



## Case management, identity controls and screening on national security and 1F exclusion

A comparative study on Syrian asylum seekers in five European countries

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**UDI**



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## List of acronyms

ABIS	Automated Biometric Identification System (Norway)
Actio	CGRS administrative system (Belgium)
ADIV/SGRS	Military intelligence service (Belgium)
AFIS/INPOL	Police database (Germany)
AIVD	General intelligence and security service (the Netherlands)
AVIM	Department of aliens, identification and human trafficking (the Netherlands)
BAMF	Federal Office for Migration and Refugees (Germany)
BDOC	Identity and Document Investigation Unit (the Netherlands)
BfV	External security and intelligence services (Germany)
BND	Domestic security and intelligence services (Germany)
BVID	Basic Information on the Establishment of Identity (the Netherlands)
BVV	Central Shared Database with Information On Applicants (the Netherlands)
CDB/OCFR	Central Squad against Forgery (Belgium)
CGRS	Office of the Commissioner General for Refugees and Stateless persons (Belgium)
COA	Central Agency for the Reception of Asylum Seekers
COI	Country of Origin Information
CTER	Counter-terrorism department National Police (the Netherlands)
DFF/VVR	Fake and Forged Travel Documents Unit (Belgium)
DT&V	Departure and repatriation service (the Netherlands)
DTN	NCTV threat assessment (the Netherlands)
DUF	PU administrative system
DVZ	Immigration Office (Belgium)
EASO	European Asylum Support Office
EASY	Registration system for new arrivals (Germany)
ECID	Centre of Expertise for Identity Fraud and Documents (the Netherlands)
ECRE	European Council on Refugees and Exiles
EMN	European Migration Network
EU	European Union
Eurodac	EU fingerprint database
Evibel	DVZ administrative system (Belgium)
EVIM	Expertise centre Aliens and Identification Human trafficking (the Netherlands)
Fedasil	Federal Agency for the Reception of Asylum Seekers (Belgium)
FTE	Full-time equivalents
GTAZ	Joint Counter-Terrorism Centre (Germany)
HERO	Private company offering reception to asylum seekers
HRW	Human Rights Watch
IND	Immigration and naturalisation service (the Netherlands)
INDiGO	IND administrative system (the Netherlands)
IS	Islamic State
KMar	Border control authority (the Netherlands)
KOCV	Operational Coordination Centre for Foreign Nationals (the Netherlands)
LOID	Linguistic Origin Identification (Sweden)
LRO	National council on radicalization in the migration process
MARIS	BAMF administrative system (Germany)

MIVD	Military intelligence and security service (the Netherlands)
MTV	Mobile Security Monitoring (the Netherlands)
NCP	National Contact Point for the EMN
NCTV	National coordinator for security and counterterrorism (the Netherlands)
NFC	National Forensic Centre (Sweden)
NVIK	Checklist used by AVIM in identification and registration process (the Netherlands)
OCAD/OCAM	Coordination Unit for Threat Analysis
OCILA	Office for Country Information and Language Analysis (the Netherlands)
PIK	Personalisation Infrastructure Component (Germany)
PIL	Identification and Labelling Protocol (the Netherlands)
PSHV	AVIM administrative system
PST	Police Security Service (Norway)
PU	National Police Immigration Service (Norway)
PUMA	Project initiated by PU and UDI to design new arrival, registration & reception phase (Norway)
ROR	Governmental educational institute against radicalisation (the Netherlands)
SIS	Schengen Information System
SMART	Project on self-registration (Norway)
UDI	Directorate of Immigration (Norway)
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
USZ	Unit Special Cases (the Netherlands)
VIS	Visa Information System
VSSE	State Security Service (Belgium)

## Summary

This report discusses how five European countries (Belgium, Germany, Norway, the Netherlands and Sweden) have organized the identification, registration and decision-making in relation to asylum applications made by Syrian nationals, and the screening of Syrian nationals with regard to possible national security and 1F exclusion aspects, in the period 2014-2017. For the study, interviews have been conducted with representatives of immigration authorities and aliens police agencies, as well as representatives of intelligence and security services and representatives of the European Asylum Support Office (EASO). In addition, the research entailed a review of available academic literature, relevant rules and regulations and available formal and informal policy documents.

The armed conflict in Syria that erupted in 2011 has produced a vast number of forced migrants and is one of the driving factors behind the high influx of asylum seekers in Europe since 2014. The high influx impacted all countries studied in the context of this research, albeit in different degrees.

The high influx came as a surprise to all of the focus countries, because of its suddenness and its magnitude. The challenges that bureaucracies were confronted with were manifold. This report presents an overview of these challenges and responses to these challenges in the five focus countries, on three main themes: organisational capacity and management; establishment of identity and decision-making; and screening on national security and 1F exclusion. The report ends with a number of conclusions, reflections and recommendations that follow from the findings.

### Organisational capacity and management

Chapter 4 of the report provides an overview of responses to the challenges in relation to the organisational capacity and management, aimed at reducing the number of asylum seekers, and at processing the increased number of asylum claims. At the moment of writing, the influx in all of the focus countries has decreased and backlogs have been reduced to a 'normal' level in most countries. As a consequence, all of the countries are currently scaling down organisational capacity with respect to dealing with spontaneous arrivals of asylum applicants.

Structural measures that have been taken or are envisaged to deal with possible changes in the influx in the future include the development of national contingency plans, 'centralisation' of activities in one or more centralised arrival centres, 'flexibilisation' of accommodation and/or staff capacity, and further 'digitisation' of the asylum process.

In general, respondents interviewed in the context of this study believed that the experiences gained during the recent high influx have made the actors better prepared and more aware of the division of responsibilities, and have improved internal communication and cooperation with other actors in the immigration process. Respondents generally stated the 'system' in their respective countries is ready for a new high influx, although this does depend on the nature of the influx, for example in terms of the recognition rate, identification issues and national security and exclusion issues.

### Establishment of identity and decision-making

Chapter 5 discusses how the studied countries have dealt with the establishment and verification of the identity of asylum seekers claiming to be Syrian, and how they have organised and/or adapted the decision-making process in relation to Syrian asylum applications.

In addition to the investigation of identity documents and taking fingerprints, the focus countries increasingly use different and new methods to establish and/or verify an applicant's identity, including digital language analysis, extraction of information from data carriers and social media research. The



nature and the scale of the influx from 2014 – in addition to technical innovations – are some of the driving factors behind these developments.

The chapter discussed a number of specific challenges with respect to the use of the different methods to establish the identity, including the reliability of presented documents, the use of fake identities, lack of a need to make elaborate statements for applicants claiming to be from Syria, and the availability of adequate and up-to-date country of origin information.

With respect to decision-making, the interviews suggest that countries that do not work with country of origin specialisation in the decision-making could more easily scale up. Countries took different approaches as to whether or not new caseworkers were handed Syrian cases or not, depending on whether those were seen as relatively 'easy' or not.

### Screening on national security and exclusion

Chapter 6 discusses the screening of Syrian asylum seekers on national security and exclusion aspects. Respondents indicated that the attention for national security and exclusion cases in the immigration process has generally increased in the past years. During the high influx, a major challenge with regard to screening was that the opportunities to assess national security and exclusion aspects were limited due to the high recognition rate, while the scale of the influx made that less time and less experienced staff was available to make assessments of these aspects. Many countries developed new, or strengthened existing structures for information exchange on (potential) national security cases between the immigration authorities and intelligence and security services. The different authorities have provided their staff in various ways with tools to create and raise awareness in relation to aspects of national security and exclusion.

In the process of identifying national security or exclusion cases, relevant actors were confronted with a number of challenges, including determining the right threshold for reporting potential national security cases, providing feedback to caseworkers, and the generally more limited value of information collected through interviews. Respondents indicated that information from social media and data carriers can be very valuable in the context of assessing national security or exclusion aspects, but that such information is often very difficult to interpret and/or to use as evidence. Finally, the interviews indicate that when it comes to national security and exclusion, these issues are not given due attention in the context of family reunification procedures.

### Conclusions and recommendations

After summarising the main findings, the final chapter presents a selection of noteworthy practices for each of the three main themes, based on input from respondents and experts. The discussion of these practices can be used by actors involved in the immigration process – not only in the focus countries, but also in other countries – to further develop or redevelop existing approaches and strategies. Considering that this research was commissioned by the Norwegian Directorate of Immigration UDI, the relevance and feasibility of implementing the described practices in the Norwegian context is addressed separately.

The concluding chapter ends with a paragraph that contains a number of general reflections that follow from the research.

## Sammendrag

Denne rapporten tar for seg hvordan fem europeiske land (Belgia, Tyskland, Norge, Nederland og Sverige) har organisert identifisering, registrering og beslutningsprosesser i forbindelse med søknader om asyl fra syriske borgere, samt screening med hensyn til mulige 1F-eksklusjoner eller nasjonale sikkerhetshensyn, i perioden 2014-2017. Undersøkelsen benyttet seg av intervjuer med representanter for immigrasjonsmyndighetene og fremmedpolitienheter, samt representanter for sikkerhetstjenester og representanter for Det europeiske asylstøttekontoret (EASO). I tillegg gikk man som en del av undersøkelsen gjennom tilgjengelig akademisk litteratur, relevante lover og forskrifter og tilgjengelige formelle og uformelle policy-dokumenter.

Den væpnede konflikten i Syria som begynte i 2011 har ført til at et stort antall mennesker er tvunget på flukt, og er en av de drivende faktorene bak den høye tilstrømmingen av asylsøkere i Europa siden 2014. Den høye tilstrømmingen påvirket alle landene som ble inkludert i denne undersøkelsen, men til forskjellig grad.

Den høye tilstrømmingen kom som en overraskelse på alle fokuslandene, både på grunn av hvor raskt den kom og dens omfang. Byråkatiene ble konfrontert med en rekke ulike utfordringer. Denne rapporten presenterer en oversikt over disse utfordringene og hvordan de ble besvart i de fem fokuslandene, innenfor tre temaer: organisatorisk kapasitet og styring, etablering av identitet og beslutningstaking og screening i forbindelse med nasjonal sikkerhet og 1F-eksklusjon. Rapporten avsluttes med en rekke konklusjoner, refleksjoner og anbefalinger som følger fra funnene.

### Organisatorisk kapasitet og styring

Kapittel 4 i rapporten gir en oversikt over svarene på utfordringene i sammenheng med den organisatoriske kapasiteten og styringen, som hadde som mål å redusere antallet asylsøkere, og på behandlingen av det økte antallet asylsøknader. Da denne rapporten ble skrevet hadde tilstrømmingen avtatt i alle fokuslandene, og antall ventende saker var blitt redusert til et «normalt» nivå i de fleste landene. Som en konsekvens av dette er alle landene nå i ferd med å redusere sin organisatoriske kapasitet for behandling av plutselige ankomster av asylsøkere.

Strukturelle tiltak som er blitt gjennomført eller som har til hensikt å håndtere eventuelle fremtidige endringer i tilstrømmingen, inkluderer utarbeidelse av nasjonale beredskapsplaner, «samling» av aktiviteter i ett eller flere sentraliserte mottaksentra, gjøre mottaks- og/eller personalkapasitet mer «fleksibel», og videre «digitalisering» av asylprosessen.

Generelt sett mente respondentene som ble intervjuet i denne undersøkelsen at erfaringene man har gjort seg under denne nylige store tilstrømmingen har gjort aktørene bedre rustet og mer oppmerksomme på ansvarsfordelingen, og at de har ført til forbedret intern kommunikasjon og samarbeid med andre aktører i immigrasjonsprosessen. Generelt mente respondentene at «systemet» i deres respektive land nå er forberedt på en ny høy tilstrømming, selv om dette vil være avhengig av tilstrømmingens natur, for eksempel med tanke på anerkjennelsesforhold, identifiseringsspørsmål og nasjonale sikkerhets- og eksklusjonsspørsmål.

### Etablering av identitet og beslutningsprosesser

Kapittel 5 diskuterer hvordan de undersøkte landene har håndtert etableringen og verifiseringen av identiteten til asylsøkere som hevder å være syriske, og hvordan de har organisert og/eller tilpasset beslutningsprosessen når det gjelder syriske asylsøknader.

I tillegg til undersøkelsen av identitetsdokumenter og opptak av fingeravtrykk, bruker fokuslandene i økende grad forskjellige og nye metoder for å etablere og/eller verifisere en søkers identitet, inkludert digital språkanalyse, uthenting av informasjon fra databærende enheter og undersøkelser i sosiale medier. Tilstrømmingens natur og omfang i 2014 – i tillegg til tekniske nyvinninger – er noen av drivkreftene bak disse utviklingene.

Kapittelet diskuterer en rekke spesifikke utfordringer når det gjelder bruken av forskjellige metoder for å etablere identiteten, inkludert de presenterte dokumentenes notoritet, bruken av falske identiteter, mangel på nødvendigheten av å produsere omfattende utsagn for søkere som hevder å være fra Syria, og tilgjengeligheten av tilstrekkelig og oppdatert informasjon om opprinnelseslandet.

Med hensyn til beslutningsprosessen antydes det i intervjuene at land som ikke arbeider med spesialisering på opprinnelsesland i beslutningsprosessen enklere kunne ta disse videre. Landene hadde forskjellige tilnærminger til hvorvidt nye saksbehandlere fikk Syriasaker eller ikke, avhengig av om disse ble ansett å være relativt «enkle» saker eller ikke.

### Screening i forbindelse med nasjonal sikkerhet og eksklusjon

Kapittel 6 diskuterer screeningen av syriske asylsøkere for nasjonale sikkerhets- og eksklusjonsaspekter. Respondentene anga at fokuset på sikkerhet og eksklusjonssaker i immigrasjonsprosessen har hatt en generell økning de siste årene. Under den høye tilstrømmingen var en stor utfordring med hensyn til screeningen at mulighetene for å vurdere nasjonale sikkerhets- og eksklusjonsaspekter var begrenset på grunn av den høye gjenkjenningssandelen, mens tilstrømmingens skala gjorde at mindre tid og færre erfarne ansatte var tilgjengelige for å vurdere disse aspektene. Mange land utviklet nye strukturer for informasjonsutveksling om saker med (potensiell) betydning for den nasjonale sikkerheten mellom immigrasjonsmyndighetene og sikkerhetstjenestene. De forskjellige myndighetene har på forskjellige måter utstyrt sine ansatte med verktøy for å skape og heve bevissthet i forbindelse med nasjonale sikkerhets- og eksklusjonsaspekter.

I prosessen med å identifisere nasjonale sikkerhets- eller eksklusjonssaker, ble relevante aktører konfrontert med en rekke utfordringer, inkludert det å fastlegge riktig terskel for rapportering av potensielle nasjonale sikkerhetssaker, gi tilbakemeldinger til saksbehandlere, og den generelt mer begrensede verdien av informasjon som ble samlet inn gjennom intervjuene. Respondentene anga at informasjonen fra sosiale medier og databærende enheter kan være meget verdifull i en sammenheng der man skal vurdere nasjonale sikkerhets- og eksklusjonsaspekter, men at denne informasjonen ofte er meget vanskelig å tolke og/eller bruke som bevis. Til slutt fikk man gjennom intervjuene en indikasjon på at når det kommer til nasjonale sikkerhets- og eksklusjonsaspekter, så får ikke disse temaene nok oppmerksomhet i familiegjenforeningsprosedyrer.

### Konklusjoner og anbefalinger

Etter å ha oppsummert hovedfunnene, presenterer avslutningskapittelet et utvalg praksiser som kan være verdt å merke seg for hvert av de tre hovedtemaene, basert på input fra respondenter og eksperter. Diskusjonen av disse praksisene kan brukes av aktører som er involverte i immigrasjonsprosessen – ikke bare i fokuslandene, men også i andre land – for å videreutvikle eller omarbeide eksisterende tilnærminger og strategier. Med tanke på at denne undersøkelsen ble gjennomført på oppdrag av Utlendingsdirektoratet, er relevansen av og muligheten for iverksettelse av de beskrevne praksisene i en norsk sammenheng diskutert separat.

Kapittelet med konklusjonen avsluttes med et avsnitt som inneholder en rekke generelle refleksjoner avledet fra undersøkelsen.

## Chapter 1. Introduction

### 1.1. Objective of the study

This study was commissioned by the Norwegian Immigration Service *Utlendingsdirektoratet* (UDI) and has been carried out by the Center of International Criminal Justice (CICJ) of the Faculty of Law, VU University Amsterdam in the period October 2017 to April 2018. At the outset of the study, the following objectives were formulated by UDI.

First of all, UDI wanted to receive recommendations regarding efficient case processing and satisfactory handling of security challenges, including the establishment of a person's identity, in relation to asylum applications by Syrian nationals. Secondly, UDI indicated it wanted recommendations on how a situation with a large asylum caseload with similar challenges best can be handled in the future. UDI noted that the recommendations should to a reasonable degree be applicable within the existing financial framework and that the recommendations should be based on a study of how other European countries have handled the high numbers of asylum seekers from Syria during the recent years, balancing increasing demands for efficiency with the need to screen cases to identify potential national security and exclusion issues.

### 1.2. Rationale and research context

In 2014 and 2015, many European countries were confronted with a steep rise in asylum applications, primarily by Syrian nationals. This dramatic increase led to exceptional challenges with regard to the identification, registration and screening of these newcomers. Most Syrian asylum seekers can substantiate that they are Syrian citizens (e.g. by showing original passports) and have, because of the ongoing conflict in their country of origin, a high probability of being granted a residence permit. From this perspective, fast and efficient processing of these cases is important, as this allows the individuals to quickly start their integration process. Furthermore, lengthy procedures may lead to frustration among asylum seekers, which could lead to increasing feelings of resentment against authorities, or vulnerability for recruitment for participation in illegal activities or radicalisation. At the same time, Syrians are arguably a group of applicants for whom it is important to thoroughly assess whether there were reasons to consider they posed a threat to national security, or should be excluded from international protection,<sup>1</sup> because of possible involvement in serious crimes prior to their arrival in the host country, or to assess whether there is a basis for treating the case as a case involving fundamental national interests or foreign policy considerations ('security cases'). A related additional complexity with regard to processing asylum claims by Syrians is that it is well-documented that fake Syrian passports have been relatively easily available on the black market,<sup>2</sup> that there are strong indications that Islamic State seized a large number of original blank Syrian passports,<sup>3</sup> and that Islamic

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<sup>1</sup> Article 1F of the Refugee Convention, and its equivalents in Articles 12 and 17 Qualification Directive 2011/95/EU, exclude a person from being a refugee where there are serious reasons for considering that (s)he has committed certain heinous acts.

<sup>2</sup> E. Ezadi, 'There's a booming black market for fake Syrian passports', *Washington Post*, 21 November 2015, last visited 28 November 2017 at <[https://www.washingtonpost.com/news/worldviews/wp/2015/11/21/theres-a-booming-black-market-for-fake-syrian-passports/?utm\\_term=.d37171b9166a](https://www.washingtonpost.com/news/worldviews/wp/2015/11/21/theres-a-booming-black-market-for-fake-syrian-passports/?utm_term=.d37171b9166a)>.

<sup>3</sup> AFP, Reuters, dpa, 'Europe on lookout for passports captured by 'Islamic State'', *Deutsche Welle*, 20 December 2015, last visited 28 November 2017 at <<http://www.dw.com/en/europe-on-lookout-for-passports-captured-by-islamic-state/a-18930346>>. Also see Van Wijk & Bolhuis (2016), p. 126.

State may even have (had) access to machines that can/could print legitimate-looking Syrian passports.<sup>4</sup>

Indeed, immigration authorities have seen themselves confronted with a dilemma: speedy asylum procedures of Syrian nationals are more cost-efficient and improve the chances of successful integration of these asylum seekers, yet expeditious procedures may make it more difficult to identify applicants who should be excluded on the basis of Article 1F Refugee Convention or who pose a security threat. A challenge related to the sudden significant influx of Syrian asylum seekers, has been the need to recruit and train new case officers who are able to uniformly process cases and ensure sufficient quality in case processing.

Currently the number of asylum seekers entering Europe is relatively low. A new situation involving large numbers of asylum seekers from Syria or other countries in the Middle East could, however, arise again. For now, the much discussed 'Turkey-deal' and additional measures taken around the same time seem to hold off large numbers of migrants travelling from Turkey to Europe, yet it remains to be seen for how long this deal is in place and/or effective. Furthermore, the situation in a number of countries in the Horn of Africa and the Middle East is turbulent and/or challenging, which enhances the potential for future migration of asylum seekers from these countries through e.g. Libya.

The above indicates that over the past years a considerable number of European countries have been – and will in the upcoming years possibly be – confronted with a variety of challenges in relation to the processing of asylum claims by Syrian nationals. With limited and often new staff, immigration authorities have had to balance the increasing demands for efficiency with the need to screen cases to identify potential exclusion and security issues. In light of a possible future influx of Syrian asylum seekers or other nationals with similar characteristics in terms of national security or 1F exclusion, this report aims to provide more insight into how a selected number of European countries have dealt with these challenges in the past few years. More specifically, this report discusses how five European countries – Belgium, Germany, Norway, the Netherlands and Sweden – have organized the identification, registration and decision-making in relation to asylum applications made by Syrian nationals, as well as the screening of Syrian nationals with regard to possible national security and 1F exclusion aspects. This assessment forms the basis for recommendations on how a situation with a large asylum caseload with similar challenges can be handled best in the future.

### 1.3. Research questions

This research is comparative in nature and addresses three main issues in relation to the earlier mentioned five selected countries. These countries have in common that they received a substantial number of asylum applications by Syrian nationals (see §3.1.2). The three main issues and related sub questions are:

1. Changes and improvements in organisational capacity since 2014
  - How and to what extent have countries reorganised their relevant government institutions to process the increased number of asylum claims?
  - To what extent have countries recruited new employees to process the increased number of asylum claims?
  - How and to what extent have existing or new employees received training to process the increased number of asylum claims and the particularities related to this new caseload?

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<sup>4</sup> M. McPhee & B. Ross, 'US Intel: ISIS May Have Passport Printing Machine, Blank Passports', ABC News, 10 December 2015, last visited 28 November 2017 at <<http://abcnews.go.com/International/us-intel-isis-passport-printing-machine-blank-passports/story?id=35700681>>.

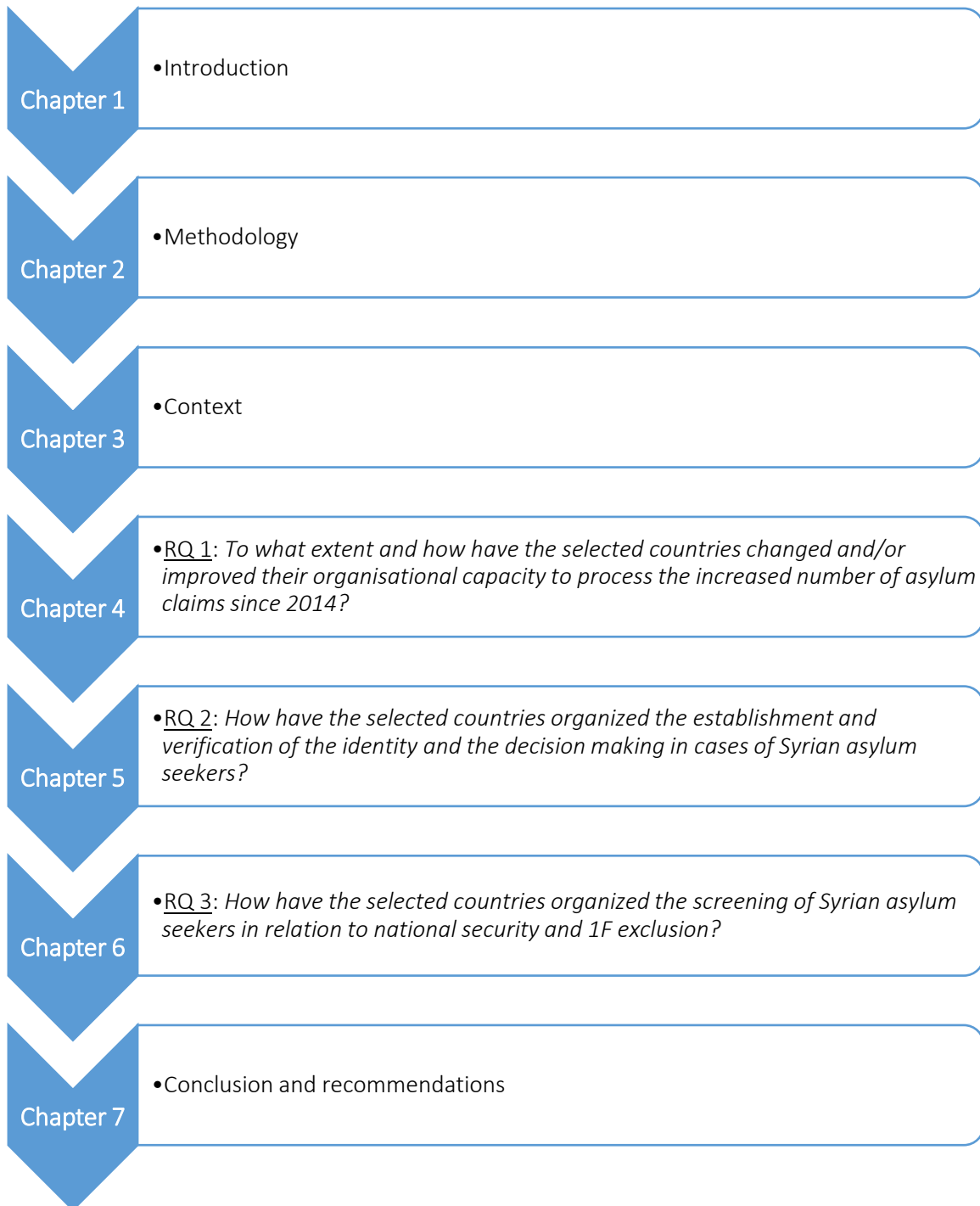
2. Organisation of identity establishment and verification and decision-making in cases of Syrian asylum seekers
  - Which organisations play a role in the identification and registration of Syrian applicants?
  - At what point in the asylum procedure is information about an applicant's ID obtained (before, during or after the interview)?
  - What methods do the organisations use to clarify the identity of applicants from Syria (e.g. biometrics, language tests)?
  - To what extent is the information they gather during the identification and registration shared with other public authorities?
  - To what extent are there any obstacles to the sharing of this information (administrative, technical, legal or other)?
  - In what way is information about a Syrian national's ID evaluated and used in the context of making a decision on the asylum claim?
  - Have all Syrian asylum seekers been interviewed in the context of the asylum procedure?
  - What has been the framework for interviews (at what time in the asylum procedure, time reserved for the interview, use of different means of communication (e.g. Skype), use of interpreter, choice of language, etc.)?
  - What are the qualifications of those conducting the interviews and making the decisions (formal qualifications, experience and training)?
  - Does the person who conducts the asylum interview also make the decision in the asylum case?
  
