documents can have the following consequences:

- Refusal of entry at the border¹⁶³.
- A person apprehended within the territory is expelled or escorted back to the border¹⁶⁴.
- Refusal of an asylum request¹⁶⁵.
- Search of the databases in connection with stolen, falsified or lost documents¹⁶⁶.

9.2. Possible conclusions

Confiscation of the documents and, as appropriate, opening of a criminal investigation is a general practice that commends itself in all respects.

¹⁵⁹ Armenia; Austria; Belgium; Bosnia and Herzegovina; Cyprus; Czech Republic; Denmark; Estonia; Hungary; Iceland; Lithuania; Malta; Netherlands; Norway; Portugal; Romania; Russian Federation; Spain; Sweden; "the former Yugoslav Republic of Macedonia"; Turkey; United Kingdom.

¹⁶⁰ Belgium; Denmark; Estonia; Switzerland.

¹⁶¹ Luxembourg.

¹⁶² United Kingdom.

¹⁶³ France; Malta; Netherlands; United Kingdom.

¹⁶⁴ France; Latvia; Malta; Norway.

¹⁶⁵ Slovakia.

¹⁶⁶ Germany.

9. Comment les autorités procèdent-elles lorsqu'il s'avère qu'un ressortissant étranger possède un document faux ou falsifié, ou un document légal appartenant à un autre individu ? Saisissent-elles le document en question ?

Essence de la question : procédé en cas de faux documents.

9.1. La pratique la plus courante en matière de documents falsifiés consiste à les *saisir* et à les transmettre aux *autorités pénales* pour l'ouverture d'une enquête¹⁵⁹. Souvent, ces documents falsifiés sont ensuite (ou immédiatement) remis aux autorités de l'Etat d'origine¹⁶⁰. Selon un Etat membre¹⁶¹, une exception peut être faite dans le contexte de l'asile : la falsification de documents peut constituer un moyen d'échapper du territoire d'un Etat où des persécutions ont lieu. Un autre Etat membre¹⁶² souligne qu'il est possible de laisser les faux papiers en possession du porteur si cela s'avère absolument nécessaire à son retour vers un pays tiers après la reconduction à la frontière.

Par ailleurs, le constat qu'une personne se prévaut de faux documents peut avoir les conséquences suivantes :

- Le refus d'entrée sur le territoire, à la frontière¹⁶³.
- L'expulsion ou la reconduction à la frontière d'une personne appréhendée sur le territoire¹⁶⁴.
- Le rejet d'une demande d'asile¹⁶⁵.
- La recherche dans des banques de données relatives à des documents volés, falsifiés ou perdus¹⁶⁶.

9.2. Eventuelles conclusions

La confiscation des documents et, le cas échéant, l'ouverture d'une enquête pénale est une pratique générale qui se recommande à tous égards.

¹⁵⁹ Arménie ; Autriche ; Belgique ; Bosnie-Herzégovine ; Chypre ; Rép. Tchèque ; Danemark ; Estonie ; Hongrie ; Islande ; Lituanie ; Malte ; Pays-Bas ; Norvège ; Portugal ; Roumanie ; Fédération de Russie ; Espagne ; Suède ; « l'ex-République Yougoslave de Macédoine » ; Turquie ; Royaume-Uni.

¹⁶⁰ Belgique ; Danemark ; Estonie ; Suisse.

¹⁶¹ Luxembourg.

¹⁶² Royaume-Uni.

¹⁶³ France ; Malte ; Pays-Bas ; Royaume-Uni.

¹⁶⁴ France ; Lettonie ; Malte ; Norvège.

¹⁶⁵ Slovaquie.

¹⁶⁶ Allemagne.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording unestablished identities?

Crux of the matter: are the uncertainties about a person's identity entered in the data systems?

10.1. The practice of most member states is to record uncertainties regarding the identity of a foreign national¹⁶⁷. But there is also a small minority of states which do not record them¹⁶⁸ or only record the fact of identification or non-identification, not the doubts¹⁶⁹.

10.2. The practice of member states also differs regarding specification of the means employed to try and establish an uncertain identity. Some states mention these methods¹⁷⁰, others do not¹⁷¹; one state claims to have no set practice in this respect¹⁷². Some member states explain that in cases of uncertainty they record *aliases* (assumed names)¹⁷³, or even a recapitulative note about the situation¹⁷⁴. One member state enters coefficients of probability as to the truth of the identity data recorded¹⁷⁵. Another notes the lack of identification only on index cards, not in electronic databases¹⁷⁶. Another consequence of uncertainty as to identity may be that a residence permit will not be issued¹⁷⁷.

10.3. Possible conclusions

State practice seems highly divergent in this respect. In the anti-terrorism and crime-fighting perspective, one could suggest to register the uncertainties and the means of establishing identity. It may be useful to hold exchanges of views among the member states on this question.

¹⁶⁷ Armenia; Austria; Belgium; Bosnia and Herzegovina; Czech Republic; Estonia (in respect of asylum); Finland; France; Iceland; Latvia; Lithuania; Malta; Norway ("normally"); Romania; Russian Federation; Slovakia (in respect of asylum only); Spain; Sweden; Switzerland; Turkey.

¹⁶⁸ Denmark; Portugal; "the former Yugoslav Republic of Macedonia"; United Kingdom (no entry when an identity has not been established or is dubious).

¹⁶⁹ Lithuania.

¹⁷⁰ Iceland; Malta; Romania; Turkey; United Kingdom (only where investigations have been necessary to ascertain identity).

¹⁷¹ Austria; Czech Republic; Hungary; Lithuania; Russian Federation.

¹⁷² Norway.

¹⁷³ Belgium; Luxembourg; Romania; Sweden; Switzerland.

¹⁷⁴ Belgium.

¹⁷⁵ Switzerland.

¹⁷⁶ Norway.

¹⁷⁷ Estonia; Georgia (suspension of the procedure).

10. Lorsque des imprécisions concernant l'identité d'un ressortissant étranger existent, les autorités les consignent-elles dans leurs propres fichiers de données personnelles et / ou dans des systèmes informatiques internationaux ? Quand l'identité d'un ressortissant étranger a été établie, est-elle consignée dans leurs fichiers de données personnelles / systèmes informatiques ? Les méthodes utilisées pour établir son identité sont-elles indiquées ? Y a-t-il un moyen spécifique d'enregistrer les identités non établies ?

Essence de la question : Les incertitudes quant à l'identité d'une personne sont-elles consignées dans les systèmes de données ?

10.1. La pratique de la grande majorité des Etats membres consiste à enregistrer des incertitudes sur l'identité d'un ressortissant étranger¹⁶⁷. Il y a cependant aussi une minorité d'Etats qui ne les enregistrent pas¹⁶⁸ ; ou qui n'enregistrent que le fait de l'identification ou non, pas les doutes¹⁶⁹.

10.2. La pratique des Etats membres diffère aussi sur la mention des moyens mis en œuvre pour tenter d'établir l'identité incertaine. Certains Etats mentionnent ces moyens¹⁷⁰ ; d'autres ne les mentionnent pas¹⁷¹ ; un Etat affirme ne pas avoir de pratique fixe à cet égard¹⁷². Certains Etats membres précisent qu'ils enregistrent dans ces cas d'incertitudes des *alias* (noms d'emprunt)¹⁷³, voire même une note récapitulative de la situation¹⁷⁴. Un Etat membre insère des coefficients de probabilité quant à la véracité des informations d'identité enregistrés¹⁷⁵. Un autre ne note le défaut d'identification que sur des fiches manuelles, non dans les banques de données électroniques¹⁷⁶. Une autre conséquence découlant de l'incertitude quant à l'identité est que, le cas échéant, un permis de séjour ne sera pas délivré¹⁷⁷.

10.3. Eventuelles conclusions

La pratique des Etats semble sur cette matière fortement divergente. Du point de vue de la lutte contre le terrorisme et la criminalité, l'enregistrement des incertitudes et des moyens pour établir l'identité semble devoir être suggéré. Il sera peut-être utile de procéder à des échanges de vue des Etats membres sur cette question.

¹⁶⁷ Arménie ; Autriche ; Belgique ; Bosnie-Herzégovine ; Rép. Tchèque ; Estonie (en matière d'asile) ; Finlande ; France ; Islande ; Lettonie ; Lituanie ; Malte ; Norvège (« normally ») ; Roumanie ; Fédération de Russie ; Slovaquie (seulement en matière d'asile) ; Espagne ; Suède ; Suisse ; Turquie.

¹⁶⁸ Danemark ; Portugal ; « l'ex-République Yougoslave de Macédoine » ; Royaume-Uni (pas d'entrée quand une identité n'a pas été établie ou est douteuse).

¹⁶⁹ Lituanie.

¹⁷⁰ Islande ; Malte ; Roumanie ; Turquie ; Royaume-Uni (seulement si des enquêtes pour établir l'identité ont été nécessaires).

¹⁷¹ Autriche ; Rép. Tchèque ; Hongrie ; Lituanie ; Fédération de Russie.

¹⁷² Norvège.

¹⁷³ Belgique ; Luxembourg ; Roumanie ; Suède ; Suisse.

¹⁷⁴ Belgique.

¹⁷⁵ Suisse.

¹⁷⁶ Norvège.

¹⁷⁷ Estonie ; Géorgie (suspension de la procédure).

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

Crux of the matter: processing of data included in the documents at the holder's request.

11.1. Most member states abide by the presumption that official documents issued by a foreign state are authentic¹⁷⁸, in some cases subject to confirmation from the country of origin¹⁷⁹. This presumption may be overturned if additions have been made directly by the holder or a third party, the document then being deemed a forgery¹⁸⁰.

11.2. A member state says that the information contained in the passport has priority¹⁸¹. Others say that they contact the country of origin¹⁸² or make enquiries¹⁸³. A member state points out that such information included at the holder's request may affect the credibility of the document in question¹⁸⁴. One says that each case of this kind is handled individually¹⁸⁵.

11.3. A number of member states stress that they have not had experience with this type of situation and are thus unable to answer the question put¹⁸⁶.

11.4. Possible conclusions

The dominant practice is that the information contained in official documents lawfully issued by competent authorities is presumed truthful, unless doubts arise; if so, further enquiries will have to be made. Doubts may arise particularly concerning information included at the holder's request. Here the problem will often be to ascertain which included data are backed by officially held information, and which are only based on the holder's claims. The country of origin will often have to be contacted in the matter. In short, it is hard to see which other practice might prevail here.

¹⁷⁸ Austria; Belgium; Bosnia and Herzegovina; Hungary; Lithuania; Luxembourg; Malta; Romania; "the former Yugoslav Republic of Macedonia"; United Kingdom.

¹⁷⁹ Portugal.

¹⁸⁰ Belgium; Denmark.

¹⁸¹ Armenia.

¹⁸² Denmark; Estonia.

¹⁸³ Netherlands; United Kingdom (if there are doubts about the truth of the information at issue).

¹⁸⁴ Sweden.

¹⁸⁵ Finland.

¹⁸⁶ Czech Republic; Iceland; Latvia; Norway; Slovakia.

11. Comment les autorités traitent-elles des documents d'identité légaux en soi, mais dont on sait qu'ils contiennent des données personnelles qui ont pu être incluses à la demande de l'intéressé ?

Essence de la question : traitement de données insérées dans les documents à la demande de l'intéressé.

11.1. La majorité des Etats membres s'en tient à la présomption de véracité de documents officiels émis par un Etat étranger¹⁷⁸, le cas échéant sous réserve de confirmation du pays d'origine¹⁷⁹. Cette présomption peut être renversée si des ajouts ont été insérés directement par l'intéressé ou par un tiers, le document étant alors considéré comme un faux¹⁸⁰.

11.2. Un Etat membre affirme octroyer la priorité aux informations contenues dans le passeport¹⁸¹. D'autres affirment qu'ils contactent le pays d'origine¹⁸² ou qu'ils entreprennent des enquêtes¹⁸³. Un Etat membre rappelle que de telles informations insérées à la demande de l'intéressé peuvent affecter le degré de crédibilité du document en question¹⁸⁴. Un Etat membre affirme que chaque cas de ce type est traité individuellement¹⁸⁵.

11.3. Un certain nombre d'Etats membres soulignent qu'ils n'ont pas fait d'expériences avec ce type de situation et qu'ils ne sauraient dès lors donner une réponse à la question posée¹⁸⁶.

11.4. Eventuelles conclusions

La pratique dominante est celle selon laquelle on présume la véracité des informations contenues dans des documents officiels, dûment délivrés par des autorités compétentes, à moins que des doutes ne viennent s'installer, auquel cas il sera nécessaire de procéder à des enquêtes complémentaires. Des doutes peuvent s'installer notamment à propos d'informations insérées à la demande de l'intéressé. Le problème sera ici souvent de savoir quelles données ont été insérées sur la base d'informations détenues d'office et quelles données ont été insérées sur la base d'affirmations de l'intéressé. Une prise de contact avec le pays d'origine sera à cet effet souvent nécessaire. En somme, on ne voit pas bien quelle autre pratique pourrait s'imposer en la matière.

¹⁷⁸ Autriche ; Belgique ; Bosnie-Herzégovine ; Hongrie ; Lituanie ; Luxembourg ; Malte ; Roumanie ; « l'ex-République Yougoslave de Macédoine » ; Royaume-Uni.

¹⁷⁹ Portugal.

¹⁸⁰ Belgique ; Danemark.

¹⁸¹ Arménie.

¹⁸² Danemark ; Estonie.

¹⁸³ Pays-Bas ; Royaume-Uni (s'il existe des doutes sur la véracité des informations en cause).

¹⁸⁴ Suède.

¹⁸⁵ Finlande.

¹⁸⁶ Rép. Tchèque ; Islande ; Lettonie ; Norvège ; Slovaquie.

III) GENERAL CONCLUSIONS

By way of a conclusion, one might stress the most urgent problems regarding false information on identity and prevention of crime including terrorist crime. The main lesson to be learned from the relevant practice is that there is not a single or even just a principal insidious route for the migration of criminals or terrorists. This migration is scattered over three different paths:

- asylum, where it is hard to determine identities since the overwhelming majority of requesters are without identity papers;
- illegal entry of aliens. For a greater or lesser period of time the authorities are unaware of their presence in the territory. Once apprehended, they are often undocumented, raising similar identification problems to those encountered with asylum;
- persons holding false papers or papers containing false information on identity. These may be papers officially issued by a foreign authority. It may also be a case of papers which have been tampered with.

In addition to these categories of persons there are foreigners whose situation is in order, resident in the territory. Several cases have been seen where such persons were implicated in activities linked with terrorism.

The overall conclusion to be drawn from this picture is that the action to contend with the challenges revealed by the questionnaire is inevitably difficult and manifold. The effectiveness of the data systems is as important as reinforcing the avenues of collaboration with the largest possible number of states. Predictably, however, there will not be any spectacular or radical solutions in the foreseeable future in the field studied here; instead there must be a painstaking effort.

III) CONCLUSIONS GENERALES

En guise de conclusion, il est peut-être possible d'insister sur les problèmes les plus urgents dans le domaine des fausses informations d'identité et de lutte contre la criminalité, y compris terroriste. L'enseignement majeur que l'on peut tirer de la pratique est qu'il n'y a pas une seule filière, voire même simplement une filière principale, par laquelle s'insinuerait la migration des criminels ou des terroristes. Cette migration se distribue de manière diffuse sur trois filières :

- l'asile, où il est difficile de déterminer les identités étant donné que l'écrasante majorité de requérants sont dépourvus de papiers d'identité ;
- l'entrée illégale d'étrangers. Les autorités ignorent, pendant un laps de temps plus ou moins long, la présence de ces personnes sur leur territoire. Une fois appréhendées, elles sont souvent sans papiers. Cela pose des problèmes d'identification similaires à ceux rencontrés en matière d'asile ;
- les personnes munies de faux papiers ou de papiers contenant de fausses données d'identité. Il peut s'agir de papiers officiellement délivrés par une autorité étrangère. Il peut également s'agir de papiers trafiqués.

A ces catégories de personnes s'ajoutent des étrangers en situation régulière séjournant sur le territoire. On a vu plusieurs cas dans lesquels de telles personnes ont été impliquées dans des activités liées au terrorisme.

La conclusion globale qu'il convient de tirer de ce tableau est que l'action contre les défis mis en exergue par le questionnaire ne peut être que difficile et pluricéphale. L'efficacité des systèmes de données est aussi importante que le renforcement des canaux de collaboration avec un nombre d'Etats aussi étendu que possible. On peut toutefois prédire qu'il n'y aura pas de solutions spectaculaires ou radicales dans le domaine de notre étude d'ici à un avenir prévisible. Un travail de fourmi devra en tenir la place.

APPENDIX

OUTLINE FOR THE PREPARATION OF THE ANALYTICAL REPORT

TERMS OF REFERENCE

1. Language: English or French
2. Length: 20-25 pages, A4 pages, single space
3. Format: Computer readable
4. Subject matter: to analyse, on the basis of the information provided by Council of Europe's member States and other international organisations, the legislation and practices of States concerning the challenge that false travel and identity documents and information pose to immigration authorities in the context of the fight against terrorism.

In this connection, the Consultant shall put focus on:

- a. Comparison of the differences in practices applied by Council of Europe's member States. In particular, the Consultant should explore the differences existing, inter alia, in the process of identity verification and the level of thoroughness with which each member State carries out this work and exchanges information with other countries.
 - b. Comparative analysis on the internal organizational structures of each State, the co-operation between these organisations and the exchange of information between state authorities.
 - c. Comparative analysis of each process as an entity (entry into the country, sojourn/residence in the country, granting of nationality, etc.) and corresponding analysis between the processes.
 - d. Preparation of possible conclusions concerning the analysis conducted under items a-c., which should then be further considered by the CODEXTER.
5. Reference documents: In carrying out this task, the consultant should take into account in particular replies from national delegations on the Questionnaire on false identity information as a challenge to immigration authorities; CoE Committee of Experts on Terrorism (CODEXTER) relevant discussions; other relevant documents issued by the Council of Europe, in particular the publication "The fight against terrorism – Council of Europe standards"; documents of other international organisations.
 6. Expected outcome: The consultant should prepare a report containing an analysis of the information received from the member States. The report should be submitted for further consideration by the Council of Europe Committee of Experts on Terrorism (CODEXTER).

ANNEXE

GRANDES LIGNES POUR L'ÉLABORATION DU RAPPORT ANALYTIQUE

MANDAT

1. Langue : anglais ou français
2. Longueur : 20-25 pages, format A4, espacement simple
3. Format : électronique
4. Thème : analyser, sur la base des informations fournies par les Etats membres du Conseil de l'Europe et d'autres organisations internationales, les législations et les pratiques nationales concernant l'enjeu que représentent pour les autorités d'immigration les faux documents et les fausses informations d'identité et de voyage dans le contexte de la lutte contre le terrorisme.

Dans cette perspective, le consultant, en particulier, mènera :

- a. Une comparaison des différentes pratiques en vigueur dans les Etats membres du Conseil de l'Europe. Il comparera en particulier les différences concernant, notamment, les procédures de vérification d'identité et le caractère plus ou moins minutieux de cette vérification selon les Etats membres, ainsi que les échanges d'informations avec les autres pays.
 - b. Une analyse comparative des structures organisationnelles internes de chaque Etat, de la coopération entre ces organismes et de l'échange d'informations entre les autorités publiques.
 - c. Une analyse comparative de chaque processus pris séparément (l'entrée dans le pays, le séjour ou la résidence dans le pays, l'octroi de la nationalité, etc.) et une étude comparative des processus pris dans leur intégralité.
 - d. Une préparation des éventuelles conclusions tirées des analyses conduites sous les points a. à c., qui pourront ensuite être examinées plus avant par le CODEXTER.
5. Documents de référence : pour mener cette tâche, le consultant prendra en particulier en compte les réponses des délégations nationales au questionnaire « Fausses informations d'identité : un défi pour les services d'immigration », les discussions pertinentes du Comité d'experts sur le terrorisme (CODEXTER) du Conseil de l'Europe, d'autres documents pertinents publiés par le Conseil de l'Europe, en particulier la publication « La lutte contre le terrorisme – Les normes du Conseil de l'Europe » et les documents publiés par d'autres organisations internationales.
 6. Résultat attendu : le consultant préparera un rapport analytique des informations soumises par les Etats membres. Ce rapport devra être soumis pour examen par le Comité d'experts sur le terrorisme (CODEXTER) du Conseil de l'Europe.

- QUESTIONNAIRE AND REPLIES

- *QUESTIONNAIRE ET REPONSES*

QUESTIONNAIRE

ON FALSE IDENTITY INFORMATION AS A CHALLENGE TO IMMIGRATION AUTHORITIES¹

1. How is an alien's² identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?
2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?
3. In the absence of a reliable identity document, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?
4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?
5. Can the authorities enter alternative personal data concerning an alien in their personal data file?
6. Can data recorded in the authorities' personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?
7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?
8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?
9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?
10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording unestablished identities?
11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

¹ The questions in this questionnaire concern all procedures involving aliens (residence permit, asylum, selection of quota refugees, continued residence permit, citizenship, etc.).

² The term "alien" is taken to mean an unnaturalized foreign resident of a country, which is not his or her country of origin.

QUESTIONNAIRE
SUR « LE DEFI QUE REPRESENTENT POUR LES AUTORITES D'IMMIGRATION LES
FAUSSES INFORMATIONS D'IDENTITE¹ »

1. Comment l'identité d'un ressortissant étranger² est-elle vérifiée ? Quelles autorités sont compétentes ? Quelles informations sont demandées ? Comment l'authenticité des documents est-elle vérifiée ? D'autres données (par exemple photos, empreintes, etc.) sont-elles collectées ?
2. En l'absence de documents d'identité probants, comment l'identité d'un ressortissant étranger est-elle vérifiée ? L'identité d'un ressortissant étranger peut-elle être établie en recourant, par exemple, à une étude médicale de l'âge osseux, à une confrontation des empreintes digitales, à des test ADN ou à des comparaisons photographiques ? Dans l'affirmative, dans quel contexte ces méthodes sont-elles employées et ces données sont-elles confrontées à celles communiquées lors d'autres procédures ?
3. En l'absence de documents d'identité probants, le pays d'origine s'implique-t-il dans l'établissement de l'identité d'un ressortissant étranger ? L'aide des autorités du pays d'origine pour vérifier l'identité est-elle demandée et comment ?
4. Existont-ils des systèmes de données officiels contenant des informations sur les ressortissants étrangers ? Quelles informations contiennent-ils ? Ces informations peuvent-elles être comparées avec des informations d'autres systèmes de données ?
5. Les autorités peuvent-elles saisir dans leur fichier de données personnelles des renseignements alternatifs concernant un ressortissant étranger ?
6. Les renseignements enregistrés dans les fichiers de données personnelles des autorités peuvent-ils être communiqués à d'autres autorités nationales et aux autorités d'autres Etats aux fins d'établir l'identité d'un ressortissant étranger ?
7. Comment les autorités réagissent-elles lorsque les documents d'identité d'un ressortissant étranger comportent des renseignements divergents ? Privilégie-t-on un document – et les données y figurant – par rapport à d'autres ?
8. Comment les variantes orthographiques du nom - observées entre différents documents concernant un même ressortissant étranger - sont-elles prises en compte dans les fichiers de données personnelles que possèdent les autorités et dans les recherches effectuées sur ces fichiers ?
9. Comment les autorités procèdent-elles lorsqu'il s'avère qu'un ressortissant étranger possède un document faux ou falsifié, ou un document légal appartenant à un autre individu ? Saisissent-elles le document en question ?
10. Lorsque des imprécisions concernant l'identité d'un ressortissant étranger existent, les autorités les consignent-elles dans leurs propres fichiers de données personnelles et/ou dans des systèmes informatiques internationaux ? Quand l'identité d'un ressortissant étranger a été établie, est-elle consignée dans leurs fichiers de données personnelles/systèmes informatiques ? Les méthodes utilisées pour établir son identité sont-elles indiquées ? Y a-t-il un moyen spécifique d'enregistrer les identités non établies ?
11. Comment les autorités traitent-elles des documents d'identité légaux en soi, mais dont on sait qu'ils contiennent des données personnelles qui ont pu être incluses à la demande de l'intéressé ?

¹ Le terme « ressortissant étranger » signifie un étranger non naturalisé résidant dans un pays qui n'est pas son pays d'origine.

² Les questions portent sur toutes les procédures impliquant les ressortissants étrangers (titre de séjour, asile, sélection de « réfugiés du quota », permis de résidence permanent, nationalité).

**REPLIES OF STATES TO QUESTIONNAIRE
ON « FALSE IDENTITY INFORMATION AS A CHALLENGE TO IMMIGRATION AUTHORITIES
/RÉPONSES DES ETATS AU QUESTIONNAIRE
SUR « LE DÉFI QUE REPRÉSENTENT POUR LES AUTORITÉS D'IMMIGRATION LES
FAUSSES INFORMATIONS D'IDENTITÉ »³**

ARMENIA (11/10/07)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

On application of the alien a corresponding request is made to the competent law enforcement bodies of the country for the verification of the alien's identity.

Law enforcement bodies and the Ministry of Foreign Affairs are responsible for the verification of the alien's identity.

An alien must submit an application, a photo and a fingerprint in case of necessity. For issuing a visa photo and fingerprint is not necessary. For the residency permit an alien must submit only a photo.

For the verification of the alien's identity the photos are compared with those received during other procedures.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

In the absence of reliable identity documents an alien's identity can be established by means of medical bone age measurement, comparing fingerprints, conducting DNA tests or comparing photographs. All these methods are used during the preliminary investigation and the results are compared with those provided during other procedures.

3. In the absence of a reliable identity document, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

In the absence of a reliable identity document the Ministry of Foreign Affairs of the Republic of Armenia makes a request to the competent authorities in the country of origin for verifying an alien's identity.

No request is needed to be made to the Police of the Republic of Armenia in case of issuing visa. An alien him/herself applies to the Embassy of the Republic of Armenia in his/her country of origin.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

There are no official data systems containing information on aliens. But the works for the establishment of the Electronic information system for the border governance are now under

³ Les réponses au questionnaire ont été transmises au Secrétariat dans l'une des deux langues officielles du Conseil de l'Europe, au choix des délégations.

construction. The passport data of the alien's entered or left Armenia will be registered in that system.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

The Electronic information system for the border governance enables the competent authorities of Armenia to input into the system alternative personal data concerning an alien.

6. Can data recorded in the authorities' personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

During the inquest and preliminary investigation data recorded in the authorities' personal data files can be transmitted to other national authorities and authorities of other states in order to establish an alien's identity.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

If an alien's identity documents contain divergent data the authorities take into consideration the passport. In the Republic of Armenia passport has priority over the other documents for verifying the person's identity.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

The personal data of an alien are input into the system according to the Latin alphabet. By searching personal data in the system the method of the first letter is used.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

When a person is found to possess a false or falsified document or a legal document belonging to another person the competent authorities seize them and conduct inquest and preliminary investigation.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording unestablished identities?

If there are unclarities about an alien's identity, the competent authorities record them in their own personal data files. There is no specific method of recording uncertified identities.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

When an alien submits documents containing alterations of personal data priority is given to the National Passport of the holder by the competent authorities.