3. Organisation of the screening of Syrian asylum seekers in relation to national security and 1F exclusion
  - How and to what extent has priority been given to identifying possible national security and 1F exclusion cases with regard to Syrian asylum claims?
  - What is the different countries' threshold for what they consider to be a 'security case'?
  - How and to what extent is information about an applicant's ID used with regard to screening?
  - How and to what extent have Syrian applicants' technical devices and social media been checked for relevant information as part of the screening?
  - What challenges do the countries face when it comes to obtaining country of origin information relating to cases where exclusion or security is an issue?
  - How many individuals who claimed to be Syrian have since 2014 been deemed to pose a national security threat or been excluded on the basis of Article 1F Refugee Convention?

This culminates in a conclusion in which the following questions will be answered:

- To what extent and how have the selected countries changed and/or improved their organisational capacity to process the increased number of asylum claims since 2014?
  - *How could immigration authorities process a future high influx of Syrian asylum seekers or other nationals with similar characteristics?*
- How have the selected countries organized the establishment and verification of the identity and the decision making in cases of Syrian asylum seekers?
  - *What measures can immigration authorities implement to improve the establishment and verification of identity in these or similar cases?*
- How have the selected countries organized the screening of Syrian asylum seekers in relation to national security and 1F exclusion?
  - *What measures can immigration authorities implement to improve the screening of (Syrian) asylum seekers in relation to national security and 1F exclusion?*

## 1.4. Outline of the report

The different chapters follow the abovementioned research questions as outlined in the scheme below. Chapters 2 and 3 discuss the methodology and the context for the study. The research findings are presented in chapters 4 to 6, which address broadly three topics: organisational capacity and management (chapter 4), establishment of the identity and decision making (chapter 5), screening on national security and exclusion (chapter 6). Chapter 7 summarises the most important findings, draws conclusions and makes recommendations.



## Chapter 2. Methodology

The topic of this study is, for obvious reasons, sensitive. This is especially true for the screening of asylum seekers on national security and exclusion aspects. The sensitive nature of the study had to be taken into account in developing a sound methodology to gather the necessary information.

Considering the sensitive nature of the information, personal interviews with relevant stakeholders, complemented with relevant written documentation were regarded the most fruitful way of obtaining the information necessary to answer the research questions. By means of triangulation, different research methods were combined. Besides qualitative interviews, the research involved a review of available academic literature, relevant rules and regulations and available formal and informal policy documents.

At the start of the research, a research protocol was drafted that was presented to and accorded by VU University Faculty of Law's Ethics Committee for Legal and Criminological Research CERCO.<sup>5</sup>

The different methods used in this study are outlined below.

### 2.1 Review of academic literature, policy documents and relevant rules and regulations

The starting point for an improved understanding of the issue is a sound understanding of what is already known. For this reason, the authors gathered and analysed relevant academic literature, policy documents and rules and regulations on the identification and registration of asylum seekers, asylum procedures and screening activities related to national security and 1F exclusion cases.

Particularly relevant in preparing this study, is that simultaneous to the drafting of this report, two European Migration Network (EMN) studies were carried out which to some extent cover the same research questions as the current study, although the methodologies and focus differ. These EMN studies, 'Challenges and practices for establishing the identity of third-country nationals in migration procedures'<sup>6</sup> and 'The changing influx of asylum seekers in 2014-2016',<sup>7</sup> are based on the submissions of the EMN National Contact Points (NCP's) in the respective countries. Where available and appropriate, the content of these studies has been used as a starting point. This is in particular the case with regard to the chapters 3 and 4. For the chapters 5 and 6, results from the interviews were leading and the limited information available in the EMN studies was complementary.

### 2.2. Interviews

#### 2.2.1. Selection of respondents

As mentioned above, the research focuses on a selective sample of five countries. Within these countries, respondents relevant to this study could first and foremost be found within governmental bodies and/or non-governmental bodies which are actively involved in the identification and

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<sup>5</sup> See <<https://rechten.vu.nl/en/about-the-faculty/committees/ethics/index.aspx>>.

<sup>6</sup> EMN (2017).

<sup>7</sup> The synthesis report was not available at the moment of writing. The national reports were available for Germany, the Netherlands, Norway (only a draft that was received from EMN NCP Norway) and Sweden, and are available online at the European Commission EMN website, <[https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports_en)>.



registration of asylum seekers and/or in processing asylum claims. At the start of the study, the following three groups of respondents were identified:

1. Representatives of organisations involved in the *identification and registration* of asylum seekers;
2. representatives of organisations tasked with *processing asylum claims*; and
3. representatives of organisations dealing with exclusion and/or security cases.

Within these groups, relevant representatives could be either involved in the operational process or in policy making.

This study presupposes that the asylum procedure in all of the studied countries consists of a set of identical phases. Although the actual activities executed in these phases and the number and type of actors involved in the respective phases may differ significantly from country to country, in all of the studied countries the lodging of an asylum application consists of the following five phases:

1. Registration of the application
2. Reception/housing of the applicant
3. Identification of the applicant
4. Check in relevant databases
5. Examination of the claim and decision-making

There can also be other phases that may have a bearing on the decision on an asylum application (including a medical check, or an appeal), but these are less relevant in the context of this study and will not be discussed. Between the different focus countries, there are rather fundamental differences in terms of which actor has the main responsibility in the different phases. An overview of the asylum procedure in each country ('flow charts' of the asylum procedure) can be found in Appendix 1.

In Belgium, phase 1 is the responsibility of the Immigration Office (*Dienst Vreemdelingenzaken, DVZ*). Phases 1, 3 and 4 are carried out by the independent Office of the Commissioner General for Refugees and Stateless Persons (CGRS) (although the checks in the police databases are performed by the police<sup>8</sup>). The reception is the responsibility of the Federal Agency for the reception of asylum seekers (Fedasil). Deportation/return and immigration detention are the responsibility of the Immigration Office (DVZ).

In Germany, the Federal Office for Migration and Refugees (BAMF) is the main actor responsible for the phases 1 and 3 to 5, although usually the police do the first registration in each case. Usually the police issue a 'proof of arrival' (see §4.2.2), take a photo, examine ID-documents, and take fingerprints.<sup>9</sup> However, also the BAMF or the federal states can perform these tasks.<sup>10</sup> The federal states are responsible for reception and accommodation (phase 2).

In the Netherlands, phases 1 and 5 are the responsibility of the Immigration and Naturalisation Service (IND); phase 2 is the responsibility of the Central Agency for the Reception of Asylum Seekers (COA); and phases 3 and 4 are the responsibility of the Aliens Police, Identification and Human Trafficking Department (AVIM) of the Dutch National Police and the Royal Netherlands Marechaussee (KMar), the Dutch border control authority.

In Norway, the lodging of the application, identification (in the early phase) and database checks (phases 1, 3 and 4) are the responsibility of the National Police Immigration Service (PU), while the reception/housing and the examination of/decision on the asylum claim (phases 2 and 5) are the responsibility of the Directorate of Immigration (UDI).

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<sup>8</sup> R17.

<sup>9</sup> R36.

<sup>10</sup> Tangermann (2017), p. 27.

In Sweden, the Migration Agency (*Migrationsverket*) is responsible for all phases, although checks in police databases are performed by the police.

The above is summarized in Table 1.

Table 1. Main actors responsible for the different phases of the asylum procedure

	Registration/lodging application	Reception/housing	Identification	Database checks	Examination/decision
<i>Belgium</i>	DVZ	Fedasil	CGRS	DVZ	CGRS
<i>Germany</i>	BAMF	Federal states	BAMF	BAMF	BAMF
<i>Netherlands</i>	IND	COA	AVIM/KMar	AVIM/KMar	IND
<i>Norway</i>	PU	UDI	PU/UDI	PU	UDI
<i>Sweden</i>	Migrationsverket	Migrationsverket	Migrationsverket	Migrationsverket	Migrationsverket

Interviews have been conducted with almost all of the organisation listed above, as can be seen from Table 2. In the context of this research, the second phase was considered less relevant; for this reason, no interviews have been conducted with representatives of the Belgian Fedasil, the German federal states, and the Dutch COA. Furthermore, in the context of this study no interview has been conducted with the Dutch border control authority KMar.<sup>11</sup> No interview was conducted with the AVIM, but an interview was conducted with the Expertise centre on Aliens, Identification and Human trafficking (EVIM), which coordinates the policies of the AVIM.

In addition to interviews with the immigration authorities and aliens police in the selected countries, interviews have been conducted with representatives of intelligence and security services in Belgium (State Security Service, VSSE), Norway (Police Security Service, PST) and Sweden (Swedish Security Service, *Säkerhetspolisen*),<sup>12</sup> and with representatives of the European Asylum Support Office (EASO). Table 2 shows an overview of the respondents, their affiliation, the time and location of the interview, and the code assigned to each respondent that will be used to refer to the interviews with them (R#).

Table 2. Overview of respondents

Code	Affiliation	Location interview	Date interview
R1	EVIM (AVIM)	The Hague	November 2017
R2	UDI	Oslo	December 2017
R3	UDI	Oslo	December 2017
R4	UDI	Oslo	December 2017
R5	UDI	Oslo	December 2017
R6	UDI	Oslo	December 2017
R7	UDI	Oslo	December 2017
R8	PST	Oslo	December 2017
R9	PU	Oslo	December 2017
R10	PU	Oslo	December 2017

<sup>11</sup> In a previous study (Van Wijk & Bolhuis, 2016), the authors have spoken to the KMar about their role in the identification process and in the context of national security. Where relevant, information from this previous report is used in this current report. Much information is also available about the actors in the Dutch identification process from inspection reports by the Dutch Inspectorate for Security and Justice (IV&J; see their reports in the list of references at the end of this report).

<sup>12</sup> In a previous study (Van Wijk & Bolhuis, 2016), the authors have interviewed the Dutch intelligence and security services AIVD and MIVD.

R11	PU	Oslo	December 2017
R12	PU	Oslo	December 2017
R13	PU	Oslo	December 2017
R14	PU	Oslo	December 2017
R15	PU	Oslo	December 2017
R16	PU	Oslo	December 2017
R17	DVZ	Brussels	December 2017
R18	DVZ	Brussels	December 2017
R19	VSSE	Brussels	December 2017
R20	CGVS	Brussels	December 2017
R21	CGVS	Brussels	December 2017
R22	CGVS	Brussels	December 2017
R23	CGVS	Brussels	December 2017
R24	CGVS	Brussels	December 2017
R25	EASO	Amsterdam (phone)	January 2018
R26	EASO	Amsterdam (phone)	January 2018
R27	Migrationsverket	Stockholm	January 2018
R28	Migrationsverket	Stockholm	January 2018
R29	Migrationsverket	Stockholm	January 2018
R30	Migrationsverket	Stockholm	January 2018
R31	IND	The Hague	February 2018
R32	IND	The Hague	February 2018
R33	UDI	Oslo	February 2018
R34	IND	The Hague	March 2018
R35	IND	The Hague	March 2018
R36	BAMF	Nuremberg	March 2018
R37	BAMF	Nuremberg	March 2018
R38	BAMF	Nuremberg	March 2018
R39	BAMF	Nuremberg	March 2018
R40	BAMF	Nuremberg	March 2018
R41	Säkerhetspolisen	Stockholm	April 2018
R42	Säkerhetspolisen	Stockholm	April 2018
R43	Migrationsverket	Stockholm	April 2018

### 2.2.2. Approach

Through the researchers' existing network and with assistance from UDI, key respondents were selected in the initial phase of the research. Once contact was made, additional respondents were approached using snowballing sampling.

All envisioned respondents were approached either by email or telephone with the request to cooperate in this study. They were informed that the data they provided would be used in a report on behalf of the Norwegian government, that their anonymity would be guaranteed and that the findings would be published in a publicly available English language report. When the approached respondents accepted the invitation, where possible, the interviews were conducted face-to-face interviews in the offices of the respondents. This provides the best opportunity for gathering the required knowledge and high-quality data, as it allows the researcher to build up *rappport* with the respondent.

The quality of the data and consistency of the information gathered was further safeguarded by clearly structuring the interviews. Topic lists have been used during all interview sessions. At the same

time, in order to allow for respondents to also provide additional information and to discuss relevant elements which were not covered in the topic lists, all interviews had a semi-structured character. Respondents were free – and invited – to share information they deemed relevant in the context of the study.

In most instances one or two respondents were interviewed at the same time. In these settings, interviews typically lasted thirty minutes up to two hours. In some instances, however, it proved more practical and feasible to speak to three to four respondents in one session. Such sessions would typically take two to four hours. The interviews were not recorded, but instead, transcripts of the interviews were made during and directly after the interviews. These transcripts were shared with the respondents for approval. Respondents were asked to check if the transcript was factually correct and/or to add additional information. It has to be noted that three respondents have, after multiple reminders, never answered to the request to provide feedback on the interview reports. In such instances, the final reminders stressed that no response would be regarded a confirmation that the respondents agreed with the content of the transcript. Hence, information from these transcripts is also used in the report.

During the interviews, in some countries more attention has been given to certain aspects than in other countries, although the authors made use of the same topic list and generally discussed the same topics in all countries. Sometimes, when asked for certain information, respondents were unable to answer because they did not have or could not get hold of the information. It also happened that respondents provided certain information in the interview, but indicated they considered it too sensitive to have that information included in a public report. Furthermore, in some countries issues came up that were not part of the topic list and did not come up in other countries. As a consequence, the report may, with regard to certain topics, routines and methods, contain more detailed information for some countries than for other countries.

### 2.3. Expert meeting

An expert meeting was organised at the Center for International Criminal Justice in Amsterdam on 17 April 2018, entitled ‘Screening and identification of national security and exclusion aspects in high asylum influx situations’. The aim of the one-day meeting was to bring together a number of the respondents interviewed in the context of the study to discuss the feasibility, relevance and practicability of implementing identified strategies and approaches for screening on national security and exclusion. The day provided a platform to discuss the draft conclusions of the project by reflecting on existing strategies and routines in the various countries the study has looked into, and to explore (possible) advantages and disadvantages of these practices. By organizing the meeting, the authors aimed to give depth to the draft conclusions of the report and to identify whether, to what extent, and under what circumstances experts were of the opinion that discussed practices in the various countries can be regarded ‘recommendable’ and could or should be implemented in other countries.

Six experts from Belgium, the Netherlands and Norway participated in the meeting. All work in the asylum process and have specific expertise on matters of national security and exclusion. The expert meeting had two main themes: screening (morning session) and information exchange (afternoon session) and ended with a discussion of general reflections. Table 3 shows the affiliation of the experts as well as the code assigned to each expert that will be used to refer to their contribution to the expert meeting (E#).

Table 3. Overview of experts

Code	Affiliation
E1	IND
E2	IND
E3	CGRS
E4	UDI
E5	UDI
E6	UDI

## 2.4. Recommendations

With respect to the last research question, the report aims to identify recommendations to improve efficient case processing and satisfactory handling of the security challenges in case of a future high influx of asylum seekers. As it turned out during the interviews, hardly any of the focus countries have so far conducted any sound evaluations to validate to what extent applied practices or new routines are effective or efficient. Nor is it always feasible or possible to implement practices that are used in one country also in another country. Whether or not a certain practice is recommendable is often very country or organization-specific. Elements that play a role are, for example, the nature and scale of the asylum influx, the institutional make-up, available financial means, the legal framework or the political climate. In the context of this exploratory and descriptive study, it has not been possible to extensively discuss all possible pros and cons of the different approaches and practices in the specific organizational or country contexts.

Given the above, it has not been possible to identify certain practices, strategies or approaches as 'recommendable' or not. Rather than referring to 'best practices', this report for this reason presents 'noteworthy practices'. It is up to the reader to evaluate whether and to what extent the presented practices may successfully be applied in their specific organizational or country context. To assist in this evaluation, the authors do present and discuss possible pros and cons of the presented noteworthy practices. In this regard the authors relied primarily on observations made by their respondents. Reactions given during the expert meeting also turned out to be very instrumental in this regard.

Finally, the report will provide a number of general reflections on how to improve the quality, efficiency and effectiveness of the actors in the asylum process and some directions for future research.

## Chapter 3. Context and challenges during the high influx

Before turning to the core of this study, this chapter provides some relevant contextual information. The first part of the chapter (§3.1) provides background information on the conflict in Syria and the 'high influx situation' in Europe. It illustrates why issues of national security and 1F exclusion have been regarded relevant in connection to the influx from the Middle East, in particular Syria, in the past years.

The second part of the chapter (§ 3.2) describes the most important challenges that the high influx, in combination with particular issues in relation to establishing the identity and national security and 1F exclusion among applicants from Syria, brought about for actors involved in the immigration process.

### 3.1. Context high influx in focus countries

#### 3.1.1. Background of the conflict in Syria

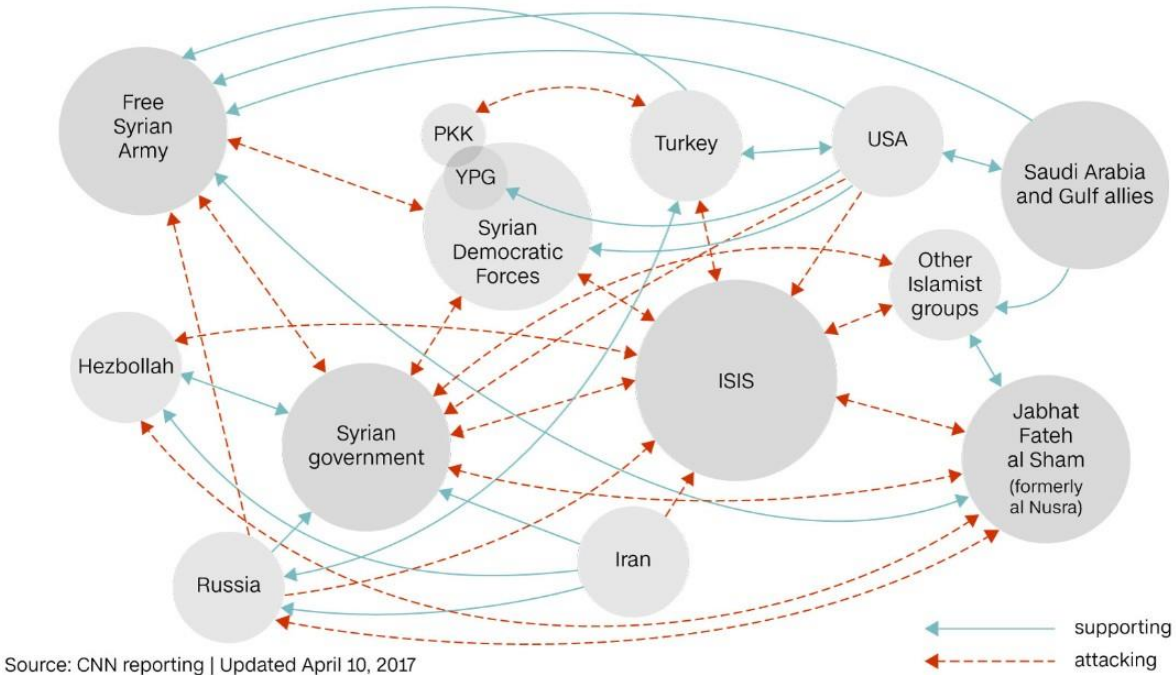
The armed conflict in Syria that erupted in 2011 and is still ongoing, is principally a conflict between the sitting government led by President Bashar al-Assad and its allies, and different opposing forces. However, the conflict is not just one between pro- and anti-government forces. The conflict has internationalized over time and is not just about political opponents, but also has obvious ethnic and religious dimensions. The country's Sunni majority revolted against president Assad's Shia Alawite sect, the latter over time being supported by – amongst others – Shia militias from Iran and Russian troops. The rise of radical jihadist groups such as Islamic State (IS) has further complicated the situation.<sup>13</sup> The main warring parties are the Ba'athist government and pro-government forces and its allies (Syrian Armed Forces, militias including the National Defense Forces, *shabeeha*; Lebanese Shia movement Hezbollah; foreign Shia militias and the states of Iran and Russia), and opposition or anti-government forces (the Free Syrian Army, nationalist jihadists (Ahrar al-Sham, Jabhat Al-Nusra/Jabhat Fateh al-Sham), IS, states like the United States, Turkey, Saudi Arabia and Qatar, and the Kurdish Protection Units (Yekîneyên Parastina Gel, YPG).<sup>14</sup> Figure 1 depicts the relations of support and conflict between different local and foreign actors in 2017.

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<sup>13</sup> Ibid.

<sup>14</sup> See Council on Foreign Relations, 'Who's Who in Syria's Civil War', last visited 10 November 2017 at <<https://www.cfr.org/backgrounder/whos-who-syrias-civil-war>>.

Figure 1. Actors in Syrian civil conflict by 2017<sup>15</sup>



From 2011 to March 2017, reportedly 321.000 people have been killed and another 145.000 went missing during the conflict. Of those killed, at least 96.000 are believed to be civilians.<sup>16</sup> Most of the civilian casualties are attributed to Syrian government forces and their allies, including allegedly 27.500 victimised by air strikes and 14.600 by torture in prison.<sup>17</sup> According to the United Nations (UN) Independent International Commission of Inquiry on the Syrian Arab Republic (Commission of Inquiry), which was established on 22 August 2011 by the UN Human Rights Council through resolution S-17/1,<sup>18</sup> all warring parties have been guilty of the violation of international humanitarian and human rights law principles. Syrian government forces have been accused of widespread crimes against humanity, including summary execution, arbitrary arrest, enforced disappearance, torture, including sexual violence, as well as violations of children’s rights,<sup>19</sup> and war crimes including attacking civilian objects and the use of chemical weapons.<sup>20</sup> Terrorist groups Hay’at Tahrir al-Sham (the successor of Jabhat Al-Nusra/Jabhat Fateh al-Sham) and IS are accused of targeting religious minorities and subjecting civilians to summary executions and other forms of punishment. Other armed groups have been accused, inter alia, of indiscriminate attacks affecting civilians and arbitrary arrests and enforced disappearances. The YPG have been accused of forcibly displacing civilians and not providing adequate

<sup>15</sup> R.A. Greene (graphic by A. Belyukova for CNN), ‘The free-for-all in Syria will make your head spin’, 10 April 2017, last visited 16 January 2018 at <<http://edition.cnn.com/2016/08/25/middleeast/syria-isis-whos-fighting-who-trnd/index.html>>.

<sup>16</sup> Reuters, ‘Syrian war monitor says 465,000 killed in six years of fighting’, 13 March 2017, last visited 10 November 2017 at <<https://www.reuters.com/article/us-mideast-crisis-syria-casualties/syrian-war-monitor-says-465000-killed-in-six-years-of-fighting-idUSKBN16K1Q1>>.

<sup>17</sup> Ibid.

<sup>18</sup> See <[http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/ResS17\\_1.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/ResS17_1.pdf)> (last visited 10 November 2017).

<sup>19</sup> ‘Report of the independent international Commission of inquiry on the Syrian Arab Republic’. 23 November 2011, A/HRC/S-17/2/Add.1.

<sup>20</sup> ‘Human rights abuses and international humanitarian law violations in the Syrian Arab Republic, 21 July 2016-28 February 2017’, Conference room paper of the Independent International Commission of Inquiry on the Syrian Arab Republic. 10 March 2017, A/HRC/34/CRP.3.

humanitarian aid.<sup>21</sup> The Commission of Inquiry has also expressed concerns about the impact of international coalition air strikes on civilians.<sup>22</sup>

### 3.1.2. Migration from Syria and the European ‘migrant crisis’

The conflict in Syria has produced a vast number of forced migrants. From 2011 to 2017, the United Nations High Commissioner for Refugees (UNHCR) has registered 2 million Syrian refugees in Egypt, Iraq, Jordan and Lebanon, while 3 million Syrian applicants were registered by the Government of Turkey.

During what is often referred to as the ‘migrant’ or ‘refugee crisis’ in Europe from the spring of 2015, the number of asylum seekers crossing the Mediterranean Sea and over land to reach Europe increased significantly,<sup>23</sup> as is also reflected in the development of the number of first time asylum applicants in the five studied countries in the period 2011-2017 as depicted in Table 4. It should be noted that the number of applications registered does not necessarily equal the number of asylum seekers that entered a given country, because backlogs occurred when the numbers rose, e.g. in Germany (see Chapter 3). 2015 was the peak year in all countries, but the figures on the number of applications show substantial differences in scale between the countries: where the total number of asylum applications in 2015, compared to 2011, less than doubled in Belgium, and tripled in the Netherlands and Norway, it increased fivefold in Sweden and nine-fold in Germany. In most of the countries (Germany,<sup>24</sup> the Netherlands,<sup>25</sup> Norway,<sup>26</sup> and Sweden<sup>27</sup>) the registered asylum influx had never before been as high as during this peak.

Table 4. Asylum and first time asylum applicants 2011-2017. Annual aggregated data (rounded)

	2011	2012	2013	2014	2015	2016	2017	Total
<i>Belgium</i>	31.910	28.075	21.030	22.710	44.660	18.280	18.340	185.005
<i>Germany</i>	53.235	77.485	126.705	202.645	476.510	745.155	222.560	1.904.295
<i>Netherlands</i>	14.590	13.095	13.060	24.495	44.970	20.945	18.210	149.365
<i>Norway</i>	8.990	9.675	11.930	11.415	31.110	3.485	3.520	80.125
<i>Sweden</i>	29.650	43.855	54.270	81.180	162.450	28.790	26.325	426.520
<i>Total</i>	138.375	172.185	226.995	342.445	759.700	816.655	288.955	2.745.310

Source: Eurostat database, [migr\_asyappctza] (last update: 30 March 2018).<sup>28</sup>

For these five countries, an important part of the asylum applications (27% on average) concerned Syrian nationals. The numbers of Syrian first time asylum applicants are detailed in Table 5 and Figures

<sup>21</sup> Ibid.

<sup>22</sup> ‘Report of the Independent International Commission of Inquiry on the Syrian Arab Republic’. 8 August 2017, A/HRC/36/55.

<sup>23</sup> For figures of the development of Mediterranean sea arrivals, see UNHCR’s ‘Operational portal’ of refugee situations, last visited 13 November 2017 at

<[http://data2.unhcr.org/en/situations/mediterranean#\\_ga=2.202079634.2059213771.1510584758-1050272199.1448448687](http://data2.unhcr.org/en/situations/mediterranean#_ga=2.202079634.2059213771.1510584758-1050272199.1448448687)>.

<sup>24</sup> The year 1992 was the previous absolute peak year with 438.190 registered asylum applicants; the number of first time asylum applicants in both 2015 and 2016 surpassed this number; see Eurostat database at <[http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asyctz&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyctz&lang=en)>.

<sup>25</sup> EMN NCP the Netherlands (2018).

<sup>26</sup> Boysen & Viblemo (2018).

<sup>27</sup> EMN NCP the Netherlands (2018).

<sup>28</sup> See <<http://ec.europa.eu/eurostat/data/database>>.



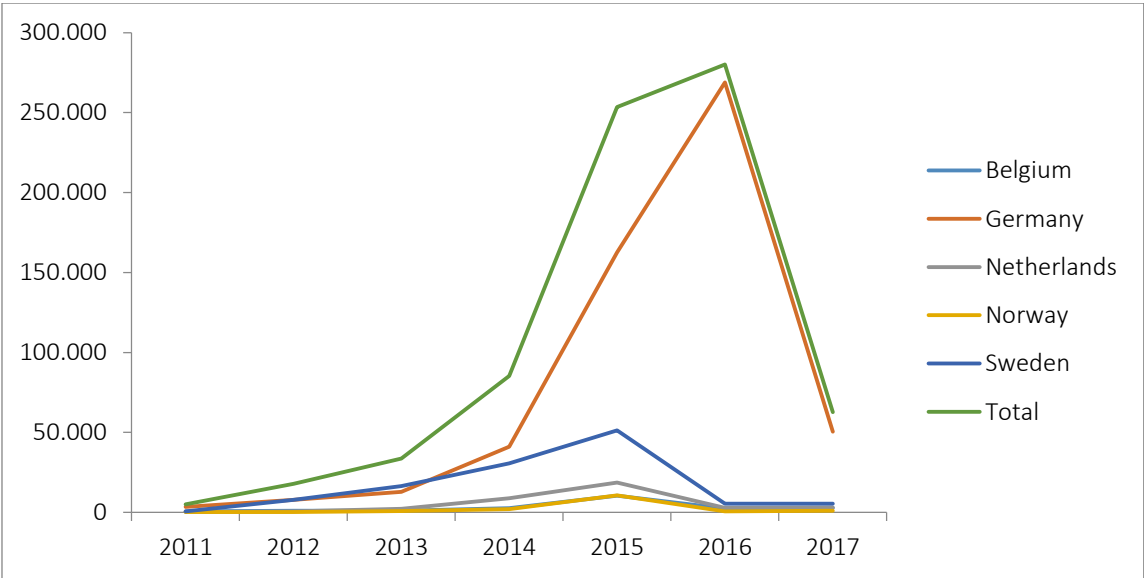
2 and 3. Within Europe, Germany and Sweden were the two countries where most asylum applications by Syrians were made over the period 2011-2017 (in absolute numbers). The table and figures below show that with the outbreak of civil war in Syria in 2011, the number of asylum applications by Syrian nationals in the focus countries began to rise, especially in the period 2013-2015.

These figures also show the substantial differences between the countries. Where, as mentioned above, on average 27% of the caseload in the studied period concerned Syrian nationals, Figure 3 shows that the number of applicants with Syrian citizenship relative to the total number of asylum applications (based on Tables 4 and 5) peaked around 35-40% in most of the countries, but was much lower in Belgium with 11% on average and at a peak of about 23%.

Table 5. Asylum and first time asylum applicants with Syrian citizenship 2011-2017. Annual aggregated data (rounded)

	2011	2012	2013	2014	2015	2016	2017	Total
<i>Belgium</i>	640	1.030	1.135	2.705	10.415	2.390	2.780	21.095
<i>Germany</i>	3.435	7.930	12.855	41.100	162.495	268.795	50.410	547.020
<i>Netherlands</i>	200	575	2.265	8.790	18.690	2.910	3.010	36.440
<i>Norway</i>	200	325	865	2.000	10.565	560	1.010	15.525
<i>Sweden</i>	640	7.920	16.540	30.750	51.310	5.455	5.450	118.065
<i>Total</i>	5.115	17.780	33.660	85.345	253.475	280.110	62.660	738.145

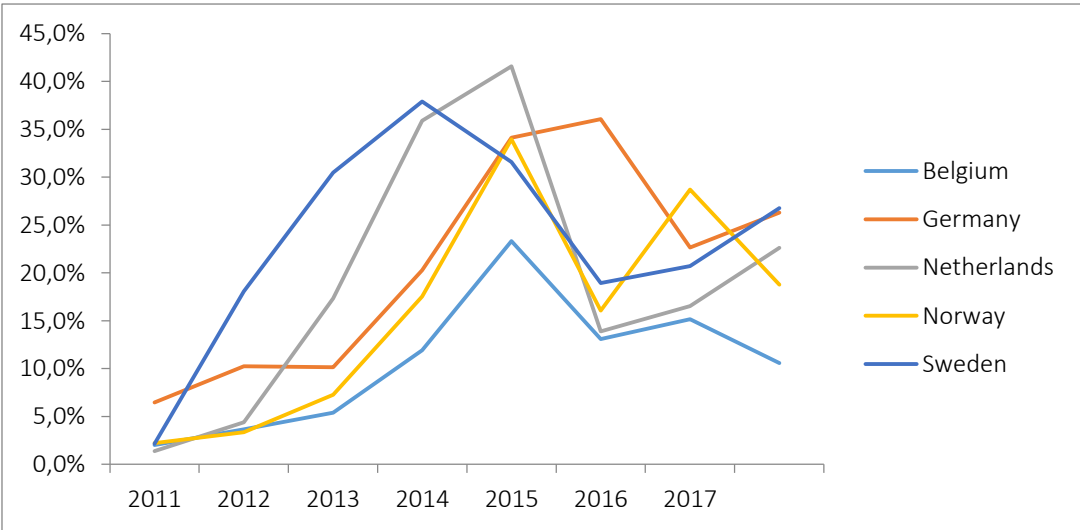
Figure 2. Asylum and first time asylum applicants with Syrian citizenship 2011-2017. Annual aggregated data (rounded)



Source: Eurostat database, [migr\_asyappctza], country of citizenship: Syria (last update: 30 March 2018).<sup>29</sup>

<sup>29</sup> See <<http://ec.europa.eu/eurostat/data/database>>.

Figure 3. Asylum applicants with Syrian citizenship as percentage of total asylum applicants 2011-2017



From 2016 onwards, the total number of asylum applications started to decrease in most of the focus countries (except Germany, where the decrease came a year later). The two most notable sets of measures that may explain this decrease are: 1) the gradual closure of the ‘Balkan route’ – starting with the construction of border fences and the subsequent closure of borders by the Hungarian government from mid-2015, and decisions by Croatia, Macedonia, Serbia and Slovenia to only allow people from certain nationalities (including the Syrian) to cross the borders, ending with the final closure in March 2016;<sup>30</sup> and 2) the adoption of the ‘EU-Turkey Joint Action Plan’,<sup>31</sup> culminating in the issuing of the ‘EU-Turkey Statement’ on 18 March (often referred to as the ‘EU-Turkey deal’).<sup>32</sup> Under this deal, the EU and Turkey agreed that all new irregular migrants crossing from Turkey into Greek islands as from 20 March 2016 would be returned to Turkey, while for every Syrian being returned to Turkey from Greek islands, another Syrian would be resettled from Turkey to the EU. Whether the decline in the influx is indeed related to these developments has been questioned.<sup>33</sup> Another development that is relevant in this context is the reintroduction of border controls in Germany, Norway and Sweden (see §4.1).

### 3.1.3. Recognition rates and status given to Syrian applicants

This paragraph will concentrate on the degree and form of international protection afforded to Syrian asylum applicants. The number of Syrian applicants who receive a positive decision on their application is relatively high. Subsequently, the paragraph discusses to what extent the types of statuses granted differ from country to country. If an asylum application leads to a positive decision, different forms of protection can be granted. Within the EU, two forms of international protection exist: recognition as a refugee in the sense of the 1951 Refugee Convention (refugee status) and

<sup>30</sup> P. Kingsley, ‘Balkan countries shut borders as attention turns to new refugee routes’, The Guardian, 9 March 2016, last visited 1 March 2018 at <<https://www.theguardian.com/world/2016/mar/09/balkans-refugee-route-closed-say-european-leaders>>.

<sup>31</sup> See <[http://europa.eu/rapid/press-release\\_MEMO-15-5860\\_en.htm](http://europa.eu/rapid/press-release_MEMO-15-5860_en.htm)>.

<sup>32</sup> See <<http://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/>>.

<sup>33</sup> For example, Spijkerboer has argued that the decline “precedes the EU-Turkey Agreement, and the agreement has no identifiable relation to the decline”, and that “it is implausible that the closing of the Balkan land route is related to the declining number of asylum applications in Europe”. See T. Spijkerboer, blogpost Border Criminologies, ‘Fact Check: Did the EU-Turkey Deal Bring Down the Number of Migrants and of Border Deaths?’, last visited 8 March 2018 at <<https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2016/09/fact-check-did-eu>>.

subsidiary protection.<sup>34</sup> Persons that fall outside the scope of international protection can still be granted asylum on the basis of compassionate or humanitarian grounds.<sup>35</sup> As different rights and conditions are connected to these different statuses, what type of status is granted could considerably impact the pressure on the capacity of the immigration authorities on the longer term, for example in relation to re-assessing temporary residence permits and/or reviewing requests for family reunification.

#### *Total and positive decisions in Syrian asylum cases*

Because of the situation in Syria, as described above, asylum applicants from Syria that have arrived in Europe from 2013 have a high chance of seeing their request for asylum being granted. Table 6 shows that the proportion of positive decisions out of the total number of decisions is very high (on average between 90% and 97%) in all of the countries over the period 2013 to 2017.<sup>36</sup>

Table 6. First instance decisions on asylum applications Syrian citizens 2013-2017

	2013	2014	2015	2016	2017	Total
<i>Belgium: total decisions</i>	1.620	1.745	3.750	6.870	3.120	18.705
<i>Total positive decisions</i>	1.535	1.675	3.670	6.595	2.880	17.250
<i>% of total decisions</i>	94,8%	96,0%	97,9%	96,0%	92,3%	92,2%
<i>Refugee status</i>	210	1.240	3.240	4.970	2.110	12.200
<i>% of total positive decisions</i>	13,7%	74,0%	88,3%	75,4%	73,3%	70,7%
<i>Germany: total decisions</i>	9.200	25.490	103.845	290.965	95.670	537.325
<i>Total positive decisions</i>	8.700	23.860	101.415	288.985	91.100	522.600
<i>% of total decisions</i>	94,6%	93,6%	97,7%	99,3%	95,2%	97,3%
<i>Refugee status</i>	2.905	20.505	101.135	166.520	34.875	328.880
<i>% of total positive decisions</i>	33,4%	85,9%	99,7%	57,6%	38,3%	62,9%
<i>Netherlands: total decisions</i>	1.990	5.950	8.010	13.295	2.940	33.220
<i>Total positive decisions</i>	1.695	5.440	7.850	12.895	2.505	31.075
<i>% of total decisions</i>	85,2%	91,4%	98,0%	97,0%	85,2%	93,5%
<i>Refugee status</i>	35	350	4.015	6.735	935	12.145
<i>% of total positive decisions</i>	2,1%	6,4%	51,1%	52,2%	37,3%	39,1%
<i>Norway: total decisions</i>	835	1.290	1.890	7.810	1.925	14.585
<i>Total positive decisions</i>	690	1.250	1.550	7.420	1.875	13.095
<i>% of total decisions</i>	82,6%	96,9%	82,0%	95,0%	97,4%	89,8%
<i>Refugee status</i>	280	575	1.360	7.415	1.845	11.570
<i>% of total positive decisions</i>	40,6%	46,0%	87,7%	99,9%	98,4%	88,4%

<sup>34</sup> According to Art. 2 Qualification Directive 2011/95/EU of 13 December 2011, a person is eligible for subsidiary protection when he or she is a “thirdcountry national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or [...] to his or her country of former habitual residence, would face a real risk of suffering serious harm [...], and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country”.

<sup>35</sup> A national, ‘humanitarian status’ can be afforded to persons whose removal may not be effected for legal or practical reasons, on humanitarian grounds.

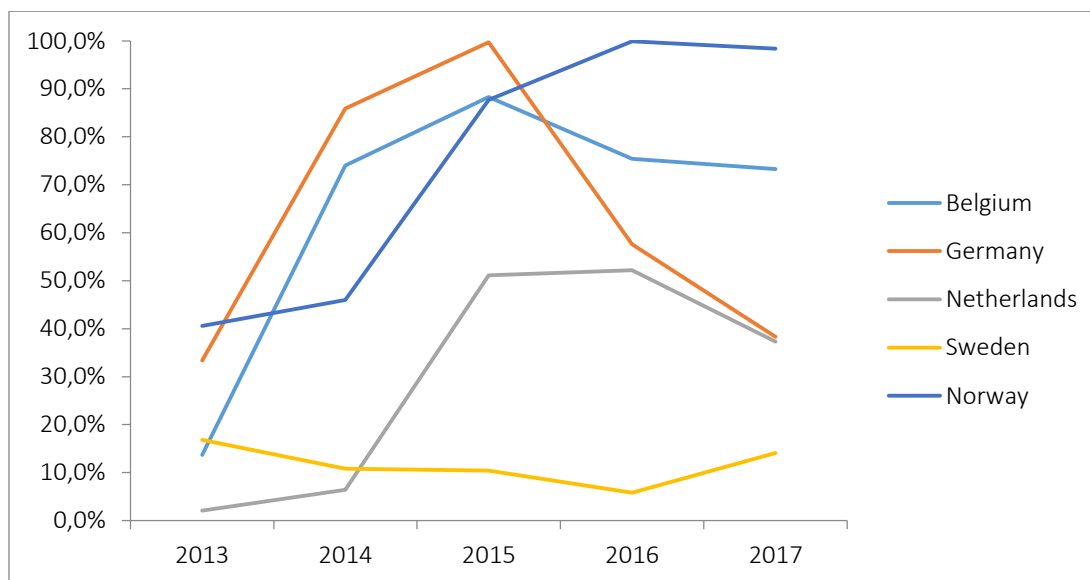
<sup>36</sup> The figures before 2013 are omitted, as the number of decisions from Syrian applicants was relatively low in all of the focus countries.

Sweden: total decisions	11.430	16.325	18.905	45.985	7.305	106.400
Total positive decisions	11.390	16.295	18.470	44.180	6.835	101.590
% of total decisions	99,7%	99,8%	97,7%	96,1%	93,6%	95,5%
Refugee status	1.910	1.760	1.915	2.570	965	10.435
% of total positive decisions	16,8%	10,8%	10,4%	5,8%	14,1%	10,3%

Source: Eurostat database, [migr\_asydcfsta] (last update: 30 March 2018).<sup>37</sup>

While the different focus countries thus have in common that the rate of positive decisions is very high, the recognition rate of Refugee Convention status differs substantially per country, as Figure 4 shows. In Sweden and to a lesser extent the Netherlands, the recognition rate is relatively low (below 20% and 50% respectively), in Belgium and Norway it started at a low or average level but went up over the years, and in Germany it returned to the same level where it started (about 35%) but reached a peak of about 100% in the meantime.

Figure 4. Refugee status as percentage of total positive decisions Syrian citizens 2013-2017



Source: Eurostat database, [migr\_asydcfsta] (last update: 30 March 2018).

Figure 4 shows that the changes in the recognition rate sometimes occurred very suddenly, as was the case in Germany in 2015. The differences in and between countries in the recognition rate may be explained by differences in the interpretation of the Refugee Convention, or the consequence of policy or political decisions made in the respective countries. Belgian respondents noted, for instance, that historically the Belgian interpretation of the Refugee Convention may be wider than in other countries, thus explaining a higher recognition rate.<sup>38</sup> One of the respondents furthermore noted that in the case of Syria, a change in the assessment of the situation was responsible for the increasing recognition rate from 2014.<sup>39</sup> Something similar happened in Norway. Whereas Syrian applicants used to receive subsidiary protection, because of a critical report from UNHCR, almost all Syrian applicants received refugee status from 2015.<sup>40</sup> In contrast, in Germany a policy decision in March 2016 led to

<sup>37</sup> See <<http://ec.europa.eu/eurostat/data/database>>.

<sup>38</sup> R17; R20.

<sup>39</sup> R20.

<sup>40</sup> R7.

the stark decrease in the proportion of refugee status granted, which mainly affected Syrian applicants.<sup>41</sup>

### *Differences between refugee status and other statuses*

What rights, conditions and residence permits are connected to a refugee status on the one hand, and subsidiary protection on the other, differs in the different focus countries.<sup>42</sup> In some countries there is no or hardly any difference, whereas in other countries the differences between the two forms of international protection are substantial and applicants have a clear interest in obtaining a refugee status. Some of these differences in the focus countries will be briefly elaborated here.

The Netherlands is an example of a country where there are no differences between the two forms of international protection in terms of the connected rights, conditions and residence permits granted; the country has a ‘one status’ policy. Eliminating the distinction between refugee and subsidiary protection was a deliberate choice made in 1999, to simplify the procedure and reduce the number of appeals.<sup>43</sup>

In Belgium, there is factually little difference between a refugee status and subsidiary protection, especially since a legislative change in 2016 made a permanent residence permit possible after five years for both forms of international protection – until 2016, refugee status would lead to a permanent residence permit right away.<sup>44</sup> Although in subsidiary protection cases a residence permit is initially granted for only one year, whereas a five-year residence permit is granted to refugees, in practice subsidiary protection cases are hardly revoked after a year. According to one respondent many of these cases are not re-assessed after the first year.<sup>45</sup> A refugee status offers slightly more certainty, and the conditions for family reunification may be slightly more lenient.<sup>46</sup> The limited differences may also become clear from the fact that decisions granting subsidiary protection instead of refugee status are hardly appealed in Belgium.<sup>47</sup>

The policy change at the German BAMF referred to above coincided with a legislative change in March 2016 to the effect that family reunification was temporarily suspended for beneficiaries of subsidiary protection; this suspension is in place until at least July 2018.<sup>48</sup> As a result, tens of thousands subsidiary protection beneficiaries have appealed the decision in their case in order to obtain a refugee status (referred to as “upgrade appeals”).<sup>49</sup>

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<sup>41</sup> Directorate General for Internal Policies (2017), *Integration of Refugees in Austria, Germany and Sweden: Comparative analysis*, Study for the EMPL Committee, p. 15. Last visited 16 May 2018 at <[http://www.europarl.europa.eu/RegData/etudes/STUD/2018/614200/IPOL\\_STU\(2018\)614200\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2018/614200/IPOL_STU(2018)614200_EN.pdf)>; and AIDA, ‘Differential treatment of specific nationalities in the procedure’, last visited 16 May 2018 at <<http://www.asylumineurope.org/reports/country/germany/asylum-procedure/treatment-specific-nationalities>>.

<sup>42</sup> These differences are discussed much more extensively in a 2017 study by the Asylum Information Database [AIDA] (2017), ‘Refugee rights subsiding? Europe’s two-tier protection regime and its effect on the rights of beneficiaries’. Last visited 15 May 2018 at <[http://www.asylumineurope.org/sites/default/files/shadow-reports/aida\\_refugee\\_rights\\_subsiding.pdf](http://www.asylumineurope.org/sites/default/files/shadow-reports/aida_refugee_rights_subsiding.pdf)>.

<sup>43</sup> EMN NCP the Netherlands (2018), p. 7.

<sup>44</sup> R20.

<sup>45</sup> R17.

<sup>46</sup> R17.

<sup>47</sup> R20.

<sup>48</sup> See BAMF, ‘Family asylum and family reunification’, last visited 16 May 2018 at <<http://www.bamf.de/EN/Fluechtlingsschutz/Familienasyl/Familiennachzug/familienasyl-familiennachzug-node.html>>.

<sup>49</sup> AIDA, ‘Differential treatment of specific nationalities in the procedure’, last visited 16 May 2018 at <<http://www.asylumineurope.org/reports/country/germany/asylum-procedure/treatment-specific>>.

The Norwegian government decided in April 2016 that the granting of a refugee status, like subsidiary protection, should no longer automatically lead to a permanent residence permit after three years. This means that all cases should after a period of three years be reviewed in order to assess if the situation in the country of origin has changed and if people holding a 1A-status indeed still qualify for protection.<sup>50</sup> The government has also decided to extend the period of residence in Norway required to be eligible for a permanent residence permit from three to five years.<sup>51</sup> According to one respondent, it has to be seen what this new evaluation of cases entails in practice; an implementation decision has not yet been taken. It is, for example, not yet known whether this check will be done for all or only for certain nationalities.<sup>52</sup>

The temporary legislation adopted in Sweden in July 2016 (see §4.1), created significant differences between refugee and subsidiary protection. In the case of subsidiary protection, now only a permit for 13 months is granted and it is more difficult to apply for family reunification than on the basis of a refugee status.<sup>53</sup>

### 3.1.4. Involvement in serious crimes and national security risks

With the situation in Syria deteriorating and the number of Syrian asylum applicants rising in all of the focus countries, the question of ‘who was coming in’ increasingly drew attention in the media and the political arena.<sup>54</sup> It was expected that among the people applying for asylum, there were also individuals who are guilty of serious crimes. These could be crimes committed in the context of that war, but also crimes committed in the context of a repressive government before war erupted. Such crimes can be war crimes, or crimes against humanity such as torture in state prisons. In the case of Syria, besides possible involvement in *past* crimes, an additional concern was that terrorist groups – most notably Islamic State in Iraq and Syria – would make use of the migration flows to send operatives to Europe, with an eye of committing attacks in the future.