AUSTRIA (09/10/07)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

Border control situation:

By entry into Austrian territory the travel document will be compared with the person present. Border control will be executed by police forces. The travel document presented will be checked more thoroughly if suspicion arises for instance by checking the ARGUS-Intranet-Homepage (which contains a world wide documentation of travel documents). Biometric passports will be checked by the picture in the passport in comparison with the picture stored in the chip. For all other checks the aliens' police – and asylum authorities are responsible for proving of aliens' identity.

Domestic control situation:

Police (public security service officers) are authorised to establish the identity of a person

1. If, based on certain facts, it can be assumed that the person has unlawfully entered the federal territory or resides unlawfully in the federal territory;
2. If, based on certain facts, it can be assumed that an arrest warrant for this person has been issued or
3. If, based on certain facts, it can be assumed that the person resides outside the area to which his/her residence is limited.

The establishment of identity shall be the recording of the names, date of birth and residential address of a person in his presence. It shall be done with the reliability appropriate to the occasion. Public security service officers shall inform persons whose identity is to be established of such procedure. Any person concerned shall be obliged to contribute to establishing his identity and to tolerate direct enforcement of the establishment of identity.

Asylum proceeding:

The identity is mainly considered on basis of the asylum seeker's indications and documents provided in front of the police (first interview) or the asylum office itself (following interviews).

Information requested: name, date of birth, location of birth, nationality, family details. Admissible identification procedures: taking of fingerprints, photographs as well as one's signature, depiction of physical characteristics.

Compare in this regard the relevant provisions of the Austrian Asylum Act 2005 (especially *Art. 15 concerning the asylum seeker's duty to cooperate in the procedure* and *Art. 44 concerning interrogations, searches and identification procedures*).

Authenticity of documents is checked by experts of the criminal services.

Settlement and residence permit proceeding:

The Issuance of a residence permit requires regularly the existence of a valid travel document. According to Art. 19 Settlement and Residence Act (SRA) the alien has to submit to the authority all certificates and evidentiary material necessary to determine his identity indubitably. With submitting an application for the issuance of a residence permits a valid travel document has to be enclosed.

In general the identity of a person is constituted through name and birth date, concerning travel documents and residence permits additionally through a photograph. In particular cases furthermore specifications (i.e.: birth name, name of the parents, body height, eye colour,...) can be necessary.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

In general terms in the absence of reliable documents the identity can be verified by all means appropriate.

In criminal cases the checks will be conducted through Interpol-correspondence. The alien is obliged to cooperate during the procedure to state his true identity.

Aliens' police authorities shall be authorised to subject aliens to identification procedures if

1. They are in detention pending deportation;
2. They are unlawfully resident in the federal territory, are discovered during such residence and have already attained the age of 14;
3. A residence prohibition or an expulsion order has been imposed on them;
4. It is suspected that a residence prohibition which is still valid has been imposed on them under a different name;
5. An alien's passport or a Convention travel document is to be issued to them;
6. They are to be issued an entry permit or
7. Their identity cannot be established otherwise.

Authorities responsible for aliens' police matters, settlement and residence matters and asylum matters may jointly process and use photographs, papillary line prints of the fingers, signature and verbal description of physical distinguishing marks of an alien listed in the Aliens' Register.

Because of the legal situation in Austria a comparison of DNA to check the identity is not possible under the aliens' police act and procedure.

DNA tests can however be provided by a residence permit applicant on his request for purposes of joining a family member who obtains already a residence permit and is unable to prove an alleged relationship.

The DNA tests will then be considered for establishing the belonging to the family. Medical bone age measurement by a qualified medic can be used to check on the age of a family member, who claims to be underage.

As mentioned above the issuance of a residence permit requires regularly the existence of a valid travel document. Only on humanitarian grounds it is possible to abstain from this requirement.

For the asylum procedure the identity has not to be verified by any means. The asylum procedure offers the possibility of considering a certain identity as identity for the procedure, stating in the decision that the real identity could not be established.

Fingerprints can be compared with the national database for fingerprints (AFIS) as well as EURODAC database.

For the asylum procedure no further identifications procedures are foreseen than the ones cited above, especially DNA tests are not admissible. DNA tests can however be provided by a visa applicant for purposes of joining a family member who has already been granted asylum status or subsidiary protection status and claiming asylum for his own benefits. The DNA tests will then be considered for establishing the belonging to the family.

Majority or nonage of a person have to be established by assessment from a qualified medic, medical bone age measurement is not used for that purpose.

3. In the absence of a reliable identity document, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

By obtaining travel certificates (Laissez-passer), if an application of asylum has already been rejected or an alien is illegally in the country, the country of origin might be contacted through the embassy to enforce the expulsion. In the case of a criminal procedure the check on the identity will be conducted through the Bundeskriminalamt via Interpol correspondence.

Involvement of the country of origin within the asylum procedure is not admissible (compare *Art 57 paragraph 10 Asylum Act 2005*).

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

Asylum seekers database (*AIS: Asylwerberinformationssystem*): information with regard to the asylum procedure .

Database for support information (*BIS: Betreuungsinformationssystem*): information with regard to state support (accommodation, insurance)

Under the legal requirements asylum authorities also have access to general data systems concerning aliens and criminal records.

Central Alien's Register:

Authorities responsible for aliens' police matters, settlement and residence matters and asylum matters may jointly process and use

1. Name,
 2. Sex,
 3. Previous names,
 4. Date and place of birth,
 5. Residential addresses,
 6. Nationality,
 7. Name of parents,
 8. Alias data,
 9. Issuing authorities, issuing data and numbers of documents carried along,
 10. Any information on the dangerousness in case of intervention, including sensitive data if their use is required to protect vital interests of others,
 11. Data relevant for entry permit and residence permit and for admissibility of detention pending deportation,
 12. Police search data for arrest under this federal act or the 2005 Asylum Act ,
 13. Photographs,
 14. Papillary line prints of the fingers,
 15. Signature and
 16. Verbal description of physical distinguishing marks
- of an alien listed in the Aliens' Register.

Besides relevant personal data (name(s), date of birth, nationality,...: information about the status of the procedure of the aliens' case or about the asylum case.

Aliens' police authorities shall be entitled to jointly process and use all procedural data compiled by them, i.e. procedural information on applications, decisions and appeals.

Procedures for a comparison with other data systems have to be established in case.

Can this information be compared with information from other data systems?

No, but the inquiry in several data bases is possible.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

Yes. It is possible to enter alias data.

6. Can data recorded in the authorities' personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

Within Austria data files can be transmitted to relevant domestic authorities.

Inquiries to foreign authorities will be conducted via the embassies under taking into account the data protection rules (a legal base, e.g. bilateral agreement, is necessary).

Provided that the Federal Government is authorised to conclude intergovernmental agreements under Art. 66 Para. (2) of the Federal Constitutional Act, it may conclude international agreements on the transmission, to certain recipients, of data mentioned under 4.) of aliens who are not nationals of the contracting states. In such agreements, reciprocity shall be granted and any deletion of data in one contracting state within six months shall lead also to deletion of the data transmitted to the other contracting state.

Under strict legal requirements listed national authorities receive limited information from the asylum authority for purposes of fulfilling their tasks only; authorities of other states only within the context of the Dublin Regulation or a similar agreement as well as if otherwise it would not be possible to grant asylum. It is generally not permitted to transmit information to the country of origin; very restricted exceptions apply in the case of negative decisions or in the context of criminal justice (compare *Articles 56 and 57 Asylum Act 2005*).

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

Generally the travel document has priority over other documents to prove the identity. If the statements differ, a thoroughly questioning of the person will be conducted.

There is the possibility of alias data and the assumption of a certain identity as identity for the procedure.

Any information concerning the name (previous, alias, birth name) will be recorded in the data systems.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

The spelling will be obtained out of the travel document, usually the spelling which is used in the machine readable line.

Divergent ways of spelling personal name are taken into consideration in the personal data file. The relevant electronic databases have phonetic search tools.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

Documents are seized. Provisions of criminal law related to the offence of falsification of documents (or their use) apply. A charge against the person will be sent to the prosecutors' office and a legal procedure will be initiated.

Furthermore in Art. 119 Paragraph 2 Aliens' Police Act there exists a specific criminal offence with regard to asylum seekers, visa or residence permit applicants deliberately stating false facts in front of the authorities.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording unestablished identities?

Alias data are registered in the data bases.

The stated identity will be registered and will be used until the identity is confirmed. If the true or another identity is established the former identity will be stored as an alias name.

In the data record you will find the statement:

"Person's identity is a fact" or „Person's identity is uncertain“

Are the means used to establish his/her identity included?

No.

Is there a specific way of recording unestablished identities?

Yes; the remark: „Person's identity is uncertain“ will be stored in the personal file.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

In general authentic documents are in general considered to be lawful. The trustworthiness of such documents will be doubted to be true. In cases of manifest wrong data it would be possible to argue for and have recourse to the assumed procedural identity.

BELGIQUE (20/04/07)

1. Comment l'identité d'un ressortissant étranger¹ est-elle vérifiée ?

Quelles autorités sont compétentes ?

Quelles informations sont demandées ? Comment l'authenticité des documents est-elle vérifiée ? D'autres données (par exemple photos, empreintes, etc.) sont-elles collectées ?

La police fédérale est désignée comme l'autorité chargée d'effectuer le contrôle aux frontières et exécute dans ce cadre le contrôle de l'identité des personnes. Pour vérifier l'identité des personnes, la Police fédérale ne prend en considération que les documents officiels d'identité à savoir : le passeport et la carte d'identité.

L'identité d'un étranger peut aussi être contrôlée de différentes façons par plusieurs autorités belges (parmi lesquelles : les postes diplomatiques, les services de police, les administrations communales, les autorités judiciaires, la Cellule Identification de l'Office des étrangers) : sur base de documents ou de copies de documents (passeport, carte d'identité, titre de voyage, laissez-passer, permis de conduire, acte d'état civil, ...), sur base des déclarations de l'intéressé, sur base de questionnaires remplis par l'intéressé, sur base d'interviews organisées au niveau de l'administration ou en collaboration avec les autorités diplomatiques ou consulaires du pays de provenance supposé, ...

A côté de ces renseignements, obtenus de l'intéressé, l'Office des étrangers peut – si cela est explicitement demandé par les autorités compétentes – fournir des renseignements complémentaires : historique du séjour en Belgique (jamais d'infos concernant la procédure d'asile), antécédents criminels, décisions administratives ou pénales, ...

Vérification de l'authenticité de documents.

L'authenticité – pour autant que l'intéressé possède des documents – peut être contrôlée par la police fédérale (section documents faux ou falsifiés) ou par les autorités diplomatiques ou consulaires du pays ayant délivré les documents. Il est aussi possible de demander le support des autorités locales du pays de provenance par le biais de l'ambassade de Belgique en ce pays.

Pour chaque personne se trouvant en séjour irrégulier et ayant été écrouée en centre fermé, des photos et empreintes digitales sont prises et – si cela est demandé – envoyées aux ambassades et consulats. L'authenticité des documents nationaux peut être également vérifiée par contact direct avec les autorités qui ont délivré le document.

L'Office Central pour la Répression des Faux Documents (l'OCRFD) est responsable de l'authentification des documents dits de sécurité. Si les documents examinés sont principalement des passeports, des cartes d'identité, des documents de séjour, des visas et des permis de conduire, il arrive que certains services (consulats, Commissariat général aux réfugiés et apatrides, ...) consulte l'OCRFD pour examiner d'autres documents présentés (attestation de naissance, certificat de mariage, ...) dans certaines procédures (demande d'asile par exemple).

Cette mission d'authentification est assurée au profit des services de police belges et internationaux, des autorités administratives (ministères, administrations communales, office des étrangers, consulats...).

Dans un souci d'appui maximal à ses clients, ce département examine des documents originaux mais également des photocopies, des E-mails, ...

Le projet Europa mené en Belgique consiste par exemple en un contrôle systématique de copies prises par les administrations communales de tous les documents européens présentés à l'appui d'une demande d'établissement en Belgique.

¹ Le terme « ressortissant étranger » signifie un étranger non naturalisé résidant dans un pays qui n'est pas son pays d'origine.

Tous les examens mentionnent le support examiné (original ou non). Selon le cas, l'OCRFD émet soit une conclusion, soit des constatations appelées à aider l'enquêteur ou le service demandeur à se forger sa propre opinion.

En effet un simple examen technique ne peut parfois suffire à émettre une conclusion à 100%. Cependant, les éléments relevés par l'OCRFD peuvent être confirmés ou infirmés par une audition bien menée du porteur dudit document.

Toujours dans un souci d'objectivité et de force probante des examens, l'OCRFD précise à chaque fois la nature de la documentation consultée, à savoir :

- Spécimen
- Documentation officielle
- Documentation personnelle de l'OCRFD basée sur les milliers de documents examinés
- Consultation des autorités émettrices (nationales ou internationales).

En cas de conclusion, l'examen de l'OCRFD reprend l'un des six types de faux référencés, à savoir :

- Falsification
- Contrefaçon
- Volé vierge
- Document de fantaisie
- Look-alike
- Faux intellectuel.

Si les quatre premiers types ne posent pas trop de problèmes, les services de l'OCRFD sont de plus en plus confrontés aux problèmes générés par les deux derniers.

En effet il n'est pas toujours facile de déterminer la concordance entre la photo du document et la physionomie du détenteur du document et il est difficile de conclure avec toute la fiabilité voulue à un faux intellectuel.

L'expérience de l'OCRFD démontre que nombre de pays délivrent des documents authentiques sur base d'un simple paiement ou pour aider un compatriote.

Le document est donc authentique dans sa forme mais n'est parfois pas enregistré dans les registres comme étant émis.

Une réponse des autorités émettrices est donc bien souvent nécessaire pour apaiser les doutes, mais l'OCRFD constate là aussi des manœuvres plus que douteuses.

Quant à la Police fédérale de l'aéroport national, elle vérifie l'authenticité des documents sur base des caractéristiques de sécurité. Dans ce cadre des appareils de détection sont utilisés. L'équipe faux documents et documents de voyage falsifiés possède toutes les informations requises concernant les caractéristiques permettant de vérifier l'authenticité des passeports et de la majorité des cartes d'identité de presque tous les pays.

2. En l'absence de documents d'identité probants, comment l'identité d'un ressortissant étranger est-elle vérifiée ? L'identité d'un ressortissant étranger peut-elle être établie en recourant, par exemple, à une étude médicale de l'âge osseux, à une confrontation des empreintes digitales, à des test ADN ou à des comparaisons photographiques ? Dans l'affirmative, dans quel contexte ces méthodes sont-elles employées et ces données sont-elles confrontées à celles communiquées lors d'autres procédures ?

Voir aussi réponse à la question1. Pour le contrôle aux frontières, les services exigent toujours que l'étranger dispose d'un document d'identité.

Des interviews sont organisées, si possible avec la collaboration des représentations consulaires et diplomatiques.

L'identité peut être établie sur base des éléments mentionnés ci-dessus :

- Détermination de l'âge par un examen médical pour établir si la personne est effectivement mineure d'âge (moins de dix-huit ans). S'il s'agit d'un mineur étranger non accompagné, c'est le service des Tutelles du Service Public Fédéral Justice qui fera procéder à cet examen médical.

- La confrontation des empreintes digitales est possible. Les empreintes digitales des personnes écrouées sont comparées avec la banque de données des empreintes digitales des demandeurs d'asile en Belgique, ainsi que – si on possède des indices qui démontrent que l'intéressé aurait pu avoir demandé l'asile dans un autre pays de l'UE – la banque de données Eurodac (les empreintes digitales des demandeurs d'asile en UE sont prises depuis le 11/01/2003). Certains pays de provenance ont aussi la possibilité de comparer les empreintes digitales avec leurs banques de données nationales.

- Des comparaisons de photos peuvent être effectuées au niveau national (avec les photos des demandeurs d'asile et des anciens « résidents » de centre fermé), pour autant qu'il y ait des indices que la personne était connue préalablement. De telles comparaisons ne bénéficient pas encore d'un programme de reconnaissance de photos. Il est aussi possible de faire comparer des vieilles photos (sur documents belges ou du pays de provenance) avec des photos récentes (ceci est fait par la police fédérale – section documents faux ou falsifiés). Certains pays de provenance ont aussi la possibilité de comparer les photos avec leurs banques de données nationales.

Les renseignements qui sont obtenus par les comparaisons nationales ne peuvent pas être systématiquement utilisés ; quand la personne est connue comme demandeur d'asile, les informations ne sont en aucun cas communiquées aux pays de provenance.

Dans le cadre du regroupement familial, l'Office des étrangers peut faire procéder à des tests osseux pour établir l'âge d'un requérant et non pas nécessairement son identité.

En cas de doute sur une identité dans le cadre d'une demande de regroupement familial, l'Office des étrangers compare des empreintes lorsque des comparaisons sont possibles par exemple s'il s'agit d'ex-demandeurs d'asile ou de personnes qui ont été détenues en Belgique.

L'ADN est utilisé pour établir un lien de filiation et non une identité.

Il y a dans tout examen de dossiers à l'Office des étrangers, une confrontation des données lors de différentes procédures et ce afin d'établir l'identité ou la filiation.

L'identité ne peut jamais être établie au moyen du résultat du test ADN. Cette procédure ne sert qu'à vérifier un lien de filiation. De plus, les résultats de ces tests doivent être analysés avec beaucoup de précaution car ils ne donneront jamais un pourcentage de 100% (en cas de lien établi, ce pourcentage peut varier mais doit toujours dépasser les 99%).

Quant au test osseux, il sert uniquement à vérifier une tranche d'âge de la personne testée et n'a aucune incidence sur son identification.

3. En l'absence de documents d'identité probants, le pays d'origine s'implique-t-il dans l'établissement de l'identité d'un ressortissant étranger ? L'aide des autorités du pays d'origine pour vérifier l'identité est-elle demandée et comment ?

La procédure d'identification est très différente par pays de provenance. Certains pays veulent auditionner les personnes qui prétendent être un de leurs ressortissants. D'autres pays exigent qu'un questionnaire soit rempli. D'autres pays encore se fondent sur les renseignements qui leur sont communiqués par lettre ou toute autre forme de correspondance. Enfin il y a des pays qui veulent seulement confirmer la nationalité ou l'identité sur base de documents originaux (valables ou périmés – selon les cas) ou de copies de documents.

Pour certains pays, les services compétents laissent à l'Office des étrangers le soin d'effectuer entièrement la procédure d'identification, sur base de l'étude du dossier et des éléments recueillis

lors d'interviews. Il est possible dans certains cas d'utiliser des laissez-passer selon le modèle établi par l'Union Européenne. Il va de soi que l'Office des étrangers contrôle de façon détaillée les dossiers des personnes qui peuvent être rapatriées au moyen du laissez-passer UE, afin d'éviter le rapatriement de personnes d'une « mauvaise » nationalité.

Certains pays ne peuvent identifier la personne que sur base de son identité exacte. D'autres pays peuvent identifier sur base de toute autre critère qui laisse supposer que l'intéressé possède la nationalité de ce pays; pour ces derniers pays, un laissez-passer peut être obtenu sur base d'une identité complètement fausse, tant que la nationalité ne laisse aucun doute.

4. Existent-ils des systèmes de données officiels contenant des informations sur les ressortissants étrangers ? Quelles informations contiennent-ils ? Ces informations peuvent-elles être comparées avec des informations d'autres systèmes de données ?

L'Office des étrangers possède plusieurs « sources d'information », auxquelles il a accès de façon directe ou indirecte :

- Le registre national, qui reprend les personnes inscrites aux registres de la population ou aux registres des étrangers tenus dans les communes, les personnes inscrites aux registres tenus dans les missions diplomatiques et les postes consulaires belges à l'étranger et les personnes inscrites au registre d'attente (lequel reprend tous les candidats réfugiés).

- La banque de données – dossiers électroniques - dans laquelle se trouvent tous les dossiers de personnes étrangères connues en Belgique, et pour les dossiers récents, tous les documents entrants et sortants concernant le dossier. La banque de données est liée à un programme de gestion, qui permet à l'Office de créer des documents, des tâches et des décisions par la voie électronique.

- Les archives « papiers » des dossiers personnels de chaque étranger, ayant séjourné en Belgique (jusque juillet 2003 – ensuite les dossiers sont seulement électroniques).

- La banque de données des empreintes digitales des demandeurs d'asile en Belgique (à partir des demandes faites en 1989).

- Indirectement : la banque de données des empreintes digitales des demandeurs d'asile en Union Européenne (depuis le 11/01/2003) – Eurodac.

- Le casier judiciaire (géré par le SPF justice).

- La banque de données Schengen (SIS – Schengen Information System).

- Les microfiches Benelux (signalements nationaux – notamment en matière de mesure d'éloignement : les personnes soumises à l'obligation de visas doivent rembourser les frais de leur rapatriement avant de pouvoir obtenir tout nouveau visa autre qu'un visa de droit).

Les comparaisons de ces sources sont possibles dans certains cas, dépendant des conditions légales et pratiques de consultation et de comparaison.

5. Les autorités peuvent-elles saisir dans leur fichier de données personnelles des renseignements alternatifs concernant un ressortissant étranger ?

Chaque dossier peut contenir des informations alternatives. Le questionnaire de la demande d'asile peut être une source d'information inestimable concernant l'identité, la nationalité, les documents existants, les adresses antérieures, la famille, la langue, ... Ces informations peuvent

être utilisées en cas de procédure d'identification, sans cependant faire référence à l'origine de ces renseignements.

Le registre national permet également d'indiquer les alias utilisés par l'étranger.

6. Les renseignements enregistrés dans les fichiers de données personnelles des autorités peuvent-ils être communiqués à d'autres autorités nationales et aux autorités d'autres Etats aux fins d'établir l'identité d'un ressortissant étranger ?

Certains renseignements qui sont enregistrés dans des banques de données nationales peuvent être communiqués aux autorités compétentes du pays tiers ou du pays de provenance, en vue de l'identification de l'intéressé. Il faut cependant veiller à ce que la forme de communication de ces renseignements ne soit pas une entrave à la protection de la vie privée. La protection de la vie privée doit être mesurée en balance avec la nécessité de communiquer certaines informations en fonction de l'identification d'une personne. Pour certains pays, il est important de citer les infractions à l'ordre public. Pour d'autres pays, cela est à éviter.

7. Comment les autorités réagissent-elles lorsque les documents d'identité d'un ressortissant étranger comportent des renseignements divergents ? Privilégie-t-on un document – et les données y figurant – par rapport à d'autres ?

Si on constate une divergence de données dans les documents qui sont mis à la disposition des autorités compétentes du pays de provenance, la réaction peut être différente selon le cas :

- Certains pays ne prendront pas en considération ces divergences, pour autant que la nationalité soit établie.
- D'autres ambassades et consulats vont faire procéder à une enquête auprès de leurs autorités nationales, afin d'être sûr que la personne est vraiment un de leurs ressortissants.
- Certains pays font primer le passeport sur la carte d'identité ; d'autres pays font l'inverse. Dans certains cas, le permis de conduire est accepté alors que dans d'autres cas, il ne sera pas pris en considération car ce document ne permet pas d'établir la nationalité.

Lorsqu'un étranger possède plusieurs documents établissant différentes identités, la police fédérale procède à de plus amples recherches en vue d'examiner l'authenticité des documents. Dans la plupart des cas, le premier document présenté s'avère être le document correct.

8. Comment les variantes orthographiques du nom - observées entre différents documents concernant un même ressortissant étranger - sont-elles prises en compte dans les fichiers de données personnelles que possèdent les autorités et dans les recherches effectuées sur ces fichiers ?

L'Office des étrangers utilise pour certaines langues des conventions internationales d'orthographe afin d'éviter qu'un nom soit écrit de différentes façons. Il est cependant possible d'ajouter les différentes possibilités d'orthographe comme « alias » dans la banque de données. L'Office des étrangers se fonde en premier lieu sur les documents présentés par l'intéressé : pour certains pays, les noms sont indiqués dans l'écriture nationale et l'écriture « occidentale ». L'Office des étrangers reprend alors la mention reprise sur le document. La banque de données permet une recherche sur plusieurs paramètres, e.a. la recherche phonétique. Ceci dit, il arrive qu'une personne ne soit pas retrouvée dans la banque de donnée à cause d'une orthographe trop différente, ou qu'elle y soit enregistrée sous une autre orthographe.

Quant à la police fédérale, lorsqu'elle est en présence de différentes orthographes, différents écrits, elle consulte la banque de données qui reprend les différents noms afin de vérifier si les noms ont déjà été mentionnés.

9. Comment les autorités procèdent-elles lorsqu'il s'avère qu'un ressortissant étranger possède un document faux ou falsifié, ou un document légal appartenant à un autre individu ? Saisissent-elles le document en question ?

Quand un document est faux ou falsifié, le document peut être saisi par la police et est envoyé au parquet du Procureur du Roi, en vue de procéder à l'enquête judiciaire. La même procédure est utilisée quand l'intéressé est en possession de documents qui ne lui appartiennent pas.

Sur demande des services consulaires et diplomatiques, et pour autant que le document ne soit plus nécessaire pour l'enquête judiciaire, les documents originaux ou falsifiés peuvent être rendus aux autorités nationales du pays ayant émis les documents.

Des documents seront remis en vue de faciliter le retour d'un passager inadmissible. Ces documents sont destinés aux autorités compétentes dans le pays d'origine.

10. Lorsque des imprécisions concernant l'identité d'un ressortissant étranger existent, les autorités les consignent-elles dans leurs propres fichiers de données personnelles et/ou dans des systèmes informatiques internationaux ? Quand l'identité d'un ressortissant étranger a été établie, est-elle consignée dans leurs fichiers de données personnelles/systèmes informatiques ? Les méthodes utilisées pour établir son identité sont-elles indiquées ? Y a-t-il un moyen spécifique d'enregistrer les identités non établies ?

Les imprécisions concernant l'identité sont mises dans la banque de données de l'Office des étrangers. Cela peut se faire de trois façons : ou bien le nom différent est inséré comme « alias », ou bien une note récapitulative est ajoutée au dossier, ou bien une combinaison des deux possibilités est utilisée.

Il est aussi possible d'introduire ces imprécisions dans les microfiches Bénélux, le registre national, la banque de donnée nationale générale (B.N.G.) ou la banque de données SIJ pour autant que cela ait une valeur dans le cadre de l'enquête ou les recherches judiciaires.

Si l'identité est établie, elle sera introduite comme identité principale dans la banque de données de l'Office des étrangers. Toute autre identité sera introduite comme « alias ». Ceci est aussi possible pour les autres banques de données.

L'identité principale dans la banque de données de l'Office des étrangers sera liée à une information qui indiquera l'origine de l'établissement de l'identité principale : information de la part des autorités compétentes du pays de provenance, document d'identité, document de voyage, laissez-passer, ...

Dans certains cas, le service de police contactera la représentation diplomatique du pays dont l'étranger prétend être un ressortissant et ce afin de déterminer son identité.

11. Comment les autorités traitent-elles des documents d'identité légaux en soi, mais dont on sait qu'ils contiennent des données personnelles qui ont pu être incluses à la demande de l'intéressé ?

Tout document légal établi à l'égard d'un étranger est reconnu comme un document authentique, même s'il contient des informations qui sont insérées à la demande de l'intéressé. Tant que ces informations ont été insérées par les autorités compétentes, il n'y a aucun inconvénient. Dès que l'on constate que l'intéressé a lui-même ajouté des informations ou qu'une autorité ou tierce personne non compétente a ajouté des informations, le document peut alors être considéré comme falsifié.