Media reporting and other publicly available documentation suggest that individuals who are believed to be guilty of war crimes, crimes against humanity and terrorist crimes committed during the Syrian civil war have been identified in different European countries. In several European countries, including Austria,<sup>55</sup> France,<sup>56</sup> Germany and Sweden, asylum applicants from Syria have been criminally prosecuted and convicted. In both Sweden and Germany, so far three individuals have been

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nationalities>. See also <<http://legal-dialogue.org/subsidiary-protection-instead-full-refugee-status-complicates-family-reunification>>.

<sup>50</sup> R7. See also <<https://www.regjeringen.no/en/aktuelt/regjeringen---nodvendige-innstramninger/id2481689/>>.

<sup>51</sup> Ibid.

<sup>52</sup> R7.

<sup>53</sup> R28.

<sup>54</sup> See e.g. discussion in the parliaments of Belgium (‘De screening van kandidaat-asielzoekers op IS-strijders’, 30 November 2015, 20152016, last visited 13 November 2017 at

<<http://www.dekamer.be/kvvcr/showpage.cfm?section=qrva&language=nl&cfm=qrvaXml.cfm?legislat=54&dossierID=54-B052-866-0609-2015201605452.xml>>); Germany (‘Einschleusung von IS-Kämpfern unter die Fluchtmigration’, Drucksache 18/8382, 10 May 2016, last visited 13 November 2017 at <<http://dip21.bundestag.de/dip21/btd/18/083/1808382.pdf>>) and the Netherlands (‘Verslag van het vragenuur’ 7 October 2014, last visited 13 November 2017 at <<https://www.tweedekamer.nl/downloads/document?id=8af2098f-43c8-4647-aef8-5d5133ca2318&title=Vragenuur.docx>>).

<sup>55</sup> BBC News, ‘Austria convicts asylum seeker of Syria war crimes’, 11 May 2017, last visited 14 November 2017 at <<http://www.bbc.com/news/world-europe-39879305>>.

<sup>56</sup> France 24, ‘Iraqi refugee held in France on suspicion of IS group ‘war crimes’’, 8 June 2018, last visited 8 June 2018 at <<http://www.france24.com/en/20180608-iraqi-refugee-held-france-suspicion-war-crimes>>.

sentenced, while in Germany a fourth case is still ongoing.<sup>57</sup> In those cases, different parties to the conflict are represented: two cases in Sweden relate to Syrian non-state armed groups, one to the Syrian army, one German case to the Free Syrian army, two to IS, and one to Jabhat al-Nusra.<sup>58</sup> In the Netherlands, about twenty individuals from Syria have been excluded from refugee protection on the basis of Article 1F in 2014 and 2015.<sup>59</sup> In December 2017, two Syrian asylum seekers were arrested in the Netherlands on suspicion of fighting for Jabhat al-Nusra in the period 2012-2015.<sup>60</sup> The Norwegian criminal police reported in 2016 that it was investigating ten to twenty 'war crimes cases'.<sup>61</sup>

Besides involvement in crimes allegedly committed in Syria, there have been fears that migrants from Syria are or may become involved in terrorist activities in Europe. A few months after the proclamation of a worldwide caliphate on 29 June 2014,<sup>62</sup> reports emerged in the media that IS supporters would blend in with migrants to enter Europe with the aim to commit attacks. A report by the German newspaper *Bild am Sonntag* of 5 October 2014 alleged that communication from the IS leadership intercepted by American intelligence services made clear that IS fighters would pose as refugees in order to travel, using false travel documents, via Turkey to Western Europe to commit terrorist attacks.<sup>63</sup> They allegedly travelled over land to avoid airport security checks. This supposed modus operandi was soon dubbed a 'Trojan horse' tactic.<sup>64</sup> The report also mentioned that while there was no concrete evidence yet, the German intelligence services took the scenario seriously.

Initially, however, intelligence and security agencies in Europe publicly reported that they had no indications that IS operatives were making structural use of the migration flow.<sup>65</sup> After the terrorist attacks in Paris and Brussels, this image changed. Two of the attackers involved in the Paris attacks in

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<sup>57</sup> Human Rights Watch (2017), p. 33-35.

<sup>58</sup> A. Barnard, 'Syrian Soldier Is Guilty of War Crime, a First in the 6-Year Conflict', *NY Times*, 3 October 2017, last visited 20 November 2017 at <<https://www.nytimes.com/2017/10/03/world/middleeast/syria-war-crime.html>>.

<sup>59</sup> See *Kamerstukken II 2014-2015*, 19637, no. 1952, 5 March 2015 and *Kamerstukken II 2015-2016*, 19637, no. 2152, 29 February 2016.

<sup>60</sup> P. de Graaf, 'Twee vluchtelingen opgepakt in Nederland op verdenking van terreur in Syrië', *De Volkskrant*, last visited 4 December 2017 at <<https://www.volkskrant.nl/binnenland/twee-vluchtelingen-opgepakt-in-nederland-op-verdenking-van-terreur-in-syrie~a4542713/>>.

<sup>61</sup> S. Jacobsen, 'Norway police search for Syrian war criminals among asylum seekers', *Reuters*, 15 January 2016, last visited 28 November 2017 at <<https://uk.reuters.com/article/uk-europe-migrants-warcrimes-norway/norway-police-search-for-syrian-war-criminals-among-asylum-seekers-idUKKCNOU1FG>> and J. Tatone, 'Kripos: Possibility of ten Syrian war criminals in Norway', *Norway Today*, 4 October 2016, last visited 28 November 2017 at <<http://norwaytoday.info/news/kripos-possibility-ten-syrian-war-criminals-norway/>>.

<sup>62</sup> Stanford University, 'Mapping Militant Organizations. Islamic State', last visited 6 June 2018 at <<http://web.stanford.edu/group/mappingmilitants/cgi-bin/groups/view/1>>.

<sup>63</sup> K. Özgenc, A. Rackow & B. Uhlenbroich, 'Tarnen sich ISIS-Terroristen als Flüchtlinge?', *Bild am Sonntag*, 5 October 2014, last visited 14 November 2017 at <<http://www.bild.de/politik/ausland/isis/terroristen-getarnt-als-fluechtlinge-38011274.bild.html>>.

<sup>64</sup> J. Moore, 'Isis Terrorists Disguised as Refugees in Trojan Horse Plot Against Europe', *International Business Times*, 6 October 2014, last visited 14 November 2017 at <<http://www.ibtimes.co.uk/isis-terrorists-disguised-refugees-trojan-horse-plot-against-europe-1468701>>.

<sup>65</sup> See e.g. A. Denková, 'EU counter-terrorism czar: Terrorists among asylum seekers? Unlikely', *EurActiv Czech Republic*, 9 September 2015, last visited 14 November 2017 at <<http://www.euractiv.com/section/justice-home-affairs/interview/eu-counter-terrorism-czar-terrorists-among-asylum-seekers-unlikely/>>; Frontex, 'Annual Risk Analysis for 2015', April 2015, p. 49, last visited 14 November 2017 at <[http://frontex.europa.eu/assets/Publications/Risk\\_Analysis/Annual\\_Risk\\_Analysis\\_2015.pdf](http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2015.pdf)>; NCTV, 'Samenvatting Dreigingsbeeld Terrorisme Nederland 40, August 2015', attachment to *Kamerstukken II 2016-2017*, 29 754, no. 325, 9 November 2016, p. 7-8. The Norwegian security police (PST), however, reported in June 2015 that it had identified about ten individuals who had been selected for relocation by UNHCR but were linked to IS and the Al Nusra front. See G. Hultgreen, 'Flyktninger til Norge var IS-terrorister. PST avslørte terrorister', *Dagbladet*, 1 June 2015, last visited 14 November 2017 at <<https://www.dagbladet.no/nyheter/flyktninger-til-norge-var-is-terrorister/60692045>>.

November 2015 allegedly entered the EU through Leros, Greece, where they were registered by the Greek authorities and used their Syrian travel documents to speed up their registration process.<sup>66</sup> Since then, inter alia German,<sup>67</sup> Belgian,<sup>68</sup> Dutch,<sup>69</sup> and French authorities,<sup>70</sup> reported that they had indications that IS operatives were sent to Europe with the migration flow. In the following period until the moment of writing, there have been several incidents involving Syrian asylum seekers that have been linked to terrorist organisations such as IS.

On 24 July 2016, a 27-year-old Syrian asylum seeker, Mohammad Daleel, was killed and 15 others were injured when a bomb in his backpack exploded in Ansbach, Germany, after he was refused entry to a music festival. It has been reported that Daleel pledged allegiance to IS and was planning further terrorist attacks.<sup>71</sup>

There have also been several incidents involving migrants who reportedly had links to IS but did not hold or claim the Syrian nationality. On 18 July 2016, a 17-year-old Afghan asylum seeker who arrived in Germany as an unaccompanied minor a few months earlier, injured five people with an axe and a knife on a train near Würzburg, Germany. Reportedly he shouted “*Allahu Akbar*” during the attack and investigators raiding his room later found a hand painted IS flag.<sup>72</sup> On 19 December 2016, Anis Amri, a Tunisian asylum seeker who arrived in Germany in 2015, killed 12 people by driving a truck into a Christmas market in Berlin. He claimed responsibility for the attack and pledged his allegiance to IS in a video published on the internet.<sup>73</sup> Also in December 2016, a Sudanese national who had arrived in Britain in the back of a lorry and claimed asylum in February 2014, was arrested for plotting an “IS-inspired” terrorist attack.<sup>74</sup> On 7 April 2017, an Uzbek asylum seeker Rakhmat Akilov killed 5 and injured several others with a lorry attack in Stockholm. The man allegedly expressed sympathy for

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<sup>66</sup> Frontex, ‘Annual Risk Analysis for 2016’, March 2016, p. 7, last visited 14 November 2017 at <[http://frontex.europa.eu/assets/Publications/Risk\\_Analysis/Annula\\_Risk\\_Analysis\\_2016.pdf](http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annula_Risk_Analysis_2016.pdf)>. These two attackers reportedly entered Europe via Leros together with two others, but the others were held in detention for a number of weeks due to their false identity. After they continued their journey, they were ultimately arrested in Salzburg, Austria, on 9 December 2015, close to a month after the attacks in Paris. See A. Faiola & S. Mekhennet, ‘Tracing the path of four terrorists sent to Europe by the Islamic State’, Washington Post, 22 April 2016, last visited 14 November 2017 at <[https://www.washingtonpost.com/world/national-security/how-europes-migrant-crisis-became-an-opportunity-for-isis/2016/04/21/ec8a7231-062d-4185-bb27-cc7295d35415\\_story.html](https://www.washingtonpost.com/world/national-security/how-europes-migrant-crisis-became-an-opportunity-for-isis/2016/04/21/ec8a7231-062d-4185-bb27-cc7295d35415_story.html)>.

<sup>67</sup> Express, ‘ISIS militants ARE posing as refugees to plot attacks in Europe warns German official’, 27 November 2015, last visited 14 November 2017 at <<http://www.express.co.uk/news/world/622513/ISIS-militants-posing-as-refuges-to-plot-attacks-in-Europe-German-official-warns>>.

<sup>68</sup> NOS, ‘IS zou nieuwe strijders naar België sturen’, 19 April 2016, last visited 14 November 2017 at <<http://nos.nl/artikel/2100133-is-zou-nieuwe-strijders-naar-belgie-sturen.html>>.

<sup>69</sup> NCTV, ‘Samenvatting Dreigingsbeeld Terrorisme Nederland 42, July 2016’, attachment to *Kamerstukken* 29754, no. 390, 11 July 2016, p. 5.

<sup>70</sup> J. Iris, ‘French security chief warns Islamic State plans wave of attacks in France’, Reuters, 19 May 2016, last visited 14 November 2017 at <<http://www.reuters.com/article/us-france-security-idUSKCN0YA1HO>>.

<sup>71</sup> The Guardian, ‘Germany bomb blast: what we know about Ansbach attack’, 25 July 2016, last visited 28 November 2017 at <<https://www.theguardian.com/world/2016/jul/25/germany-bomb-blast-what-we-know-so-far-ansbach-attack>>.

<sup>72</sup> P. Oltermann, ‘Islamic State flag “found at home of suspected German train attacker”’, The Guardian, 19 July 2016, last visited 28 November 2017 at <<https://www.theguardian.com/world/2016/jul/19/islamic-state-flag-home-of-suspected-german-train-attacker>>.

<sup>73</sup> K. Connolly, ‘Anis Amri: from young drifter to Europe’s most wanted man’, The Guardian, 23 December 2016, last visited 30 November 2017 at <<https://www.theguardian.com/world/2016/dec/23/anis-amri-from-young-drifter-to-europes-most-wanted-man>>.

<sup>74</sup> J. Grierson, ‘UK couple found guilty of plotting Christmas terror attack’, The Guardian, 8 January 2018, last visited 5 April 2018 at <<https://www.theguardian.com/uk-news/2018/jan/08/uk-couple-found-guilty-of-plotting-christmas-terror-attack>>.



jihadi organisations and admitted to having committed a terrorist crime.<sup>75</sup> An attack on 3 June 2017 in the Southwark district of London carried out by inter alia a Moroccan asylum seeker, killed 8 and injured 48.<sup>76</sup> On 15 September 2017, an Iraqi teenager who claimed asylum in 2016 after arriving in the UK on board a lorry via the Channel tunnel, planted a bomb in a busy London metro train. The teenager allegedly told an immigration official he had been forced by IS to undergo training with about 1.000 other young people and he had feared members of his family would be killed if he attempted to resist.<sup>77</sup>

In addition, there have been reports of *prevented* terrorist attacks involving Syrian migrants or asylum seekers. It was reported in June 2016, for instance, that three Syrian men associated with IS were arrested on suspicion of planning a terrorist attack in Düsseldorf. One of the three reportedly travelled to Germany via Greece and Turkey in the summer of 2015, where he applied for asylum.<sup>78</sup> In September 2016, three other Syrian men, also associated with IS, were arrested at reception centres. They allegedly were trained in Syria and were sent to Europe to carry out attacks.<sup>79</sup> In October of that same year, a Syrian man was arrested in Leipzig on suspicion of planning a bomb attack in Berlin.<sup>80</sup> In May 2017, a Syrian asylum seeker, who arrived as an unaccompanied minor in Germany in 2015, was questioned by the police in Gerstwalde, Germany, after he had allegedly sent a farewell message to his family, saying he had “joined the jihad”.<sup>81</sup> In October 2017, German police arrested a man in Schwerin, after which Interior Minister Thomas de Maiziere remarked security officials had averted a “major terrorist attack”.<sup>82</sup> In November 2017, six Syrian asylum seekers were arrested on the suspicion of planning to commit an attack on the Christmas market in the German city of Essen. They were released a few days later due to lack of evidence.<sup>83</sup> Syrian activists in the Netherlands recognized an IS

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<sup>75</sup> N. Khomami, ‘Stockholm attack suspect Rakhmat Akilov admits terrorist crime’, The Guardian, available online at <<https://www.theguardian.com/world/2017/apr/11/stockholm-attack-suspect-rakhmat-akilov-admits-terrorist>> and BBC, ‘Sweden lorry attack claims fifth victim’, 28 April 2017, last visited 30 November 2017 at <<http://www.bbc.com/news/world-europe-39749751>>.

<sup>76</sup> R. Callimachi & K. Bennhold, ‘London Attackers Slipped By Despite an Avalanche of Warnings’, The New York Times, 6 June 2017, last visited 30 November 2017 at <<https://www.nytimes.com/2017/06/06/world/europe/london-assailants-terrorism-warning-signs-fbi.html>>.

<sup>77</sup> I. Cobain, ‘Parsons Green bomb trial: teenager “trained to kill by Isis”’, 7 March 2018, The Guardian, last visited 5 April 2018 at <<https://www.theguardian.com/uk-news/2018/mar/07/parsons-green-tube-bombing-ahmed-hassan-on-trial>>. The teenager was sentenced to life on 23 March 2018. See I. Cobain, ‘Parsons Green tube bomber Ahmed Hassan jailed for life’, The Guardian, 23 March 2018, last visited 5 April 2018 at <<https://www.theguardian.com/uk-news/2018/mar/23/parsons-green-tube-bomber-ahmed-hassan-jailed-for-life>>.

<sup>78</sup> Dpa, Reuters, AFP, ‘Three suspected 'IS' militants arrested for allegedly planning attack in Düsseldorf’, Deutsche Welle, 2 June 2016, last visited 12 January 2018 at <<http://www.dw.com/en/three-suspected-is-militants-arrested-for-allegedly-planning-attack-in-d%C3%BCsseldorf/a-19300174>>.

<sup>79</sup> K. Connolly, ‘Three suspected Isis operatives arrested at German refugee shelters’, The Guardian, 13 September 2016, last visited 12 January 2018 at <<https://www.theguardian.com/world/2016/sep/13/suspected-isis-operatives-arrested-germany-refugee-shelters>>.

<sup>80</sup> C. Mortimer, ‘Syrian terror suspect Jaber al Bakr found dead in his cell in Germany after being arrested over bomb plot’, Independent, 12 October 2016, last visited 12 January 2018 at <<http://www.independent.co.uk/news/world/europe/terror-suspect-jaber-albakr-found-dead-in-cell-leipzig-germany-bomb-plot-syria-a7358546.html>>.

<sup>81</sup> K. Grieshaber, ‘German police 'foil suicide bombing plot' by teenage asylum seeker in Berlin’, Independent, 31 May 2017, last visited 12 January 2018 at <<http://www.independent.co.uk/news/world/europe/berlin-suicide-bomb-attack-attempt-foiled-german-police-asylum-seeker-a7764221.html>>.

<sup>82</sup> Reuters, ‘German police arrest Syrian suspect, avert “major terrorist attack”’, 31 October 2017, last visited 12 January 2018 at <<https://www.reuters.com/article/us-germany-security/german-police-arrest-syrian-suspect-avert-major-terrorist-attack-idUSKBN1D00Q4>>.

<sup>83</sup> Al Arabiya, ‘Germany releases six Syrians suspected of terror plot’, 23 November 2017, last visited 30 November 2017 at <<http://english.alarabiya.net/en/News/middle-east/2017/11/23/Germany-releases-six-Syrians-suspected-of-terror-plot.html>>.

supporter from Raqqa, who reportedly resided in the Netherlands on false identity papers and attended the screening of a movie made by the activist collective 'Raqqa is being slaughtered silently'.<sup>84</sup> In December 2017, it was reported that the Danish police had arrested a Syrian asylum seeker from Sweden for "attempting to commit a terrorist act" in Copenhagen. The Copenhagen police said they arrested the 30-year-old man jointly with the Danish Security and Intelligence Service on 22 December over a failed attack which he plotted with another 21-year-old man in November 2016. A German court in July convicted the 21-year-old, described as a Syrian refugee by the German media, for attempting an attack.<sup>85</sup>

Although the above is merely a selection of publicly available reports about the possible involvement of asylum seekers residing in Europe in terrorist plots, it demonstrates that possible involvement of asylum seekers in jihadist activities is certainly a topic of concern to many European governments. At the same time, it has to be noted that while (Syrian) asylum seekers have been linked to a number of (thwarted) terrorist incidents and attacks in Europe in the period 2014-2018, the attacks that have caused most casualties in recent years have not only been carried out by foreigners but in particular by 'homegrown' terrorists.<sup>86</sup> In addition, there are also serious concerns about 'foreign fighters' returning to Europe.<sup>87</sup>

### 3.2. Challenges presented by the high influx

The high influx came as a surprise to all of the focus countries, because of its suddenness and its magnitude.<sup>88</sup> Existing systems were stretched to their limits. The challenges that bureaucracies were confronted with were manifold.<sup>89</sup> It goes beyond the scope of this report to discuss all these challenges, but based on existing policy reports and our interviews, the following four main challenges that all of the focus countries were faced with can be identified:

- Infrastructural challenges and registration/identification capacity;
- Lack of available accommodation;

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<sup>84</sup> H. Modderkolk, 'Syrische IS-strijder loopt vrij rond in Nederland en bezoekt bijeenkomst in De Balie', De Volkskrant, 24 November 2017, last visited 24 November 2017 at <<https://www.volkskrant.nl/4541252>>.

<sup>85</sup> AFP, 'Danish police arrest Sweden-based Syrian over planned "terrorist" attack', 23 December 2017, The Local, last visited 8 January 2018 at <<https://www.thelocal.se/20171223/danish-police-arrest-syrian-over-planned-terrorist-attack>>.

<sup>86</sup> According to Wilner & Dubouloz (2010, p. 33) homegrown terrorism "is autonomously organized by radicalized Westerners with little direct assistance from transnational networks, is usually organized within the home or host country, and targets fellow nationals". According to an analysis based on open source information by Belgioiso, "2.64% of the perpetrators of terrorist attacks [in 2014 and 2015] arrived in Europe illegally, while 95% of perpetrators are European citizens born in European member states". M. Belgioiso, 'Is Radical Islam the Main Terrorist Threat to the EU?', blogpost Political Violence at a Glance, 22 February 2017, last visited 8 March 2018 at <<http://politicalviolenceataglace.org/2017/02/22/is-radical-islam-the-main-terrorist-threat-to-the-eu/>>. Similarly, Kempton (2018) concludes that, based on the available data, the threat that 'lone wolf' terrorists have entered Europe under the cover of the migration crisis is minimal.

<sup>87</sup> Europol (2016, p. 2) noted: "If IS is defeated or severely weakened in Syria/Iraq by the coalition forces, there may be an increased rate in the return of foreign fighters and their families from the region to the EU or to other conflict areas, such as Libya. Those who manage to enter the EU will pose a potential security risk for the Union. Given the high numbers involved, this represents a significant and long-term security challenge." In January 2018, Interpol circulated a list of 50 suspected IS fighters of Tunisian origin, who the agency believed came to Italy by boat and may be attempting to travel onwards to other European countries. See L. Tondo, 'Interpol circulates list of suspected Isis fighters believed to be in Italy', The Guardian, 31 January 2018, last visited 8 March 2018 at <<https://www.theguardian.com/world/2018/jan/31/interpol-circulates-list-of-suspected-isis-fighters-believed-to-be-in-italy>>.

<sup>88</sup> R1; R4; R5; R13.

<sup>89</sup> Illustrative in this regard is that the Germany EMN report (Grote, 2018, p. 33-37) lists a selection of '50 key challenges'.

- Lack of (competent) staff to handle cases (registration/identification and/or examination/decision-making);
- The confluence of a high recognition rate and particular identity and security challenges.

### 3.2.1. Infrastructural challenges and registration/identification capacity

Due to the sudden and increased influx, all five countries struggled to organize and manage the initial registration and identification process. The Belgian model, for example, where the intake and the registration would take place at the same moment, could at one point no longer be sustained. The Immigration Office's waiting room had a capacity of 200 persons (which was reserved both for intakes, and for registration interviews), but at a certain point there were 600 persons in the waiting room.<sup>90</sup> Another challenge was to process cases within a reasonable time.<sup>91</sup>

In Germany, the coordination of the distribution of asylum seekers over the country the states – *Länder* – close to the border was under great pressure, as was the registration by municipalities and the Federal Police due to the requirement to register asylum seekers close to the border. Large volumes of documents needed to be physically and technically examined, while there were indications of forged or illegitimate documents. Due to limitations to the information system in use at the time, there was lack of clarity about the actual number of newly arrived asylum seekers. The IT infrastructure was stretched to its limits. The data sharing system between the BAMF and the Federal Criminal Police Office carrying out security checks and checking the identities of asylum seekers was temporarily stretched to its limits, causing delays in the individual asylum process steps. As (biometric) data were not always recorded digitally, matching fingerprints and photographs was time consuming. Asylum seekers who spelled their names in different ways were sometimes registered multiple times.<sup>92</sup> That the authorities were not ready for the large number of asylum applications is illustrated by the chaos that occurred for months on the doorstep of the Berlin office for health and social affairs LaGeSo (*Landesamt für Gesundheit und Soziales*), where hundreds of asylum seekers were waiting for days to weeks before they could be registered.<sup>93</sup>

In the Netherlands, timely registration by the police was difficult due to capacity and facility issues. At one point, buses arranged by the reception agency COA, filled with unregistered applicants, were driving around the Netherlands while no one knew who was actually in these buses.<sup>94</sup> The number of asylum seekers who had been registered but not yet identified peaked in October 2015 (see below).<sup>95</sup>

An internal evaluation conducted by the Norwegian UDI concluded that in 2015, the organization was capable of dealing with an arrival level of 11.000 asylum seekers, while the actual number of asylum seekers was about three times that volume. The contingency plans were insufficient.<sup>96</sup> The fact that UDI was not prepared for the scale of the influx resulted in lack of oversight.<sup>97</sup> Respondents indicated that the registration process and especially establishing the identity was a bottle neck.<sup>98</sup> Under normal

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<sup>90</sup> R17.