Lorsqu'il y a suffisamment d'indications que les données qui ont été enregistrées à la demande du titulaire ont un caractère frauduleux, le document sera argué de faux et sera traité comme tel par les autorités compétentes.

La Belgique est d'avis qu'il est préférable d'avoir un passeport par personne. Il s'agit d'éviter que des enfants soient inscrits dans le passeport d'un de leurs parents ou d'un adulte.

BOSNIA AND HERZEGOVINA (04/06/07)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

An alien's identity is verified by checking his/her identity documents, personal identity documents or other public documents, with the alien's photo and signature on them. The competent authorities in charge of alien's identity verification are: BiH Ministry of Security (i.e. BiH Border Police on border crossings, Service for Aliens (Inspectors for Aliens) that monitors movement and stay of aliens in BiH, reports filed on their arrivals and departures and processing of their applications for residence), State Investigations and Protection Agency (SIPA) and other law enforcement agencies in BiH), BiH Ministry of Foreign Affairs, BiH Diplomatic and Consular offices abroad that process visa applications, and BiH Prosecutor's Office. If the authenticity of documents is suspicious, the so-called preliminary expert analysis is done on the spot (e.g. on a border crossing), the suspicious document is seized and sent to the authorized criminal-technical laboratory for further expert analysis.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

If there is no other way to establish an alien's identity, a photograph and fingerprints of the alien are taken in the criminal-technical center for the purpose of conducting a search of the available databases. At the same time, a comparison is made with aliens' photographs kept in the nominal ASF database in the Sarajevo Interpol Office, which can serve as a starting point for the establishing of the alien's identity. There is a possibility to take a statement from the alien and from other individuals (two at least) whose identity is undisputable.

3. In the absence of reliable identity documents, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

If a foreign national is not in possession of an identification document, the BiH Ministry of Security will send, exclusively through the Ministry of Foreign Affairs, a request to the diplomatic-consular office of the alien's country of origin, asking for verification and confirmation of the alien's identity. According to our information, in most of the cases such verifications take a long time, and sometimes we do not receive the requested response from the alien's country of origin.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

Under the Law on Aliens' Movement and Stay (BiH Official Gazette, No. 29/03 and 4/04), there is a requirement for maintaining official records of foreign nationals, that are kept at the level of the BiH Ministry of Security (Border Police, Immigration Sector, Asylum Sector and Service for Aliens, as well as the competent Field Center of the Service for Aliens). For instance, in the Immigration Sector of the BiH Ministry of Security, there are two databases of aliens, as provided for by Articles 92 and 93 of the Law on Aliens' Movement and Stay and by its accompanying bylaws, namely:

- Electronic database of issued stickers for aliens' stay

- ROS electronic database – Records of certain categories of foreign nationals, which registers all aliens who have been subject to measures imposed by BiH competent authorities, as well as those who are on the UN Consolidated list of terrorists' links (UNSCR-1267).

These databases contain also personal data on aliens, country of origin, status in BiH, measure imposed on them (expulsion, withdrawal of the residence permit, prison sentence, etc.).

Information and data kept in these databases are simultaneously maintained in written version, during the period prescribed by relevant legislation on archive materials, and they can be compared with the information held in other databases.

There is a plan to establish a single Information System on Aliens (ISM) where all databases of foreign nationals will be networked and all aliens will be registered.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

Only authentic data are entered into an alien's personal data file, i.e. data from travel documents, as well as other credible data obtained in the above-described way. In case of an application for asylum, the asylum seeker does not have to possess any document in order to file the application, meaning that his/her data can be entered (based on the seeker's statement) and subsequently verified. If during the procedure or upon its completion, documents on the asylum seeker are obtained that contain conflicting data, the authenticity of the statement is verified through a new interview with the asylum seeker, and the authenticity of the obtained document is double-checked, upon which all collected facts are entered into the database.

6. Can data recorded in the authority's personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

Within the cooperation and data sharing among competent BiH institutions, data on aliens may be shared only as it stipulated under the Law on Protection of Personal Data (BiH Official Gazette, No. 32/01) and the Law on Protection of Classified Data (BiH Official Gazette, No. 54/05); exchange with other countries is possible on condition that there is a bilateral agreement with that country in force and if provisions on data protection are incorporated within.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

When establishing an alien's identity, priority is given to the travel document or another identification documents that has the alien's photo and signature on it, issued by the competent authority whose credibility is undisputed. If an alien's identity documents contain divergent data, data accuracy and document authenticity are checked in cooperation with the competent police agency.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

During the search of an available database, different spelling variants are used for the first names and family names of foreign nationals. Major problems in that respect are encountered in case of foreign nationals originating from China (Chinese alphabet) and Afro-Asia (Arabic alphabet). Data translated from those languages are used and entered into databases (official translation) in the official languages used in BiH, or English and more rarely French versions are taken, that are used as parallel languages in the original alien's identification document.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

If a false or falsified document or a legal document belonging to another person is found, it is seized with the issuance of an adequate receipt, and competent police structures and Prosecutor's office are included in the procedure.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording un-established identities?

Possible unclear data on an alien's identity document are recorded and verified in the available records held in the Ministry of Security, as well as in the international database (ASF database of the Sarajevo Interpol Office).

If an alien's identity has been established, it is recorded in the existing databases, including all information and data collected. In the asylum procedure, the Ministry of Security – Asylum Sector records any un-established identities as well.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

An alien's authentic personal identification documents, issued by the authorities of the alien's country of origin are accepted. If there is a suspicion that the document is not authentic, it is checked by the competent police agency. Consequently, all identification documents, issued by the competent and authorized authorities of the alien's country of origin, including those that contain data included at the request of the holder, are considered to be legal and as such they are processed and used in accordance with the relevant BiH legislation on protection of personal data.

CYPRUS (03/10/07)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

An alien's identity can be verified by presenting his genuine identity card / passport for control. Most of these controls are conducted by the Immigration Unit by asking the alien to present his documents. The authenticity of these documents is checked from the immigration officer at scene. If the officer is not satisfied about the authenticity of a document, then, more investigations take place. The documents are preliminary examined with the special equipments at the Aliens and Immigration Unit. If there are still doubts about the authenticity of a document, is forwarded to the Specialists at the Police Headquarters for more investigations.

The suspected documents are sent to the Document Examination Laboratory at Police Headquarters. The Document Experts examine the document under question in order to decide whether these: are genuine or not. During the examination the Experts use corresponding Genuine Specimens that are kept, i.e. a collection they have in the Laboratory. These genuine specimens are provided by the Ministry of Foreign Affairs.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during these procedures?

Immigration Unit can establish the identity of an alien only by questioning him. If the identity of the alien can not be established in this way, the case is forwarded to a different Department of Police where further questioning takes place.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

The Central Police System contains data concerning aliens living in Cyprus of various visas. The information stored in the system contains the following details:

- Name, Surname
- Date of Birth
- Town of Birth
- Country of Birth
- Nationality
- Passport Number, issue country, issue date, expiration date
- Aliens registration number
- Migration file number (MP)
- Visa number
- Type of visa, expiration of visa
- Occupation
- Address in Cyprus (home and work)
- Arrival / Departure data (dates, flight no, etc)
- Driver's License
- Phone Number

The above personal data is automatically and daily being updated by the Migration Aliens System of the Ministry of Interior. They can be compared for official duties only.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

If the alien's identity documents contain divergent data but both of them are genuine, immigration gives priority at the passport, as long as this is genuine and valid.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

If an alien is found to possess a false or falsified document or a legal document belonging to another person, he is immediately arrested and the document is seized. The Criminal Investigation Department is informed and takes over the investigation regarding the case.

CZECH REPUBLIC (30/07/07)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

In accordance with the act no. 326/1999 Coll. on the residence of aliens in the territory of the Czech Republic, as amended later, the term "identity" means to prove the name, surname, date of birth (day, month, year) and citizenship or the citizenship of the last permanent residence outside the territory.

For the expulsion purposes it is possible to replace the proof of identity by fingerprinting, picture records of the alien and by dates about alien found out by the police

The Alien Police is permitted on the base of act no. 326/1999 Coll. to take fingerprints and picture records in connection with the visa annulment, administrative expulsion proceeding, apprehension for the administrative expulsion purpose or apprehension for the purpose of handover in accordance with international agreements, or in connection with detection of a foreigner identity. The fingerprints are sent to the Forensic Institute Prague (Kriminalistický ústav Praha, <http://www.kup.cz>), where the data comparison in the fingerprint database is carried out.

The Alien Police checks the foreigner identity in the alien information system of the Police of the Czech Republic (CIS).

The detection of an alien identity in the frame of asylum procedure does not fall within the tasks of Police of the Czech Republic. The authority, which is competent in regard to asylum procedures, is Asylum and Migration Policy Department of the Ministry of Interior.

The act no. 326/1999 Coll. establishes that the travel document is considered to be for instance a public document recognised by the Czech Republic as a travel document, identification card held by an EU citizen, a foreigner's passport, a travel identity document, a travel document issued on the basis of an international treaty, an emergency travel document issued by the European Union etc.

The authenticity of a travel documents is inquired by accessible technical equipments, it is compared with examples of the particular travel documents that are placed at the alien police offices.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

In the case of lack of identity documents or it is impossible to find the identity in the alien information system of the Police of the Czech Republic, the identity of alien is checked via an embassy of the country of origin.

The performing of DNA test is used in a penal proceeding case only. If there is a doubt regarding the foreigner age, the approximate age is determined by the medical examination and on the basis of the bones age. The examination of the foreigner age is important for determination of deadlines regarding apprehension of foreigners (apprehension of a foreigner aged between 15 and 18 years can not exceed 90 days, apprehension of a foreigner older than 18 years can not exceed 180 days from the beginning of a personal freedom restraint).

3. In the absence of a reliable identity document, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

All identification data that are provided by foreigner are sent to the embassy of the particular country of origin and the identity is verified through them. The embassy can carry out consular visits of the foreigner for the purpose of identity verifying. The consular visit can not be carried out in the case the foreigner applies to the Czech Republic for international protection.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

The act no. 326/1999 Coll. enables the Police to operate information systems as for instance the alien information system (CIS), which contains basic information as name, surname, including previous names and surnames, dates of the birth (day, month, year), sex, country of citizenship, birth register number, pictorial image and fingerprints of a foreigner.

The alien information system contains also the information on:

- issuing of visas for a long-term, short-term and permanent residence
- issuing of a foreigner's passport, a travel identity document
- issuing of a departure order
- an invitation
- an entry denial
- an undesirable person
- an subscriber of international protection proceeding
- an arrival and departure of visa foreigners

The information can be compared with information from other national data systems (the Central Register of Insured Persons e.g.).

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

Yes, the competent authorities can include data and information on a foreigner into their personal data files. The foreigners are recorded in the alien information system of the Police of the Czech Republic.

6. Can data recorded in the authorities' personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

The Police is competent to hand over the data from the information system in the scope established by the agreement concluded by the European Communities to the appropriate authorities of a state (country) that is not a European Union member state under the condition that this agreement is binding on the Czech Republic.

The Police can also provide information to the embassy of the alien's state (country) of citizenship in the scope that is required for the purpose of issuing an emergency travel document.

It is possible to hand over information from personal data files to the particular competent national authorities.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

In the case a foreigner is in possession of documents whose data are unclear and divergent, the right data are provided by embassy of the alien's state (country).

The travel document has the priority.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

Sundry possible modifications of names are taken into consideration, especially if the name is translated into Latin alphabet and there is a different pronunciation of the name. In the case of checking a foreigner in the information system, the information system enables to search for a person also on the base of other criterions (date of birth, address, nationality), which will determine the person's identity.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

If the foreigner during the control submits a travel document, which is right but not issued on the name of checked person and he/she presents the document as his/her own, the Police is competent to seize this document in accordance with the act no. 326/1999 Coll.

In the case of falsified or counterfeit documents possession and if there is penal proceeding anticipated to start by the reason of falsified or counterfeit documents possession, the Police will seize the travel document as a proper evidence for the purpose of a penal proceeding.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording unestablished identities?

If an unclear foreign identity appears and the identity is verified by embassy of the alien's country of origin, his/her right identity is recorded as the main data and previous data are recorded as alias.

In the frame of every each registration within the alien information system, there is a field for entering of information especially on a kind, number and validity of a travel document etc.

As regards unestablished identities, there is a field for records in the alien information system to entry information if a foreigner identity is verified, unverified or still under the process of verification.

The used means of verification are regularly not recorded directly in the alien information system.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

Up to now there have not been any cases, that such documents should contain personal data included at the request of the holder. The Czech Republic does not have this kind of experience.

DENMARK (30/04/07)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

The identity of an asylum seeker is verified by the Danish police. The Danish Police conduct interviews with all asylum seekers in order to verify their identity.

The identity of other aliens is verified by their passport or other sanctioned travel document. The Danish National Police currently supplies the separate police authorities, the immigration authorities and the Ministry of Foreign Affairs with copies and descriptions of sanctioned foreign travel documents.

The competent authorities are The Danish Immigration Service and The Danish Police.

The Danish Immigration Service only request information withhold in an alien's passport.

An application for a residence permit in Denmark has to contain a photo of the alien.

All asylum seekers in Denmark have their fingerprints and their photo taken – also if the asylum seeker already seems to be identified by a valid, legal identity document as a passport etc.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

As a main rule, all aliens – except from asylum seekers – must have a passport in order to get a residence permit in Denmark.

The identity of an asylum seeker, who is not in possession of a passport or other identification papers, is not verified but relies on the information given to the Danish police by the asylum seeker him/her self and on further investigations that the police decides to conduct.

All asylum seeker's fingerprints are checked in Eurodac. The present information regarding an unidentified alien is used for search in the national registers (the Aliens Register and the Criminal Register) and in the Schengen Information System. The police also use fingerprint and photo comparison.

If the nationality of an alien is unknown, the authorities can also try to verify this through a language test.

In some cases DNA test and medical bone age measurement is used, for example for the purpose of determining if an asylum seeker can be categorised as an unaccompanied minor or if a child applying for family reunification is related to the persons referred to as the parents.

3. In the absence of a reliable identity document, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

The country of origin can in certain cases – but never in pending cases concerning an application for asylum – get involved in verifying identity documents.

In the efforts of verifying the identity of an alien, who do not have permission to stay in Denmark, the country of origin can be involved in several different ways. The authorities of the country of origin can be presented to the existing information on the said person's identity, including fingerprints and photo. Depending on the individual case, the contact sometimes goes through the Danish Embassy in the country of origin, sometimes the alien is presented at the Embassy of the country of origin in Denmark or a neighbour country, and sometimes the alien is presented the airport in the said country. In other cases the alien can be presented to a delegation from the country of origin who visits Denmark.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

The Danish Immigration Service has several data systems which all contains personal data of the alien such as name, date of birth, country of origin etc. as well as information about the alien's application(s) for residence permit in Denmark.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

It is possible to enter alternative personal data in an alien's personal data file.

6. Can data recorded in the authorities' personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

The Danish Immigration Service transmits information about an alien's personal data to the relevant local authorities in Denmark.

In certain cases the Danish Immigration Service can transmit information about an alien's personal data to authorities in other states.

The information mentioned can be transmitted in cases where Denmark according to international conventions or regulations is obliged to do so, for example concerning the Schengen collaboration, the Dublin regulation and the convention on the Tribunal of Rwanda.

Information about an alien's identity can always be transmitted to other states, if the alien gives his/hers consent.

It should be noted that information regarding an asylum seeker's identity never can be transmitted to the authorities in the country of origin without consent.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

It depends on an individual assessment whether one document has priority over another document.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

It is not possible to take different ways of spelling personal names into consideration in the personal files.

The Danish Immigration Service decides in the light of all documents in a case how an alien's name is spelled.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

If the Danish Immigration Service discovers a false or falsified document, the document is handed over to the Danish police.

As it is a criminal offence to use a false or falsified identity document, cf. the Danish penal code section 171, such a document will be confiscated and either destructed or handed over to the country that has issued the document.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording unestablished identities?

It is not recorded in an alien's personal data file whether there have been unclarities about the identity or not.

An alien is always registered with an identity in the data files of the national registers. The background of the data (identity documents, appearance for the authorities in the country of origin, information given by the alien etc) will appear from the referring case. If further – or other – information is found regarding the alien, the data in the registers will be changed.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

Identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder do not have any legal influence in Denmark.

In practice, incidents where errors are found in foreign passports, but where it cannot be concluded that the alien has obtained the document illegally, can occur. A valid, legal document will – in Denmark – be considered false, if the police technicians during their examinations find corrections and errors in the data. Cases, where legal, but stolen documents, filled-in with valid data, are found, also occurs.

If there are weighty reasons to doubt a document or the identity of the alien, the police will address the authorities in the country of origin in order to clarify the question.

It should be noted, that the authorities in the country of origin never are addressed in pending asylumcases.

ESTONIA (15/10/07)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

An alien is identified on the basis of an identity document issued by Estonia or on the basis of a valid travel or identity document issued by a foreign country. In international protection and expulsion procedures, a person can in the absence of the above said documents be identified on the basis of other evidence (for instance on the basis of testimonies).

In the Republic of Estonia, the Citizenship and Migration Board (hereinafter *CMB*) deals with the alien identification.

In the case of doubt cast upon the authenticity of a document, an inquiry is made to the country of origin of the alien and, if possible, the submitted documents are compared with other documents identifying the alien. In the international protection procedures, the turning to the authorities of the applicant's country of origin is not allowed and in the case of doubt cast upon the authenticity of a document one turns to the Police Board (hereinafter *PB*) or to the Board of Border Guard (*BBG*) with a request for expertise.

Data connected with the identification of the person (including a photo) collected in the course of the residence permit procedure are entered into the national register of residence and work permits. The applicants for international protection are photographed and fingerprinted. Photos and other data collected in the course of the procedures are entered into the national register of granting international protection. In addition, the fingerprints of those applying for international protection are forwarded to the Eurodac's central database and to the national fingerprints' register. Data connected with establishing the identity of aliens having illegally stayed in Estonia (incl. photos, fingerprints) are recorded in the corresponding database.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

In case an alien has no reliable identity documents, his/her identity is established on the basis of other evidence. An alien is not given a residence permit in Estonia, in case his/her identity is not ascertained. In establishing the identity of an alien, if necessary, the comparing of fingerprints as well as the comparing of photos is used.

In international protection procedures, it is allowed to arrange an expertise to determine a person's age (incl. the X-raying of wrist), also in international protection as well as expulsion procedures, it is allowed to conduct DNA tests on ancestral origin.

In the course of identification procedures conducted by the CMB, all data collected in the course of previous procedures is used, if necessary, for identifying an alien.

3. In the absence of a reliable identity document, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

In case an alien has no reliable identity document, the authorities of the country of origin are asked for assistance in verifying his/her identity. Assistance is requested directly from the foreign mission of the country of origin (in case the foreign mission is located in Estonia) or via the Ministry of Foreign Affairs (in case there is no foreign mission of the country of origin in Estonia). The scope of assistance requested depends on the difficulty of establishing the identity of an alien.

In international protection procedures, it is not allowed to turn to the authorities of the country of origin of the applicant. In the case of the absence of documents, the applicant's identity is established on the basis of his/her testimonies and on the basis of other evidence.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

The data system of the CMB consists of different registers, all of which contain data necessary for establishing the identity of a person (incl. photo, signature, personal data, earlier photos, former names etc.):

- 1) Register of residence and work permits – contains data on aliens having applied for a residence permit in Estonia;
- 2) Database of aliens illegally staying in Estonia – contains data on aliens, in respect of whom an illegal stay in the country has been established;
- 3) Register of granting international protection to aliens – contains data on persons having applied for asylum in Estonia;
- 4) Visa register – contains data on aliens having applied for a visa to Estonia;
- 5) Register of prohibition of entry – contains data on persons, to whom the prohibition of entry has been applied in Estonia;
- 6) Database of identification documents – contains data on all persons having applied for an identity document (identity card, Estonian citizen's passport, alien's passport, temporary travel document, travel document of a refugee, Seaman Service Book, certificate of record of service on ships);
- 7) Database of persons having acquired, restored or lost Estonian citizenship – contains data on all persons who have applied for Estonian citizenship by naturalisation or who have been released from Estonian citizenship;
- 8) Database of recording short term working of aliens in Estonia – contains data on aliens having arrived in Estonia on the basis of a visa or visa free and who have been given the right to work in Estonia for a short term.

In establishing the identity of an alien, information in all the said registers enabling to identify a person is used. If necessary, the CMB can obtain additional information on aliens from the registers maintained by other state agencies (e.g. register of criminal offences, data base on border crossings etc.).

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

It is possible to add alternative personal data concerning a person to the CMB's registers.

6. Can data recorded in the authorities' personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

Data enabling to identify an alien is transmitted to other national authorities, if the said data is necessary for fulfilling duties imposed on the national authority by law (e.g. police, border guard, security police). Data enabling to identify a person are transmitted to the national authorities of other countries, in case the communication of data is permitted either under an international agreement or under Estonian laws (e.g. in resolving issues connected with the readmission of persons). The communication of data concerning a person seeking asylum to the country of origin of the asylum seeker is prohibited.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

In general, one does not attach priority to one identity document over the others; what is important is the ascertainment of the identity of a person. In case the documents contain divergent data, the alien is requested for explanation and if possible he/she is asked to furnish additional evidence. In case of necessity, to ascertain correct data one turns to the competent authority of the country having issued the document. The CMB has a right to take an identity document for its verification or for ascertaining the identity of the user of the document.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

The search systems are flexible (one can search by first name, surname, date of birth and gender). The divergent ways of spelling personal names are taken into consideration.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

The use of a falsified or counterfeited document or of a legal document belonging to another person is an act punishable pursuant to criminal procedure in the Republic of Estonia. Falsified, counterfeited or misused documents are seized. A document issued by a foreign country is transferred to the competent authority of the corresponding foreign country.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording unestablished identities?

In residence permit procedures, the issuer of a document is obliged to be convinced of the identity of the applicant. The document is not issued to a person not identified in the prescribed manner. In international protection procedures, a corresponding note is entered into the register of granting international protection, in case a person has been identified on the basis of testimonies.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

In case of any suspicion concerning the identity of a person, additional documents are studied and the person is requested to give explanations. The CMB has a right to take a document for its verification and turn to the authorities having issued the document in order to ascertain the correct data.

FINLAND (20/04/07)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

In general, recording of different personal data of an alien for the purpose of identification is possible. The competent authorities are the Frontier Guard and the police. According to the national legislation (Aliens' Act) applicable authorities the police or border check may take fingerprints and a photograph and record other personal descriptions of aliens who have applied for asylum or a residence permit on the basis of a need for protection or of temporary protection, who have applied for a residence permit on the basis of family ties, who have been issued with a residence permit as aliens admitted to Finland under the refugee quota, whom the authorities have decided to refuse entry into or deport from the country, or whose identity is unclear. The personal descriptions are recorded in a register maintained by the police.

a) Residence permits

When applying for a residence permit an alien's identity is primarily verified through a valid travel document (passport, refugee's travel document, alien's passport), which is also a requirement for issuing a residence permit, except in applications for international protection. Identity of an alien can be also verified through other valid documents, for example through an identity document if the permit is exceptionally issued without a valid travel document (for example in cases where an alien can not receive a passport from his/her country of origin).

Competent authorities receiving applications are, if applied abroad, the embassy and in Finland the local police. As a decision-making authority in the application procedure the Directorate of Immigration is also authorized to investigate the identity of an alien. In the absence of a reliable identity document the decision-making authority will decide whether the identity is verified to the extent that the permit can be issued. The authorities will examine the correlation of the travel document and the authenticity when an alien submits the application personally to the receiving authority.

When suspecting the authenticity of the document, it can be sent to an authenticity investigation (in Finland to the National Bureau of Investigation (NBI)). Abroad, the embassies can inquire local assistance from permit issuing authorities in verifying authenticity. When submitting a residence permit application it shall include a photograph of the applicant, which will be attached to the electronic aliens register. If the permit is issued, the photograph will be placed in the residence permit self-adhesive label.

b) Asylum procedure

Applications are submitted to the Frontier Guard or to the local police if asylum is applied after entry to Finland.

The police or the Frontier Guard investigate and establish the applicant's identity, travel route and means of entering the country. Applicants are photographed and fingerprinted and this data with other personal data (age, names etc.) is entered into the police's data systems. Eurodac checks are made. At this point, information about the applicant's family members and other close relatives is also recorded. The personal data of each applicant is recorded in the authorities' registries and data basis and the cross-checks are also carried out.

Document verification is carried as described above.

The language analysis and bone age measurement tests are also carried out when needed.

c) Citizenship procedure

The Finnish Nationality Act contains provisions for an established identity. Accordingly an alien's identity is verified by means of reliable documents or by providing other information which is considered reliable on the person's name, date of birth, nationality, family relations and other personal data.

If an alien has used more than one identity, his/her identity is considered verified if he/she has used only an identity registered in the population information system for at least ten years.

The Supreme Administrative Court may verify by its decision an alien's identity, if he/she has not been granted Finnish citizenship and the decision has been based on unverified identity.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

a) Residence permits

If the applicant does not have a travel document proving his/her identity or other reliable evidence of one's identity, a permit is not primarily issued. When applying for a residence permit on the basis of family ties an alien's identity can be established through DNA tests. As a rule, DNA tests are conducted in cases where a sponsor staying in Finland applies for a permit for a family member who is without reliable identity documents.

b) Asylum procedure

See above 1.

c) Citizenship procedure

The comparison of fingerprints is used in establishing an alien's identity. However, the answers are not always acquired because the other states have no legal obligation to answer the request. DNA tests may be conducted at an applicant's expense. Sometimes the comparison of photographs has proved to be useful.

3. In the absence of reliable identity documents, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

a) Residence permits

Assistance can be asked from authorities in the country of origin to verify the authenticity of the document except in cases for international protection. This is the procedure especially in cases where an alien is abroad. The investigation for authenticity for documents in Finland is done primarily by the National Bureau of Investigation.

b) Asylum procedure

If there is any evidence or any reason to believe that the applicant has resided previously in another EU/Schengen-member state, a request for information concerning the applicant can be made or a request for the state in question to take back the applicant. Also new information

concerning the identity of the applicant can be requested as well as the identity documents he or she used before arriving in Finland. Finland does not approach the applicant's country of origin.

c) Citizenship procedure

The authorities in the country of origin may be asked for assistance in cases where an alien does not have a refugee status or a status compared to that in Finland.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

Yes. The Aliens' register contains personal data, including identification data, data on visas, residence permits and right to reside in the country, data on processing applications and other administrative data, data on family members of registered persons, data on acquisition of Finnish citizenship and retention and loss of citizenship.

Information can be compared with several different registers: of which most important population information system, police's and frontier guard's registers.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

Yes, they can and it is very important to be able to do so. This concerns authorities in the field of asylum, immigration and naturalization (the Directorate of Immigration, police, Frontier guard). All known (available to authorities) alternative personal data is recorded in the aliens' register and in the applicants' data files. Foreigners can give alternative personal data in their visa and residence permits applications and also later after moving to Finland for different authorities. The authorities mentioned have access to various national registers and can receive alternative personal data via other registers.