<sup>91</sup> R23.

<sup>92</sup> R40.

<sup>93</sup> 'Berlin sued over dangerous conditions for refugees', Deutsche Welt, 8 December 2015, last visited 7 June 2018 at <<http://www.dw.com/en/berlin-sued-over-dangerous-conditions-for-refugees/a-18902534>>.

<sup>94</sup> R1.

<sup>95</sup> EMN NCP the Netherlands (2018), p. 114.

<sup>96</sup> UDI (2016), '*Beredskap høsten 2015; Rapport fra egevalueringen*' [Preparedness in the autumn of 2015; Report from the self-evaluation]; last visited 6 June 2018 at <[http://multimedia.aftenbladet.no/dokumenter/udi\\_evaluering.pdf](http://multimedia.aftenbladet.no/dokumenter/udi_evaluering.pdf)>.

<sup>97</sup> R5; UDI (2016), p. 5.

<sup>98</sup> R5; R13.

circumstances, this process would take half to a full day, but during the high influx it took longer.<sup>99</sup> The PU was overwhelmed by the sudden increase.<sup>100</sup> Establishing the identity was especially challenging because the PU's specialised identity team's capacity was under a lot of pressure. This became particularly challenging, as the team noticed that not all applicants who claimed to be from Syria actually came from Syria.<sup>101</sup> The abovementioned evaluation also concluded that sufficient strategic cooperation between UDI and PU was lacking and/or too late. Furthermore, the report notes that there were many errors in the registration of asylum seekers by the PU.<sup>102</sup>

The Swedish EMN NCP notes that the suddenness of the increase in the influx was the main challenge and that the magnitude was unforeseen. All actors were taken by surprise. What did not help was that information that a forecasted decline in the influx for July 2015 was inaccurate, was not passed on.<sup>103</sup> An evaluation inquiry concluded that, in addition, several actors were already under great strain when the influx rose, which meant that emergency measures proved insufficient to deal with the increased influx.<sup>104</sup> What possibly played a role in this respect was that the Migration Agency underwent a major reorganisation in 2014 which coincided with the steep increase in the influx. According to the Swedish EMN NCP, "arguably, the fact that many staff members found themselves in new positions and in a freshly established organisation made it more challenging to cope with the situation as a whole".<sup>105</sup> Respondents indicated that every resource was redirected to the most essential aspects: registration of applications and arranging housing. The redirection of the main focus and resources to the initial phase of the asylum process meant that several new ideas and plans that had been developed to improve the asylum process and were about to be implemented had to be postponed.<sup>106</sup> At the peak of the influx, the maximum capacity to register applications was reached at several application centres. There have been instances where the initial registration was delayed. For a period of a few weeks, applicants were transported to other parts of Sweden to have them registered there. Indicative of the lack of oversight at the time, was that the drivers of buses that had to transport applicants from Malmo to other parts of Sweden, would start driving north without knowing exactly where to go to.<sup>107</sup>

The lack of capacity resulted in backlogs in all of the countries, both in the registration phase and in the claim examination phase. Especially in Germany, which received the highest number of asylum seekers, a large discrepancy transpired between the number of newly-arrived asylum seekers and the number of asylum applications filed once the influx started to rise substantially.<sup>108</sup> Where 890.000 asylum seekers entered Germany in 2015, only 441.899 persons were able to lodge an application for asylum that year. This backlog was reduced in 2016, which led to a situation in which 280.000 asylum seekers arrived but a total of 722.370 asylum applications were lodged.<sup>109</sup> By early 2016, the EASY gap was at an estimated 300.000, and by November 2016 the registration backlog had been eliminated after the number of new arrivals dropped and measures had been taken.<sup>110</sup> The number of pending asylum procedures peaked at 579.000 in September 2016.<sup>111</sup>

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<sup>99</sup> R4.

<sup>100</sup> R13.

<sup>101</sup> R13.

<sup>102</sup> UDI (2016), p. 5

<sup>103</sup> EMN NCP Sweden (2018), p. 40.

<sup>104</sup> Ibid.

<sup>105</sup> EMN NCP Sweden (2017), p. 30.

<sup>106</sup> R27; R28.

<sup>107</sup> R27; R28.

<sup>108</sup> This discrepancy was referred to as the 'EASY gap' (with reference to the registration system for new arrivals 'EASY'); Grote (2018), p. 17.

<sup>109</sup> Tangermann (2017), p. 15.

<sup>110</sup> Grote (2018), p. 17.

<sup>111</sup> Grote (2018), p. 35.

Due to the high influx, in Belgium not all cases could be processed within three to six months during the peak of the influx. The resulting backlog peaked in April 2016 with 18.375 cases pending.<sup>112</sup> In December 2017, this had reduced to 7.604 cases and it was expected at that time that by June 2018, the number of pending cases would amount to 4.500, which is the normal level.<sup>113</sup>

In the Netherlands, a backlog occurred especially in the identification and registration of asylum seekers, which peaked in the first week of October 2015 when approximately 4.500 asylum seekers had been registered but not yet identified.<sup>114</sup> Because of this, additional checks for possible threats to the national security on all asylum seekers registered during the identification process in 2015 were carried out in 2016 by the Dutch police.<sup>115</sup> Due to the opening of additional identification locations, the backlog could be eliminated. Also at the IND, backlogs rose due to the combination of a high influx, the acquisition and training of new personnel, and the backlog in the identification and registration phase.<sup>116</sup>

In Norway, respondents indicated that the backlog in verifying identity documents that occurred at the PU still existed at the end of 2017, and that there were cases where applicants had received a permit from UDI before the examination of the identity documents was actually finished.<sup>117</sup>

### 3.2.2. Reception and accommodation

All of the studied countries, in one way or another, have been confronted with challenges with regard to accommodating the increased number of applicants. In Belgium, the accommodation provided by Fedasil clogged up. This was a bottle neck in the process that also affected the registration process. As one respondent mentioned, registration and accommodation are communicating vessels.<sup>118</sup> When additional registration capacity had been made available, more asylum seekers could file an application, but as there was not enough accommodation available, people camped in the park across the street from the building where the Immigration Office was housed.<sup>119</sup>

In Germany, initial reception facilities and follow-up accommodation in municipalities were stretched to their limits, while the construction of new facilities was delayed.<sup>120</sup>

In the Netherlands, the high influx made clear that the existing reception system was insufficiently flexible to accommodate all asylum seekers at regular reception centres and to deal with large volume fluctuations. The progression of persons who had been granted international protection to municipality-provided housing was delayed due to the increased influx, which resulted in a further overstretching of reception centres.<sup>121</sup>

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<sup>112</sup> EMN Country fact sheet: Belgium 2016; available online at <[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/02a\\_belgium\\_country\\_factsheet\\_en\\_1.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/02a_belgium_country_factsheet_en_1.pdf)>.

<sup>113</sup> R20.

<sup>114</sup> EMN NCP the Netherlands (2018), p. 114.

<sup>115</sup> EMN Country fact sheet: Netherlands 2016; available online at <[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/20a\\_netherlands\\_country\\_factsheet\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/20a_netherlands_country_factsheet_en.pdf)>.

<sup>116</sup> EMN NCP the Netherlands (2018), p. 4.

<sup>117</sup> R16.

<sup>118</sup> R17.

<sup>119</sup> R17.

<sup>120</sup> Grote (2018), p. 33-34.

<sup>121</sup> EMN NCP the Netherlands (2018), p. 137.

In Norway, lack of housing was also a problem up until the level that applicants were sleeping on the streets in front of the registration centre. At a certain point the overview of who was housed where was lacking.<sup>122</sup>

Accommodation was also a major challenge in Sweden. According to the Swedish EMN NCP, “while long processing times regarding asylum requests and difficulties in autumn 2015 to quickly register all applicants have certainly been challenges to the Swedish asylum system, the operation of the reception system (and in particular the provision of accommodation) has been the weakest link in the Swedish asylum chain”.<sup>123</sup> In the country an asylum seeker has the right to housing provided by the Migration Agency, or to arrange for his own housing. Some people found their own accommodation, but many needed assistance from the Migration Agency. Especially in the large cities it was difficult to find enough accommodation, so asylum seekers were moved from the cities to the countryside, something that was not always appreciated by the asylum seekers.<sup>124</sup>

### 3.2.3. Staff

The availability of staff to process cases, both in the registration/identification phase, and in the examination/decision-making phase, was insufficient in all of the countries when the influx increased. Around June 2015, the Belgian Immigration Office could no longer carry out its task with the existing staff capacity of 105 staff members and new staff had to be recruited.<sup>125</sup> The CGRS had a capacity of 380 full-time equivalents (FTE) staff before the high influx and started attracting new personnel from August 2015.<sup>126</sup> Also in Germany, The Netherlands, Norway and Sweden the existing organisational capacity was inadequate and new staff was recruited.<sup>127</sup> As one Swedish respondent indicated, increasing the staff was a challenge in itself, because there were a lot of new people to train, which took a great effort from those who are experienced.<sup>128</sup> More information about the recruitment and training of new staff is provided in §4.2.3.

### 3.2.4. Challenges in relation to establishing identity and security

Apart from managing the high influx in terms of infrastructural, organisational and accommodation capacity, the high influx from in particular Syria brought about specific challenges in the field of establishing identity and national security/exclusion.

#### *Establishing identity*

A main challenge in general in the area of establishing the identity is that many applicants do not produce identity documents during registration and identification.<sup>129</sup> The Norwegian EMN NCP notes for instance that only 5-10 percent of asylum seekers initially present a valid and credible travel document, when applying for international protection. While this percentage increases further down the line, still most applications are decided upon without proper identity documentation.<sup>130</sup>

In general, the lack of identity documents was less of a problem for Syrian applicants because, compared to other nationalities, as relatively many Syrian applicants could produce identity

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<sup>122</sup> R4.

<sup>123</sup> EMN NCP Sweden (2018), p. 38.

<sup>124</sup> R28.

<sup>125</sup> R17.

<sup>126</sup> R20.

<sup>127</sup> Grote (2018), p. 35; EMN NCP the Netherlands (2018), p. 138; R5; R9.

<sup>128</sup> R27.

<sup>129</sup> See e.g. Klunderud (2017), p. 5; EMN NCP the Netherlands (2017), p. 16; EMN NCP Sweden (2017), p. 7.

<sup>130</sup> Klunderud (2017), p. 15.

documents (see §5.2.1). An issue that came up for Syrian applicants, however, was the reliability of Syrian passports. From September 2015 onwards reports emerged that legitimate Syrian passports were issued by embassy offices with “virtually no checks”.<sup>131</sup> In December of that year, a US intelligence report warned that IS had obtained a substantial number of blank passports as well as passport printing machines after seizing Syrian government assets.<sup>132</sup> Because of these developments, authorities could no longer rely on genuine or legitimate documents to definitely establish someone was actually Syrian.<sup>133</sup> The fact that a Syrian passport which is believed to have been fake, stolen or blank was found near the body of one of the Paris attackers who had entered Europe via Leros, Greece,<sup>134</sup> confirmed that blank or fake passports posed a security risk.

The real possibility that non-Syrian applicants would successfully claim to be Syrian without getting noticed, was further confirmed by the case of Franco Albrecht in Germany. This extremist right-wing soldier of the German Federal Armed Forces presented himself as a Syrian refugee, applied for asylum and was granted subsidiary protection. His false identity was discovered neither at the time of his registration, when his biometric data were collected, nor during his interview in November 2016. The case led to a broad discussion in Germany on the reliability of the identification process, which was exacerbated by allegations that a number of BAMF employees in the Bremen office had accepted bribes from 1.200 asylum seekers in exchange for being granted asylum (see §5.2.9).<sup>135</sup>

Another issue, in relation to ‘source documents’ (documents which do not have the formal status of an identity or travel document, but which could be used to verify an identity, such as birth/death certificates, marriage certificates, military booklets), is that no fact-finding missions could be conducted in conflict areas to assess the reliability of such documents.<sup>136</sup>

The scale of the influx obviously also led to challenges in the area of identity establishment. Capacity problems at specialised identity document units or ‘central competence centres’ acted as a bottleneck in the asylum procedure, for instance in Sweden (see §5.2.1). In Germany, the digital information infrastructure was insufficient or not always available when the BAMF opened new locations, which made it sometimes not possible to store data on the identity centrally and exchange such data between the federal states and authorities.<sup>137</sup>

### *Security challenges*

The central dilemma in this respect, as noted in chapter 1, was that speedy asylum procedures of Syrian nationals are more cost-efficient and improve the chances of successful integration of this group of asylum seekers which is characterised by a high recognition rate, yet expeditious procedures may make it more difficult to identify applicants who should be excluded on the basis of Article 1F or who pose a security threat. European states increasingly became aware of the security challenges

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<sup>131</sup> A. Dawar, ‘Alarm as Syria sells 10,000 passports with few questions asked’, Express, 11 September 2015, last visited 4 April 2018 at <<https://www.express.co.uk/news/world/604394/Alarm-Syria-sells-10000-passports-few-questions-asked>>.

<sup>132</sup> R. Marsh, ‘U.S. report warns of ISIS' ability to create fake passports’, CNN, updated 11 December 2015, Last visited 4 April 2018 at <<https://edition.cnn.com/2015/12/11/politics/isis-passports/>>.

<sup>133</sup> R13.

<sup>134</sup> NY Times, ‘Unraveling the Connections Among the Paris Attackers’, updated 18 March 2016, last visited 4 April at <<https://www.nytimes.com/interactive/2015/11/15/world/europe/manhunt-for-paris-attackers.html>> and BBC, ‘Paris attacks: Who were the attackers?’, 27 April 2016, last visited 4 April at <<http://www.bbc.com/news/world-europe-34832512>>.

<sup>135</sup> Tangermann (2017), p. 49; Dm/msh, ‘Bremen migration officer investigated for allegedly granting asylum in exchange for bribes’, Deutsche Welt, 20 April 2018, last visited 7 June 2018 at <<http://www.dw.com/en/bremen-migration-officer-investigated-for-allegedly-granting-asylum-in-exchange-for-bribes/a-43471724>>.

<sup>136</sup> EMN NCP the Netherlands (2017), p. 20.

<sup>137</sup> Tangermann (2017), p. 15.

related to the nature of the influx, but the scale of the influx presented additional challenges in this respect, as owing to the large numbers of asylum seekers, less time and less experienced staff members were available for thorough investigation. Creating and maintaining the necessary expertise and awareness among staff about national security and exclusion issues therefore also presented an important challenge for the immigration authorities. Due to the high recognition rate for Syrian asylum applicants (see §3.1.3), less information from asylum applicants was available. On the other hand, more information was available from social media and data carriers, but it has been challenging for the focus countries how and whether this information can be used as evidence (see §§5.2.5, 5.2.6 and 6.4.2).

### 3.4. Conclusion

- The armed conflict in Syria that erupted in 2011 has produced a vast number of forced migrants and is one of the driving factors behind the high influx of asylum seekers in Europe since 2014. While the majority of Syrian migrants resides in neighbouring countries the number of asylum seekers reaching Europe across the Mediterranean Sea or over land has, especially in 2015 and 2016, also increased significantly. In addition to Syrian asylum seekers, many migrants with other nationalities applied for asylum in the same period.
- The high influx impacted all countries studied in the context of this research, but in different degrees. Where the total number of asylum applications in 2015, compared to 2011, less than doubled in Belgium, and tripled in the Netherlands and Norway, it increased five-fold in Sweden and nine-fold in Germany. In absolute numbers, Germany alone received about 70% of the number of asylum applications in the period 2011 to 2017 in the total of the five focus countries. Consequently, the magnitude of the 'crisis' that resulted from the high influx differed from country to country, although all of the focus countries have struggled in their own way to process the vast number of asylum applications.
- Where on average 27% of the caseload in the studied period concerned Syrian nationals, the number of Syrian applicants relative to the total number of asylum applications peaked around 35-40% in most of the countries, but was much lower in Belgium with 11% on average and a peak of about 23%.
- Syrian asylum seekers have a very high chance of seeing their request for asylum being granted. However, considerable differences exist between the focus countries as to the rate of applicants that receive a refugee status or subsidiary protection. What rights, conditions and residence permits are connected to a refugee status on the one hand, and subsidiary protection on the other, also differs in the different focus countries.
- With the situation in Syria deteriorating and the number of Syrian asylum applicants rising in all of the focus countries, the question of 'who was coming in' increasingly drew attention in the media and the political arena. Media reporting and policy papers suggest that individuals who are believed to be guilty of war crimes, crimes against humanity and terrorist crimes committed during the Syrian civil war have been identified in different European countries. Besides involvement in crimes allegedly committed in Syria, there have been several incidents or attacks involving Syrian asylum seekers, as well as asylum seekers with other nationalities, that have been linked to terrorist organisations such as IS. In addition, there have been reports of prevented terrorist attacks involving Syrian migrants or asylum seekers.
- The high influx came as a surprise to all of the focus countries, because of its suddenness and its magnitude. The challenges that bureaucracies were confronted with were manifold. This chapter discussed four main challenges that all of the focus countries were faced with: 1) lack of infrastructural and registration/identification capacity; 2) lack of available accommodation; 3) lack of (competent) staff to handle cases (registration/ identification and/or examination/decision-making); and 4) the confluence of a high recognition rate and particular identity and security challenges.



## Chapter 4. Organisational capacity and influx management since 2014

As described in the previous chapter, the sudden and significant rise in the number of asylum applicants with a (claimed) Syrian nationality led to significant challenges for the responsible authorities in all of the studied countries. Processing these applications in accordance with applicable legislation, such as the EU Directive on common procedures for granting and withdrawing international protection,<sup>138</sup> required the organisations to rapidly increase their capacity to manage the rising influx and sometimes restructure their way of working. This chapter gives an overview of responses to the challenges in relation to the organisational capacity and management.<sup>139</sup>

Paragraph 4.1 discusses responses aimed at reducing the (future) number of asylum seekers. Paragraph 4.2 presents approaches towards processing the increased number of asylum claims, by subsequently discussing improvements in infrastructure, logistics, reception and accommodation (§4.2.1), in case processing capacity (§4.2.2) and in staff capacity and competence (§4.2.3). Paragraph 4.3 provides a 'snapshot' of the status quo in the studied countries at the moment the interviews were conducted. It also discusses whether and to what extent respondents are of the opinion that their national system is sufficiently prepared to deal with another high influx.

### 4.1. Responses aimed at reducing the number of asylum seekers

During and since the period of the high influx, several contextual and legislative changes occurred in the focus countries that are relevant to this study. Measures that have been taken in the wider context of the European Union, such as measures to close the 'Balkan route' and the 'EU-Turkey deal', have already been mentioned (see §1.2).

In order to prevent illegal entry and to reduce the high influx, Germany, Norway and Sweden (temporarily) reintroduced internal border controls.<sup>140</sup> Germany introduced border control from September 2015 at Germany's land borders with Austria, and checkpoints on three national highways and early border controls at train station Salzburg, Austria.<sup>141</sup> Sweden and Norway reintroduced border controls in November of that year. Both Sweden and Norway quoted risks for the internal security as a rationale for the reintroduction. In Norway, for example, the decision was taken "in order to tackle the serious threat to the internal security of Norway which came as a result of the unpredictable migratory pressure and associated challenges". The measure was followed by a significant decrease in the number of asylum seekers entering the country.<sup>142</sup> From January 2016, identity controls were carried out of all persons crossing the Swedish border by bus, train or boat. In Sweden, asylum seekers who were stopped at the border were allowed to apply for international protection.<sup>143</sup> Internal border controls in these countries are in place until at least 11 November

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<sup>138</sup> Directive 2013/32/EU of 26 June 2013 of the European Parliament and of the Council on common procedures for granting and withdrawing international protection (recast).

<sup>139</sup> For a more complete overview, the different country reports of the EMN Focussed Study 'The changing influx of asylum seekers in 2014-2016' could be consulted.

<sup>140</sup> See European Commission, 'Temporary Reintroduction of Border Control', last visited 6 June 2018 at <[https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control_en)>.

<sup>141</sup> Grote (2018).

<sup>142</sup> EMN Country fact sheet: Norway 2015; available online at <[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/country-factsheets/29a\\_norway\\_country\\_factsheet\\_2015.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/country-factsheets/29a_norway_country_factsheet_2015.pdf)>.

<sup>143</sup> EMN Country fact sheet: Sweden 2016; available online at <[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/27a\\_sweden\\_country\\_factsheet\\_2016\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/27a_sweden_country_factsheet_2016_en.pdf)>.

2018.<sup>144</sup> In Belgium and the Netherlands, no internal border controls were introduced, but the Netherlands intensified the ‘Mobile Security Monitoring’ (MTV),<sup>145</sup> as well as the cooperation with the border control authorities of the United Kingdom and Belgium.<sup>146</sup> The Belgian government has announced plans to introduce ad-hoc checks on international trains and buses from May 2018,<sup>147</sup> the Dutch Minister of Justice and Security said in March 2018 that he also considers such measures for the Netherlands.<sup>148</sup>

In terms of legislative changes, temporary legislation or more structural changes to existing immigration laws were introduced in some of the focus countries. These changes did not necessarily aim to decrease the number of asylum applications as such, but could be considered to make the asylum system less attractive and/or more ‘sober’, thereby on the longer run making the countries less attractive as destination country. Sweden, for example, introduced temporary legislation in July 2016 to bring Swedish asylum legislation in line with the minimum standards as required by EU and international law, thereby tightening previous, more generous provisions.<sup>149</sup> It did so with respect to the duration of residence permits that are granted (under the legislation residence permits are temporary, rather than permanent, or granted for shorter periods) and conditions for family reunification. A notable legislative change in Belgium was the issuance of a five-year temporary permit, rather than a permanent permit, upon recognition of refugee status.<sup>150</sup> In the period 2015-2016, two rounds of amendments to the Norwegian Immigration Act were passed, which were encompassed by working instructions for handling cases. One of these amendments entailed measures such as the tightening of conditions for family reunification and the granting of a permanent residence permit to foreign nationals who have been granted collective protection.<sup>151</sup> The conditions connected to the two different forms of international protection (refugee and subsidiary protection) also changed in some of the countries (see §3.1.3).

Another measure that could be seen to have been taken in order to reduce the number of asylum applications, is that in a number of countries information campaigns were developed to explain – or ‘warn’ about – the reception conditions during the high influx. The Dutch State Secretary responsible for immigration policies, for example, issued a letter that was handed to all asylum applicants, addressing the lengthy duration of asylum procedures and procedures for family members seeking asylum family reunification and the lack of regular reception places and housing.<sup>152</sup> Similarly, in Belgium applicants were handed a letter from the State secretary, which stated that the procedure may take a long time and that the reception conditions are sober. The letter was handed to applicants

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<sup>144</sup> See <[https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control_en)> and <<https://www.government.se/press-releases/2018/05/internal-border-controls-prolonged/>>.

<sup>145</sup> “Mobile Security Monitoring is a check on people who travel from Belgium or Germany to the Netherlands, and is carried out by KMar (the Royal Netherlands Marechaussee). The aim of Mobile Security Monitoring includes counteracting illegal stay, smuggling of persons, and document fraud at the earliest possible stage. Mobile Security Monitoring is carried out in the area directly across the border. KMar mainly checks on the basis of risk profiles and does random checks. In the context of Mobile Security Monitoring, checks take place in trains, on waterways, of air traffic and on roads.” EMN NCP the Netherlands (2018), p. 11.

<sup>146</sup> EMN NCP the Netherlands (2018), p. 28-29.

<sup>147</sup> A. Mühlauer, ‘Belgien will Reisende schärfer kontrollieren’, *Sueddeutsche Zeitung*, 3 January 2017, last visited 8 March 2018 at <<http://www.sueddeutsche.de/politik/aus-angst-vor-anschlaegen-belgien-verschaerft-kontrollen-fuer-reisen-1.3318419>>.

<sup>148</sup> NOS, ‘Grapperhaus: mogelijk controle passagierslijsten touringcars’, 24 March 2018, last visited 3 April 2018 at <<https://nos.nl/artikel/2224190-grapperhaus-mogelijk-controle-passagierslijsten-touringcars.html>>.

<sup>149</sup> EMN NCP Sweden (2018), p. 27.

<sup>150</sup> R17.

<sup>151</sup> Boysen & Viblemo (2018).