6. Can data recorded in the authority's personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

Yes, see above for national authorities. Transfer to foreign authorities is restricted but possible in individual cases when a legal basis for such a transfer is established and it is related into the powers of national authorities and the transfer doesn't endanger the foreigner's safety. For example Dublin-procedure.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

a) Residence permits

If the authorities are given false or divergent data about an alien's identity, issuing a permit requires investigation. A travel document is the primary source for verifying an alien's identity. Investigation is also required when information in the travel document differs from other given identity information documents. If there is any sign of forgery in the travel document, the identity of an alien will be established according to the travel document, even if there is no exact clarification for divergences.

b) Asylum procedure

All received information, even controversial, is collected and examined in order to try to establish the real identity of an applicant. Naturally, the Eurodac and the information received from the other states are also helpful. The applicant has a chance to be heard on the matter.

c) Citizenship procedure

When an alien's identity is considered to be verified by the documents presented, attention is paid especially to the following facts; when and how (by mail or in person) the documents are received and the situations where they have been used.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

All various forms of spelling and writing an applicant's name are recorded in the Aliens' register.

In addition, in order to carry out searches according to the name of an applicant, searches are made also based on the date of birth, nationality and the date of applying.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

See above 1 b.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording un-established identities?

The Aliens' register and the applicant's personal files contain data of established or unestablished identities but the same data cannot be entered in the population information system. In a case of unestablished identity, there is a special marking in the aliens' register. If there is no such marking, it can be concluded that the identity is established or the question has not been raised yet.

In principle in case of unclarities, the police is the authority which can investigate and establish an alien's identity. There is no special administrative procedure to establish an identity. The Directorate of Immigration may ask the police to carry out an investigation.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

Each case is investigated separately. The information provided by the applicant, the date stated in the document and also all the other relevant material is investigated. The police is informed if the Directorate of Immigration finds out that an identity document contains data which has been included at the request of the holder.

FRANCE (04/04/08)

1. Comment l'identité d'un ressortissant étranger¹ est-elle vérifiée ?

Quelles autorités sont compétentes ?

Quelles informations sont demandées ? Comment l'authenticité des documents est-elle vérifiée ? D'autres données (par exemple photos, empreintes, etc.) sont-elles collectées ?

La vérification de l'identité d'un ressortissant étranger s'effectue à l'entrée et à la sortie du territoire national par les services de contrôle aux frontières, à savoir les services de la Police Nationale et des Douanes, ainsi qu'à l'occasion de contrôles d'identité inopinés opérés sur l'ensemble du territoire, et notamment dans les zones frontalières.

L'authenticité des documents d'identité présentés est vérifiée à l'aide d'outils de contrôle spécifiques, mettant en œuvre des loupes, l'usage d'éclairages ultraviolets. Ces vérifications ne donnent pas lieu à l'enregistrement et à la collecte des informations recueillies.

Le passeport, ainsi qu'un acte d'état civil et des photos d'identité sont requis par les services préfectoraux chargés de l'instruction des demandes de titres de séjour.

2. En l'absence de documents d'identité probants, comment l'identité d'un ressortissant étranger est-elle vérifiée ? L'identité d'un ressortissant étranger peut-elle être établie en recourant, par exemple, à une étude médicale de l'âge osseux, à une confrontation des empreintes digitales, à des test ADN ou à des comparaisons photographiques ? Dans l'affirmative, dans quel contexte ces méthodes sont-elles employées et ces données sont-elles confrontées à celles communiquées lors d'autres procédures ?

En l'absence de documents d'identité probants, les personnels chargés du contrôle soumettent la personne à un questionnement approfondi, au besoin avec l'assistance d'un interprète et en recourant si possible à l'assistance du consulat dont dépend l'étranger, conformément aux dispositions des articles 78-1 à 78-6 du code de procédure pénale.

En aucun cas les contrôles d'identité ne font appel à des tests biologiques et notamment à des vérifications génétiques.

3. En l'absence de documents d'identité probants, le pays d'origine s'implique-t-il dans l'établissement de l'identité d'un ressortissant étranger ? L'aide des autorités du pays d'origine pour vérifier l'identité est-elle demandée et comment ?

Lorsqu'un étranger est dépourvu de documents d'identité probants, l'aide du pays d'origine de l'étranger est effectivement demandée par le biais soit des services de coopération soit de l'ambassade ou du consulat de cet Etat.

4. Existent-ils des systèmes de données officiels contenant des informations sur les ressortissants étrangers ? Quelles informations contiennent-ils ? Ces informations peuvent-elles être comparées avec des informations d'autres systèmes de données ?

Il existe un fichier national des étrangers (ADGREF) dont l'organisation est définie par le décret du 29 mars 1993 (NORINTD9300168D) pris après avis de la CNIL.

Il comporte des informations relatives à l'état civil des étrangers ainsi qu'à leur situation administrative au regard du séjour.

¹ Le terme « ressortissant étranger » signifie un étranger non naturalisé résidant dans un pays qui n'est pas son pays d'origine.

5. Les autorités peuvent-elles saisir dans leur fichier de données personnelles des renseignements alternatifs concernant un ressortissant étranger ?

Ce fichier est soumis aux dispositions de l'article 8 de la loi informatique et liberté qui interdit de mettre en mémoire ou de conserver , sauf avec l'accord explicite de l'intéressé, des données à caractère personnel qui font apparaître les origines raciales ou religieuses.

Il est soumis par ailleurs au contrôle de la CNIL.

Il ne contient que les informations qui sont énumérées de façon limitative à l'article D.612-2 du CESEDA., à savoir :

1. Etat civil complet ;
2. Numéro national d'identification ;
3. Adresse ;
4. Filiation ;
5. Situation familiale ;
6. Données de gestion du fichier ;
7. Conditions d'entrée en France ;
8. Visas ;
9. Garant ;
10. Situation professionnelle ;
11. Données relatives à l'autorisation de séjour détenue ;
12. Autres données relatives à la situation administrative.

6. Les renseignements enregistrés dans les fichiers de données personnelles des autorités peuvent-ils être communiqués à d'autres autorités nationales et aux autorités d'autres Etats aux fins d'établir l'identité d'un ressortissant étranger ?

Certains fichiers tels celui des personnes non admises et le fichier VISABIO, qui est la composante française du système d'information de données biométriques mondiale sur les visas (VIS, en anglais) peuvent être consultés par les services français en charge de la lutte contre le terrorisme, conformément aux dispositions de l'article 9 de la loi du 23 janvier 2006.

Il est en revanche exclu que des données à caractère personnel soient communiquées à d'autres Etats.

7. Comment les autorités réagissent-elles lorsque les documents d'identité d'un ressortissant étranger comportent des renseignements divergents ? Privilégie-t-on un document – et les données y figurant – par rapport à d'autres ?

Les autorités françaises chargées soit de la recherche de la fraude, soit de l'établissement et de la délivrance de titre de séjour ne privilégient aucun document lorsque les documents d'identité présentés par l'étranger comportent des informations divergentes.

8. Comment les variantes orthographiques du nom - observées entre différents documents concernant un même ressortissant étranger - sont-elles prises en compte dans les fichiers de données personnelles que possèdent les autorités et dans les recherches effectuées sur ces fichiers ?

Les autorités prennent effectivement en compte de telles variantes, notamment lorsqu'elles sont susceptibles d'avoir une origine phonétique.

9. Comment les autorités procèdent-elles lorsqu'il s'avère qu'un ressortissant étranger possède un document faux ou falsifié, ou un document légal appartenant à un autre individu ? Saisissent-elles le document en question ?

Lorsque l'étranger se présente à la frontière avec de faux documents d'identité, les autorités lui signifient un refus d'entrée sur le territoire national et le placent en zone d'attente en vue de procéder à son éloignement.

Lorsque l'étranger est interpellé sur le territoire national en possession de faux papiers d'identité, il est placé en centre de rétention administrative en vue de procéder à sa reconduite à la frontière.

10. Lorsque des imprécisions concernant l'identité d'un ressortissant étranger existent, les autorités les consignent-elles dans leurs propres fichiers de données personnelles et/ou dans des systèmes informatiques internationaux ? Quand l'identité d'un ressortissant étranger a été établie, est-elle consignée dans leurs fichiers de données personnelles/systèmes informatiques ? Les méthodes utilisées pour établir son identité sont-elles indiquées ? Y a-t-il un moyen spécifique d'enregistrer les identités non établies ?

Lorsque des imprécisions apparaissent sur l'identité des étrangers, les autorités peuvent les consigner dans leurs fichiers.

(voir réponse n°2, ci-dessus).

11. Comment les autorités traitent-elles des documents d'identité légaux en soi, mais dont on sait qu'ils contiennent des données personnelles qui ont pu être incluses à la demande de l'intéressé ?

Sans réponse.

GEORGIA (21/04/07)

Georgia has begun formation of the joint system of gathering and working out of information of different specification and bank of the information data.

In 2002 the I-24/7 web-based communication system was launched, improving National Central Bureaus' (NBC) access to Interpol's multiple databases. I-24/7 is Interpol Global Communications System and an improved service and tool for international law enforcement. It delivers fast, reliable and secure information in a user-friendly manner, permitting immediate analysis and identification. Georgia is connected to the system since 10.03.2004.

In the last period Interpol of Georgia has obtained access on all the above-mentioned databases. NCB Georgia systematically co-operates in a written form with the 183 member countries, furthermore, from May 2006 General Secretariat issued the new ASF 2 system database, permitting the simultaneous check of persons and documents as well as transportation facilities in the shortest period of time possible.

In June 2006 NCB Georgia obtained an "Easyform" software created by the General Secretariat that provides the possibility not only putting the information about vehicles and documents wanted in Georgia in the General Secretariat international database, but also adding and editing of it.

Georgia has completed internal procedures on bilateral agreements on cooperation between the law enforcement agencies and on cooperation in the fight against organized crime with Italy, France, Austria, Greece, Poland, India and China. Agreements on exchange and protection of classified information are being drafted with Lithuania, Bulgaria and Azerbaijan. It should be noted, that in majority of cases the initiative came from foreign countries, which indicates that Georgia and its law enforcement agencies are considered as reliable partners (see appendix).

It should be noted, that although cooperation within the CIS format has not proved effective, Ministry of Internal Affairs of Georgia strives to build partnerships with individual countries. Specifically close relationships have been formed with Ukraine and Moldova. Georgia is currently developing bilateral agreements with the CIS countries in the field of law enforcement.

The Unit for International relations of the Legal Department at the Office of the Prosecutor general of Georgia, in conformity with the Georgian criminal procedural legislation, coordinates the participation of different bodies of the Prosecutor's Office of Georgia and other Georgian law-enforcement authorities in the international legal relations with the competent organs of foreign states.

As regards the legal assistance, the Office of the Prosecutor General receives requests for legal assistance from foreign countries, refers them to the relevant national bodies and exercises overall control of their effective and speedy execution. On the other hand, it diverts the request of legal assistance of different bodies of the Prosecutor's Office of Georgia and other law-enforcement organs to the competent authorities of foreign countries. In certain cases, the Office of the Prosecutor General of Georgia executes the requests for legal assistance of particular importance and of special character.

Involvement of law-enforcement organs of the of the Ministry of Interior, Ministry of Defence, Ministry of Justice and Ministry of finance in investigation and identification of persons' identity and gathering the necessary information are envisaged in the Law on Operative Investigation.¹

¹ Law on Operative Investigation Chapter III. Art. 12.

The legal basis and procedures

The legal basis and mechanisms of entry, stay and departure of aliens from the territory of Georgia is regulated by the **Law on legal status of foreigners**. The present Law determines the rights and obligation of foreigners, legal bases of expel of foreigners, also forms and procedures of expel from the country, frames and accountability of governmental institutions participating in expel process for violation of legal provisions envisaged by this law.² Border checks at border-crossing points and public airports of the Republic of Georgia are carried out in accordance with chapter II.³

The **Law of Georgia on rules of registration and identity verification of citizens of Georgia and aliens residing in Georgia** was established for the purpose of ascertaining date on aliens residing in Georgia as well as for the exercise and discharge of citizens' rights a procedure of registration of aliens residing in Georgia.

According to Law of Georgia on rule of registration and identity verification of aliens residing in Georgia (Chapter III, art 11, 12 and 13) the basic documents for identity verification of aliens resending in Georgia is the residence card, which verifies the identity of aliens residing in Georgia.⁴

Identification cards (residence cards) of persons residing in Georgia shall be filled in, issued or replaced by agencies of the Ministry of Justice.

The registration agency shall issue an identification (residence) after the applicant presents all necessary documents. Issuance of an identification (residence) card shall be suspended if presence of any false or incorrect data in the presented documents is discovered.⁵

The requested information under the shall contain:

- a) first name;
- b) last name;
- c) date of birth (Year, month, day);
- d) place of birth
- e) personal number;
- f) photo stamped by a respective agency of the Ministry of Interior;
- g) signature of the cardholder;
- h) title of the agency issuing the card;
- i) signature of the head of respective agency Ministry of Interior;
- j) embossed seal;
- k) date of issuance;
- l) citizenship of the cardholder.

Law of Georgia on operative investigation envisages the identification of the person by fingerprint database, track or excretion.⁶

The Basic rules to know when crossing the state border of Georgia

Criminal Code of Georgia

Chapter 10 Crime against the rule of administration

Article 244. Transgressing the State Borders of Georgia⁷ (21.12.2004 #673)

² Operation of this law does not extend on asylum seekers and on persons already having the asylum or refugee status.

³ Law on legal status of Foreigners – Chapter II, art.13 &14.

⁴ Georgia on rule of registration and identity verification of aliens residing in Georgia Chapter III, art. 12.

⁵ Ibid, art.13.

⁶ Law on operative investigation Chapter I Art. 1. para.f.

1. Transgressing the State Borders of Georgia shall be punishable by fine or confinement up to six months; or deprivation of liberty from five to three years.
2. The action, referred to in part 1 of the present Article, being committed:
 1. By a group;
 2. In violence or with the threat of recourse to violence, - shall be punishable from four to five years.

Organic Law of Georgia “On the Status of Aliens”

Section 2 Aliens entering, sojourning, transiting, and exiting Georgia

Chapter 2 General requirements on aliens entering, sojourn, transiting and exiting Georgia

Article 4. General grounds for entering Georgia

1. The Department of the Ministry of Internal Affairs of Georgia for the Defence of State Border shall be authorized, under special circumstances, determined by the Ministry of Internal Affairs, to grant a leave to an alien to cross the border without a travel document and to sojourn up to 3 months.
2. The categories of sojourn in Georgia shall be:
 - a. *Visa of Georgia*;
 - b. *Temporary residence permit*;
 - c. *Permanent residence permit*.

Chapter 3. Issuance of Georgian visa

Article 14. Grounds for refusal the leave to enter the territory of Georgia

- 1) An alien can be refused to enter Georgia, when:
 - a) He or she fails to present the valid documents requested by legislation of Georgia for entering the territory of Georgia;
 - b) A violation by him or her of criminal legislation of Georgia has been revealed during the last sojourn in Georgia or he or she was deported during the last three years before submission of an application or failed to pay fine defined for illegal sojourn in the territory of Georgia;
 - c) False data or documents are submitted in application either for visa of Georgia or for entry clearance;
 - d) He or she has no enough financial means for sojourning or residing in or leaving Georgia;
 - e) his or her sojourn in Georgia is susceptible to imperil the protection of public order and security, health and legal interests of citizens of Georgia and other persons residing in Georgia;
 - f) His or her sojourn in Georgia will impair the relations between Georgia and another foreign country;
 - g) There is a reasonable doubt that he or she will stay illegally in the territory of Georgia after the expiry of visa;
 - h) There is a reasonable doubt that he or she will commit a crime punishable under legislation of Georgia;
 - i) He or she refuses to impart information or conveys false information as to his identity and the object of travel;
 - j) Georgian legislation provides for other ground for refusal.
2. A refusal to an alien shall be set out in writing, referring to the ground provided for in Article 14, Para. 1.

⁷ The present Article shall not apply to a foreign citizen or a stateless person-claiming asylum in accordance with the Constitution of Georgia unless his or her act amounts to another offence.

Appendix

The United States of America

- Intentional Memorandum between Georgia and the United States of America on support in strengthening efforts and enhancing cooperation in the fight against terrorism.
- Agreement between the government of Georgia and the government of the United States of America on ensuring program for terrorism suspension.
- Implementing agreement between the Ministry of Internal Affairs of Georgia and the Energy Department of the United States of America on cooperation in preventing smuggling of nuclear and other radioactive substances.

The Russian Federation

Security

- Agreement between the State Security Service of the Republic of Georgia and the Federal Counterintelligence Service of the Russian Federation and Attached Protocols to this Agreement.
- Agreement between the Republic of Georgia and the Russian Federation on cooperation of the State Security Service of the Republic of Georgia and the Foreign Intelligence Service of the Russian Federation in the field of intelligence.

Internal Affairs

- Agreement on cooperation between the Ministry of Internal Affairs of the Republic of Georgia and the Ministry of Interior of the Russian Federation.
- Memorandum on cooperation of the Ministry of Internal Affairs of the Republic of Georgia and the Ministry of Interior of the Russian Federation in the fight against terrorism and other manifestations of extremism.
- Agreement between the Republic of Georgia and the Russian Federation on legal assistance and legal relationship in civil, family and criminal matters.

Border Guard

- Agreement on cooperation in border issues between the executive authority of Georgia and the government of the Russian Federation.

Bulgaria

- Agreement between the Republic of Georgia and the Republic of Bulgaria on mutual legal assistance in criminal matters.
- Agreement on cooperation in border issues between the executive authority of Georgia and the government of the Republic of Bulgaria.

Latvia

- Agreement between the Government of Georgia and the Government of the Republic of Latvia on joint fight against terrorism, illicit drug trafficking and organized crime.
- Agreement between the Government of Georgia and the Government of the Republic of Latvia on mutual protection of classified information

Estonia

- Agreement between Georgia and the Republic of Estonia on exchange and protection of classified information.

Romania

- Agreement between the government of Georgia and the government of Rumania on cooperation in the fight against terrorism, organized crime, illicit trafficking of drugs, psychotropic substances, precursors and other serious crimes.

Greece

- Agreement between Georgia and the Hellenic Republic on legal assistance in civil and criminal matters.

The United Kingdom of Great Britain and Northern Ireland

- Memorandum of Understanding between the Association of Chief Police Officers, the Crown Prosecution Service of England and Wales, the Serious Fraud Office, Her Majesty's Customs and Excise, the National Crime Squad and the National Criminal Intelligence Service of the United Kingdom of Great Britain and Northern Ireland and Georgia on cooperation in the fight against serious crime, organized crime, illicit drug trafficking and in like matters of mutual interest.
- Memorandum of Understanding between the Ministry of State Security, the Prosecutor's Office, the Ministry of Internal Affairs and the Ministry of Tax Revenue of Georgia and the Association of Chief Police Officers, the Crown Prosecution Service of England and Wales, the Serious Fraud Office, Her Majesty's Customs and Excise, the National Crime Squad and the National Criminal Intelligence Service of the United Kingdom of Great Britain and Northern Ireland and Georgia on cooperation in the fight against serious crime, organized crime, illicit drug trafficking and in like matters of mutual interest.

Austria

- Memorandum of Understanding between the Ministry of Interior of the Republic of Austria and the Ministry of Internal Affairs of Georgia.

Turkey

- Agreement between Georgia and the Republic of Turkey on legal assistance in civil, trade and criminal matters.
- Agreement between Georgia and the Republic of Turkey on elimination of antipersonnel mines from their common border with the aim of establishing bilateral regime and averting their usage in future.
- Agreement on border issues between Georgia and the Republic of Turkey.
- Agreement between the Government of Georgia and the Government of the Republic of Turkey on cooperation in the field of security.
- Protocol between Georgia and the Republic of Turkey on the implementation of Article 9 (trafficking in human beings) to the "Agreement between the Republic of Azerbaijan, Georgia and the Republic of Turkey on cooperation in the fight against terrorism, organized crime and other serious crimes".
- Protocol on the procedure to be followed in the case of deportation of passengers, luggage, cargo and mail specified by "The Agreement Between the Government of Georgia and the Government of the Republic of Turkey on the Joint Usage of the Batumi International Airport" by the competent authorities of the both contracting parties or of the third Countries.

Armenia

- Agreement between the Ministry of State Security of Georgia and the Ministry of Interior and the Ministry of National Security of the Republic of Armenia on exchange of official representatives.
- Agreement on cooperation and interaction between the Ministry of State Security of the Republic of Georgia and the State Division of National Security of the Republic of Armenia.
- Agreement between Georgia and the Republic of Armenia on delivery of persons committed crimes.
- Agreement between the Republic of Armenia and Georgia on the fight against theft of transport means and their return. Signed. Needs ratification.

Azerbaijan

- Agreement on cooperation and interaction between the Ministry of State Security of Georgia and the Ministry of National Security of the Azerbaijani Republic.
- Agreement on cooperation between the Agency of Internal Affairs of Border Region of Georgia and the Agency of Interior of Border Region of the Azerbaijani Republic.
- Agreement on cooperation in border issues between Georgia and the Azerbaijani Republic.

- Agreement between the government of Georgia and the government of the Azerbaijani Republic on exchange of representatives from the Ministry of Internal Affairs of Georgia and the Ministry of Interior of the Azerbaijani Republic.
- Agreement between Georgia and the Azerbaijani Republic on legal assistance and legal relationship in civil, family and criminal matters.

Turkmenistan

- Agreement between Georgia and Turkmenistan on legal assistance in civil and criminal matters.

Uzbekistan

- Agreement between the government of Georgia and the government of the Republic of Uzbekistan on cooperation in the fight against crime.
- Agreement on cooperation and interaction between the Ministry of State Security of Georgia and the National Security Service of the Republic of Uzbekistan.
- Agreement between Georgia and the Republic of Uzbekistan on legal assistance and legal relationship in civil and criminal matters.
- Agreement on cooperation between the Ministry of Internal Affairs of Georgia and the Ministry of Interior of the Republic of Uzbekistan.

Ukraine

- Agreement between the Ministry of Internal Affairs of Georgia and the Ministry of Interior of Ukraine on cooperation in the fight against crime.
- Agreement between Georgia and Ukraine on mutual assistance in civil and criminal matters.
- Agreement between the government of Georgia and the Cabinet of Ministers of Ukraine on mutual protection of classified information.
- Agreement on cooperation and interaction between the Security Service of Georgia and the Security Service of Ukraine.

Moldova

- Agreement on cooperation and interaction between the Service of State Security of Georgia and the Ministry of National Security of the Republic of Moldova.

Tajikistan

- Agreement on cooperation and interaction between the Ministry of State Security of Georgia and the Ministry of National Security of the Republic of Tajikistan.

Kazakhstan

- Agreement between Georgia and the Republic of Kazakhstan on mutual legal assistance in civil and criminal matters.
- Agreement on cooperation and interaction between the Ministry of State Security of Georgia and the Security Committee of the Republic of Kazakhstan.
- Agreement between the government of Georgia and the government of the Republic of Kazakhstan on cooperation in the fight against terrorism, organized crime and like matters, illicit trafficking of drugs, psychotropic substances and precursors. Signed on March 31, 2005. Approved on May 25, 2005 by the regulation # 376 of the President of Georgia. Not in force.

Egypt

- Agreement between the executive authority of Georgia and the government of the Arab Republic of Egypt on cooperation in the fight against crime.

Finland

- Declaration between the Ministry of Internal Affairs of Georgia and the Border Guard of Finland.

China

- Agreement on cooperation in border issues between the State Department of the State Border Guard of Georgia and the Ministry of Public Security of the People's Republic of China.

CIS

- Convention on legal assistance and legal relationship in civil, family and criminal matters between the Member States of the Commonwealth of Independent States. Signed in Minsk, on 22 January, 1993.

For the first time in the recent history of Georgia, has begun formation of the joint system of gathering and working out of information of different specification and bank of the information data. In the past year the process of optimization of newly created departments continued intensively. As a result of changes in the criminal procedural code has caused reorganization of the structural units of the ministry.

GERMANY (17/06/09)

Regarding questions 1, 4, 5, 7 and 8

Topic: Identification of aliens as a task of the Central Aliens Register

Pursuant to section 1 (2) of the German Central Aliens Register Act (*Ausländerzentral-registergesetz* – AZRG) the Central Aliens Register (*Ausländerzentralregister* - AZR) provides support to the authorities charged with performing tasks associated with the laws regarding aliens and/or asylum and other public authorities by storing and transmitting registered data regarding aliens. The AZR fulfils its task as a central and nationwide information office primarily by storing identification data. Currently, this essentially includes alphanumeric data. In the AZR's visa file, photographs have additionally been stored since 2002; since the end of 2008 photographs have been stored in the General Database of the AZR.

The AZR's identification function is ensured by a high-performance search procedure. The spelling used in the search often does not correspond with that stored in the database. Both false entries and divergent ways of spelling and/or pronunciation of names which were originally not spelled with the Latin alphabet lead to different entries. Furthermore, there are great cultural differences in spelling or in the use of names, for example the lack of differentiation based on first name and surname. To arrive at the best possible search result despite all differences, a country-specific and phonetic search is performed. Among other things, the performance capacity of the search procedure is manifested by good response times on the part of the AZR.

Topic: Possibilities of verifying the identity of asylum seekers

Pursuant to section 16 (1) of the German Asylum Procedure Act (*Asylverfahrensgesetz* – AsylVfG), the identity of asylum seekers is to be secured by means of identification measures such as photographs or fingerprints. Also permissible is a voice record to determine the country of origin. The competent authorities are the Federal Office for Migration and Refugees; if applicable, the border, police and alien authorities as well as the admission facilities for asylum seekers in the German *Länder* (section 16 (2) AsylVfG) are also responsible. The data gathered thereby may also be processed and utilised to determine identity or to classify items of evidence for purposes of the criminal proceeding or to avert danger (section 16 (5) AsylVfG). Under certain preconditions, forwarding data to the Federal Criminal Police Office and the Federal Office of Administration is permissible as well (section 16 (3) AsylVfG).

Topic: Registration of residence

In the area of resident registration, it may be said in general terms that the German Framework Act on the Law of Registration (Registration Law Act) (*Melderechtsrahmengesetz* – MRRG) and the registration laws of the *Länder* include merely the “duty to verify identity” within the scope of the special registration requirement in commercially rented accommodations. To implement the Schengen Agreement, a provision was added to section 16 (1) MRRG to the effect that aliens are to identify themselves to the managers of establishments providing accommodation or their agents by producing a valid identity document. Since this law has meanwhile been implemented into the law of the *Länder*, this means that there is a duty of identification by foreign hotel guests and a corresponding duty to verify identity on the part of the hotelier.

Passports, personal identification cards and other documents in lieu of a passport – but not drivers' licences – may be used as identity documents. Section 14 of the Regulation on the Implementation of the Aliens Act contains a detailed list of those documents in lieu of a passport which have been introduced and/or approved for aliens.

There is no duty to verify identity within the scope of residence registration. However, the registration authorities store data on the persons living within their area of responsibility (residents) in order to be able to determine and verify their identity and residence. For that purpose, the registration authorities generally require submission of documents that enable identification of the

resident. These are then stored as reference data in the registry for purposes of identification. No overall assessment of the authenticity of the submitted documents is made. In the case of aliens, this is generally undertaken by the Aliens Authority (however, this is no longer true for EU citizens).

Regarding questions 2 and 6:

Topic: Measures to verify identity

As an additional measure to verify identity of applicants for national visas, the fingerprints taken pursuant to section 49 (5) no. 5 and (6a) of the German Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory (Residence Act) are being integrated into the automated visa procedure of the Federal Office of Administration and forwarded to the Automated Fingerprint Identification System (AFIS) of the Federal Criminal Police Office. The results of the assessment are then transmitted back to the relevant office.

Regarding questions 3 and 9:

Topic: Stolen and lost documents

The excerpts from the INPOL investigation database of the Federal Criminal Police Office on lost documents (ISAD - Information System on Lost Documents) are made available as a parallel database via the communication channels of the Federal Office of Administration to the aliens' authorities and German foreign representations.

For investigations within the Contracting States to the Convention Implementing the Schengen Agreement, the Schengen Information System (SIS) provides another computerised search system for investigations into individuals and facts. Shortly, excerpts from the investigation databases on lost documents will also be made available via the Federal Office of Administration to non-police authorities, particularly aliens' authorities and foreign representations.

Regarding question 3

Topic: Identification via the Found Documents Database

The Federal Office of Administration has been charged with the task of operating a so-called Found Documents Database, which contains information on identity papers of nationals from States requiring a visa which have been issued by foreign official offices and have been found in Germany. The purpose of storing this information is the determination of the identity or citizenship of an alien, thus enabling a later potential return.

Regarding question 10:

Topic: Support in verifying documents

The so-called Information System on Documents is a network for gathering, collating and distributing information on documents. A central element of this is a database operated by the Federal Criminal Police Office, which includes stored information on falsified documents such as passports and drivers' licences. The Federal Office of Administration meets the informational needs of non-police *Länder*-level authorities.

Appendix (Document transmitted on 24/11/09)

Alphanumeric search procedure in the Central Aliens Register

The search procedure currently used by the BVA (Bundesverwaltungsamt – Federal Office of Administration) is an expanded form of „Cologne phonetics.“ The standard form of “Cologne phonetics” is specialised in German-language terms/names and has been expanded to include additional language-specific transcription tables:

- GERMAN (standard phonetisation)
- BULGARIAN
- CHINESE
- CZECH
- SPANISH
- FRENCH
- ENGLISH
- GREEK
- HUNGARIAN
- ITALIAN
- DUTCH
- PORTUGUESE
- POLISH
- ROMANIAN
- RUSSIAN
- TURKISH
- ARABIC
- YUGOSLAVIAN¹

Table

STABU	COUNTRY	NAME	LANGUAGE TABLE
0	D	GERMAN	D
90	DDR	GERMAN	D
121	AL	ALBANIA	STD
123	AND	ANDORRA	E
124	B	BELGIUM	F

¹ This is not a „genuine“ language. YUGOSLAVIAN includes language characteristics from the former Yugoslavian states.

Because the use of all language tables involves a great deal of calculation, in normal cases searches are undertaken only with standard phonetisation. Only if a greater search depth is required will the transcription tables be used; these are employed dependent upon the sought nationality.

The table included as an Appendix illustrates the allocation of the respective nationality with the corresponding transcription table.

The search process may be described as follows:

Search descriptors are formed from the various parts of the basic personal information. Every data set has a list of descriptors, created in phonetic script based on the stored spelling and sometimes additionally according to nationality. The personal information in a search request is processed as a set of descriptors according to the same principle, and is compared with the existing descriptors.

The potential hits found in this first step are processed based on a set of rules (formation of intersection); subsequently, the similarity to the search data is determined (assessment). The assessment is carried out by allocating points based upon various algorithms and rules.

125	BG	BULGARIA	BG
126	DK	DENMARK	STD
127	EL	ESTONIA	SU
128	SF	FINLAND	STD
129	F	FRANCE	F
134	GR	GREECE	GR
135	IRL	IRELAND	GB
136	IS	ICELAND	STD
137	I	ITALY	I
138	YU	YUGOSLAVIA	YU
139	LE	LATVIA	STD
141	FL	LIECHTENSTEIN	D
142	LT	LITHUANIA	STD
143	L	LUXEMBOURG	D
145	M	MALTA	STD
147	MC	MONACO	F
148	NL	NETHERLANDS	NL
149	N	NORWAY	STD
151	A	AUSTRALIA	D
152	PL	POLAND	PL
153	P	PORTUGAL	P
154	RO	ROMANIA	R
156	RSM	SAN MARINO	I
157	S	SWEDEN	STD
158	CH	SWITZERLAND	D
159	SU	SOVIET UNION	SU
161	E	SPAIN	E
162	CS	CZECHOSLOVAKIA	CS
163	TR	TURKEY	TR
165	H	HUNGARY	H
167	V	VATICAN CITY	I
168	GB	GREAT BRITAIN	GB
181	CY	CYPRUS	GR
195		BRITISH DEPENDENT TERRITORIES	GB
199		OTHER EUROPEAN STATES	STD
221	DZ	ALGERIA	VAR
223	AN	ANGOLA	P
225	ETH	ETHIOPIA	STD
226	LS	LESOTHO	STD
227	RB	BOTSWANA	STD
229	DY	BENIN	STD
230	DSC	DJIBOUTI	STD
231	CI	CÔTE D'IVOIRE	STD
232	WAN	NIGERIA	STD
233	ZW	ZIMBABWE	STD
236	GA	GABON	STD
237	WAG	GAMBIA	STD
238	GH	GHANA	STD
239	RIM	MAURITANIA	VAR
242	KV	CAPE VERDE	P
243	EAK	KENYA	STD
244	KO	COMOROS	STD
245	RCB	CONGO	STD
246	ZRE	ZAIRE	STD
247	LI	LIBERIA	STD
248	LAR	LIBYAN ARAB REP.	VAR

249	RM	MADAGASCAR	STD
251	RMM	MALI	STD
252	MA	MOROCCO	VAR
253	MS	MAURITIUS	STD
254	MO	MOZAMBIQUE	P
255	RN	NIGER	STD
256	MW	MALAWI	STD
257	Z	ZAMBIA	STD
258	BRK	BURKINA FASO	STD
259	GUB	GUINEA-BISSAU	STD
261	GV	GUINEA	STD
262	CM	CAMEROON	STD
263	ZA	SOUTH AFRICA	NL
265	RWA	RWANDA	STD
268	ST	SAO TOME AND PRINCIPE	STD
269	SN	SENEGAL	STD
271	SY	SEYCHELLES	STD
272	WAL	SIERRA LEONE	STD
273	SP	SOMALIA	STD
274	AQ	EQUATORIAL GUINEA	STD
276	RS	SUDAN	VAR
281	SD	SWAZILAND	STD
282	EAT	TANZANIA	STD
283	TG	TOGO	STD
284	CD	CHAD	STD
285	TN	TUNISIA	VAR
286	EAU	UGANDA	STD
287	ET	EGYPT	VAR
289	RCA	CENTRAL AFRICAN REP.	STD
291	BY	BURUNDI	STD
295		BRITISH DEPENDENT TERRITORY	GB
299		OTHER AFRICAN STATES	STD
320	AG	ANTIGUA AND BARBUDA	STD
322	BDS	BARBADOS	GB
323	RA	ARGENTINA	E
324	BS	BAHAMAS	GB
326	BL	BOLIVIA	E
327	BR	BRAZIL	P
328	GUY	GUYANA	STD
330	BZ	BELIZE	STD
332	RCH	CHILE	E
333	WD	DOMINICA	STD
334	CR	COSTA RICA	E
335	DOM	DOMINICAN REP.	E
336	EC	ECUADOR	E
337	ES	EL SALVADOR	E
340	WG	GRENADA	GB
345	GCA	GUATEMALA	E
346	RH	HAITI	F
347	HON	HONDURAS	E
348	CDN	CANADA	GB
349	CO	COLOMBIA	E
351	C	CUBA	E
353	MEX	MEXICO	E
354	NIC	NICARAGUA	E
355	JA	JAMAICA	GB

357	PA	PANAMA	E
359	PY	PARAGUAY	E
361	PE	PERU	E
364	SME	SURINAME	NL
365	ROU	URUGUAY	E
366	WL	SAINT LUCIA	E
367	YV	VENEZUELA	E
368	USA	UNITED STATES	GB
369	WV	SAINT VINCENT AND THE GRENADINES	STD
370	CN	SAINT CHRISTOPHER AND NEVIS	STD
371	TT	TRINIDAD AND TOBAGO	GB
395		BRITISH DEPENDENT TERRITORY	GB
399		OTHER AMERICAN STATES	STD
421	YE	YEMEN ARAB REPUBLIC	VAR
423	AF	AFGHANISTAN	STD
424	BRN	BAHRAIN	VAR
426	BT	BHUTAN	STD
427	BUR	BURMA	STD
429	BRU	BRUNEI	VAR
431	CL	SRI LANKA	STD
432	VN	VIET NAM	CHI
434	KN	KOREA, DEM. PEOPLE'S REP.	CHI
436	IND	INDIA	STD
437	RI	INDONESIA	STD
438	IRQ	IRAQ	VAR
439	IR	IRAN	STD
441	IL	ISRAEL	STD
442	J	JAPAN	STD
443	ADN	YEMEN, PEOPLE'S DEM. REP.	VAR
445	JOR	JORDAN	VAR
446	K	KAMPUCHEA	STD
447	KA	QATAR	VAR
448	KT	KUWAIT	VAR
449	LAO	LAO PEOPLE'S DEM. REP.	STD
451	RL	LEBANON	VAR
454	MV	MALDIVES	STD
456	OM	OMAN	VAR
457	MG	MONGOLIA	STD
458	NP	NEPAL	STD
460	BD	BANGLADESH, PEOPLE'S REP.	STD
461	PAK	PAKISTAN	STD
462	RP	PHILIPPINES	P
465	RC	CHINA(TAIWAN)	CHI
467	ROK	KOREA, REPUBLIC	CHI
469	AE	UNITED ARAB EMIRATES	VAR
472	SA	SAUDI ARABIA	VAR
474	SGP	SINGAPORE	STD
475	SYR	SYRIA	VAR
476	T	THAILAND	STD
479	VC	CHINA(PEOPLE'S REP.)	CHI
482	MAL	MALAYSIA	STD
495		BRITISH DEPENDENT TERRITORY	CHI
499		OTHER ASIAN STATES	STD
523	AUS	AUSTRALIA	GB
524	SAL	SOLOMON ISLANDS	STD
526	FJI	FIJI	STD

530	KIR	KIRIBATI	STD
531	NU	NAURU	STD
532	VT	VANUATU	STD
536	NZ	NEW ZEALAND	GB
538	PN	PAPUA NEW GUINEA	STD
540	TUW	TUVALU	STD
541	TA	TONGA	STD
543	WS	SAMOA	STD
595		BRITISH DEPENDENT TERRITORIES	GB
599		OTHER AUSTRALIAN STATES	STD
997	XX	STATELESS	STD
998	YY	OPEN	STD
999	ZZ	NOT SPECIFIED	STD

HUNGARY (31/08/07)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

The identity of a foreigner can be established mainly on the basis of his/her available documents (passport, identity card, residence permit, driving license, etc.). If the foreigner's fingerprint has already been registered, he/she may be identified also on the basis of the fingerprint recorded in the repeated process even if he/she does not hold any document.

The foreign representation of the country of origin of the foreigner should be contacted if the foreigner concerned does not hold any document. In such a case his/her fingerprint is sent to the Criminal Expertise and Research Institute in order to compare with the fingerprints already registered.

In the course of the identification all the agencies acting in relation to the foreigner have competence. In justified cases the acting authority will contact other agencies as well to establish the identity of the foreigner.

Different technical means (e.g. UV-lamp) as well as sample documents (e.g. the watermark on them, vehicles, bookbinding procedures, form numbers, biometric identification marks) provide assistance in establishing whether or not the document is original.

Certain records (e.g. visa records, records on asylum seekers) contain photographs as well. The fingerprint of a foreigner is registered in central records.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

Currently the comparison of fingerprints and of photographs is the general practice. If necessary, even an anthropologic examination can be conducted on the basis of the comparison of photographs. Medical bone examination and the DNA test are not typical.

Our authority does not have sufficient experience in establishing identity on the basis of age, the medical examination of bones and the conducting of DNA tests. When morphologic marks are apparently different, our clerks contact the Institute of Medical Forensic Experts, which provides anthropologic expertise on the basis of the attached photographs.

3. In the absence of reliable identity documents, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

If the identity of the foreigner cannot be established owing to lack of appropriate documents, the foreign representation of the country of origin indicated on the form completed by the foreigner is contacted. However, the efficiency of this step greatly depends on the readiness of the foreigner to cooperate.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

The Agency handles the data of foreigners in the central records of immigration control for the purposes of identification and the prevention of parallel procedures. The central records of immigration control consist of general records on foreigners, partial records and fingerprint records.

General records include the name of the foreigner, his/her family and first name(s) given at birth, previous name(s), place and date of birth, sex, his/her mother's family and first name(s), citizenship, residence and the identification data of the documents certifying entitlement, issued to him/her.

The data of the following persons are included in certain partial records:

- a) expelled foreigners and foreigners subject to the prohibition of entry and residence;
- b) foreigners submitting visa applications or holding visas;
- c) foreigners invited to Hungary and the data of the inviting party (natural person or legal entity);
- d) foreigners holding the residence or staying permit as well as foreigners holding the certificate entitling to temporary residence;
- e) foreigners holding the immigration permit;
- f) foreigners arrested, detained or restricted in any other way in terms of personal liberty in the Republic of Hungary as well as foreigners afflicted by extraordinary events (death, accident resulting in serious injury, etc.);
- g) foreigners reporting the loss of their passport documents.

Furthermore, the Agency keeps the Refugee Information Records (MIR) as well as the so-called IDR records on the data of natural persons applying for residence or staying permit and letter of invitation.

The Agency has access to certain records of the police, including the records on wanted persons and objects, the Consulate Information System operated by the Ministry of Foreign Affairs as well as the records on the residence of Hungarian citizens (SZL).

Data on the place and exact date of the entry to and exit from Hungary as well as on the transit by foreigners can be searched in the Border Guard Registration, which stores related data for a period of 90 days.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

No data other than the ones included in the records are registered.

6. Can data recorded in the authority's personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

In accordance with data protection several acts prescribe which types of data is to be handled and utilized by which organ.

The Agency in its capacity of a central data management organ as well as the competent immigration control authority may provide data to judicial and police organizations, national security services, the refugee administration organization and special authorities defined by the act on immigration control ('organ entitled to require data') for the performance of their statutory

duties as well as to the organs defined by statutory provisions or international agreements in respect of certain types of data.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

The authority revealing the discrepancy asks the client to make a declaration and it collects the evidences in accordance with the said declaration to make actual identification data available. It tries to clear the discrepancy of the data and if there is a grounded suspicion, it initiates criminal procedures owing to falsification of public documents.

Each public document has full probative force meaning that each public document may be taken into account with the same weight. Of course, the public document has priority over private ones and in its procedures our authority takes the data contained by travel documents as the basis.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

Currently our computerized records do not allow registering of divergence of spelling.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

In accordance with the rules of criminal procedures the acting authority reports the client using a forged or supposedly forged document to the police and provides for the availability of said document until the investigating authority seizes it during the course of in the criminal proceedings.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording un-established identities?

Before registering the data, the authority has to identify the person concerned. However, in many cases the measures taken for identification do not lead to any result. In such a case data are recorded on the basis of the declaration of the person concerned.

The records do not include the method and source of the establishment of identification – data and information in this respect are available in the document files.

If the procedure is instituted upon request, the authority registers the data contained by the application of the foreigner when the application is submitted, together with possible subsequent changes. Documents clearing doubtful identification (e.g. anthropologic expertise) are filed as public administration documents.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

By virtue of applicable rules of law, the public document and its contents are to be accepted as authentic until proven to the contrary, even if the proceeding authority makes reservations in this respect.

ICELAND (15/03/08)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

The identity of an alien is verified by comparing the identity documents provided. The verification is done by Police documents experts. In case of doubt of authentication the document is verified by Police document experts. Photo and fingerprints of aliens are normally taken by Police in case there is need for verification of the aliens identity documents.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

In the absence of identity documents the identity of an alien who asks for asylum is verified first of all by comparing to the Eurodac aliens fingerprint databank. DNA tests are not used but medical bone measurements have been used to verify the age of alien but only in cases where the individual seeks asylum.

3. In the absence of reliable identity documents, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

Country of origin is not contacted and has no role in establishing the identity of an alien seeking asylum. In case of verification of identity concerning criminal procedure the country of origin would be requested to assist.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

The Police collects fingerprints, photos and reports on aliens in case they seek asylum. The information can be compared to other Police databanks. The same applies if an alien is involved in criminal matters.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

The Directorate of immigration collects personal data on aliens such as home address, relatives etc. when they apply for a residents permit. In case of application for citizenship a background check is done by Police in the country of origin.

6. Can data recorded in the authority's personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

Yes.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

There are no specific rules in such cases.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

The different spelling would be included in the personal data as an alias name.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

The normal procedure is to seize the document and prosecute the holder.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording un-established identities?

The procedure depends on the status of the alien. Asylum seekers are recorded both in local and international databanks and the same goes for aliens involved in criminal matters. Yes. The means to establish the identity are included.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

No such matters have arisen.

THE PHENOMENON OF DOCUMENT FRAUD IN INTERNATIONAL COUNTER-TERRORISM ACTIVITIES

Introduction

Document fraud [*falso documentale*], that is to say «forgery of documents», just to mention the words under Chapter III, Title VII of Book II of the Criminal Code, is one of the four types of offences causing prejudice to the legal value of **publica fides (public faith)**; a value which is a safeguard for the certainty and reliability of economic and legal activities.

The other types of offences which cause prejudice to public faith are *counterfeiting money, public credit securities and revenue stamps* (Chapter I); *counterfeit seals, or instruments or marks of authentication, certification or identification* (Chapter II) and *identity false* (Chapter IV).

Experience in investigation activities – particularly in relation to the fight against international terrorism - shows that, despite being two different concepts, *document fraud* and *identity false* [*falso sulle identità o qualità personali*] almost always translate into types of conduct *distorting reality*, which coexist and are characterized by an instrumental relation.

The rate of occurrence of these offences, as emerged in investigations carried out into Islamic fundamentalist circles and the fact of being aware that obtaining and using forged identity documents are instrumental to the organization and activities of terrorist groups, led the legislator to introduce new offences or to modify some among those already included in the section of the Criminal Code sanctioning identity false [*falsità personali*].

It is not a coincidence that the first legislative innovations on the subject were included in decree-law no. 144/2005 (the so-called «Pisanu decree»), converted into law no. 155/2005, which provides for a series of measures to fight terrorism.

So, in 2005 the legislator extended the aggravating circumstance in Article 495, no. 2, para. 3, of the Criminal Code to *the person under investigation* (making false statements on one's own identity or status or personal details to the judicial authority; this aggravating circumstance was at first provided for only in relation to the *defendant*) and introduced in the Criminal Code the new following types of conduct «possession and making of false identification documents» (Article 497 bis) and «possession of counterfeit badges» (Article 497 ter).

Moreover, the legislator's interest in relation to these types of offences is confirmed by decree-law no. 92/2008, converted into law no. 125/2008 (the so-called «Decree on Security») which introduced important new elements aimed at hindering the conduct of those who intend to impede personal identification procedures and making penalties applicable for these offences stricter. In particular, we refer to the:

- rewording of Article 495 (*False statement or declaration to a public official as to one's own identity or personal details or as to those of others*) and Article 496 (*False statements as to one's own identity or personal details or as to those of others*) of the Criminal Code;
- introduction, in Article 495 ter of the Criminal Code, of the new conduct of *alteration to impede the identification or the ascertainment of personal details*;
- possibility of discretionary arrest in *flagrante delicto* for the offences under Articles 495 and 495 ter of the Criminal Code.

List of cases

Document fraud has been constantly ascertained in the course of investigations, carried out both in Italy and abroad, into Islamic terrorist groups.

In this regard, we can say that forgery and the use of forged documents represent one of the instrumental offences terrorist organizations use to ensure that their members can move and act freely.

The following cases are typical examples:

- on July 11, 1997, during an investigation carried out by DIGOS [Divisione investigazioni generali e operazioni speciali] and ROS [Raggruppamento operativo speciale] in Bologna (crim. proceedings file no. 1139/97) into Algerian **G.I.A.** members, an envelope coming from Brussels was detected and seized (the sender's address on it was: *MR Jean Michel Lilonie, 26 Rue de Brogniez, 1070 Anderlecht – Brussels*) It had reached P.O. Box **NO. 948**¹ - the holder's name was **Hamami Kama**² (addressed to **Mr. Pedros Paolo Romario P.O. Box : 948 – 40124 Bologna – Italie**), and contained a request for fake documents and 4 photographs of a person subsequently identified as French absconder **Mellouk Farid**³. The investigation gathered way in April 1996, following the seizure, in an apartment in Casalecchio di Reno (BOLOGNA) where a Tunisian citizen - **Hamami Hedi Ben Hedil**⁴ - lived, of two 0.9-cal. parabellum guns, brand-name: CZ, manufactured in Czechoslovakia, perfectly working, about one hundred munitions of the same caliber, forged banknotes and two counterfeit French passports. In particular, despite being authentic, the two documents bore the pictures of persons other than the rightful holders, who were subsequently identified by the French Authorities as being two absconding terrorists - **Bouguelane Mouloud**⁵, and **Dumont Lionel**⁶ - belonging to the notorious "**Roubaix Gang**". Following further investigation, it emerged that in the Bologna area there was an active cell, mainly composed of former Bosnian Algerian militants, covering for absconders coming from other Countries and sending *mujaheddin* to a paramilitary training camp, located in Pakistan. Following the same investigation, it also came out that on Nov. 22, 1997, during a customs examination, the British police had found an envelope containing a Belgian fake passport (issued in the name of **Aloui Mohamed**), the sender's name was: **Talbi Mourad**, P.O. box 66 ST GILLES. The sender's name was probably an alias used by **Mellouk Farid**. Subsequently **Bouguelane Mouloud** and **Dumont Lionel** were arrested in Bosnia after a shoot-out with Police agents of that Country and were found in the possession of fake Italian documents (an ID card belonging to a stock of 60,000 blank ID forms, stolen from the municipal Registry Office of Naples on Feb. 26, 1996; two blank

¹ P.O. Box **no. 948** had been already detected by law enforcement officers during a Spanish police operation in *Valencia* on April 7, 1997 in relation to alleged **G.I.A.** members.

² Later on identified as **Hamami Kamal**, born in Tebourba (Tunisia) on Jan. 8, 1965, formerly residing in Granarolo dell'Emilia (Bologna), a former *mujaheddin* in the Bosnian conflict, against whom an order of pre-trial custody was issued by the Judicial Authority in Bologna in relation to criminal proceedings no. 1139/97 but it was never enforced because he has been untraceable since April 7, 1997. The judgment issued on August 21, 2003, ruled the acquittal of the Tunisian citizen. Since his being untraceable, we haven't had any news about him.

³ **Mellouk Farid**, born on May 14, 1965 in Lyon (France), called "**The Chinese man**", had been wanted by the French Authorities since April 1996 because he was thought to be a member of an Islamic extremist cell known as "**The Jaime Group**" (from the name of one of the arrested persons: **Joseph Jaime**, called **Youssef**, born on Oct. 11, 1960 in Givors), in the Lyon area (France), composed of Maghrebi and French individuals converted to Islam who, acting under the cover of the association "*Fraternite' Algerienne en France*", practically supported the Algerian Armed Islamic Group **G.I.A.**, in particular the group of French citizen **Bourada Safe**, of Algerian origin, responsible for the attacks which took place in France in the summer of 1995.

⁴ At present, he is detained at the Guantanamo detention Center.

⁵ Born in Alenciennes (France) on Feb. 13, 1970, arrested on Feb. 15, 1997 in Bosnia after a shoot-out with the Police of that Country while he tried to burglarize a gas station, together with **Dumont Lionel**.

⁶ Born in Roubaix (France) on Jan. 21, 1971, converted to Islam in the early '90s, a member of a **G.I.A.** cell, a former militant in the war in Bosnia. After fleeing from France, he was arrested on March 9, 1997 in Bosnia, after killing on Feb. 15 together with **Bouguelane Mouloud**, a Bosnian police officer during a burglary at a gas station in Zenica; he was then found in the possession of fake Italian documents. On May 26, 1999, he escaped from prison in Sarajevo and was found in Munich in December 2003. In Dec. 2005, **Lionel Dumont** was sentenced to 30 years' imprisonment by the French judicial Authority.

passports which were the proceeds of a robbery committed at Pomigliano D'arco (NAPLES) on May 14, 1996;

- *Several Islamic extremists in Italy, Great Britain, Spain, Canada and Germany were found in the possession of other passports belonging to the stocks stolen in May 1996 near Naples. Together with these passports, in some cases, also «Italian» passports with serial no. «797...L» were found and seized. In the United Kingdom in particular, during a 2002-2003 investigation into radical cells gravitating around the London mosque of Finsbury Park, several passports with a «797...L» serial number were found; those passports were used by Islamic extremists, among whom the well-known **Faraj Faraj Hassan** aka **Hamza al Libi**⁷. From further investigation into this lot of passports, it came out that they came from a print shop in Bangkok (Thailand), run by Algerian **Lahoula Ahmed**. In 1999, 83 blank forms – serial no. «797...L» - were seized from him.*
- On July 11, 2002, DIGOS in Milan enforced nine orders of pre-trial custody against Maghrebi citizens belonging to a criminal organization specialized in handling and forging stolen documents. During the operation the following items were seized: many counterfeit stamps as well as counterfeit or blank ID cards, stay permits, car registrations, vehicle ownership certificates and insurance validation stickers. The organization was under the direction of two Moroccan brothers - **Kazdari Mohamed** and **Said**, already arrested in April 2001 because they had links with the cell directed by the well-known **Essid Sami Ben Khemais**⁸. Despite being sentenced to 1 year and 10 months' imprisonment for providing the **Essid Sami** network with forged documents, the two **Kazdari** brothers immediately took up the illegal activity again after being released. The investigation then carried out showed that the group of «experts» under the direction of the two Moroccan brothers played a major role in supplying individuals belonging to the **Salafite Group for Preaching and Combat** (operating in Lombardy) with forged documents;
- On December 13, 2003, absconding terrorist **Dumont Lionel** was arrested in Munich. The investigation revealed that he had been using a Portuguese woman's house in Maintal as his hideout. There, **Dumont Lionel** received an SMS from Malaysia mentioning the number to trace an envelope sent through FedEx (a US multinational providing several services, including courier service). The envelope had been sent from Bangkok (Thailand) and was supposed to arrive in Frankfurt on Dec. 10, 2003. The envelope, seized on its arrival in Germany, contained a French passport and an ID card issued in the name of **Patrice Daniel Francise Lejeune**. In this regard, the French Authorities said that the name and personal details on the two documents belonged to an existing person without a record as far as security was concerned, but that he had twice reported the loss of his documents;

⁷ **Faraj Faraj Hassan**, a Libyan citizen, whose name emerged following an investigation - carried out by the Carabinieri - called operation "**Bazar**", at the end of which the GIP [Judge for preliminary investigation] of the Court in Milan issued an order of pre-trial custody on Sept. 30, 2002, against **Faraj** and others, for the following offences "association for purposes of terrorism, including international terrorism, participation in forgery and aggravated handling of stolen goods".