<sup>152</sup> EMN NCP the Netherlands (2018), p. 70.

after they had been ‘pre-registered’ (see §4.2.2), during the rest and preparation term in which they can prepare themselves for the asylum procedure. During this period, they can still reconsider whether they want to file an asylum request or not.<sup>153</sup> The German Federal Foreign Office launched a website in 2015 identifying false information and rumours about immigration to Germany and the asylum procedure, although the website claims that its goal is “not to deter, but to inform”.<sup>154</sup> The use and effect of such information campaigns has been the subject of an EMN ad hoc query in 2016 and of a study in the Netherlands.<sup>155</sup>

## 4.2. Responses aimed at processing the increased number of asylum claims

### 4.2.1. Improving infrastructure, logistics, reception and accommodation

#### *Infrastructural capacity and logistics*

Germany has taken several infrastructural measures to accommodate the high influx. In September 2015, a Federal Government Coordination Office for the Distribution of Refugees (*Koordinierungsstelle Flüchtlingsverteilung Bund*) was established, to take over the responsibility for the distribution and transportation of newly arrived asylum seekers from the state of Bavaria.<sup>156</sup> To facilitate the initial reception and first registration, two emergency ‘waiting centres’ were set up in Bavaria in October 2015, where asylum seekers would stay for up to 72 hours before being transported onwards.<sup>157</sup> The total number locations where the BAMF carried out its different tasks was increased substantially over the period 2015-2016. By the end of 2016, the BAMF had “24 arrival centres (all of which were established in 2015/16), 47 branch offices (26 of which were established in 2015/16), four decision-making centres and seven other organisational units, such as waiting rooms, processing lines, delivery centres, and a training centre”.<sup>158</sup>

The Netherlands established an Operational Coordination Centre for Foreign Nationals (KOCV) in November 2015. The KOCV is a logistics centre, which determines at what AVIM location asylum seekers will be identified and arranges the transportation.<sup>159</sup> In order to deal with the increased pressure on the identification and registration process, which is the responsibility of the National Police (AVIM), six additional identification locations were set up.<sup>160</sup> The KOCV determines on a weekly basis which identification locations are to be opened.<sup>161</sup> The standard location is Ter Apel, which has a capacity up until a 30 asylum seekers per day; when the number of asylum seekers to be registered exceeds 30 per day, the location in Budel opens, and when it exceeds 60 per day, other locations in are opened. When all seven identification locations are operational and each have reached their maximum capacity, the capacity of some of the locations can be increased.<sup>162</sup> The KOCV also developed a ‘contingency plan’, which contains arrangements between the different involved actors to make swift upscaling and downscaling of organisational capacity possible.<sup>163</sup>

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<sup>153</sup> R17. According to R17, these letters were criticized by Belgian NGOs, who branded them ‘discouragement letters’.

<sup>154</sup> See <<https://rumoursaboutgermany.info/about/>>.

<sup>155</sup> See the EMN ad hoc query at

<<https://www.parlementairemonitor.nl/9353000/1/j9vvij5epmj1ey0/vkcykmh2jvvz>> and Schans & Optekamp (2016).

<sup>156</sup> Grote (2018).

<sup>157</sup> Ibid.

<sup>158</sup> EMN Country fact sheet: Germany 2016; available online at [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/11a\\_germany\\_country\\_factsheet\\_2016\\_en\\_0.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/11a_germany_country_factsheet_2016_en_0.pdf).

<sup>159</sup> EMN NCP the Netherlands (2018), p. 59-61.

<sup>160</sup> EMN NCP the Netherlands (2018), p. 50-51.

<sup>161</sup> EMN NCP the Netherlands (2018), p. 59-61.

<sup>162</sup> IV&J (2016), p. 11-12.

<sup>163</sup> *Draaiboek Hoge Instroom Asielzoekers*; EMN NCP the Netherlands (2018), p. 70-72.

The Norwegian authorities have established new reception facilities, a simplified registration procedure during peak times and have strengthened the processing capacity of the Norwegian Directorate of Immigration.<sup>164</sup>

In 2014, the Swedish government allocated additional budget to the Swedish Migration Agency, both to expand the capacity for refugee status determination and accommodation for asylum seekers, authorities developed a contingency plan, and established a 'Centre for operational coordination' within the Swedish Migration Agency.<sup>165</sup>

### *Reception and accommodation*

It was noted above that in Belgium, the lack of available accommodation reached a point where applicants camped in the park across the street from the building where the Immigration Office was housed. In response, emergency 'pre'-accommodation was organised in a building adjacent to the Immigration Office.<sup>166</sup> Currently, the reception in the first phase has been centralised in a reception centre in Neder-Over-Heembeek. The capacity there is about 250 beds, which can be expanded to 500. In the second half of 2015, the overall reception capacity was doubled to 33.500 reception places.<sup>167</sup> When the number of asylum seekers that had to be accommodated dropped significantly in 2016, the Belgian authorities decided to reduce the reception capacity by 10.000 places and to introduce a new reception model, the implementation of which had been postponed due to the high influx (see §4.4.2).<sup>168</sup>

In Germany, in order to increase the accommodation capacity, construction planning laws were amended to facilitate the establishment of new accommodation facilities.<sup>169</sup> The *Länder* set up hundreds of emergency accommodation locations in temporary and unused structures (including containers, tents, unused army barracks, warehouses, administrative buildings etc.). Some of the accommodation facilities were run by charitable organisations and private providers. New facilities were developed in the autumn and winter of 2015/2016. 'Follow-up' accommodation facilities were developed in the municipalities in cooperation with non-governmental organisations and private actors.<sup>170</sup> The period during which asylum seekers might be obliged to stay at initial reception facilities was extended from three to six months from October 2015.<sup>171</sup> Another measure was the outsourcing of certain tasks to private security firms, including building and access protection at accommodation facilities.<sup>172</sup>

Several measures were taken to increase the reception capacity in the Netherlands. The full potential capacity (the 'technical capacity') at the reception agency COA was utilised, and COA established new

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<sup>164</sup> EMN Country fact sheet: Norway 2015; available online at <[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/country-factsheets/29a\\_norway\\_country\\_factsheet\\_2015.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/country-factsheets/29a_norway_country_factsheet_2015.pdf)>.

<sup>165</sup> EMN Country fact sheet: Sweden 2014; available online at <[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/country-factsheets/27.sweden\\_emn\\_country\\_factsheet\\_\\_2014.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/country-factsheets/27.sweden_emn_country_factsheet__2014.pdf)>.

<sup>166</sup> R17.

<sup>167</sup> EMN Country fact sheet: Belgium 2015; available online at <[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/country-factsheets/02\\_belgium\\_country\\_factsheet\\_2015.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/country-factsheets/02_belgium_country_factsheet_2015.pdf)>.

<sup>168</sup> EMN Country fact sheet: Belgium 2016; available online at <[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/02a\\_belgium\\_country\\_factsheet\\_en\\_1.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/02a_belgium_country_factsheet_en_1.pdf)>.

<sup>169</sup> *Ibid.*, p. 48-49.

<sup>170</sup> *Ibid.*

<sup>171</sup> Grote (2018), p. 41.

<sup>172</sup> Grote (2018), p. 43.

locations with temporary reception facilities; in 2015, this concerned an expansion of about 10,200 places. In addition, crisis reception locations and emergency accommodations were used. The crisis reception locations were intended for a stay up to 72 hours, whereas stays in emergency accommodations could be longer.<sup>173</sup> Each of the 25 national ‘safety regions’ had to create at least 500 places before the end of 2015.<sup>174</sup> Measures were also taken to warrant progression to municipality-organised housing for residence permit holders, including the realisation of new housing through an adaptation of regulations.<sup>175</sup> Furthermore, a ‘self-care scheme’ has been available between November 2015 and September 2016, which made it possible for residence permit holders who were not yet housed by a municipality to live with friends or family.<sup>176</sup>

Norway created three ‘new’ types of accommodation and reception facilities, in addition to the existing facilities: 1) ‘PU accommodation’, e.g. in hotels, where asylum seekers resided prior to their registration by the PU, which was necessary because of backlogs in registration; 2) ‘emergency accommodation’, to provide shelter to asylum seekers after registration, because of overburdened existing facilities; and 3) ‘arrival centres’ (see §4.2.2).<sup>177</sup> The fact that reception centres are spread throughout the country means that upscaling is expensive, and so is the transport to the facilities.<sup>178</sup>

Sweden arranged for additional accommodation capacity by densifying its existing reception centres, setting up temporary reception centres, using municipal ‘evacuation places’ (such as sports arenas) and temporary reception places with ‘lower standards’ (e.g. mobility homes, dormitories and tents).<sup>179</sup> A measure to enhance the construction of new accommodation was the relaxation of building regulations. As of 1 June 2016, persons who received a refusal of entry or expulsion order, were no longer entitled to accommodation provided by the Swedish Migration Agency.<sup>180</sup> In order to increase its registration capacity, more staff was deployed at registration units and these units extended their opening hours.<sup>181</sup>

#### 4.2.2. Improving case processing capacity

In response to the increased influx the five studied countries have taken a number of – often similar – approaches to improve their case processing capacity. The most notable are discussed below.

##### *Arrival centres*

During the high influx, a number of countries have introduced centralised ‘arrival centres’. The idea behind these centres is that as much of the asylum process as possible can be carried out under one roof, including identification, interviewing and decision making.

In Germany, different measures have been taken under the header “integrated refugee management”. With this concept, the German authorities aimed to “integrate more closely the actors as well as the processes involved in the arrival and registration phase, asylum procedures and the integration and return phase”. As part of this concept, ‘arrival centres’ were set up from December 2015. In these centres, both federal and regional processes take place, while all public agencies and

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<sup>173</sup> EMN NCP the Netherlands (2018), p. 31.

<sup>174</sup> Ibid.

<sup>175</sup> EMN NCP the Netherlands (2018), p. 13.

<sup>176</sup> EMN NCP the Netherlands (2018), p. 41. Under the current accommodation scheme, a stay of up to three months with family or friends is still possible.

<sup>177</sup> Boysen & Viblemo (2018), p. 10.

<sup>178</sup> R4.

<sup>179</sup> EMN NCP Sweden (2018), p. 23.

<sup>180</sup> Ibid.

<sup>181</sup> EMN NCP Sweden (2018), p. 22.

authorities involved in the process are represented in a single location, where initial reception, registration, an initial medical examination, the filing of the asylum application, interviews and other elements of the procedure are carried out. Besides the arrival centres, centralisation/specialisation also took place in other BAMF branches. From July 2015, four ‘decision-making centres’ were established with up to 50 decision-makers. At these centres, decision makers decided upon cases referred by branch offices and arrival centres that were ‘ready’ for a decision; no interviews were conducted at those centres.<sup>182</sup> Interviews were conducted by ‘hearing units’.<sup>183</sup>

Norway opened two similarly centralised ‘arrival centres’ in October 2015, in Råde, Østfold County, close to the Norwegian-Swedish border, and in Finnmark County, close to the Northern border crossing to Russia. In these arrival centres, both registration procedures and medical examinations took place.<sup>184</sup> In three weeks’ time, a shopping centre in Råde was transformed to a reception centre, including a modern health centre.<sup>185</sup>

The Netherlands already used to work with a central arrival and reception centre, near the town of Ter Apel, in the northeast of the Netherlands. Due to the increased influx, temporarily a second arrival centre opened in the south, in Budel. The AVIM set up six new locations for identification in addition to the existing facility in Ter Apel, which could – and still can – be made operational flexibly depending on the demand. At the moment of writing, different locations are incidentally operational (see §4.2.1). As the number of cases is limited or not constant in some of these locations, not everywhere an equally competent and dedicated team is active; in the locations that are more incidentally operational it is therefore difficult to build up the necessary routine and experience.<sup>186</sup> A respondent indicated that there are plans to structurally establish a second arrival centre, either in Budel, or at a new, more centrally situated location. The latter would have the advantage that it is easier to transport both applicants and additional staff there, compared to Ter Apel which is – for Dutch standards – rather remote.<sup>187</sup> Besides increasing the capacity in the AVIM’s identification locations, the identification and registration process was also standardised and laid down in protocols, with the purpose of making it easier to deploy or second staff from other police units or organisations.<sup>188</sup>

### *Pre- and post-registration*

Belgium, Norway and Sweden introduced a system of pre-registration: before being fully registered, a basic registration was conducted, which allowed asylum applicants to enter the system. This e.g. made accommodation in pre-reception emergency structures possible.<sup>189</sup> In Belgium, the pre-registration consisted of taking the applicant’s fingerprints and photo, and conducting a security screening, before the asylum application is formally lodged.<sup>190</sup> Belgium has over the years introduced three different types of ‘pre-registration’ to deal with the issue, each step of the process coming to a more standardised and extensive type. In first instance, in response to the clogging up of the initial reception, an invitation was issued (a simple one-page document without personal details), asking asylum seekers to return in three days, and giving access to the emergency pre-accommodation.<sup>191</sup>

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<sup>182</sup> Grote (2018), p. 41.

<sup>183</sup> R36.

<sup>184</sup> Boysen & Viblemo (2018), p. 10.

<sup>185</sup> R4.

<sup>186</sup> R1; see also EMN NCP the Netherlands (2017), p. 21.

<sup>187</sup> R1.

<sup>188</sup> R1.

<sup>189</sup> EMN Country fact sheet: Belgium 2015; available online at <[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/country-factsheets/02\\_belgium\\_country\\_factsheet\\_2015.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/country-factsheets/02_belgium_country_factsheet_2015.pdf)>.

<sup>190</sup> EMN Country fact sheet: Belgium 2016; available online at <[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/02a\\_belgium\\_country\\_factsheet\\_en\\_1.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/02a_belgium_country_factsheet_en_1.pdf)>.

<sup>191</sup> R17.

When applicants started trading in these invitations, a more elaborate document was issued from March 2016, with names, birth date and nationality. This was also done to have a better overview of who resided in the emergency pre-accommodation. By that time, the three-day return period was no longer feasible; there could be up to a month between the pre-registration and the more extensive registration upon the lodging of the application. From 9 November 2017, the pre-registration has become a standard and more systematic procedure that is also laid down in legislation. In the current form, also a photo and fingerprints are taken, and a check in Eurodac is performed in the pre-registration.<sup>192</sup>

As a measure to speed up registration besides the establishment of arrival centres, the Norwegian PU resorted more to 'mini-registration' (later renamed 'preliminary registration'). The mini-registration was a lighter and faster form of registration conducted at the arrival centre, after which the asylum seeker would be transferred to a reception facility; a more extensive registration was carried out at a later stage.<sup>193</sup> The PU and UDI developed a 'differentiated registration', which sorts applications by nationality and case category. The reason for this is that the registration of an unaccompanied minor, for instance, is more labour intensive than that of other categories of asylum seekers. Furthermore, 'simplified routines' were introduced to speed up registration.

Similarly, Sweden introduced temporary simplified procedures for registration during the last months of 2015, primarily to Syrians, stateless persons from Syria and Eritreans. This meant that fingerprints and photographs were taken, to allow entry into the reception system, without holding initial interviews or asylum interviews asking about any protection needs.<sup>194</sup>

In order to enable swifter registration, Germany established five 'processing-lines' where, in cooperation with the Federal Police, asylum seekers were registered before they were distributed to the reception centres. The registration entailed photographing, fingerprinting, initial medical examinations and security checks.<sup>195</sup> The same registration procedure was also conducted in the two 'waiting centres'. In order to make up for the backlog that occurred in the registration of asylum seekers, from September 2015 to September 2016, Germany deployed about 170 'mobile teams' for what is referred to as 'post-registration'; the registration of newly arrived asylum seekers who had not yet been able to file an asylum application and be registered. Equipped with laptop and fingerprint scanners, teams of two employees would visit the unregistered asylum seekers on the spot. Staff of the German Federal Armed Forces and the customs authorities assisted the BAMF in this project.<sup>196</sup>

#### *Central information system and registration tools*

As part of a larger digitisation process in Germany, different measures were taken under the header of "integrated identity management". A centralised data system was created upon entry into force of a Data Sharing Improvement Act. This 'core data system' contains personal data of asylum seekers which can be accessed and registered by all competent public authorities at the federal, regional and local level. Furthermore, the entry into force of the Act allowed for putting so-called 'PIK stations' (Personalisation Infrastructure Component) into operation. In February and March 2016, PIK stations had been installed at all reception centres, to facilitate the registration of biometric and personal data

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<sup>192</sup> R17. Certain vulnerable applicants and unaccompanied minors under 15 will lodge their application on the same day they report to the Immigration Office; families and unaccompanied minors between 15-18 generally on day two.

<sup>193</sup> R9; Boysen & Viblemo (2018), p. 11.

<sup>194</sup> R29; EMN Country fact sheet: Sweden 2015; available online at <[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/country-factsheets/27a\\_sweden\\_country\\_factsheet\\_2015.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/country-factsheets/27a_sweden_country_factsheet_2015.pdf)>.

<sup>195</sup> Grote (2018).

<sup>196</sup> Grote (2018), p. 40.

and photographs, which are subsequently uploaded to different databases, including the core data system and police databases (fingerprints).<sup>197</sup> By May 2016, 1.200 out of 1.500 PIK stations were put into operation.<sup>198</sup> Together with the PIK-stations, the registration authorities were provided with facilities for fast fingerprint crosschecks, 'Fast-ID'.<sup>199</sup> The concept of integrated identity management and the coming into force of the Data Sharing Improvement Act also entailed the introduction of a proof of arrival (*Ankunftsnaachweis*), a uniform personal document with forgery-proof elements, as a replacement of the existing 'registration certificate for asylum seekers'.<sup>200</sup> Proof of arrival is issued immediately after registration at the start of the process in the arrival centres, and will be replaced by a residence permit for the duration of the asylum procedure once the initial registration phase is finalised.<sup>201</sup>

From the beginning of 2015, the Netherlands introduced the Basic Information on the Establishment of Identity (BVID kiosk), which integrates information that is subject to different legal regimes (immigration law and criminal law). During the registration phase, various (biometric) data of the asylum seeker are entered at the BVID kiosk, which are then matched to different connected databases. The BVID kiosk is used for taking electronic fingerprints, a facial photograph and scanning travel or identity documents. Both the KMar (border control) and the AVIM (aliens police) use the BVID kiosk.<sup>202</sup>

### *Speeding up decision-making*

In order to speed up the decision-making, the Belgian CGRS took four specific measures. Firstly, it introduced a shortened case handling for Syrian and Eritrean applicants, as well as some applicants from safe countries.<sup>203</sup> No shortened case handling has taken place for Iraqi and Afghan applicants. 'Shortened' in this context means that the examination of the reasons for fleeing is shorter, based on the assumption that protection is granted or refused in most cases. At the intake, the CGRS would assess whether shortened case handling was possible. Unless there were particularities, each Syrian case was handled in the shortened procedure. Particularities would for instance be a military profile; such a case would not be handled in a shortened procedure because such a profile raises questions in connection to the exclusion grounds. Also in the shortened procedure, at least the following elements were part of the procedure: an interview; a thorough examination of identity documents, nationality and origin and possible possession of a status in another state; an examination of particular elements in relation to 1F exclusion, danger to society or danger to national security. The shortened procedure reduced the duration of the asylum hearing by half; CGRS protection officers could now hear two persons a day instead of one.<sup>204</sup>

Secondly, it was decided to devote the full capacity of four of the six geographical units to Syrian cases (see more about the geographical units in §5.4.1). This required additional coordination; for this purpose, reference persons were appointed, senior-caseworkers who already had experience with Syrian cases. These reference persons also provided training to the junior caseworkers in the units dedicated to Syrian cases; all caseworkers working on Syrian cases received additional training in this way.

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<sup>197</sup> Tangermann (2017), p. 16.

<sup>198</sup> Grote (2018), p. 52.

<sup>199</sup> Tangermann (2017), p. 48.

<sup>200</sup> Tangermann (2017), p. 23.

<sup>201</sup> Grote (2018), p. 52-53.

<sup>202</sup> EMN NCP the Netherlands (2018), p. 53.

<sup>203</sup> R20.

<sup>204</sup> R20.



Thirdly, the CGRS introduced an initial screening in the autumn of 2015 in order to filter and sort cases and redirect them to the right process. During the intake interview the Immigration Office asks a number of questions on behalf of the CGRS that already give the CGRS a first idea of how a case can be processed. Besides questions in relation to establishing the identity, questions are asked about the travel route and reasons for asylum.<sup>205</sup> When a case was received by the CGRS from the Immigration Office, it was screened on certain profiles (origin, ethnical group), so that it could be redirected to the right geographical unit (see §5.4.1); possible indications of exclusion so that cases could be handled by specialised exclusion officers; or possible indications of national security so that possibly the intelligence and security services could be informed or additional investigation could be initiated (see chapter 7).<sup>206</sup>

Finally, as part of the shortened case handling, for a limited number of cases and during a period of about 2 months, the first interview that is normally conducted by the Immigration Office, was conducted by CGRS staff. The intake-interview conducted by the CGRS was slightly more extensive than interviews carried out by the Immigration Office. Because of this, in cases where there were no particularities, the case could be decided right away. In this way the procedure was shortened and more decisions could be taken. This practice only occurred when the pressure was at a peak.<sup>207</sup>

In Germany, a ‘simplified asylum procedure’ consisted of a temporary suspension of personal interviews initially for Syrian and Iraqi, Yezidi, Christian and Eritrean asylum seekers, with the aim of speeding up the asylum procedure (see §5.2.3). The abovementioned establishment of ‘decision-making centres’ can also be seen as a measure to speed up the decision-making.

In order to determine whether an extensive language analysis was necessary, the Netherlands introduced a language indication for Syrian applicants from the end of 2016. On the basis of a short voice recording, IND language analysts evaluate the language variation and assess whether the language clearly confirms that someone originates from Syria or whether further investigation is needed. Germany introduced a similar method in 2017 (see §5.2.2).

In Norway, in the first half of 2015 – before the high influx – a pilot had been started with regard to processing applications of Syrian asylum seekers. As the influx rose and more and more Syrians were applying for asylum, and since the majority would qualify for a status, it was explored how their claims could be processed more quickly. In the pilot phase, the applicant was interviewed directly after the registration by PU.<sup>208</sup> PU would conduct a more extensive first interview with Syrian applicants than it used to. The more extensive interview was not limited to checking the identity and look for possible security issues, but would also include questions about the reasons for asylum.<sup>209</sup> The idea was that UDI would then not have to conduct the asylum interview, and could take its decision on the application on the basis of the extended PU interview; if needed, it could collect more information by doing an additional interview.<sup>210</sup> This had the advantage that applicants would not have to spend much time in the reception centre. Information given in an early stage was also believed to be more reliable.<sup>211</sup> According to a UDI representative, the results of this first small-scale pilot were positive; in some instances, UDI decided to interview the applicants again, but in the majority of instances UDI

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<sup>205</sup> R20.

<sup>206</sup> R22; R24.

<sup>207</sup> R20; R24.

<sup>208</sup> R5.

<sup>209</sup> R4.

<sup>210</sup> R4.

<sup>211</sup> R9.

could come to a decision.<sup>212</sup> It was therefore agreed between UDI and PU to implement a separate ‘Syria track’ based on the pilot (see §5.2.3; the experiences with this Syria track were mixed).<sup>213</sup>

In order to increase the efficiency of the document investigation process, and to ease the burden on the central competence centres, some of the tasks of the competence centres have been decentralised in Germany, the Netherlands and Sweden (see §5.2.1).

#### *Accelerated, prioritised and fast-track case processing*

In order to enable swifter decision making, the existing legal framework for asylum procedures in the EU<sup>214</sup> allows for applying special procedures to deal with specific caseloads.<sup>215</sup> The recast Directive distinguishes between ‘prioritised’ and ‘accelerated’ procedures: the former do not derogate from normally applicable procedural time limits, principles and guarantees, while the latter introduce shorter time limits, for instance in the appeal phase.<sup>216</sup>

Germany, the Netherlands and Sweden all introduced approaches to prioritise or accelerate the asylum procedures for certain caseloads, in the form of ‘fast-track’ or ‘cluster’ approaches.<sup>217</sup> Under the same “integrated refugee management” header that was referred to above, a German ‘cluster’ system was introduced in March 2016.<sup>218</sup> It was applied in the 24 ‘arrival centres’, and distinguished four clusters: cluster A for countries of origin with a high protection rate from 50% upwards (e.g. Syria, Eritrea, Christians and Yazidis from Iraq); cluster B for countries of origin with a low protection rate (up to 20%); cluster C for complex profiles or situations; and cluster D for Dublin (which were all processed in three specialised ‘Dublin centres’).<sup>219</sup> Applications that were assessed to be highly likely and highly unlikely to be granted, were processed within a few days.<sup>220</sup> The cluster system was in use until the spring of 2017; a new process flow system was envisaged at the time of writing.<sup>221</sup> One respondent also noted that in a new high influx situation, some sort of cluster system would be reintroduced. According to this respondent, the advantage of this approach is that it makes the decision making much easier. For example, the caseworker knows that on a given day, he or she would only have Syrian cases; you did not have to prepare and read the country of origin information for five different countries.<sup>222</sup>

The Dutch ‘multi-track’ system was introduced in March 2016 and has five tracks for different target groups. The tracks are: 1) Dublin; 2) safe country of origin/legal stay in other EU member state; 3) evidently eligible cases (e.g. properly documented applicants from a country with a high recognition rate); 4) general asylum procedure (the standard, non-accelerated procedure) and 5) evidently promising cases that need a brief investigation (e.g. insufficiently documented applicants from a

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<sup>212</sup> R5.

<sup>213</sup> R4; R9.