⁸ **Essid Sami Ben Khemais**, a Tunisian citizen was investigated in Italy in relation to Islamic terrorism. He was arrested in April 2001 during an investigation called operation "**Al Muhajirun**" which ascertained he was the emir responsible of a unit operating in northern Italy with branches in northern Europe, with the task of recruiting Islamic volunteers to fight in Afghanistan and in other areas of religious or interethnic conflicts.

On Dec. 11, 2002, at the end of the criminal proceedings, the Court of Appeal in Milan upheld the judgement issued by the GIP [Judge for preliminary investigation] in Milan ruling the conviction of **Essid Sami** and three other defendants who had opted for a summary trial [*rito abbreviato*], and reduced the 5 years' imprisonment sentence (imposed on him for criminal association to facilitate illegal immigration and document fraud) to 6 months' because the facts he had been accused of were prior to the entry into force of the law punishing association for purposes of terrorism, including international terrorism.

On May 18, 2005, during the so-called *Operation Haidora*, another order of pre-trial custody was issued by the judicial Authority in Milan against **Essid Sami**, following the statements made by a Tunisian citizen, investigated jointly with Sami, who explained the latter's the top position in the above-mentioned jihadist cell.

- A recent investigation carried out in Lombardy revealed that sometimes, in order to conceal the personal details of individuals who want to make money transfers linked to the financing of terrorism, or illegal transactions in general, the managers of agencies providing money transfer services usually use identification data (personal details and document serial numbers) belonging to existing individuals who, without their knowing, become the recipients or senders of considerable sums of money.

The phenomenon of **document fraud in the area around Naples** has to be dealt with separately considering how serious and rooted this phenomenon is in that area.

In December 2002, D.I.G.O.S. in Naples started to carry out a number of investigations into foreign citizens, mainly from Algeria, suspected of giving logistic support, including forged documents, to Islamic extremist organizations.

Here are some examples:

- in December 2002, Algerian **Sihali Farid**, 34, was arrested in Naples. He was found in the possession of 40 driving license forms, which had been stolen in Agrigento and 90 ID cards, stolen near Reggio Calabria. He was likely to send that material to a foreign citizen living in London. **Sihali Farid** was **Sihali Mouloud's** brother arrested in Sept. 2002 in London during an investigation into a group of Islamists suspected of producing homemade *ricin* toxin. The name of another brother of theirs, **Sihali Sofiane**, had emerged during an investigation carried out in Turin into an Islamic fundamentalist cell;
- on June 11, 2003, a Moroccan citizen, **Kifane Abderrahmane**, 40, was arrested in Sant'Anastasia, Naples, (he had already been arrested in 1995 by the Carabinieri Special Squad - R.O.S.), together with another Moroccan and 12 Algerian citizens, all allegedly having links with the Algerian *Islamic Salvation Front (F.I.S.)*, during the so-called operation *Minareto*. IT material and a number of both blank and filled in ID cards and driving license cards, ink-pads and stamps of Italian and foreign public offices were seized in his apartment;
- on October 31, 2003, a real "home base" for forging documents was located inside a building in Nola (Naples), where hi-tech computer equipment was found. It was run by three Maghrebi citizens, all of them arrested, among whom **Zoachae Abdellatif**, a sympathizer of Islamic fundamentalist groups, already arrested in 2001 because investigated by the State Prosecutor's Office in Bologna together with other foreign citizens gravitating to Naples, accused of providing extremist groups with logistic support;
- on September 22, 2006, during a house search carried out in the country area near San Giuseppe Vesuviano (Naples), IT equipment and hi-tech *software* were found, able to produce different types of very well forged documents as well as stamps of many Police Headquarters [Questure] and local government bodies [Comuni]. On that occasion, the two tenants of the house, Algerian citizen **Ahmedi Khemisti**, called *Zidane* and Moroccan citizen **Chajaoune Mohammad** were arrested. *Khemisti* was also known for regularly meeting with his fellow countrymen, involved in a 1998 investigation carried out by the Carabinieri in Naples, into an extremist cell close to the Algerian *Takfir Wal Hijra* movement.

LATVIA (21/09/07)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

The authenticity of documents can be checked in the national information system "Register of Standards of Documents" which contains the regulatory and technical (graphical and textual) information on national and foreign samples of identity documents of persons.

The information on the validity of document (e.g. if the document has been stolen/lost etc.) can be checked in the national information system "Register of Invalid Documents" which contains information on invalid identity documents of nationals and aliens.

Article 6 of Law on Proceeding of Biometric Data (in force since 28 June 2007) envisages that in specified cases, namely when granting identity documents, travelling documents, visas, residence permits, identity documents of sailors, drivers licences, identity documents of soldiers, documents of aircrew to a person not registered in the National Population Register and when receiving information from asylum who is not registered in the National Population Register, a digital face image, a digital image of fingerprints (palm) if such exists, name and surname of the person, date of birth, nationality and the kind of nationality, gender and the authority which receives the biometric data, justification of receiving biometric data and date of receiving biometric data must be included in the System of Proceeding of Biometric Data.

The Minister of Interior sets the procedure in which an alien who is an asylum seeker is identified as well as the way of cooperation between the authorities of the Ministry of Interior involved in the process of granting asylum.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

Fingerprint verification as well as DNA verification is done by checking/comparing information available in the State Police databases. Comparing face images is not possible in the automatic regime currently, because the respective system has not been created yet. However, it is possible to compare the images visually in the manual regime with the images in the Subsystem "Fototeka" of the Integrated Information System of the Ministry of Interior (for example images of convicted persons).

3. In the absence of reliable identity documents, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

State Border Guard does not have the power to request information from or to provide information to government bodies of the asylum seekers country of origin until the final decision on refugee or alternative status of that person has been made.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

Official systems exist which contain information on aliens. These databases contain basic information about aliens – name and surname, date of birth, place of birth; data on identity

document – name, number, date and place of issuance, expiry date; personal data involving the reason for entering the said person into the data base - reception of residence permit, reception of visa, processing of invitations and subpoenas, imposition of immigration prohibition.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

When processing personal data, the competent authorities act in accordance with Laws and Regulations of the Republic of Latvia on personal data protection.

6. Can data recorded in the authority's personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

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7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

If an alien holds several valid identity documents, the priority is given to the information contained in a valid travelling document used by the person concerned in order to cross the border. Passport is considered to be the most reliable identity document.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

Information is being included in the databases on the basis of the travelling document of the alien that is considered to be prior according to information provided in the question above.

Alien's name and surname is being registered in Latin letters according to how it is written in the travelling document issued by the foreign state. Usually search is conducted not only by person's name but also by date of birth. In that way divergent ways of spelling personal names does not have an effect on quality of search results.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

When carrying out border control and recognizing an alien holding a false or falsified documents, State Border Guard proceeds in accordance with Article 3.41 of Annex IX of the Convention on International Civil Aviation. The said convention envisages a withdrawal from use of false travelling documents as well as expelling the person back to emigration state. The said person is given a xerox copy of the false document and fixed type of cover letter explaining the reasons for expulsion of that person.

The action taken in ports is analogical and expulsion procedures are established by Article 3.3.1 of the Convention on Facilitation on International Maritime Traffic.

When carrying out border control on road and rail border check points on Latvian – Lithuanian and Latvian – Estonian borders (EU internal borders) and recognizing aliens holding false or falsified identity documents, State Border guard hand over the said person to the State Border guard neighbouring state according to concluded intergovernmental agreements.

When carrying out border control on road and rail on Latvian – Russian, Latvian – Byelorussian borders (EU external borders) and recognizing aliens holding false or falsified identity documents, State Border Guard detain the person and institute criminal proceedings. Accordingly, the falsified

and false alien's identity documents are withdrawn by State Border Guard and serve as material evidence in the criminal proceedings and are taken for an expertise by State Border Guard Chief Administration Service of Expertise. In addition, the State Border Guard informs State Police about the false or falsified documents.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording un-established identities?

If person's identity is not clear, a reference about that is included in the information system (known as...). In cases when person's identity has not been proven and a refugee or alternative status has been granted to that person, a remark is made that identity of person is not proven when issuing identity documents.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

There has been no such case in practice in the Republic of Latvia.

LITHUANIA (23/04/07)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

Alien personality is identified according to the "Personal identity and travel route identification technique", approved by Order of the Minister of Interior. This technique contains the means and procedures of identification of the aliens. State Border Guard Service under the Ministry of Interior (VSAT), the police and other law enforcement institutions perform alien identification procedures. If the alien applies for the asylum, he must give answers to the questionnaire containing the questions on aliens:

- first name;
- surname;
- fathers name;
- citizenship;
- nationality;
- ethnical belonging;
- religion;
- gender;
- birth date and location;
- place of last residence;
- geographical information on his state of origin (borders, capital city, flag, etc.);
- belonging to the political parties;
- military experience;
- martial status;
- education;
- occupation;
- conviction;
- personal documents, travel documents, visas if any;
- information on the reasons of asylum seeking, etc.

Also photo and fingerprints of asylum seeker is being taken.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

Aliens, whose personalities haven't been identified, are brought to the VSAT Foreigner Registration Center, where they are being photographed and interrogated. The fingerprints of the person are copied to the EUODAC system. Personal data supplied by the alien is checked in:

- the Interpol database ASF;
- the national central database of the residents;
- the register of the suspected, accused and sentenced persons;
- the databases of unrevealed crimes and administrative offences, if it is necessary.

3. In the absence of reliable identity documents, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

If it is suspected that the alien has presented forged documents, these are taken to VSAT Document Investigation Center for the closer examination. Also alien country of origin may be asked to confirm the identity of the alien. Country of origin is being asked for assistance to establish alien identity only in case alien didn't apply for the asylum.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

Specialized databases contain personal data of the alien, collected during the first interrogation. This information system has no links to any other information systems, so there is no automatic data comparison possibility.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

There is an option to add alternative personal data to the data file.

6. Can data recorded in the authority's personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

Personal data files may be transmitted to other national authorities following personal data security procedure. Exchange of alien personal information with other states is executed via EURODAC in case personal identity of the alien is unknown and he didn't apply for the asylum.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

If the alien identity documents contain divergent data, and the alien didn't apply for the asylum, the data may be checked contacting aliens country of origin, or via EURODAC. The passport or ID card has priority over other documents.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

Spelling of personal names is established according to the alien's documents or (if he has none) according to his own spelling. Alias of aliens names are included into databases.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

If after the examination of the document an alien is found to possess a false or falsified document or a legal document belonging to another person, criminal investigation is being initiated. False/falsified document or legal document belonging to another person is being seized.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording un-established identities?

If alien personal data is inputted in the specialized database, there is possibility to mark whether an alien presented any personal identification document or not. There are no other specific ways except the option to mark established/unestablished identity.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

Documents, which contain personal data included at the request of the holder, are considered to be legal, although of the increased falsification risk.

LUXEMBOURG (17/09/07)

1. Comment l'identité d'un ressortissant étranger¹ est-elle vérifiée ?

En règle générale, l'identité est établie grâce aux documents d'identité.

Quelles autorités sont compétentes ?

L'autorité compétente dépend des circonstances dans lesquelles l'étranger entre au Grand-Duché de Luxembourg. Il s'agit de l'autorité locale de la commune où l'étranger entend séjourner dans l'hypothèse d'une immigration légale et du Service de Police Judiciaire de la Police Grand-Ducale dans l'hypothèse d'une demande de protection internationale conformément à la loi du 5 mai 2006 relative au droit d'asile et à des formes complémentaires de protection. Dans ce cas, les membres du Service de Police Judiciaire interviennent pour le compte du Ministre ayant l'asile dans ses attributions.

Quelles informations sont demandées ? Comment l'authenticité des documents est-elle vérifiée ? D'autres données (par exemple photos, empreintes, etc.) sont-elles collectées ?

L'authenticité des documents peut être vérifiée par tous les moyens légalement admis. Dans l'hypothèse d'une suspicion d'être confronté à un document falsifié ou contrefait, le fonctionnaire de l'autorité communale s'adresse aux services spécialisés de la Police Grand-Ducale.

Dans le cas d'une demande de protection internationale, des empreintes digitales et des photos d'identité sont prises afin de déterminer l'identité de la personne concernée.

2. En l'absence de documents d'identité probants, comment l'identité d'un ressortissant étranger est-elle vérifiée ? L'identité d'un ressortissant étranger peut-elle être établie en recourant, par exemple, à une étude médicale de l'âge osseux, à une confrontation des empreintes digitales, à des test ADN ou à des comparaisons photographiques ? Dans l'affirmative, dans quel contexte ces méthodes sont-elles employées et ces données sont-elles confrontées à celles communiquées lors d'autres procédures ?

En matière de demandes de protection internationale, les empreintes digitales sont toujours prises conformément au règlement CE No 2725/2000 du conseil du 11 décembre 2000 concernant la création du système «Eurodac» pour la comparaison des empreintes digitales aux fins de l'application efficace de la convention de Dublin.

Dans les autres cas la prise d'empreintes digitales ainsi que tout autre moyen d'enquête ne peut être mis en œuvre que s'il y a des présomptions réelles que la personne en question voulait se servir d'un document falsifié ou contrefait. Dans ce cas, il y a infraction à la loi pénale et le code d'instruction criminelle est d'application.

3. En l'absence de documents d'identité probants, le pays d'origine s'implique-t-il dans l'établissement de l'identité d'un ressortissant étranger ? L'aide des autorités du pays d'origine pour vérifier l'identité est-elle demandée et comment ?

Il y a lieu de distinguer deux cas.

1° Absence de documents d'identité probant mais tentative d'utilisation de documents falsifiés ou contrefaits :

¹ Le terme « ressortissant étranger » signifie un étranger non naturalisé résidant dans un pays qui n'est pas son pays d'origine.

Dans ce cas de figure, il y a infraction et les services de police s'adressent au pays d'origine par tous les moyens de la coopération policière et judiciaire.

2° Simple absence de documents d'identité :

Ce cas se présente presque exclusivement en matière de demandes de protection internationale. Comme le pays d'origine est généralement une région de crise ou un État non démocratique ne respectant pas les droits de l'homme, une implication n'est pas indiquée.

Dans des cas particuliers, notamment en ce qui concerne les demandes de protection internationale abusives, motivées par des raisons économiques plutôt que par des raisons humanitaires, une implication de l'État d'origine via les canaux de la coopération policière est possible.

4. Existent-ils des systèmes de données officiels contenant des informations sur les ressortissants étrangers ? Quelles informations contiennent-ils ?

Oui, il existe au Grand-Duché de Luxembourg un fichier des « personnes physiques et morales » dans lequel toutes les personnes résidant dans le pays, ou y soumis à la sécurité sociale, sont répertoriées. Les informations contenues dans le fichier concernent l'identité de la personne (notamment nom, prénom, date de naissance) et l'adresse de résidence. Pour les étrangers, le fichier contient en plus le numéro de leur dossier détenu par le service compétent du Ministère des Affaires Étrangères et de l'Immigration et une référence à leur statut.

Par ailleurs, les dossiers concernant les étrangers ayant introduit une demande de protection nationale sont gérés de façon automatisée par le service d'immigration. L'accès à ce fichier est cependant limité aux seuls fonctionnaires travaillant dans cette matière.

Ces informations peuvent-elles être comparées avec des informations d'autres systèmes de données ?

Une interconnexion de ce fichier avec d'autres fichiers, notamment les fichiers de police, n'est pas prévue.

5. Les autorités peuvent-elles saisir dans leur fichier de données personnelles des renseignements alternatifs concernant un ressortissant étranger ?

En l'absence d'une signification exacte du terme « renseignements alternatifs », plusieurs hypothèses sont possibles. Dans l'hypothèse d'une infraction pénale, les règles en matière de traitement d'informations policières et judiciaires sont applicables. Dans l'hypothèse d'une demande de protection nationale, les membres du Service de Police Judiciaire compétents en la matière procèdent à toute vérification nécessaire à l'établissement de l'identité et de l'itinéraire de voyage. Les données ainsi recueillies peuvent être traitées de façon automatisée.

6. Les renseignements enregistrés dans les fichiers de données personnelles des autorités peuvent-ils être communiqués à d'autres autorités nationales et aux autorités d'autres États aux fins d'établir l'identité d'un ressortissant étranger ?

Oui, soit suivant les règles en vigueur en matière de communications de données dans le cadre de la coopération policière ou judiciaire selon le cas, soit suivant les dispositions prévues par la loi modifiée du 2 août 2002 relative à la protection des personnes à l'égard du traitement des données à caractère personnel, laquelle stipule plus particulièrement que l'échange d'informations avec des États qui appliquent un niveau de protection des données équivalent ne cause aucun problème.

7. Comment les autorités réagissent-elles lorsque les documents d'identité d'un ressortissant étranger comportent des renseignements divergents ? Privilégie-t-on un document – et les données y figurant – par rapport à d'autres ?

En principe, les documents d'identité ou de voyage priment sur d'autres documents administratifs tels que par exemple un permis de conduire. En ce qui concerne les documents d'identités proprement dits, il n'existe pas de règles générales ; en cas de divergences, ces dossiers sont traités au cas par cas. Un document plus récent par exemple ne peut pas toujours être considéré comme étant plus fiable qu'un document plus ancien car il est tout à fait possible que, dans certaines circonstances, la personne concernée ait cherché à cacher son origine ethnique en se faisant délivrer un nouveau document d'identité. Des documents divergents sont toujours source de doutes et il convient de vérifier les explications fournies par son titulaire.

8. Comment les variantes orthographiques du nom - observées entre différents documents concernant un même ressortissant étranger - sont-elles prises en compte dans les fichiers de données personnelles que possèdent les autorités et dans les recherches effectuées sur ces fichiers ?

Si les variantes sont dues à des différences phonétiques résultant de la langue dans laquelle le document est rédigé, l'administration luxembourgeoise privilégie la version française. Dans d'autres cas, il est possible d'enregistrer les autres variantes orthographiques comme des alias.

9. Comment les autorités procèdent-elles lorsqu'il s'avère qu'un ressortissant étranger possède un document faux ou falsifié, ou un document légal appartenant à un autre individu ? Saisissent-elles le document en question ?

Cela dépend du cas de figure, voir aussi la réponse à la question 3. En matière de demandes de protection internationale, la découverte d'un faux document ne donne pas automatiquement lieu à des poursuites pénales comme il est communément accepté que dans certaines circonstances le demandeur de la protection soit obligé d'utiliser un document contrefait ou falsifié afin d'être en mesure de quitter son pays d'origine dans lequel il est poursuivi. Comme dans tous les cas, l'art de l'enquête consiste à établir la véracité des déclarations de la personne concernée. C'est en fonction du résultat de cette enquête que les décisions sont prises.

10. Lorsque des imprécisions concernant l'identité d'un ressortissant étranger existent, les autorités les consignent-elles dans leurs propres fichiers de données personnelles et/ou dans des systèmes informatiques internationaux ? Quand l'identité d'un ressortissant étranger a été établie, est-elle consignée dans leurs fichiers de données personnelles/systèmes informatiques ? Les méthodes utilisées pour établir son identité sont-elles indiquées ? Y a-t-il un moyen spécifique d'enregistrer les identités non établies ?

En principe, le but est d'attribuer une identité unique à la personne concernée. S'il n'est absolument pas possible de trancher sur l'identité réelle de la personne, les identités possibles sont enregistrées comme des alias. Afin de ne pas contribuer à la prolifération des identités, l'identité « la plus probable » sera retenue dans les documents officiels jusqu'à ce que la preuve d'une identité puisse être rapportée. Comme les identités alternatives ne deviennent souvent apparentes qu'après un certain délai au cours de l'enquête, l'identité initiale sous laquelle le demandeur a été enregistré est maintenue jusqu'à preuve du contraire.

11. Comment les autorités traitent-elles des documents d'identité légaux en soi, mais dont on sait qu'ils contiennent des données personnelles qui ont pu être incluses à la demande de l'intéressé ?

Les cas où de tels agissements peuvent être prouvés sont très rares. La question qui se pose en dernier lieu est celle de savoir si le document peut être considéré comme un document

authentique. En principe seul l'État d'émission a le pouvoir de retirer un document par lui établi. Suivant les règles du droit international, l'État tiers qui est confronté à un document établi par un autre État est lié, sous condition que cet État soit reconnu. En pratique, si l'État confronté à un tel document ne peut pas le modifier à sa guise – même dans l'hypothèse où il y aurait certitude absolue d'une inscription fausse – le constat peut donner lieu à un refus d'octroi du statut de réfugié politique et aboutir au rapatriement du demandeur.

Un cas plus délicat serait cependant une donnée incluse à la demande de l'intéressé, notamment par le biais de la corruption d'un fonctionnaire dans son pays d'origine, dans le but de permettre la fuite du demandeur. Dans ce cas on se trouverait dans l'hypothèse du cas traité sous la question 9. Un tel cas ne s'est pas encore produit, mais on pourrait concevoir de considérer le document comme un faux, étant donné que la personne en question explique les raisons des inscriptions demandées, qu'elle n'a pas intérêt de mentir et qu'elle désire simplement retrouver son identité initiale.

La différence entre les cas décrits au premier et au deuxième paragraphe se situe au niveau de la finalité de la modification ; dans le premier cas il s'agit d'une inscription demandée afin de s'assurer un statut de protection indu, dans le deuxième cas le but est de pouvoir quitter le pays d'origine afin d'avoir la possibilité de recevoir une protection due.

MALTA (18/10/07)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

Alien's identities are verified through documentation available or through the diplomatic representation of his claimed country of origin if no identity documents are available. This is done through the Ministry of Foreign Affairs. Information requested includes name, surname, date and place of birth, parent's names, gender, status, and residence and any other information that the appropriate consulate may require. Photos and fingerprints are also taken. Authenticity of documents is checked through the National Document Examination Unit at the Forensic science laboratory of the police.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

Medical bone-age assessment, fingerprints and photographs are frequently used in this process. DNA testing is done only in cases of criminal offences. All data collected in different procedures are used except those gathered in the asylum process to which we do not have access.

3. In the absence of a reliable identity document, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

The country of origin's involvement is essential in identifying those third country nationals who do not qualify for asylum or humanitarian protection. Their assistance is sought through diplomatic channels due to the lack of direct consular representation in Malta from those countries most migrants claim to come from.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

There are official data systems with the immigration authorities, the Ministry for Social Solidarity, the Department for Citizenship and Expatriate Affairs, the Employment and Training Corporation, and the Refugee Commissioner. Information contained includes the particulars referred to at point one and the relative permits and/or benefits obtained through the respective department.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

Yes. Each authority is responsible for its own data.

6. Can data recorded in the authorities' personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

Yes, except for data available exclusively to the Refugee Commissioner which might compromise the applicant's protection.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

Initially checks are made to verify each document's authenticity and if confirmed for both documents, the official identity document of the country of origin is given priority.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

This is tackled by having all data inputted into the data system, including different aliases or spellings.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

If on the territory subject is arraigned before a Criminal Court of Justice before expulsion. If at the border, subject is not allowed entry and returned to his country of origin or of departure. False or forged documents are seized by the authorities.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording unestablished identities?

Unclarities are recorded in an alien's personal data file. Established identities are also subsequently recorded as are the means of establishing the true identity. In order to compensate for unestablished identities, a reference number system is used.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

Identity documents are treated as official if they are known to emanate from the country of origin's authorities.

NETHERLANDS (04/05/07)

1. How is an alien's identity verified?

An alien's identity is in principle established on the basis of valid documents.

Which authorities are competent?

The competent authorities are the officials responsible for border control or for the supervision of aliens, i.e.:

- the Royal Military and Border Police;
- the Seaports Police;
- the Aliens Police.

Which information is requested?

Documents establishing identity are checked. Article 4.21, paragraph 1 of the Aliens Decree states which documents can be used to establish identity.

Article 4.21, paragraph 1

1. The following are deemed to be documents within the meaning of section 50, subsection 1, last sentence of the [Aliens] Act:

a. for aliens residing legally in the Netherlands as referred to in section 8 (a) to (d) of the Act: a document issued by the competent authorities establishing such, the format for which has been laid down by ministerial order;

b. for aliens residing legally in the Netherlands as referred to in section 8 (e) of the Act: a valid national passport or valid identity card if they are nationals of a state as referred to in article 8.7, paragraph 1 or, if they are not nationals of such a state:

1° a valid national passport with the visa required for entry, if no more than three months have elapsed since entry to the Netherlands;

2° a valid national passport with an entry stamp, if no visa is required for entry and no more than three months have elapsed since entry to the Netherlands;

3° a valid national passport with a declaration issued by the competent authorities as referred to in article 8.13, paragraph 4, if no more than six months have elapsed since the issue of the declaration;

4° a residence document issued by the competent authorities as referred to in article 8.13, paragraph five or article 8.20, paragraph 1;

c. for aliens who have submitted an application for a temporary residence permit as referred to in section 28 of the Act: a document issued by the competent authorities establishing such, the format for which has been laid down by ministerial order;

d. for aliens other than those referred to under c., who are legally resident within the meaning of section 8, (f), (g), (h), (j) and (k) of the Act and are not in the possession of a valid travel document as required by the Act: a document issued by the competent authorities, the format for which has been laid down by ministerial order, which has an insert as referred to in article 4.29, paragraph 3 showing the holder's residence status;

e. for other aliens: a valid travel document as required by the Act for admission to the Netherlands or a travel document containing the necessary visa or a note relating to the holder's residence status.

How is the authenticity of documents checked?

A travel document must have been issued by the competent authorities of a state that is recognised by the Netherlands. Taiwan is an exception to this rule: although it is not recognised by the Netherlands, a travel document issued by Taiwan is recognised as a valid travel document. Travel documents must bear the holder's signature and a photo that is a good likeness of the

holder. In general, travel documents must also show the surname and given names, nationality, place and date of birth of the holder. They must be valid for longer than the duration of the intended stay. A condition for the issue of a visa is that the validity of the passport must be three months longer than that of the visa (see article 13, Schengen Convention and section 1.3 of the Common Consular Instructions (Benelux)). In certain cases, entry may be permitted using other travel documents. These can be found in the list of travel documents recognised by the Benelux countries, which entitle holders to cross the external borders and to which a visa may be affixed (see annexe 3, Regulation on Aliens). Annexe 4 of the Common Consular Instructions explains when a document originating from one of the EU member states entitles the holder to enter the Netherlands without a visa. Under the Aliens Decree, an alien may be required to hold a valid authorisation for temporary stay (MMV), a travel visa or a transit visa referring to the document he/she is carrying.

In addition, the authenticity features of the documents are checked.

2. Are any other data collected (e.g. photos, fingerprints, etc.)? In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used, and are the collected data compared with those provided during other procedures?

Aliens are obliged to allow themselves to be photographed and to allow their fingerprints to be taken in order to establish identity. In some cases a language analysis may be performed to establish identity. DNA testing may be carried out in the case of some minor aliens to establish age.

3. In the absence of a reliable identity document, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

Countries of origin may be asked to provide assistance in establishing identity in the interests of return and obtaining replacement travel documents. The alien concerned may be brought to the embassy of his/her country of origin, for example.

4. Are there official data systems containing information on aliens?

Yes.

What information do they contain?

Personal data relating to aliens are entered and maintained in the Basic Immigration Database (BVV), where they can later be consulted. The BVV's primary function is to support the work done by the various partners in the immigration system.

Can this information be compared with information from other data systems?

The BVV is linked to the reference index of suspects/convicted persons involved in current criminal proceedings (VIP) and the Municipal Personal Records Database (GBA). The municipalities, the Labour Inspectorate and the Social Security Information and Investigation Service are able to view data stored in the BVV.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

Since only information relevant to several partners in the system is stored in the BVV, it is not possible to regulate all information exchanges on the basis of the BVV. Information from databases run by other partners in the system is necessary for this.

6. Can data recorded in the authorities' personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

Not at the present time.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

The responsible authorities will begin further investigations to establish identity.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

No information available.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

The competent authorities are empowered to stop the alien in question and draw up an official report. They may also confiscate the false or falsified documents. If the alien is attempting to enter the Netherlands using false or falsified documents he/she may be refused entry. If the alien is already in the Netherlands, he/she may in certain circumstances be detained.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording unestablished identities?

No information available.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

The responsible authorities will carry out further investigations. If identity fraud is established an official report will be drawn up and the document in question confiscated.

NORWAY (30/10/07)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

a) How is an alien's identity verified?

In the vast majority of cases (applications for visas, work permits, family reunifications etc), ID documents are presented.

However, in asylum cases where the asylum seeker does not carry any identity or travel documents (about 95% of these cases), the authorities rely on the ID given orally by the applicants themselves. In order to verify that the information given is correct the applicants are cross-examined and the answers given are examined carefully.

b) Which authorities are competent?

The Norwegian police, the Norwegian diplomatic and consular missions, and the Norwegian Directorate of Immigration are all competent authorities for the verification of ID.

Norwegian missions abroad are responsible for checking ID in connection with applications for visas and other permits granted by them. The police are responsible for verifying the ID of persons submitting applications in Norway.

c) What sort of information is requested?

An official travel document or an ID card is usually requested. However, in some cases this is not possible as certain countries (e.g. Somalia) do not issue public ID or travel documents.

In cases where the aliens in question are not carrying any travel or identity documents, fingerprints and photos are taken. The photo is attached to the residence permit.

d) How is the authenticity of the documents checked?

The documents of all applicants arriving from countries outside the Schengen area will be subject to a thorough check by the border control.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

In the absence of reliable documents, there are several ways of establishing an alien's identity. As already mentioned, the identity of asylum seekers is primarily established by the information given by the asylum seeker him/herself.

An alien's identity can be verified through various photo and fingerprint registers, and through the exchange of information between collaborating bodies.

3. In the absence of a reliable identity document, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

In the case of asylum seekers, the country of origin is never contacted before the need for protection has been thoroughly considered and a final negative decision has been reached.

Any contact with the authorities in the country of origin is normally established through the country's embassy here in Norway or through the Norwegian embassy in the country in question.

In such cases, the embassy of that country usually requires the person to be returned if a travel document is issued.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

There are several official data systems in Norway containing information on aliens:

- DUF – a data system for the migration authorities
- The Alien Register – contains fingerprints from applicants
- NORVIS – the Norwegian part of the Schengen VIS system for visa control, which contains information (including fingerprints) on persons who have applied for a visa to a Schengen country
- The GK system for border control.

In addition, we have the opportunity, on certain conditions, to make use of the information stored in SIS (Schengen Information System), NSIS and Eurodac (a system for processing asylum applications, which contains fingerprints).

Some of the information from these databases may, in certain specific circumstances, be compared with information from other data systems.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

The opportunity to enter alternative personal data is regulated in the Norwegian legislation on personal data protection, and requires permission from the Norwegian Data Inspectorate, which is an independent administrative body.

6. Can data recorded in the authorities' personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

Yes, but only to a certain extent and in accordance with Norwegian legislation and obligations.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

If divergent data are presented, the authorities will question the verification of all the ID documents presented. Normally official passports and other official documents will prevail.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, be taken into consideration in the personal data files of authorities and in searches of these files?

The Norwegian authorities have found this problem quite challenging, and have failed to find a definitive solution.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

In cases where an alien presents a false or falsified document or a legal document belonging to another person, he or she will be reported to the police and prosecuted. The documents will be confiscated and the person will be expelled from the realm.

If a genuine document is presented by a person other than the owner (for example in a case where they look alike) the person carrying the document will be prosecuted. If the original owner of the document is found to have taken part in the misrepresentation, he or she will also be held responsible.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording unestablished identities?

In cases where there is uncertainty regarding an alien's identity, this will normally be registered in the relevant national data systems. In the NSIS system, aliases will be registered as well.

In cases where the identity has been established, practice may vary with regard to whether the information is included since there are no specific guidelines for this situation.

In cases where the authorities have not succeeded in establishing identity, this information will only be recorded in the manual file on the person.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

Norwegian authorities have not come across this situation.

PORTUGAL (18/10/07)

1. How is an alien's identity verified?

At the frontiers check-points an aliens' identity is verified through its personal traveling documents such as passport, identity card or equivalent document (under specific international agreement/convention), in accordance with the Schengen Agreement and with reference to our national Law on Aliens Control (Lei ^o 23/2007, 04 July 2007).

While in Portuguese territory, according to our Civil and Criminal Identification Law (Lei de Identificação Civil e Criminal – Lei^o 323/2001, 17 December 2001), as well as Law 5/95, 21 February – which establishes the obligation of carrying identification documents – and our Penal Procedure Code, whose article 250th in case of suspicion of illegal entrance enables to identify aliens, establishing at the same time which documents they can use to suit that purpose. Namely: national identification card, passport and resident permit. If one (national or non-national) is not carrying these mandatory documents, that same article also enables the identification by statement of a third person fully identified.

1.1 Which authorities are competent?

All Law Enforcement and Police Forces.

1.2 Which information is requested?

Name, date and place of birth, nationality, filiation and other personal data of the individual.

1.3 How is the authenticity of the documents checked?

In the first place it is checked by the officer in charge, if any doubts are brought up, he requires an expert report, involving laboratorial technology.

1.4 Are any other data collected?

If the individual is not properly identified through his documents, it is possible to collect data through biometry, photography and fingerprinting. With a judicial warrant it is possible to perform DNA tests.

2. In absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provide during other procedures?

See 1.4

3. In the absence of a reliable identity document, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

When an alien is undocumented, the respective embassies and consulates are requested to issue documents to their nationals. This procedure implies collecting data such as fingerprints, photographs and personal data.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

Our official databases on aliens contain information regarding the entrance, passage, permanence and expulsion from national territory. It can be compared to other data systems. The existing contradictions are not automatically flagged.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

Alternative personal data provided by competent authorities can be added to the aliens' personal files.

6. Can data recorded in the authorities' personal data files be transmitted to other national authorities and authorities from other states in order to establish an alien's identity?

Yes, it can be done, ensuring that the general principles on the protection of personal data are respected, in accordance with our national Law 67/98, 26 October 1998 and the Directive 95/46/CE of the European Parliament and the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

Data provided by the passport prevails above any other. Nevertheless, when divergent information is detected, the authorities in the country of origin are asked for assistance in verifying the correct identity.

8. How are divergent ways of spelling personal names, which may vary between different documents, concerning an alien, taken into consideration in the personal data files of authorities and searches of these files?

The variations are taken into account as there are specific data fields for the different spellings, enabling the input of the different spellings.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

The documents are seized; the individual is arrested and presented to a Court of Law.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this record in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording unestablished identities?

The Aliens and Borders Service's data files don't enable such registrations.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

The documents will be accepted, providing that the inscription of such data is confirmed by the competent authorities from their countries of origin.

ROMANIA (17/04/07)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

An alien identity is checked especially in the Authority for Aliens (the competent authority) data base and it is based on the declaration of the alien. Thus, several pieces of information are requested regarding citizenship, place of birth, date of birth, parents, relatives, travel document, the itinerary from the country of origin to the country of destination, how and when he/she entered the country.

The authenticity of a document is primarily verified with the instruments used for checking travel documents. If there are any doubts as to whether the document is false or falsified, further checks are made with the video – spectral comparator, by comparing the document with samples of similar travel documents. Furthermore, an expertise made by a specialist from the General Inspectorate of Border Police may be requested, to establish if the document is authentic or false/falsified on the basis of an expertise report.

A supplementary request may be submitted to the diplomatic mission of the country which issued the passport in order to receive information on the authenticity of the document and on whether it belongs to the alien concerned.

All the aliens against whom measures of removal from the Romanian territory have been issued are photographed and those photos are inserted in the Authority for Aliens data base. Furthermore, the aliens who are removed under escort are fingerprinted and all the fingerprints collected in these cases are inserted into the AFIS national data base. On this occasion, the fingerprints are checked against the existing entries in order to establish whether they have already been introduced under another identity, or not.

When the aliens cannot be removed within 24 hours, the data concerning their identity are also checked into the EURODAC system, according to the EURODAC regulation.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

In the absence of a reliable identity document, the alien's identity may be established through the diplomatic mission of the country of origin/citizenship, on the basis of the declared identity, of the photographs, and, on the request of the diplomatic mission, on the basis of fingerprints.

If there aren't any diplomatic missions of the alien's country of origin in Romania, the identification may be done through the Ministry of Foreign Affairs – General Directorate of Consular Affairs; through the Centre of International Police Cooperation – INTERPOL or the National Focal Point; or through the General Inspectorate of Romanian Police by comparing the fingerprints or the photos with those from the AFIS data base.

The fingerprints taken by the Romanian authorities during different criminal or administrative procedures (including the asylum procedure and the procedure of removing the aliens under escort) are inserted in this data base (AFIS).

3. In the absence of a reliable identity document, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

The diplomatic mission of the country of origin may be requested to interview the alien and to check the records from the above-mentioned country in order to establish his/her identity and, subsequently, to issue a travel document which is necessary for his/her removal from the Romanian territory. The relevant photos and fingerprints are sent to the diplomatic mission, upon request.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

At the moment, the information regarding the aliens are managed by the Integrated IT System on Migration, Asylum and Visas.

This system contains the following categories of information:

- Identification data: last name, first name, sex, date of birth, citizenship
- Personal data: parents' first name, place of birth, place of residence, photo, travel documents, the address in Romania, the companies in Romania
- Other information regarding the aliens such as:
 - Visa requests
 - Invitations
 - Romanian entry visas
 - Granting or renewal of the stay right
 - Family reunification
 - Documents issued by the Authority for Aliens
 - Residents
 - Aliens which are under criminal investigation
 - Detection order
 - Aliens detected with illegal stay
 - Aliens taken into public custody
 - return decisions
 - Aliens who are tolerated on the national territory
 - Entry bans
 - Lost documents
 - Aliens who died on Romanian territory
 - Records regarding the EU/EEA citizens
- A history evidence is saved for all the aforementioned categories of information.
- Information which lead to the establishment of the link between different persons (Romanians or aliens) and between aliens and companies, as well.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

Yes, the authorities can implement alternative data and information regarding an alien. In those cases the aliens are recorded in IT system as alias.

6. Can data recorded in the authorities' personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

Personal data of the aliens which exist in the Authority for Aliens data base can be transmitted to other national authorities or authorities of other states in order to establish the identity of the aliens only under the provisions of the national regulations regarding the protection of personal data.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

When an alien is in the possession of an identity document which presents contradictory or unclear data or is in the possession of two documents with divergent data the correct data are established through the diplomatic mission of the relevant country of origin. The passport has priority.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

In order to identify a person in the IT data base, a couple of algorithms for flexible interrogation are used. During the elaboration of these algorithms, the possible modifications to the persons' names, especially when the names are translated into the Latin alphabet or when there is a different pronunciation were taken into consideration. Moreover, the algorithms take into account the situation when the dates of birth are introduced in a wrong way. Furthermore, the IT system enables the users to apply other criteria (passports, address, the number of entry visa).

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

When an alien is detected with a false or falsified document or a legal document belonging to another person, preliminary acts can be performed in order to start the criminal investigation for committing the crime of false or use of false documents. In this case the document(s) can be seized by the competent authorities, in order to be used as proof during the trial. Further checks are made through the diplomatic mission in order to establish the authenticity of the concerned document.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording unestablished identities?

The Romanian authorities introduce the unclear/declared identity of the alien in the data base and, in case the real identity is established, this will be registered as main data of the person concerned and the previous data (the false ones) will be attached to the file of the same person, as alias. The Authority for Aliens data base doesn't contain notes regarding the uncertainties on the identity of a person. However, in the frame of each registration there is a space where the number of the travel document on the basis of which the main identification data were previously confirmed is introduced. Another space allows making notes on means of obtaining the main data, as following:

- On the basis of the declaration of the alien, if he/she doesn't hold any document
- On the basis of a document
- Through conversion, if the data were taken from an older IT system which is no longer used.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

So far, we have not met in practice identity documents containing personal data which have been included at the request of the holder. Anyway, in such situation, if the document fulfils the general conditions accepted at international level for the same type of documents and it is recognized by the Romanian authorities, it has the same status as any other identity or travel document used.

RUSSIAN FEDERATION (17/09/07)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

An alien or stateless person's identity (hereinafter referred to as an alien) is verified by the following relevant documents: national passport, visa, residence permit in the Russian Federation, temporary residence permit in the Russian Federation, certificate of considering an application for refugee status, refugee certificate, certificate of granting provisional asylum, certificate of political asylum in the Russian Federation. The procedure of an alien's identity verification comes within the terms of reference of federal executive authorities in charge of internal affairs, security, migration control, and their respective regional bodies.

Photos and fingerprints are taken in case of aliens unable to identify themselves due to their state of health or age if the required identification data can not be obtained otherwise; crime suspects, persons accused of or sentenced for committing a crime; persons under administrative arrest and those who committed an administrative offence if it is impossible to identify them otherwise; persons subject to expulsion (deportation) from the Russian Federation; persons who arrived in the Russian Federation to seek asylum and filed an application for political or another asylum or for a refugee status in the territory of the Russian Federation; persons illegally residing in the Russian Federation; as well as persons who received a temporary residence permit.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

In the absence of reliable documents, aliens' identity is verified through checking files and databases available at federal executive authorities in charge of internal affairs, security, migration control, and their respective regional bodies.

Comparing photographs or fingerprints is carried out by criminalistics expert units of internal affairs bodies and security services, based on substantiated requests of federal executive authorities in charge of internal affairs, security, migration control, and their respective regional bodies.

3. In the absence of reliable identity documents, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

In the absence of reliable identity documents, an alien's identity is established by means of relevant inquiries sent to diplomatic missions and consular offices of countries of his/her presumed nationality.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

A central data bank designed to keep track of foreign citizens staying or residing, temporarily or permanently, in the territory of the Russian Federation is being created in the Russian Federation. That data bank is an automated system with a fixed information collection and release procedure.

Though the system is still in the testing stage, it is technically possible to compare information it contains with that from other data systems.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

Yes, it is possible to enter alternative personal data concerning aliens in their data files.

6. Can data recorded in the authority's personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

In order to establish an alien's identity, personal data contained in data files can be provided to competent authorities of other states, in accordance with international treaties and subject to a substantiated request.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

If an alien's identity documents contain divergent data, an inquiry is sent to diplomatic missions and consular offices of countries of the alien's presumed nationality. Documents received through official channels have priority over the others.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

A system is designed with program algorithms permitting to take into account the possibility of divergent ways of spelling personal names in different documents concerning an alien when compiling and searching personal data files.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

If an alien is found to use a false identity document or an identity document belonging to another person, the competent authorities undertake an investigation, in accordance with the Code of Criminal Procedure, to establish circumstances entailing criminal responsibility. False identity documents or legal identity documents belonging to other persons are to be seized and attached to the investigation materials.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording unestablished identities?

If there are any unclarities about an alien's identity, the authorities record them in appropriate data files without specifying ways of recording unestablished identity and means used to establish it.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

With regard to legal identity documents containing personal data included at the request of the holder, the competent authorities act in accordance with international treaties and the existing legislation of the Russian Federation.

SLOVAK REPUBLIC¹ (20/04/07)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

Asylum procedure:

According to the Article 3 paragraph 4 of the Act No. 480/2002 Coll. on Asylum after giving statement by asylum seeker to the competent Police Department, the Police Department shall take away the travel document or another document of identity from the applicant. The Police Department shall send the documents together with documents necessary for assessment of the application for asylum to the Ministry of Interior of the Slovak Republic without any delay. The Police Department shall also arrange taking alien's fingerprints. The Asylum department of Police Force arrange taking alien's fingerprints in the case that the applicant is older than 14 years and send them to the Institute of Forensic Science of Police Force (hereinafter only as "Forensic Institute").

The Forensic Institute will send without any delay information in electronic version on the result of the examination of the applicant in the EURODAC system to the Dublin Centre of the Migration Office and to the Department which had taken the applicant's fingerprints. Based on a written request by the Police Department, this information will be sent also to this Police Department and to the Migration Office in written, as well. After arrival at the Asylum Facility an appointed Migration Office officer will provide for taking photographs of asylum's applicant.

Most of applicants coming to the territory of the Slovak Republic do not submit any identity documents during the asylum procedure. The Migration Office itself does not dispose of possibilities nor means for verifying the authenticity of identity documents. In a case where the identity document is presented by the applicant, there is the possibility to address the Department for travel documents analysis of the Office of Border and Aliens Police of the Police Force with a request to make a statement. Migration Office in their database has specimens of some travel documents with their security elements.

Residence permit procedure:

The identity of the foreign person is verified on the basis of the travel document submitted to the relevant Police Unit and checking of the information systems of the Police. If the person concerned cannot submit any identity document, the identity is verifying through the embassy of the country of origin. In such a case fingerprints and photos of the alien are taken.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

Asylum procedure:

In a case of lack of credible identity documents and if it is not possible to verify the alien's identity, the asylum procedure is based on information given by asylum applicant in the declaration and given during the interview at the Migration Office. It is possible to set the identity of the asylum applicant based on his/her fingerprints eventually by comparing the photographs. Other medical methods are used in order to fix the age of the applicant, DNA specimens are not taken in this

¹ The Migration Office of the Police Force (asylum procedure) and Bureau of Border and Aliens Police (residence permit procedure).

procedure. All information is always compared to data given by the applicant during the procedure, the assessment of the whole applicant's profile being taken in consideration.

Residence permit procedure:

The alien's identity is verifying through the embassy of the country of origin - fingerprints and photos of the alien are taken and comparing with information gathered within the procedure.

3. In the absence of a reliable identity document, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

Asylum procedure:

According to the Article 49 of the Act on Asylum during the asylum procedure, the asylum, provision of subsidiary protection, during the procedure on granting temporary shelter and during the duration of providing the temporary shelter, the Ministry cannot submit personal data to the country of origin without consent of the person concerned.

Residence permit procedure:

The involvement of the country of origin is varied. The competent authorities of a foreign state are asked for assistance explicitly via related embassy.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

Migration Office:

The Ministry shall keep in its information system personal data and information on applicants, on persons granted asylum, on aliens granted subsidiary protection, on aliens applying for temporary shelter, on *de facto* refugees², about place of residence, images and recordings of those persons and register of fingerprints of applicants and aliens applying for temporary shelter.

The department keeps in its information system information on residence of applicants, who have permission to live outside of the asylum facility, persons granted asylum, aliens granted subsidiary protection, *de facto* refugees who have permission to live outside of the humanitarian centre.

The Forensic Institute keeps in its information system fingerprints of asylum applicants and aliens applying for temporary shelter.

Protection of Personal Data is regulated by the Act No. 428/2002 Col. on protection of personal data.

Ministry shall provide personal data and information mentioned above to foreign country and receive them from foreign country. The Ministry shall inform the person concerned of the exchange of data with another country and shall make access to data acquired by exchange available to the person concerned upon request.

Bureau of Border and Aliens Police:

The Bureau keeps in its information system personal data of the foreign person with the residence permit on the territory of the Slovak Republic and on persons sentenced by the expulsion penalty.

² The *de facto* refugee shall mean an alien who has been granted temporary shelter by the Ministry of Interior of the Slovak Republic on the basis of a decision by the Government of the Slovak Republic.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

Yes, they can.

6. Can data recorded in the authorities' personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

Yes, they can be transmitted under conditions stipulated by law, inter alia according to the Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

In such a case, the identity data of the alien are considering also in respect of time continuity. Moreover, the alternative identity can be also taking into consideration.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

Divergent ways of spelling of personal names can be considered as problem of transcription, what however does not have any impact on the evaluation of the person as not faithful. Moreover, the alternative identity can be also taken into consideration.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

The Ministry shall reject an application for asylum as manifestly unfounded when asylum is sought by an applicant bases his/her application on false identity or forged documents he/she claimed to be genuine even during the interview, or who intentionally provides false information after presenting application for asylum, or intentionally damages, destroys or in any other way disposes of his/her travel document or another document important for the asylum granting procedure with the intention to create false identity or to make application determination more difficult. False document are subject of analysis of Forensic Institute.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording unestablished identities?

All accessible and acquired information on asylum applicant are gathered and recorded in his/her personal file, including the data concerning his/her identity, change of identity and the ways of revealing and verifying his/her identity.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

We do not have any practical experience.

SPAIN (03/07/08)

1. **How is an alien's identity verified?** With their own passport, identity card or resident permit. **Which authorities are competent?** State Security Forces. **Which information is requested?** Personal data, questions about his/her origin country... **How is the authenticity of documents checked?** Checking document's security features. **Are any other data collected (e.g. photos, fingerprints, etc.)?** Yes, we take his/her fingerprints and photographs.
2. **In the absence of reliable identity documents, how is an alien's identity verified?** Checking the existence of other kind of documents or looking for information about he/she through his/her country Police authorities or Consulate. **Can an alien's identity be establish, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?** Yes, in exceptional cases, e.g., death, missed person, etc. In these cases, collected data can be compared with data provided during other procedures.
3. **In absence of a reliable identity document, what is the involvement of the country of origin in establishing the alien's identity?** In most of the cases, countries, through Police authorities or Consulates use to collaborate on its nationals' identification. **Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?** Yes, even asking for photographs, fingerprints templates and having interviews with the person whose identity we don't know but we suspect he/she is for the determined country.
4. **Are the official data systems containing information on aliens?** Yes, we have specific data bases of aliens. **Which information do they contain?** Personal data, photographs, fingerprints, administrative procedures etc. **Can this information be compared with information from other data systems?** Yes, with data bases of claimed people, criminal records, objects, vehicles, etc.
5. **Can the authorities enter alternative personal data concerning an alien in their personal data file?** No.
6. **Can data recorded in the authority's personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?** Yes, aliens' data can be transmitted through the normal ways of police and judicial collaboration.
7. **How do the authorities respond to an alien's identity documents if they contain divergent data?** They verify them through the authorities who have issued them. **Which document (and therefore the data it contains) has priority over the others?** Passport and Identity Card have preference over other kind of documents. Anyway, personal data are priority over the other data on the document.
8. **How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?** The alien must be looked for in the data base combining different possibilities with his/her names.
9. **How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person?** The authorities confiscate the document and send it to the Judge joint with the technical report and the police report. **Do they seize the document?** Yes, they do. The document is seized and sent to the Judge, who will decide when it can be returned to the issuing country.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Yes. Where an alien's identity has been established, is this recorded in their personal data file/data systems? Yes. Are the means used to establish his/her identity included? Yes. Is there a specific way of recording un-established identities? Yes. When the real identity can be verified, authorities record the unestablished identities under a specific code.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder? In Spanish data bases there is not possibility of including any data at request of the holder.

SWEDEN (20/04/07)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

Competent authorities are the Police and the Swedish Migration Board. It is up to the applicant to make his identity trustworthy. The authenticity of provided documents are checked by the police officer or by the handling officer from the Migration Board. If the authenticity of a provided document is doubted for some reason, the document will be sent to a unit with special competence within the authority for closer examination.

In all asylum cases involving applicants above 14 years of age fingerprints and photos are collected. If the applicant is younger only a photo will be taken.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

Fingerprint data from an asylum applicant are registered and saved in a data base and compared against data in the Swedish national AFIS and the EURODAC database. Dental status can be used in certain cases for estimating age. DNA on a voluntary basis can be used. Photo comparison is not conducted routinely, but can be conducted after demand from the Central Identity Unit at the Migration Board.

3. In the absence of reliable identity documents, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

The country of origin might be contacted for verifying identity if an application of asylum is rejected and this is needed for enforcement of the decision of refusal of entry or expulsion.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

Registration of all applications of any kind of permits, e.g. visas, residence, citizenship, are stored in the Swedish Migration Board CUD (Central Aliens Database) and can be compared with other national systems.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

Yes.

6. Can data recorded in the authority's personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

Yes, it may be possible, after demand and after considering the provisions of the Secrecy Act.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

Diverging information is taken into account when examining the application and may undermine the trustworthiness of the applicant's identity. Normally, official national travel documents and ID-documents have priority over other documents.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

If there are divergent ways of spelling personal names in the presented documents, the information from official travel documents will be registered. However, 90 per cent of all asylum applicants in Sweden lack such official documents, why orally stated information has to be registered.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

A police report will be done, and the documents will be seized.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording un-established identities?

The stated identity will be registered and is used until the identity is confirmed. When an identity is established or confirmed, all known alias identities will be stored in the personal file, where the information is accessible for later use.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

Knowledge that information in the presented documents has been added at request of the holder, will affect the credibility of the applicant and might have influence in the outcome of the application.

SUISSE (19/04/07)

Avant-propos:

La Suisse a un système particulier qui réserve aux cantons certaines compétences. Ceci apparaît tout particulièrement dans le domaine des étrangers régi par la loi sur le séjour et l'établissement des étrangers (LSEE) et dès le 1er janvier 2008 par la nouvelle loi sur les étrangers (LEtr). L'octroi d'autorisation de séjour et d'établissement relève principalement de la compétence des cantons. L'office fédéral des migrations (ODM) a le rôle d'une autorité de surveillance. Dans le domaine de l'asile, l'autorité décisionnelle est fédérale (ODM). Les mesures d'intégration des personnes amenées à rester en Suisse et l'exécution des renvois relèvent cependant de la compétence des cantons. La loi sur l'asile (LAsi) a été révisée et les nouvelles dispositions entreront en vigueur le 1.1.2008.

Dans le domaine migratoire, diverses autorités sont ainsi menées à vérifier l'identité des étrangers. Il peut s'agir des autorités cantonales, des représentations suisses à l'étranger, et des autorités fédérales (ODM).

Les lois citées dans le texte peuvent être consultées sur la page internet de l'ODM sous <http://www.bfm.admin.ch/index.php?id=283&L=1> (sources juridiques actuelles) et sous <http://www.bfm.admin.ch/index.php?id=654&L=1> (nouvelle LEtr et révision de la LAsi)

Réponse aux questions posées:

- 1. Comment l'identité d'un ressortissant étranger¹ est-elle vérifiée ?
Quelles autorités sont compétentes ?
Quelles informations sont demandées ? Comment l'authenticité des documents est-elle vérifiée ? D'autres données (par exemple photos, empreintes, etc.) sont-elles collectées ?**

Domaine étrangers :

Pour entrer en Suisse, tout étranger doit notamment avoir une pièce de légitimation reconnue pour le passage de la frontière et être muni d'un visa si ce dernier est requis. Une vérification de l'identité peut avoir lieu avant l'octroi d'un visa notamment par le biais des représentations suisses à l'étranger.

Pour le règlement de ses conditions de résidence, l'étranger doit produire une pièce de légitimation ; les cantons peuvent en exiger le dépôt (art. 3 LSEE ; art. 13 al. 1 LEtr).

Les cantons sont chargés du contrôle des personnes sur leur territoire et vérifient l'identité des personnes interceptées. Afin d'établir l'identité de l'étranger, il est possible de relever ses *empreintes digitales* et de le *photographier* lors de l'examen des conditions d'entrée en Suisse et lors de procédures de police des étrangers (art. 23c al. 3 LSEE et 102 LEtr).