<sup>214</sup> Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, OJ 2005 L326/13 and Directive 2013/32/EU of 26 June 2013 of the European Parliament and of the Council on common procedures for granting and withdrawing international protection (recast).

<sup>215</sup> ECRE (2017), ‘Accelerated, prioritised and fast-track asylum procedures. Legal frameworks and practice in Europe’, May. Available online at <[https://www.ecre.org/wp-content/uploads/2017/05/AIDA-Brief\\_AcceleratedProcedures.pdf](https://www.ecre.org/wp-content/uploads/2017/05/AIDA-Brief_AcceleratedProcedures.pdf)>.

<sup>216</sup> ECRE (2017), p. 2.

<sup>217</sup> ECRE (2017).

<sup>218</sup> EMN Country fact sheet: Germany 2016; available online at [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/11a\\_germany\\_country\\_factsheet\\_2016\\_en\\_0.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/11a_germany_country_factsheet_2016_en_0.pdf).

<sup>219</sup> Grote (2018), p. 53.

<sup>220</sup> See <<http://www.bamf.de/EN/DasBAMF/Aufbau/Standorte/Ankunftscentren/ankunftscentren-node.html>>.

<sup>221</sup> Grote (2018), p. 53.

<sup>222</sup> R36.

country with a high recognition rate). Already in the registration phase, the IND determines in which track the case will be handled once the identification and registration is finished.<sup>223</sup> The designation to a specific track has consequences for the allocated procedural time limits and safeguards, such as the availability of legal assistance, but possibly also for the location where the asylum seeker has to await the decision.<sup>224</sup> From the perspective of the involved government actors, the advantages are that more cases can be handled with the same amount of staff, that asylum seekers stay shorter in reception centres and that they have to be transported less frequently.<sup>225</sup> There are also possible downsides. One Dutch respondent indicated that a disadvantage is that the ‘fastest’ tracks (3 and 5) entail less extensive interviews, which may not be desirable if there are concerns regarding national security with regard to a certain group. An additional downside is that a consequence of fast track 3 is that municipalities have to arrange housing in a very short time span for all granted statuses.<sup>226</sup> Dutch NGOs have criticized the fast-track policy because of concerns that the process is less thorough and access to legal assistance could be impaired.<sup>227</sup> Although the multitrack system had been set up during the high influx, it has never been necessary to put tracks 3 and 5 in operation.<sup>228</sup> Although faced with a considerable increase of incoming asylum seekers, this illustrates that The Netherlands could apparently still handle the influx.

The Swedish track system was not really a product of the high influx; its development had already started before the high influx.<sup>229</sup> It started to become operational in 2017, but its implementation was still ongoing at the moment of data collection.<sup>230</sup> There are four criteria on the basis of which it is decided in which track an application is dealt with: citizenship; ID-documents (they are categorised on a reliability scale); the claim on asylum; and an estimation of the possible outcome of the case. The system has five tracks for the processing of the asylum claim: 1) cases where there is a presumption of admittance, and the identity has been made likely; 2) cases where there is a presumption of admittance, but identity has not been made likely; or no presumption of admittance, but identity has been made likely; 3) cases where there is no presumption of admittance and the identity has not been made likely, and cases where specific examination needs have been identified (for example exclusion, ‘difficult’ countries, return issues); 4.a) potentially unfounded applications; cases involving EU-citizens, cases where international protection has been granted in a non-EU+country; 4.b) cases involving citizens from countries with a high dismissal rate, where quick execution of the decision is possible, or where no time-consuming examination measures are identified; and 5) cases that are subject to Dublin procedures, or cases where international protection has been granted in an EU+ country. According to a respondent, the track system is a tool to make the processing of applications easier. Placing a case in a certain track is not fixed; it is possible to move cases between tracks, for instance in case new information arises during the procedure.<sup>231</sup>

### *Safe country of origin*

As referred to above, in the context of accelerated and prioritised asylum procedures, European states are relying on the concept of ‘safe countries of origin’. The 2005 Asylum Procedures Directive and its 2013 recast allow EU countries to categorise asylum seekers based on their nationality and to use a different treatment for the category of nationals of certain third countries where there is a general

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<sup>223</sup> EMN NCP the Netherlands (2018), p. 62-63.

<sup>224</sup> ECRE (2017), p. 6.

<sup>225</sup> EMN NCP the Netherlands (2018), p. 62-63.

<sup>226</sup> R34.

<sup>227</sup> EMN NCP the Netherlands (2018), p. 63.

<sup>228</sup> R31; R34.

<sup>229</sup> R29.

<sup>230</sup> ECRE (2017), p. 7; R29.

<sup>231</sup> R29.

and consistent absence of persecution.<sup>232</sup> Since 2014, Germany has added a number of countries to its existing national list of ‘safe countries’ and shortened the procedures for these countries of origin. Furthermore, specific measures were introduced for the accommodation of asylum seekers from ‘safe countries of origin’, including the setting up of two special reception centres and the extension of the period that people were accommodated in initial reception centres up until the entire duration of their asylum procedure.<sup>233</sup>

The Netherlands used to have no national list of ‘safe countries of origin’, but established one with effect from 14 November 2015. One of the tracks in the multi-track system is tailored to asylum seekers from safe countries of origin and allows for an accelerated procedure.

#### *Other practical measures*

Apart from the above discussed rather generally implemented approaches to improve case processing capacity, some countries also introduced specific measures. The UDI in Norway, for example, introduced video-interviewing by means of Skype. During the high influx, not all applicants resided in Oslo. Instead, they were spread out over the country.<sup>234</sup> As most caseworkers were acting in the Oslo region, asylum applicants were interviewed by means of a video link, rather than in person. This practice was evaluated rather positively and is currently available in all reception centres.<sup>235</sup> Video-interviewing will most likely continue to exist in the future, possibly on the basis of a risk assessment.<sup>236</sup> Apart from Norway, also Belgium and the Netherlands have piloted video-interviewing in the project ‘Videoconferencing for Identification’. A follow-up project which will implement video-interviewing in different EU countries has been approved by the European Commission.<sup>237</sup>

Rather than *video-interviewing*, the German BAMF introduced *video-interpreting* in the spring of 2016. According to the BAMF, benefits of video-interpreting are e.g. that bottlenecks in the availability of interpreters, for instance for uncommon languages, can be eliminated and that scheduling interview appointments becomes more flexible, which has “had a positive effect on the duration of asylum procedures”.<sup>238</sup>

### 4.2.3. Improving staff capacity and competence

#### *Recruitment and secondments*

Responses to the increased influx entailed considerable budget allocations to responsible authorities, much of which was being spent on hiring new personnel and establishing new reception and processing facilities.

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<sup>232</sup> ECRE (2015), “‘Safe countries of origin’: A safe concept?”, AIDA Legal Briefing No. 3, September. Available online at <[https://www.ecre.org/wp-content/uploads/2016/06/AIDA-Third-Legal-Briefing\\_Safe-Country-of-Origin.pdf](https://www.ecre.org/wp-content/uploads/2016/06/AIDA-Third-Legal-Briefing_Safe-Country-of-Origin.pdf)>.

<sup>233</sup> EMN Focussed Study 2017, ‘The changing influx of asylum seekers in 2014-2016; Responses in Germany’; available online at <[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/11a\\_germany\\_changing\\_influx\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/11a_germany_changing_influx_final_en.pdf)>.

<sup>234</sup> R3.

<sup>235</sup> The internal evaluation UDI (2017b), ‘*Skype i asylintervjuer; Intern evaluering i Asylavdelingen*’ [Skype in asylum interviews; Internal evaluation in the asylum division] of May 2017 (on file with the authors) concludes that most UDI caseworkers consider the quality of Skype interviews to be sufficient in relation to the demands UDI has in respect of the quality in asylum interviews. The prerequisites are that the technical aspects and the arrangements in the reception centres must work well and that Skype is only used in cases that are suitable for it.

<sup>236</sup> R4.

<sup>237</sup> EMN NCP Belgium (2017), p. 41.

<sup>238</sup> Grote (2018), p. 54.

The Belgian Immigration Office recruited new personnel from June 2015; at the time, it had 105 FTE staff. Internally, 30 staff members were deployed to the asylum department. 25 staff members were recruited from other government agencies. Subsequently, 76 new external staff members were recruited. The newly recruited staff was initially hired for 4 months, which was extended to 12 months, and then to the end of 2016. Some of the newly recruited staff was then offered a permanent contract.<sup>239</sup>

At the start of the high influx, the CGRS had 380 FTE personnel. Since then, the workforce has been expanded in two instances; from August 2015, 120 FTE personnel were recruited, and from May 2016 another 33 FTE. About 130 of the newly acquired staff were protection officers for its examination and decision making units. Every unit has four protection officers and one (senior) supervisor; with the attainment of the new protection officers, this ratio could just about be upheld. At a certain moment, it became increasingly difficult, however, to find suitable candidates for the function of protection officer.<sup>240</sup> Apart from attracting new staff, the Belgian CGRS tried to increase its efficiency in all possible ways. It tried to maximise the number of decisions with the available means without compromising quality. In this respect, all staff members were devoted to handling asylum applications; they were moved away from other projects. Available hearing rooms were utilised to the maximum, without having to resort to evening or weekend shifts. Desk-sharing and working from home were also encouraged. The organisation was stretched to its limits, but it managed to deal with the expansion within the existing organisational context. As plans were developed to structurally expand the capacity, the influx decreased.<sup>241</sup>

In Germany, total expenditure for the BAMF increased from about €159 million in 2014, to about €247 million in 2015, about €652 million in 2016 and about €782 million in 2017.<sup>242</sup> The staff at the German Federal Office for Migration and Refugees was expanded, both by hiring new personnel and by seconding or transferring several thousand employees of other ministries, public authorities and civil servants of formerly state-owned companies. Figures listed in the German response to the EMN Focussed study 'Changing influx' show that where the BAMF had 2.132 FTE staff as of 1 January 2014, this had increased to 3.336 FTE on 1 January 2016, rising further to 6.653 FTE including 1.704 full-time decision-makers on 1 December 2017, while a further increase was envisaged for 2017 up to 7.400 FTE. Between 2014 and 2017, 3.101 FTE had been transferred or seconded temporarily to the BAMF. Staff were seconded by a total of 78 ministries, public authorities and former state-owned companies.<sup>243</sup> Furthermore, the *Länder* increased the staff of their police forces. With respect to training provided to new employees, an 'upskilling centre' was set up at the BAMF in Nuremberg, providing (follow-up) training and upskilling of employees. Initially, only five pc-training rooms offering 75 places were available in Nuremberg, but according to the German response to the EMN focussed study, training facilities have now been set up at ten locations, comprising 32 training rooms offering 675 places.<sup>244</sup>

In the Netherlands, all the involved organisations redirected personnel or acquired additional personnel to increase capacity, and increased opening hours in its facilities. The IND transferred employees from other processes to the asylum process, and in June and September 2015, a total of 200 additional new employees were hired. The new interviewers and decision-makers received an 'accelerated' training. According to the responses to the EMN focussed study, training new employees

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<sup>239</sup> R17.

<sup>240</sup> R20.

<sup>241</sup> R20.

<sup>242</sup> Grote (2018), p. 61.

<sup>243</sup> Ibid, p. 54.

<sup>244</sup> Ibid, p. 43.

took longer than expected, which led to an initial decrease of capacity.<sup>245</sup> The COA hired additional personnel. The National Police had an internal reshuffle of employees, where AVIM employees from various units provided assistance to the units involved at an identification process. The KMar made capacity available to assist the AVIM with documents investigations.

The Norwegian government allocated 250 million NOK (about €26 million) to UDI, and 3,4 billion NOK (about €350 million) to the running of asylum reception facilities in October 2015. According to the Norwegian response to the EMN study 'Changing influx', these budgets translated into a strengthening of case handling capacity by 240 FTE, along with necessary increase of office space, doubling UDI's capacity for processing asylum cases.<sup>246</sup> The budget reserved for reception was used inter alia on expanding existing facilities and creating new ones. According to respondents, there was a lot of interest in the vacancies at UDI, which meant that UDI had the luxury of selecting the best candidates; not only in terms of their educational qualification, but also for instance with respect to language skills.<sup>247</sup> The newly recruited staff was deployed in different units. A number of specially dedicated Syria-units had been set up within UDI. These units were a mix of experienced and newly recruited unexperienced personnel. In two of those units, for instance, 10 out of respectively 12 and 13 staff members were new.<sup>248</sup> New employees were especially young people, some of whom had come straight from university. A master degree was required for applicants; many of those who were hired had degrees in fields such as political science and law.<sup>249</sup> Once they started working at UDI, an on-the-job training programme commenced (see below). At least in one Syria-unit, a group of students was employed through a 3 month-internship at UDI. The students went through the same training programme as other newcomers. Already in the first week they were making an actual decision, and throughout the internship they did the usual case-handling, including interviewing.<sup>250</sup> New staff was also employed at the specialised F1-unit, charged with national security and 1F exclusion cases (see chapter 6). The capacity of that unit increased from 11 at the start of the high influx, to 20 in 2017. The unit was split up, where one part took on Eritrean cases, with new employees; whereas the other part focused on Syrian cases with more experienced staff.<sup>251</sup> The PU recruited a substantial number of new employees, in particular in 2015. The new employees were mostly young police officers without much experience who had just completed their police training. At the start of their job they were trained by the PU. From the summer of 2016, additional civilian staff was hired, but at that moment the influx already went down.<sup>252</sup> Also at the PST, staff increased because of the high influx in 2015-2016.<sup>253</sup>

In Sweden, the total budget spent by the Migration Agency was SEK 14.480 million (about €1,5 billion) in 2013, which increased to SEK 18.610 million in 2014 and SEK 26.787 million in 2015, and to SEK 52.249 million (about €5,3 billion) in 2016. It must be noted that these budgets include its own operations, but also running reception facilities (which is the largest post) and daily allowances to asylum seekers. The number of employees at the Migration Agency increased from 5.351 at the end of 2014, to 7.623 at the end of 2015, and 8.432 at the end of 2016.<sup>254</sup> There was a mixture of a centralised hiring process and hiring by the regional units themselves. The newly recruited staff were in many cases lawyers by education who came directly from law school. They received a combination of formal training and 'on the job'-training (doing cases); the latter took a great effort from

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<sup>245</sup> EMN NCP the Netherlands (2018), p. 73.

<sup>246</sup> Boysen & Viblemo (2018), p. 12.

<sup>247</sup> R5.

<sup>248</sup> R5; R6.

<sup>249</sup> R2; R6.

<sup>250</sup> R5.

<sup>251</sup> R2.

<sup>252</sup> R9.

<sup>253</sup> R8.

<sup>254</sup> EMN NCP Sweden (2018), p. 25.

experienced caseworkers.<sup>255</sup> Other agencies and authorities, including municipalities, also increased their staff, although the increase that can be attributed to the high asylum influx cannot be quantified, according to the Swedish EMN NCP.<sup>256</sup> The police reshuffled officers from other tasks to the reinstated internal border control and also employed civilian passport controllers.<sup>257</sup>

### *Training and qualification*

In all of the focus countries, staff capacity was substantially expanded due to the high influx. This new staff had to be trained. Different countries went about in different ways. Here, the training of new employees during the high influx in Belgium, Germany and Norway are discussed.

At the Belgian CGRS, the basic training for new protection officers takes 6 months. Also during the high influx, the ordinary 6-month program remained in place; all new protection officers went through the same basic training.<sup>258</sup> Despite the fact that in one year's time, 120 new protection officers were hired and had to be trained, there were no difficulties to cope with this high number from the perspective of the training department. The number was higher than the training department was used to, but the new officers did not all start at the same time; there were blocks of 20-30 every three months.<sup>259</sup>

As soon as a protection officer starts working at CGRS the training program begins. Every protection officer gets a coach who follows him/her very closely. The coach helps the protection officer during the entire first 6 months. During the first month, new protection officers receive a complete training program, in which they follow full-time courses on a daily basis. CGRS has its own training centre and 15-20 own trainers just for this program. The program covers courses on the 1949 Geneva Convention, the national laws of Belgium, an EASO module on inclusion (e-learning about criteria and case studies), on interviewing, evidence assessment, and decision making, and a course on IT skills.<sup>260</sup>

Besides the training, during the first month, every officer attends at least five hearings of asylum seekers, to learn how to take interviews and to integrate practices. Only after the new officer has attended five of these hearings, he or she can lead a hearing him- or herself. They will then still be accompanied by their coach during the first three hearings. At the end of the first month there is a test to evaluate the progress. After the first month, the new protection officer begins the same work as other protection officers: conducting hearings, writing decisions. The coach stays besides the protection officer and follows him or her every day and gives feedback everyday on drafts of decisions. The coach selects the cases that the new protection officer will work on; the new staff will start with the 'easy' files. The coach stays involved during the remaining 5 months of the training, and after that also as a coach. The number of decisions that the new protection officers have to make increases each month; after the first month, they have to complete 2 decisions, after 6 months they should have written 24 decisions. After that they are to deliver 9-10 decisions a month, like other protection officers. During the first 6 months, there is an evaluation every 2 months to review the ability of conducting hearings and writing decisions. After 6 months, the newly recruited protection officers should be able to function as any other protection officer.<sup>261</sup>

The German BAMF has set up a qualification centre in Nurnberg, which offered a five-week training to every new caseworker. The qualification centre is close to the BAMF headquarters. In principle,

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<sup>255</sup> R28; R29.

<sup>256</sup> EMN NCP Sweden (2018), p. 25.

<sup>257</sup> Ibid.

<sup>258</sup> R21.

<sup>259</sup> R21.

<sup>260</sup> R21.

<sup>261</sup> R21.

everyone for the whole of Germany was being trained in there, usually for several weeks. If it is more cost-efficient, sometimes a trainer is sent to a branch office, depending on the costs involved in getting people to Nurnberg, or the capacity at the qualification centre in Nurnberg.<sup>262</sup> Caseworkers are trained in how to conduct an interview, how to write decisions, etc. After the five-week training, they start to work on cases in the regional branch offices, together with senior colleagues. The first 1-2 weeks, new caseworkers watch how senior colleagues do their job. After that, they start with conducting interviews themselves (in couples of a junior and a senior colleague), later they also write decisions. Caseworkers are thus always educated 'on the job'.<sup>263</sup> The focus in the training is on the legal aspects; that is the basis. There is no attention for specific countries during the training, but caseworkers have access to the in-house country of origin information pool.<sup>264</sup> Decision makers are not assigned to a geographical unit during the five-week training, but only after they start working at a branch office. To which geographical unit someone is assigned depends on his or her qualifications; people may for instance have had a specific training or language skills.<sup>265</sup>

Not all decision makers receive the same five-week training. Some decision makers receive a more 'compact' training, others are trained for longer than five weeks. Since 2015, the qualification centre also offers specialisation trainings. Additional specialisation trainings are available. These include three EASO modules and training on dealing with vulnerable persons. Decision makers are required to undergo all of these specialisation trainings. It may take some time before caseworkers have undergone them all, as they have to be made free for the duration of the course (up to 2 weeks) and for preparing themselves for the course (also up to 2 weeks). Furthermore, senior caseworkers who have specific knowledge have been identified and asked to provide presentations to units, or to assist in the decision-making by reviewing draft decisions.<sup>266</sup>

At the UDI in Norway, a new training program was developed in response to the high influx. Before the influx, new staff members would receive a basic training at the start, and then begin deciding cases right away, under supervision of a mentor, an experienced colleague. After a few weeks, caseworkers would receive a three-day interview training.<sup>267</sup> The programme was redeveloped from October 2015, because 200 new caseworkers were to arrive in January 2016, who had to be prepared to independently assess cases as soon as possible. As there was considerable budget available it was decided to 'think big'.<sup>268</sup> In consultation with experienced caseworkers, UDI decided to develop a totally new programme with the assistance of a company with expertise in blended learning. The programme relied on the following methods and principles:<sup>269</sup>

- 'On the job' and blended learning: It was decided to work with groups of around seventy newcomers. On the first day, they would get general information about UDI, the second day on how to handle a case. Subsequently, a group of five people, supervised by one experienced caseworker, would work on one real case and by the end of the week write a decision together. The following week they worked in a similar fashion, but then in couples who worked on two cases at the same time. In tandem, while working on the case, the newcomers would by means of e-learning and in-person training be introduced to relevant concepts such as 'establishing identity', 'evidence', 'credibility', 'security', 'strategic interviewing', 'validity' et cetera. In this way, newcomers would get 'on the job training', learning by doing.

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<sup>262</sup> R36.

<sup>263</sup> R37.

<sup>264</sup> R37.

<sup>265</sup> R36.

<sup>266</sup> R36.

<sup>267</sup> R3.

<sup>268</sup> R3.

<sup>269</sup> R3.



- Tailored training: Another key component of the programme was that newcomers would receive the training they needed. Syrians or Eritreans often will get protection, but with other countries ‘credibility’ issues would be much more relevant. This means that, depending on the unit where the newcomers would eventually be working,<sup>270</sup> the learning paths differed a little bit.
- Independence and making use of existing experience and expertise: Newcomers would themselves be responsible for their learning path. They had to use knowledge and experience they already had. They all had a ‘learning reflection journal’ in which they kept track of their own developments.
- Follow-up trainings: Newcomers would typically become part of a unit of 10-12 people, consisting of a minimum of two experienced caseworkers. Structures had to be created for follow-up guidance. Units had weekly meetings and they could fill these with extra trainings, mentoring or by discussing content-related issues. Additionally, staff would be provided with the possibility to take part in follow-up trainings, for instance with a special focus on 1F-exclusion issues, or how to interview. External experts were at times also invited.

The Belgian CGRS, the German BAMF and the Norwegian UDI have all offered training of which on-the-job mentoring is an important part. An important difference between the programmes offered during the high influx, is that where the CGRS and BAMF chose to stick to the ‘regular’ programme, the UDI developed a new, shorter program, in order to answer to the increasing demand posed by the recruitment of new personnel. Another difference is that new staff at the UDI, to some extent, would receive specially tailored training (with respect to a specific country of origin), whereas in Belgium and Germany, the training was not specified but the same for every caseworker.

### 4.3. Status quo and future perspective

At the moment of writing, the influx in all of the focus countries has decreased and backlogs have been reduced to a ‘normal’ level, inter alia due to the responses that have been described in this chapter. Because of this, the political pressure on the immigration dossier has in most of the studied countries decreased. As a consequence, as will be discussed in §4.3.1, all of the countries are currently scaling down processes related to dealing with spontaneous arrivals of asylum applicants. How the countries have learned from the past ‘crisis’ and how they prepare for possible future influxes will be discussed in §§4.3.2 and 4.3.3.

#### 4.3.1. Scaling down

The scaling up of the capacity of the asylum reception and processing in the different countries in response to the high influx between 2014 and 2016, was followed by a process of scaling down after numbers had decreased structurally.

In Belgium, some but not all of the staff that was recruited since the high influx could be retained for the organisations. At the CGRS, about 60 to 70 FTE of the newly acquired 153 FTE was effectively left at the time of writing.<sup>271</sup>

As was mentioned earlier in this chapter, due to a backlog Germany did not yet experience a decrease in the number of asylum cases to be handled during 2016, in contrast to the other countries, even though the number of new arrivals dropped. However, during 2016, emergency reception facilities could gradually be closed down (although they continued to be used during 2017 in some areas), and

<sup>270</sup> Norway works with country of origin specialisation in the units; see §5.4.1.

<sup>271</sup> R17; R20.

the ratio between the number of persons residing in reception facilities and support staff improved.<sup>272</sup> The closing down of emergency and initial reception facilities led to some problems, in cases where longer term contracts had been concluded that could not be terminated when the demand was lower. The decline in the number of asylum seekers after 2016, according to the response to the EMN focussed study, “frequently marked a phase of process consolidation, stabilisation of newly-created structures, an easing of the burden on staff and volunteers, standardisation of procedures, (re)-introduction of quality standards, the provision of follow-up training for staff and the intensification of information sharing among the individual actors”.<sup>273</sup> In Germany, a lot of staff is also required for the re-assessment project that was initiated because of the Franco Albrecht case; in fact, the BAMF was forced to recruit new staff for this project (see §5.2.9).