Domaine asile :

Le demandeur d'asile est sommé de remettre ses documents d'identité et de voyage (art. 8 LAsi). Une analyse de documents peut être faite. Il est également tenu de décliner son identité. La personne est en outre photographiée et les empreintes digitales des requérants d'asile de plus de 14 ans sont collectées. Plusieurs questions relatives au voyage et au pays d'origine sont posées (art. 26 al. 2 LAsi).

¹ Le terme « ressortissant étranger » signifie un étranger non naturalisé résidant dans un pays qui n'est pas son pays d'origine.

Par ailleurs, une analyse LINGUA peut permettre de déterminer la provenance d'un requérant. Il s'agit d'un entretien téléphonique avec un expert à même de déterminer si *la provenance alléguée* peut être confirmée ou infirmée. Cette expertise ne permet néanmoins *pas* de déterminer *la nationalité* (soit l'identité) de la personne.

Les autorités et les services administratifs saisissent et transmettent à l'office les documents de voyage, les pièces d'identité ou tout autre papier pouvant fournir des renseignements sur l'identité d'un requérant (art. 10 LAsi).

2. En l'absence de documents d'identité probants, comment l'identité d'un ressortissant étranger est-elle vérifiée ? L'identité d'un ressortissant étranger peut-elle être établie en recourant, par exemple, à une étude médicale de l'âge osseux, à une confrontation des empreintes digitales, à des test ADN ou à des comparaisons photographiques ? Dans l'affirmative, dans quel contexte ces méthodes sont-elles employées et ces données sont-elles confrontées à celles communiquées lors d'autres procédures ?

Banque de données AFIS

AFIS (système automatique d'identification des empreintes digitales) est une banque de données d'empreintes digitales qui contient notamment des empreintes relevées sur les lieux de délits. Les empreintes digitales de requérants d'asile sont également enregistrées dans le système ainsi que les empreintes des personnes étrangères si celles-ci:

1. justifient de leur identité à l'aide d'un document d'identité ou de voyage faux ou falsifié;
2. ne sont pas licitement en possession du document d'identité ou de voyage qu'elles présentent;
3. refusent de justifier de leur identité lors du passage de la frontière ou ne sont pas en mesure de le faire;
4. présentent des pièces justificatives fausses ou falsifiées;
5. entrent en Suisse illégalement.

L'ODM, comme les représentations suisses en vue de l'octroi d'un visa, ou les autorités de police cantonales peuvent soumettre des empreintes digitales pour comparaison et voir si la personne a déjà été enregistrée, quand et pour quel motif (art. 4 de l'ordonnance sur le traitement des données signalétiques).

L'ordonnance sur le traitement des données signalétiques peut être consultée via internet sous <http://www.admin.ch/ch/f/rs/3/361.3.fr.pdf>

Analyse osseuse:

Une analyse osseuse peut être mandatée dans le cadre d'une procédure d'asile, comme une analyse plus complète avec examen corporel et de la dentition. Une telle analyse peut aider à établir l'âge de la personne. Il ne s'agit cependant que d'un indice parmi d'autres qui permet de juger de la vraisemblance ou non de la *minorité* alléguée.

Tests ADN:

Le 1er avril 2007, la loi fédérale sur l'analyse génétique humaine (LAGH) est entrée en vigueur. Elle énonce à son article 33 que dans une procédure administrative, l'autorité compétente peut subordonner l'octroi d'une autorisation ou de prestations à l'établissement d'un profil d'ADN si la filiation ou l'identité d'une personne font l'objet de doutes fondés qui ne peuvent être levés d'une autre manière. Le consentement écrit de la personne est cependant requis. L'établissement d'un profil d'ADN peut par exemple être nécessaire dans le cadre d'un regroupement familial. Lorsqu'une demande de regroupement familial est faite par le père et la mère, l'analyse peut être limitée à la mère et à l'enfant.

La LAGH peut être consultée via internet sous <http://www.admin.ch/ch/f/rs/8/810.12.fr.pdf>

3. En l'absence de documents d'identité probants, le pays d'origine s'implique-t-il dans l'établissement de l'identité d'un ressortissant étranger ? L'aide des autorités du pays d'origine pour vérifier l'identité est-elle demandée et comment ?

Le pays d'origine peut être amené à collaborer à l'identification de ses ressortissants devant quitter la Suisse. Ceci est notamment le cas lorsque des requérants d'asile déboutés refusent de révéler leur nationalité. Les consulats étrangers en Suisse collaborent par le biais d'auditions des personnes auxquelles il peut être délivré un laissez-passer si elles sont reconnues comme étant leurs ressortissants.

4. Existent-ils des systèmes de données officiels contenant des informations sur les ressortissants étrangers ? Quelles informations contiennent-ils ?

Ces informations peuvent-elles être comparées avec des informations d'autres systèmes de données ?

Il existe un registre automatisé *des étrangers* (Registre central des étrangers, RCE) géré par l'ODM notamment dans le but d'effectuer les contrôles prescrits par la législation. Les données traitées sont notamment l'identité de la personne, la réglementation des conditions de résidence, l'activité professionnelle, les mesures et les sanctions administratives et pénales. Ce registre contient également un fichier spécifique de données relatives aux visas.

Un système parallèle contient les données relatives *aux requérants d'asile*. Il s'agit du système AUPER qui contient les données suivantes: noms (prénoms, noms, noms d'emprunts, noms et prénoms des parents), date de naissance, sexe, nationalité, état civil, numéro personnel et numéro de dossier, catégorie de dossier, adresses en Suisse et à l'étranger, religion, appartenance ethnique, pièces d'identité, stade de la procédure, canton d'attribution, entrée en force, données nécessaires à l'établissement de documents.

Lors de la saisie de données dans AUPER ou le RCE, une comparaison automatique avec les données de RIPOLE a lieu (fichiers de personnes recherchées par la police et motifs).

En outre, un nouveau système d'information commun aux domaines des étrangers et de l'asile est prévu pour l'automne 2007. Il s'agit du système d'information central sur la migration (SYMIC) qui remplacera les systèmes RCE et AUPER.

La loi sur le système d'information commun aux domaines des étrangers et de l'asile (LDEA) peut être consultée via internet sous <http://www.admin.ch/ch/f/rs/1/142.51.fr.pdf>

L'ordonnance SYMIC peut être consultée sous <http://www.admin.ch/ch/f/rs/1/142.513.fr.pdf>

Ces bases légales sont déjà entrées en vigueur bien que le système informatique n'ait pas encore été mis en application.

5. Les autorités peuvent-elles saisir dans leur fichier de données personnelles des renseignements alternatifs concernant un ressortissant étranger ?

Les systèmes informatiques existants et à venir ne contiennent pas de champ libre permettant d'inscrire des remarques particulières outre la liste de données qui sont autorisées à être collectées. L'annexe 1 de l'ordonnance SYMIC énonce la liste des données et des autorités qui y ont accès (cf réponse 4).

6. Les renseignements enregistrés dans les fichiers de données personnelles des autorités peuvent-ils être communiqués à d'autres autorités nationales et aux autorités d'autres Etats aux fins d'établir l'identité d'un ressortissant étranger ?

Domaine étrangers:

Un accès direct aux données des étrangers est autorisé à diverses *autorités cantonales ou fédérales* pour autant que cela soit indispensable à l'accomplissement des tâches légales (art. 9 al. 1 loi fédérale sur le système d'information commun aux domaines des étrangers et de l'asile, LDEA)². Les autorités fédérales de sûreté intérieure et de police y figurent. Le corps des gardes-frontière a également un accès direct à ces données.

Les cantons peuvent prendre contact avec *l'Etat d'origine et de provenance* avant que la décision de renvoi soit exécutoire, dans le but d'obtenir des documents de voyage et d'exécuter le renvoi. Ceci pour autant que la personne concernée ou ses proches ne sont pas mis en danger (art. 106 LEtr).

L'ODM peut communiquer, notamment pour lutter contre les actes punissables commis par des étrangers, pour traitement, des données personnelles *aux autorités étrangères et aux Organisations internationales* chargées de tâches dans ce cadre, à condition que celles-ci garantissent une protection équivalente des données transmises (art. 22c LSEE, art. 105 LEtr).

En outre, dans le cadre de l'application *des accords de réadmission*, les autorités compétentes peuvent communiquer des données personnelles à des Etats qui ne disposent pas d'un système de protection des données équivalent au système Suisse (art. 25c LSEE et 107 LEtr).

Domaine asile :

Les autorités cantonales, communales et de la Confédération (autorités de police) ont un accès direct aux données relevant du domaine asile (système AUPER) dont elles ont besoin pour s'acquitter de leurs tâches légales (art. 9 al. 2 LDEA).

Il est interdit de communiquer à *l'Etat d'origine ou de provenance* des données personnelles relatives à un requérant si cette communication le met en danger. Dès qu'une décision de renvoi est exécutoire, l'autorité est autorisée à prendre contact avec les autorités de l'Etat d'origine et à leur communiquer les données personnelles nécessaires à l'établissement de documents de voyage (art. 97 LAsi). Dès janvier 2008, l'autorité chargée d'organiser le départ de la personne concernée peut prendre contact avec l'Etat d'origine si la qualité de réfugié n'a pas été reconnue en première instance (art. 97 al 2 LAsi non encore en vigueur).

Des communications à *d'autres Etats et organisations* peuvent avoir lieu en vue de l'exécution de la loi sur l'asile, si une protection équivalente des données transmises est garantie (art. 98 LAsi).

7. Comment les autorités réagissent-elles lorsque les documents d'identité d'un ressortissant étranger comportent des renseignements divergents ? Privilégie-t-on un document – et les données y figurant – par rapport à d'autres ?

Les documents privilégiés sont les documents les plus sécurisés (passeport, carte d'identité) et les plus difficilement falsifiables. Une analyse de ces documents permet de déceler d'éventuelles falsifications.

² Cette loi est déjà entrée en vigueur mais le système SYMIC n'est pas en application. Il sera mis en fonction en automne 2007.

8. Comment les variantes orthographiques du nom - observées entre différents documents concernant un même ressortissant étranger - sont-elles prises en compte dans les fichiers de données personnelles que possèdent les autorités et dans les recherches effectuées sur ces fichiers ?

Une orthographe différente est enregistrée comme alias dans la banque de données AUPER et il peut être précisé qu'il s'agit d'une autre orthographe et non d'une autre identité. En outre, une recherche phonétique est possible dans le système AUPER. Dans le domaine des étrangers (RCE), ceci n'est actuellement pas possible. Néanmoins, l'identité des personnes séjournant légalement en Suisse (et normalement une seule orthographe) est généralement établie par des documents d'identité fiables. Avec le nouveau système SYMIC, une recherche phonétique est prévue.

9. Comment les autorités procèdent-elles lorsqu'il s'avère qu'un ressortissant étranger possède un document faux ou falsifié, ou un document légal appartenant à un autre individu ? Saisissent-elles le document en question ?

La législation sur les étrangers prévoit que sur instruction de l'ODM, les représentations suisses à l'étranger, les postes-frontière et les autorités cantonales compétentes peuvent confisquer ou saisir des documents de voyage faux ou falsifiés, ou les documents authentiques utilisés abusivement et les remettre à l'ayant droit le cas échéant (art. 24a LSEE et 121 LEtr).

De plus, dans le domaine asile, l'ODM ou l'autorité de recours peuvent confisquer ou saisir des faux documents ou des documents authentiques utilisés abusivement et les remettre à l'ayant droit le cas échéant (art. 10 al. 4 LAsi).

10. Lorsque des imprécisions concernant l'identité d'un ressortissant étranger existent, les autorités les consignent-elles dans leurs propres fichiers de données personnelles et/ou dans des systèmes informatiques internationaux ? Quand l'identité d'un ressortissant étranger a été établie, est-elle consignée dans leurs fichiers de données personnelles/systèmes informatiques ? Les méthodes utilisées pour établir son identité sont-elles indiquées ? Y a-t-il un moyen spécifique d'enregistrer les identités non établies ?

Les imprécisions sur l'identité comme les différentes façons d'écrire un nom figurent dans la banque de données AUPER et à l'avenir dans le SYMIC. Un code précise actuellement dans quelle mesure l'identité est certaine ou douteuse ou fausse (A, B, C). Avec le SYMIC il est en plus prévu de spécifier sur quelle base l'identité est établie : déclarations de l'intéressé, passeport, ou d'un document de l'état-civil.

Chaque personne saisie dans SYMIC a une identité principale qui représente l'identité réelle (prouvée par des pièces d'identité ou l'identité la plus probable d'après les déclarations d'un requérant d'asile). D'éventuelles autres identités établies ou non établies figurent en nom alias (identités supplémentaires) dans les fichiers informatiques. Les motifs de ces identités secondaires sont précisés comme par exemple : nom selon information, nom de célibataire, changement de nom (légal), données divergentes, fausse identité, autres raisons.

11. Comment les autorités traitent-elles des documents d'identité légaux en soi, mais dont on sait qu'ils contiennent des données personnelles qui ont pu être incluses à la demande de l'intéressé ?

Ces documents en question, titre de séjour en Suisse (art. 41 LEtr) ou livret pour requérant d'asile, attestent que la personne bénéficie d'une autorisation de séjour ou a déposé une demande d'asile en Suisse. Dans le domaine des étrangers, l'identité des personnes est généralement établie et un titre de séjour atteste normalement aussi la réelle identité de la personne. Dans le domaine de

l'asile, l'identité des personnes est rarement établie avec certitude. Souvent aucun document d'identité n'est remis. Un livret pour requérants d'asile ne vise pas à prouver l'identité de la personne.

“The FORMER YUGOSLAV REPUBLIC OF MACEDONIA” (16/08/07)

The Sector for administrative-supervisory affairs in the Department for civil affairs in the Central police services, in the frame of its authorities besides upon the request of the citizens of “the former Yugoslav Republic of Macedonia”, is acting and proceeding certain procedures also upon the requests from foreigners. Also, in the procedures for which are competent the Sector for administrative-supervisory affairs, often are supplied and used as evidence documents edited from foreign states. These are the procedures for acquirement and dismissal of the citizenship of “the former Yugoslav Republic of Macedonia”, registration the facts for birth, death or marriage conclusion of the citizens of “the former Yugoslav Republic of Macedonia” made in foreign countries in the domestic registers, enrolments of birth, death or marriage conclusion of foreigners in “the former Yugoslav Republic of Macedonia”, procedures for editing driver licenses and registering the vehicles of foreigners.

1. How is an alien’s identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

The identity of the foreigner who is applying a request for leading a procedure from the authority of the administrative services is affirming based on a valid document for identification, i.e. based on a attached passport or if the foreigner has regulated his residence in “the former Yugoslav Republic of Macedonia”-ID card for foreigner. The identity is affirmed by clerk where the request is being supplied. Due to correct affirming of the identity of the foreigners who has a procedure for acquiring a citizenship is the provision from the State’s Law for citizenship (“Official gazette of the RM” nr. 67/92 and 8/04) for obligatory personally supplying the requests for acquiring and dismissal of the citizenship of “the former Yugoslav Republic of Macedonia” and personal delivery of the prepared decisions.

The mechanism for affirming the authenticity of the documents which often is implemented is previous acquaintance with the form of the document and the agency authorized to give away, through specimens delivered to the Ministry of internal affairs forwarded by diplomatic-consular cooperation with other countries. Regarding the contents correctness of the annexed documents if there is a doubt in the authentic and contents correctness of the documents the same are identifying at the authorities and abroad institutions or their diplomatic-consular representation in the State.

In the administrative services where the procedure is conducted in the Ministry of internal affairs, and for which is authorized the Sector for administrative-supervisory affairs, besides the data estimated with law due to any individual administrative procedure, are not required additional data as for the fingerprints.

2. In the absence of reliable identity documents, how is an alien’s identity verified? Can an alien’s identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

In the procedures for which are authorized the Sector for administrative-supervisory affairs, for affirming the identity besides in the administrative way, are not in use other measures as medical check up, DNA analyses etc.

3. In the absence of reliable identity documents, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

When there is no valid document for identification of the foreigner, the authorized organizational units from the Sector for border affairs are having contact with INTERPOL and the relevant embassy of the country from it is supposed the origin of the foreigner aiming the determination of his identity.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

According to the article 143 from the Law for foreigners ("Official Gazette of RM" 35/06), for providing data for the condition and movement of the foreigners, as well as for the documents given away, the MOI is having evidences for:

- given away permissions for temporary residence,
- refused requirements for giving away a permission for temporary residence,
- given away permissions for permanent residence,
- refused requirements for giving away permission for permanent residence,
- foreigners with temporary residence,
- foreigners with registered address
- given away visas at the border line,
- destroyed, recalled visas, extended visas, as well as visas with contracted validity,
- given away passports for foreigners and passports for persons without citizenship,
- reported, missing, lost, stolen or in other way alienated passports and other documents,
- foreigners located in the Reception center
- pronounced security and protection measures,
- deported foreigners from "the former Yugoslav Republic of Macedonia"
- foreigners with taken away the temporary or the permanent residence in "the former Yugoslav Republic of Macedonia",
- foreigners with refused entry in the state and
- taken fingerprints.

MOI has access to the evidences from the Ministry of foreign affairs. State authorities can use data from the abovementioned evidences if they have legal interest, for which decides the MOI, i.e. the Ministry for foreign affairs.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

Beside the data the foreigner is supplying whilst requirements and the data for the foreigner which are in the evidences of the Ministry, in the files formed after the applied requests are not included other or alternative data.

6. Can data recorded in the authority's personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

In all concrete cases the Ministry of internal affairs regarding the personal data is acting according to the Law for protection of the personal data ("Official Gazette of RM" nr. 7/05) and giving the data from one authority to another can realize only according to the provisions of this Law.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

In this cases it is necessary to check the authentic and contents correctness of the documents at the authorized services who gave away the documents.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

Due to this question the Ministry of internal affairs is acting according to the Law for general administrative procedure ("Official gazette of the RM" nr. 38/05) according to which the documents given away in foreign language are applying in stamped translation.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

If in the procedure occurs abuse of the applied documents for example falsification or use of the documents from another person an authority service is being noted in the Ministry for taking the procedure after these abuses.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording un-established identities?

The answer to the question nr.10 is related to the answer of the question nr. 3. In absence of valid document for identification of a foreigner, MOI -Sector for border affairs contacts with INTERPOL and the appropriate embassy of the country from it is supposed the is the origin of the foreigner gaining the affirmation of his identity. Therefore, the MOI is taking all needed measures for affirming the identity of the foreigner in a shortest possible deadline and it does not lead special evidence of data for unknown identity of a foreigners.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

Due to the Law for general administrative procedure the documents given away from an authority of a foreign state if from the place given away are declared as a public documents, have conditions of mutuality the same prove strength as well as the domestic public documents if are legally stamped.

TURKEY (19/09/07)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

The civil registration matters of aliens resident in Turkey falls within the responsibility of the General Directorate of Civil Registration and Nationality which maintains an electronic Central Civil Registration System (MERNIS). These matters are set out in Article 8 of the Civil Registration Services Law No 5490 which reads as follows: "(1) Aliens who for whatever reason have obtained residence permit for aliens to remain in Turkey for at least six month period shall be entered by the General Directorate of Civil Registration and Nationality in the register of aliens. Aliens entered in this register shall be under obligation to declare every civil status event to civil registration offices. Members of diplomatic missions are exempted from this provision."

The identity information of aliens who reside legally in Turkey and possess residence permit with validity period of at least 6 months are transmitted to the General Directorate of Civil Registration and Nationality by the General Directorate of Security who is also responsible for the verification of the identity documents.

As regards the nationality matters of aliens, according to the Turkish legislation, documents proving the identity of the person, such as passport and other documents alike issued by the empowered foreign authorities, together with their duly legalised and translated copies into Turkish, are requested from the alien applying for acquisition of Turkish nationality.

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are the collected data compared with those provided during other procedures?

As regards nationality matters, in case of any hesitation whether the identity documents are authentic or had been issued by the empowered authorities or not, information is being requested from the local authorities in the country of origin of the alien applicant through the Turkish Ministry of Foreign Affairs and other than this procedure, no other methods are used for the verification of the identity documents.

3. In the absence of a reliable identity document, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

In accordance with the declaration of the alien, police authorities directly contact diplomatic institutions (such as the embassy or the consulates), to verify the aliens identity.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

The identity information of aliens who reside legally in Turkey and possess residence permit with validity period of at least 6 months are transmitted to the General Directorate of Civil Registration and Nationality by the General Directorate of Security.

The transmitted data on aliens are maintained in electronic format by the General Directorate of Civil Registration and Nationality and comprise of the identity number, name and surname,

mother's name, father's name, place of birth, date of birth, marital status, gender, country code, province issuing the residence permit, permit number, residence period, permit start date, domicile address as well as the identity numbers of the mother and the father of the alien.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

Only in cases where an alien is a criminal, victim or the witness of a crime event is his/her personal data kept.

6. Can data recorded in the authorities' personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

Personal data belonging to aliens are shared only with national authorities who have to access the data via the Internet under terms specified in the (Identity Sharing System) protocols using the identity numbers assigned to the aliens by the General Directorate of Civil Registration and Nationality.

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

Passports have priority in relation to other ID cards. In case of any uncertainty, further information is being requested from local authorities of the country of origin through the Turkish Ministry of Foreign Affairs.

8. How are divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of these files?

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

Use and possession of such documents constitute a criminal offence. In such cases, the matter is referred to the Prosecutor's Office and investigation by the judicial authorities is being initiated. The court may seize the documents and send them to the relevant embassy or consulate.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording unestablished identities?

If there are unclarities about an alien's identity, the first thing done is to determine the identity of the alien. The situation is recorded in the alien's personal file and all the changes relating to his/her identity are recorded. The means used are also recorded in the files. The changes will also be submitted to the embassy and/or consulate.

11. How do the authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

UNITED KINGDOM (08/06/07)

1. How is an alien's identity verified? Which authorities are competent? Which information is requested? How is the authenticity of documents checked? Are any other data collected (e.g. photos, fingerprints, etc.)?

An alien's identity is verified by examination of his travel document(s) by an officer of the UK Border & Immigration Agency (BIA).

BIA staff are competent both legally and in terms of skills and expertise to examine travel documents and confirm that the persons presenting them are the rightful holders. Travel and identity documents are requested.

BIA staff are trained in examination of travel and identity documents. The UK has a specialist unit, the National Document Fraud Unit (NDFU) which has central responsibility for gathering information and specimens of travel documents. The NDFU trains BIA staff and makes information available on travel documents and their security feature. The NDFU is also a reference point for staff who need to have travel or identity documents verified.

Certain classes of applicants have other data captured – asylum applicants have facial image and fingerprints captured as do applicants for visas for the UK. The UK (in line with EU legislation) will, by the end of 2008, be requiring aliens seeking residence in the UK to provide facial images and fingerprints for residence permits. Aliens issued with refugees Travel Documents will also be required to give both facial and fingerprint biometrics by 2009 (this will be in line with requirements for UK passport applicants and following EU legislation).

2. In the absence of reliable identity documents, how is an alien's identity verified? Can an alien's identity be established, for example, by means of medical bone age measurement, by comparing fingerprints, conducting DNA tests or comparing photographs? If so, in what context are these methods used and are collected data compared with those provided during other procedures?

The onus is on aliens seeking entry to the UK to provide evidence of their identity in the form of officially issued travel or identity documents. Persons without such documentation will normally be refused entry or visa facilities. In asylum cases, where an alien does not have identity documentation, fingerprint data is collected and compared with the database of asylum applicants. Similarly, if the alien claims to have already had previous dealings with UK authorities then records will be checked to verify the identity. Asylum applicants are interviewed to establish details of their background and identity and claim for asylum. If accepted, then the identity will be accepted in the absence of corroboratory documentary evidence.

Where an alien is detected internally as an illegal entrant then, providing no asylum application is made, attempts will be made to verify him and document him via the embassy of the country of which he claims citizenship.

3. In the absence of a reliable identity document, what is the involvement of the country of origin in establishing the alien's identity? Are the authorities in the country of origin asked for assistance in verifying his/her identity and how?

See answer to question 2.

4. Are there official data systems containing information on aliens? Which information do they contain? Can this information be compared with information from other data systems?

The UK immigration authorities have their own data systems for visa applicants, persons seeking residence in the UK, those refused entry, those seeking citizenship and those seeking asylum. In addition information is held on the UK Warnings Index of suspect aliens. Information held varies on what is available. Any comparison of data would only be permissible in compliance with UK Data Protection legislation.

5. Can the authorities enter alternative personal data concerning an alien in their personal data file?

Yes, where known aliases have been used by the alien or where the alien has been detected attempting to gain services in another identity.

6. Can data recorded in the authorities' personal data files be transmitted to other national authorities and authorities of other states in order to establish an alien's identity?

No data is transferred unless it is permissible to do so under UK Data Protection legislation. Authorities are, however, able to conduct verification checks with other authorities both nationally and abroad but only on the basis of being supplied with a Yes/No verification **by the data holders.**

7. How do the authorities respond to an alien's identity documents if they contain divergent data? Which document (and therefore the data it contains) has priority over the others?

The UK immigration authorities regard a valid officially issued national passport as the primary source of evidence of identity and nationality as well as, for certain agreed states, an officially issued national identity card providing it confirms both nationality and identity. Where documents held by an alien contain varying identity data the alien's application may not be accepted and the onus will be on the alien to establish the correct identity. In such circumstances the immigration authorities will invariably wish to carry out further enquiries and checks in order to establish satisfactorily the correct identity and nationality.

8. How are the divergent ways of spelling personal names, which may vary between different documents concerning an alien, taken into consideration in the personal data files of authorities and in searches of those files?

UK immigration databases have a synonym rings facility which enables variations in spellings of names to be searched. These will either work totally automatically or by giving the database user a facility for checking "sounds like" options. The main variation recorded in the data file will be the name as recorded in the passport or national identity card accepted for the alien.

9. How do the authorities proceed when an alien is found to possess a false or falsified document or a legal document belonging to another person? Do they seize the document?

Applications for leave to enter at a border or a visa abroad will be refused. At the border, or when a person is detected in country with a false document, there is also legal provision for criminal prosecution, which will result, on conviction, in imprisonment and invariable subsequent deportation. False documents detected are usually seized and impounded unless, in a minority of cases, they need to accompany the holder on his removal from the UK in order to achieve his acceptance back in the country that he had travelled to the UK from.

10. Where there are unclarities about an alien's identity, do the authorities record them in their own personal data files and/or international data systems? Where an alien's identity has been established, is this recorded in their personal data file/data systems? Are the means used to establish his/her identity included? Is there a specific way of recording unestablished identities?

Aliens identities recorded in UK immigration authorities data systems will be accepted as established unless stated otherwise in the records with cross referencing used if necessary in respect of use of other identities. The means used for establishing identity will only be recorded where enquiries have been necessary as valid genuine travel documentation has not been provided. There is no specific or separate means used for recording "unestablished" identities.

11. How do authorities treat identity documents that are legal as such, but which are known to contain personal data which may have been included at the request of the holder?

The UK immigration authorities will accept all valid national passports or national identity cards, where appropriate, providing they are satisfied that the documents are of genuine issue, that they were not corruptly or fraudulently obtained, that they have not been falsified and that they are being presented by the rightful holders.