Due to the decreasing influx in the Netherlands, the intensification of the Mobile Security Monitoring (MTV) at internal borders with Belgium and Germany was discontinued in September 2016. Furthermore, the reception capacity and the spare capacity were brought down, and crisis reception locations were closed down. In March 2018, the overall reception capacity in the Netherlands was brought down to 27.000 beds, including 5.000 beds spare capacity.<sup>274</sup> The workforce at the IND and COA in the “flexible shell” of personnel recruited during the high influx were brought down, while personnel at the AVIM was redeployed at their ‘own’ units or duties.<sup>275</sup>

Also in Norway, emergency accommodations were closed down, depending on the agreements entered into with suppliers; by mid-2016, most of the agreements had been terminated. Reception facilities throughout the country scaled down or were closed; where at the height of the influx there were over 200 facilities all over Norway, by October 2017 less than 50 facilities were in operation nationwide, a number which may go further down to 14-20 by December 2018.<sup>276</sup> Throughout 2016 and 2017, the additional staff acquired in late 2015 and the beginning of 2016 were first working on the backlog in asylum cases, before being redirected to backlogs in other areas such as family reunification. Once it became clear that the number of arrivals would remain much lower than during the peak, it was decided to reduce the workforce within UDI with well over 200 FTE. Respondents thought that this is a significant loss for the organisation, because a lot has been invested in them, and because the newly recruited staff were highly qualified, young and very good at their jobs.<sup>277</sup>

Sweden reports that towards the end of 2016, a process of systematic downsizing was started, as the number of asylum cases decreased.<sup>278</sup> Similar to other countries, emergency measures could be abandoned, staff were shifted from the registration to the processing of asylum applications, and in May 2017, the Swedish Government decided not to prolong the extraterritorial ID-checks on travellers crossing the Danish-Swedish border. The temporary act restricting the duration of residence permits and the right to family reunification is still in place.<sup>279</sup> According to the Swedish response to the EMN focussed study ‘Changing influx’, “the issue of maintaining capacity and preserving gained expertise in times of reduced inflows of asylum applicants is complicated”, but “many of the measures that have been adopted and implemented as a result of the increase in 2015 have a longer-term dimension and shall have, according to the lawmaker, positive effects even in times of decreases”.<sup>280</sup>

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<sup>272</sup> Grote (2018), p. 59.

<sup>273</sup> Ibid.

<sup>274</sup> See NOS, ‘COA sluit elf asielzoekerscentra, 250 banen weg’, 29 March 2018, last visited 3 April 2018 at <<https://nos.nl/artikel/2224928-coa-sluit-elf-asielzoekerscentra-250-banen-weg.html>>.

<sup>275</sup> EMN NCP the Netherlands (2018), p. 103-104.

<sup>276</sup> Boysen & Viblemo (2018), p. 16.

<sup>277</sup> R2; R3.

<sup>278</sup> EMN NCP Sweden (2018), p. 25.

<sup>279</sup> EMN NCP Sweden (2018), p. 27.

<sup>280</sup> EMN NCP Sweden (2018), p. 30.

### 4.3.2. Future perspective

An issue that was addressed in the interviews, but also in the EMN Focussed study, was whether any structural measures have been taken to deal with possible changing influxes in the future, and whether future measures have been planned. The most important of these measures will be outlined below.

#### *Contingency plans*

In several countries, national ‘contingency’ plans have been worked out to deal with a future high influx. The Netherlands and Sweden refer to these plans in the earlier referred to EMN studies.

In the Netherlands, the EMN NCP indicated that the cooperation between organisations in the asylum system, central government organisations in other systems, local authorities, and civil society organisations had strengthened. Furthermore, as a result of the increased influx the Ministry of Justice and Security now constantly monitors developments in the asylum influx. The Operational Coordination Centre for Foreign Nationals (KOCV) developed a contingency plan for increased influx, which describes bottlenecks and decisions to be made in four ‘influx scenarios’. In this way, the coordination of resources can be improved, and bottlenecks are identified more quickly. The contingency plan also contains an information- and communications plan. Because the increased influx showed that the organisation capacity was inadequate in some organisations, an advisory committee recommended that measures should be taken to make the deployment of personnel more flexible.<sup>281</sup>

Similarly, the Swedish Migration Agency adopted a contingency plan in December 2017. In the event of a similar crisis as in 2015, the Agency is now responsible to take emergency measures, and to participate in measures regarding crisis preparedness, together with the Swedish Armed Forces and the Civil Contingencies Agency.<sup>282</sup>

#### *Centralisation of arrival centres*

In all the focus countries ‘centralisation’ of activities in one or more centralised arrival centres has taken place. As noted in §4.2.2, Germany has established arrival centres during the high influx. In Norway, after the high influx different evaluations led to the overall conclusion that the cooperation between the PU and UDI could be improved. Late 2016, an evaluation report came out with the recommendation for a new concept for the asylum procedure, based on one central arrival and procedure centre.<sup>283</sup> A first step in this direction was already taken during the influx, with the establishment of arrival centres in Råde in the south and in Finnmark County in the north (see §4.2.2) Since the spring of 2016, the PU and UDI are jointly working out a new concept for the asylum procedure under the name ‘PUMA’. The aims of the project are to “[d]esign an effective and secure arrival, registration & reception phase which ensures adequate information for authorities to decide on differentiated case procedures; strengthen PU and UDI’s ability to handle fluctuations in arrivals; and create effective contact points for asylum seekers in the arrival phase, adjusted to differentiated groups of applicants”.<sup>284</sup>

The new concept for the asylum process will bring together all relevant actors under one roof. The project was initiated as a cooperation between PU and UDI, but also includes other actors, such as the

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<sup>281</sup> EMN NCP the Netherlands (2018), p. 137.

<sup>282</sup> EMN NCP Sweden (2018), p. 38.

<sup>283</sup> R4.

<sup>284</sup> Boysen & Viblemo (2018), p. 18.

health services and actors managing the reception centres such as HERO.<sup>285</sup> The new concept will make it possible to differentiate case flows, based on the collection of information in an early stage. “Cross-disciplinary technical teams” can use this information to determine what kind of involvement of the PU and UDI is required. Furthermore, the new concept will involve more participation and involvement of the asylum applicants, with for instance increased possibilities to access and add to their own case file, and increased use of digital solutions, including “a shared online roster of highly qualified interpreters, digital tools for operational steering of the arrival phase, simulation models for decision making, as well as increased possibilities of collecting digital traces of applicants”.<sup>286</sup>

In December 2017, the political decision was taken that this centre will indeed be established in Råde, where a central arrival centre had been opened in October 2015. Råde is on the main road to Sweden and thus a main route that asylum seekers use. It is also close to the police district responsible for the international Gardermoen airport which serves Oslo. Many asylum seekers coming into Norway, in other words, pass by Råde. Currently, the necessary investments in buildings, offices and facilities are being made. It is expected that the centre in Råde will be ready in the summer of 2019.<sup>287</sup>

The new system should be better able to deal with both low influx and peaks. The capacity in Råde will be 800 beds, which can be pressed to 1.000 if necessary. If the influx is low, the 85% occupation degree that the Department of Justice generally aims at will probably not be met, but a respondent indicated that it is necessary to have a buffer, despite the costs. The centre in Råde will in that sense play a significant role in the national contingency plan for the asylum influx.<sup>288</sup>

Respondents indicated that the new approach will have several advantages. It will reduce double work that may currently occur, as PU and UDI to some extent make the same enquiries.<sup>289</sup> The new concept will also divide the asylum procedure into smaller modules that will be more spread out. This will save time and increases the flexibility, because no longer a full day has to be reserved for every step.<sup>290</sup> The shorter modules will also give time in between to analyse the collected information, and take the outcome of the analysis into account in a possible second interview.<sup>291</sup> Currently, the PU has to collect all its information during one or two days. In the new system, PU and UDI can work in parallel processes. Having the applicant in one place makes it easier to conduct an additional interview if necessary,<sup>292</sup> and is more cost-efficient because the PU and UDI can, for instance, do their interview on the same day with the same interpreter.<sup>293</sup> In general, respondents expect that the cooperation will improve, which they hope will result in a better, smoother and faster process.<sup>294</sup> Part of the new concept is the idea that PU will more quickly share information with UDI, so UDI already has such information available when interviewing an applicant. Respondents expressed the hope that this could make it possible to sort out the ‘easiest’ cases for a decision and ‘fast track’ those, which leaves more time for more complex cases.<sup>295</sup> It is also expected that closer cooperation will lead to improved understanding of each other’s roles, possibilities and limitations.<sup>296</sup> Finally, the efforts in establishing

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<sup>285</sup> R4.

<sup>286</sup> Boysen & Viblemo (2018), p. 18-19.

<sup>287</sup> R4.

<sup>288</sup> R4.

<sup>289</sup> R6.

<sup>290</sup> R4.

<sup>291</sup> R4; R9; R16.

<sup>292</sup> R9.

<sup>293</sup> R4.

<sup>294</sup> R5; R9; R11.

<sup>295</sup> R4; R11; R12.

<sup>296</sup> R11.

the identity will be moved more upfront. In the new setup, identity or technical experts are available directly after the initial registration.<sup>297</sup>

Similarly, Belgium will centralise the lodging of asylum applications, the registration of asylum seekers and initial reception in one single arrival centre. The new model “gives preference to collective reception in centres while allowing for certain groups – such as vulnerable persons and asylum seekers with a high probability of obtaining international protection – to be assigned to an individual reception place”.<sup>298</sup> At the central reception centre that has been established in Neder-Over-Heembeek, close to Brussels, a registration channel will be set up, with a standardised process for collecting identity data, fingerprints and photos, carried out by the Immigration Office. Subsequently, the asylum seeker will be dispatched by Fedasil to an accommodation centre. In case of a higher influx, a second registration channel can be opened. The registration interview by the Immigration Office will take place in a new office building to which the Immigration Office will move (the ‘Pacheco’-building). According to a respondent, it is still debated whether the lodging of the application will take place in the Pacheco building, or also in the new arrival centre. The respondent expressed the hope that the new arrival centre will be operational in 2019.<sup>299</sup>

Different from the other countries, the Netherlands for years already has one central arrival centre in the municipality of Ter Apel. During the high influx, it was not possible to register and identify all applicants at this single centre. For this reason, the AVIM executed identification and registration tasks at various other locations throughout the country. Currently, the immigration authorities are in the process of limiting the number of reception centres “at a limited number of sites in the country, where all cooperating organisations can work together under one roof. A first selection is made in these reception centres in a fast and efficient procedure where it is determined in which track the asylum seeker continues the procedure”.<sup>300</sup>

Sweden does not have a central arrival centre, but works with regional offices. Before the high influx, there were eight centres where asylum applications could be lodged; one in every large city and close to the most important border crossings: Malmö, Märsta, Solna, Gothenburg, Flen, Norrköping (BUV), Gävle and Boden. During the high influx, more registration sites were opened, for instance in Jönköping. The capacity to register asylum applications at these centres was enhanced, for example with more machines for fingerprints/photos. From 1 February 2018, there are just three centres: Stockholm, Göteborg and Malmö. The reason for this reduction is that the estimated number of applications is (just) 23.000 for 2018.<sup>301</sup> Compared to countries such as Belgium, Germany, the Netherlands or Norway – where many different actors are involved in the registration and housing of asylum seekers – there is less of a need for ‘under one roof’-centres in Sweden, as a large part of the tasks in the asylum procedure are carried out by one and the same authority (the Swedish Migration Agency) and thus already ‘under one roof’.

#### *Decentralisation of first registration*

Somewhat in contradiction to the developments in Norway and Belgium, the Netherlands is planning to decentralise the first phase of the asylum process – although much of the procedure will still be carried out in the centralised facilities. A ‘re-design’ for the identification and registration process had been developed by a special taskforce, that was ready for implementation at the moment of data

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<sup>297</sup> R4.

<sup>298</sup> EMN Country fact sheet: Belgium 2016; available online at <[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/02a\\_belgium\\_country\\_factsheet\\_en\\_1.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/02a_belgium_country_factsheet_en_1.pdf)>.

<sup>299</sup> R17.

<sup>300</sup> EMN NCP the Netherlands (2018), p. 137.

<sup>301</sup> R29.

collection.<sup>302</sup> The re-design entails a number of changes. These changes relate to the collection of data (e.g. a 100% extraction of data carriers; see §5.2.6), the exchange of information (e.g. a name check in the police counterterrorism intelligence database and a standardised moment for information exchange with IND and COA, and a 'control desk' (*regietafel*) at which all the involved actors are represented), but moving the initial registration and identification more upfront is also an important element.

Currently, any applicant will first be transported to Ter Apel or Budel.<sup>303</sup> In the new process the identification and registration is to take place at the police station where AVIM is represented closest to where the applicant reports him or herself. The idea behind decentralising the identification and registration process is that this will reduce the chance of missing information, because applicants may throw away their passport or phone or warn each other between having initial contact at a police station and officially lodging an asylum claim in an arrival centre. In the new process, documents and personal belongings, such as data carriers, will be taken in at the very moment the applicant reports himself at the police, and the identification and registration is performed using the BVID kiosk at the AVIM station; this means that the process does not have to be performed in the arrival centres anymore.<sup>304</sup>

A disadvantage of this new approach that was foreseen by a respondent, is that the level of competence at the different locations to perform a sound identification and registration intake may become a problem.<sup>305</sup> Furthermore, the transportation of travel documents and data carriers from all of the different AVIM locations to the central arrival centre in Ter Apel might become problematic. The Operational Coordination Centre for Foreign Nationals KOCV has to coordinate the transport. All the personal belongings and documents that have been taken in, will also have to be transported to the central arrival centre, without getting lost. The respondent in particular foresaw practical problems if the influx would suddenly rise again.

### *Flexibilisation*

In all of the focus countries additional reception and accommodation capacity had been acquired during the high influx. Once the influx decreased, not all of this capacity could be sustained or continued to be reserved. In Germany, the federal states and municipalities responsible for arranging accommodation have therefore developed plans to be able to respond more flexibly to possible future fluctuations in accommodation capacity demands.<sup>306</sup> The EMN country report to the 'Changing influx' study, quotes the example of the federal state of Lower Saxony, where a system of reception facilities has been set up that should be able to run in full or in part within a matter of days. Part of the system is that capacity that is unused at a certain moment should also be used for other purposes.<sup>307</sup>

Similarly, in the Netherlands, a respondent indicated that there is an ongoing discussion to increase the flexibility of the capacity at the arrival centres, by allowing these to 'breathe'. The respondent stressed that in order to keep oversight in high influx situations, it is important to have applicants together in one central, controlled environment as much as possible. This requires that arrival centres and initial accommodation are able to flexibly scale up and down.<sup>308</sup>

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<sup>302</sup> R1.

<sup>303</sup> R1.

<sup>304</sup> R1.

<sup>305</sup> R1.

<sup>306</sup> Grote (2018), p. 62.

<sup>307</sup> Grote (2018), p. 62.

<sup>308</sup> R1.

The German BAMF also aims to increase the flexibility of its staff, in two ways. Firstly, by capacitating and qualifying some of its own staff members in a second field of tasks, in addition to their current duties. This will make it possible to temporarily deploy staff in other work areas if a reprioritisation is required by a higher influx, particularly in the areas of asylum, integration, security and returns. Secondly, the BAMF considers offering employees seconded to the BAMF training once their secondment has ended, so that in case of a new high influx they could be redeployed.<sup>309</sup>

### *Digitisation*

In order to digitise process steps in the asylum process, the German BAMF formulated a 'Digitisation Agenda 2020'. The first stage is the electronic storage of all documents. The second stage is reducing the manual input. The third stage relates to systematic decision-making support, consisting for instance of for instance a transliteration tool, which entails an automated plausibility check for name spelling (§5.2.8), the "automation of partial steps" and "intelligent interview support".<sup>310</sup> This consists for instance of automated language and facial images analysis (see §5.2.2 and §5.2.7).

In the Netherlands, two developments in the field of digitisation are ongoing or foreseen in the context of identification and registration, that also relate to security. The first is software for facial recognition. The software allows for matching any photo against all the photos in the immigration database. According to one respondent, there is a wish to apply the facial recognition systematically, so that it is always possible to establish whether someone has been in the Netherlands before. It is unclear at the moment whether this is legally allowed. Such a system would in its current form not contribute to the identification and registration itself, but can be complementary to a possible criminal investigation after someone has entered. It is currently neither technically nor legally possible to match a photo of an asylum applicant to databases of the counterterrorism police or security services.<sup>311</sup>

The second development relates to the analysis of 'big data'. If the aliens police AVIM will use 100% data carrier extraction, as it aims for in the near future, all this data will be stored in a central database. Tools are currently being developed to systematically search these data, using specially developed queries, based on indicators or profiles of persons who may pose a risk.<sup>312</sup> It would not be the aliens police performing these searches, but rather the counter-terrorism police, as this would go beyond the scope of aliens control.<sup>313</sup> The outcome of searches with queries could be discussed with other actors.

In the new Norwegian asylum concept (PUMA), more use will be made of technical innovations too. Currently there is a project on developing self-registration (SMART),<sup>314</sup> so that the applicant can register his or her information independently, directly and digitally, rather than in person. The procedure will be automatized as much as possible. Common logistical systems will also make it easier to coordinate the planning for different parts of the procedure.<sup>315</sup>

A Belgian representative of the Immigration Office indicated that there are wishes in the area of digitisation, especially in the integration of the different information systems and databases that different actors currently use. For instance, fingerprints are currently not registered in the central registration system, but in separate databases. Another issue is that the exchange of information

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<sup>309</sup> Grote (2018), p. 63.

<sup>310</sup> Grote (2018), p. 63.

<sup>311</sup> R1.

<sup>312</sup> R1.

<sup>313</sup> R1.

<sup>314</sup> It was expectedly ready for a pilot in March 2018 (R9).

<sup>315</sup> R4.

between the Immigration Office and the CGRS is not fully digital, which would be much more efficient. The systems of the CGRS and Immigration Office ('Actio' and 'Evibel' respectively) are not compatible, nor are the systems of the Immigration Office and Fedasil. The Immigration Office is redeveloping its information system that may solve some of the currently existing problems.<sup>316</sup>

#### 4.3.3. Preparedness for the future

Respondents were asked whether they believe that their 'system' to process asylum applications will be able to deal with a possible new high influx in the future. In general, respondents believed that the experiences gained during the recent high influx have made the actors better prepared and more aware of the division of responsibilities, and have improved internal communication and cooperation with other actors in the immigration process.<sup>317</sup> Some respondents stressed that the experience also further built upon the experience gained in previous situations of high influx from the Balkans in the 1990s and 2000s.<sup>318</sup> Whether or not the system was ready for new high influx, however, also depends on the nature of the influx, for example in terms of the recognition rate, identification issues and national security/exclusion issues.<sup>319</sup> Respondents made the following additional remarks with regards to a future high influx.

A Belgian Immigration Office representative indicated that moving to a new building with more flexible capacity would increase the organisation's ability to deal with a new high influx. The establishment of a central arrival centre was expected to have the same effect, and also the reception agency Fedasil foresees a greater buffer capacity in its facilities. At the same time, there still is a limit to the capacity, which may be reached if the influx rises to rapidly. However, the organisations now have the experience to quickly organise the necessary capacity and there is more communication between the involved actors.<sup>320</sup> Also at the CGRS, there is sufficient capacity to deal with a higher influx, albeit only to a certain extent. It became more challenging to find suitable candidates for the protection officer vacancies as the situation of high influx continued, and it might be more challenging today with increasingly tight labour market conditions.<sup>321</sup> The Belgian CGRS would also resort to the shortened case-handling, provided that the high influx concerns a group with either a very high or a very low recognition rate.<sup>322</sup>

German respondents indicated that, should a similar situation occur with a new high influx in combination with security risks, the BAMF would not resort to written asylum procedures again. In retrospect, when making the decision to resort to written procedures, the BAMF did not realise sufficiently how that would impact the screening of persons posing a security threat. In hindsight, it would have been a lot easier if the written procedure had not been used. From a security perspective, it is not desirable to have no interview. At the same time, the handling of cases would have lasted much longer if there had been interviews from the beginning.<sup>323</sup>

A representative of the Dutch aliens police AVIM indicated that the staff capacity could again become a problem in case of a new influx. On paper, there is enough capacity, but in practice it is questionable whether the capacity is actually available. Employees may be on leave, the police have to deal with relatively high sick leave, and there may be mismatches in deployment. In addition, allocating more

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<sup>316</sup> R17. See also EMN NCP Belgium (2017), p. 57.

<sup>317</sup> R2; R3; R5; R17.

<sup>318</sup> R6; R20.

<sup>319</sup> R4; R20; R31; R32.

<sup>320</sup> R17.

<sup>321</sup> R20.

<sup>322</sup> R20.

<sup>323</sup> R38; R39.



funds does not mean that new staff is ready the next day; this requires more time. It is also questionable whether the specific needs can be met; for instance, not enough staff skilled in Arabic language is available to have them structurally represented in all teams. For these reasons, the respondent doubted whether the aliens police could currently deal with a new high influx.<sup>324</sup> The respondent also foresaw problems with the re-design, once it would come under pressure (see §4.3.2). IND representatives believed that the organisation in general, and more specifically the system of screening (see chapter 6), should be able to deal with a new high influx. The screening was developed specifically for high influx situations and is part of the multi-track policy. They indicated that not all of the tracks in the multi-track system had to be employed during the last situation. Furthermore, the caseworkers involved in the screening also take part in the 'ordinary' case handling, which makes that they can be flexibly employed.<sup>325</sup>

In Norway, respondents expected that the capacity of dealing with a future high influx would greatly benefit from the establishment of the new central arrival centre.<sup>326</sup> One respondent, however, remarked that the new system still had to be tested in practice and that it remained to be seen how much time the different steps envisaged in the new process would take.<sup>327</sup> The Norwegian extension of the intake by the PU (the Syria 'pilot' or 'track') is one of the measures that respondents indicated they would like to see applied again, depending on the nature of the influx (only if the need for protection can be established relatively easily).<sup>328</sup> One respondent, however, warned that more should be invested to better equip the PU staff to perform the additional tasks if this approach were to be adopted again; the internal evaluation conducted by UDI came to the same conclusion (see §5.2.3).<sup>329</sup> But lessons were also learned what *not* to do again. One respondent indicated that the 'mini'-registration by the Norwegian PU, in the form in which it was carried out, resulted in a lack of oversight of where applicants were.<sup>330</sup> A PU representative indicated that the mini-registration could be adopted again, but then it should be clear what is minimally required in terms of collected information.<sup>331</sup>

#### 4.4. Conclusion

- This chapter provided an overview of responses to the challenges in relation to organisational capacity and management. The most important challenges were that backlogs in the identification and registration clogged up the asylum systems in the respective countries, which resulted in the presence of unregistered asylum seekers for a period up to several months in some countries; that asylum seekers had to be housed in improvised emergency accommodation; and that large numbers of new staff members had to be recruited, but also trained to increase the case processing capacity. The chapter consecutively discussed responses aimed at reducing the number of asylum seekers, and responses aimed at processing the increased number of asylum claims, and concluded with discussing the status quo and the future perspective.
- During and since the high influx of asylum seekers, several contextual and legislative changes occurred in the focus countries aimed at reducing the number of asylum seekers. These included the reintroduction of controls and/or security monitoring at the internal borders,

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<sup>324</sup> R1.

<sup>325</sup> R31; R32.

<sup>326</sup> R2; R5.

<sup>327</sup> R9.

<sup>328</sup> R4.

<sup>329</sup> R6.

<sup>330</sup> R5.

<sup>331</sup> R9.

legislative changes to make the asylum system less attractive and/or more 'sober', and information campaigns to explain – or 'warn' about – the reception conditions.

- Many different measures were taken to improve infrastructure, logistics, reception and accommodation. Coordinating centres were established to coordinate the logistical operation. Emergency and more structural solutions were taken to increase the reception and accommodation capacity.
- Measures to improve the case processing capacity include:
  - the introduction of centralised 'arrival centres', where different actors involved in the asylum processing work 'under one roof';
  - the introduction of pre-registration systems, to allow asylum applicants to enter the system before being fully registered;
  - the development and introduction or improvement of central information systems and (digital) registration tools;
  - specific measures to speed up decision-making, such as the extension of intake interviews or the suspension of interviews;
  - different forms of 'fast-track' case-processing;
  - the introduction of the 'safe country of origin' concept and/or expansion of safe country of origin lists; and
  - the introduction of practical measures such as video-interviewing and video-interpreting.
- In order to improve staff capacity and competence, many new staff members were recruited from outside government, or seconded from other government agencies. Existing training programmes were revised or the capacity of these programmes was expanded in order to qualify the new personnel.
- At the moment of writing, the influx in all of the focus countries has decreased and backlogs have been reduced to a 'normal' level in most countries, inter alia due to the responses that have been described in this chapter. As a consequence, all of the countries are currently scaling down organisational capacity with respect to dealing with spontaneous arrivals of asylum applicants.
- The chapter discussed structural measures that have been taken to deal with possible changes in the influx in the future, and whether future measures have been planned. In several countries, national contingency plans have been worked out to deal with a future high influx. In all the focus countries 'centralisation' of activities in one or more centralised arrival centres has taken place. Furthermore, some countries took measures towards 'flexibilisation' of accommodation and/or staff capacity. Finally, steps have been taken – or plans are being made – towards further 'digitisation' of the asylum process.
- In general, respondents interviewed in the context of this study believed that the experiences gained during the recent high influx have made the actors better prepared and more aware of the division of responsibilities, and have improved internal communication and cooperation with other actors in the immigration process. In response to the question whether they believed the 'system' in their respective countries was ready for a new high influx, they generally answered with affirmation, but indicated that this does depend on the nature of the influx, for example in terms of the recognition rate, identification issues and national security and exclusion issues.

## Chapter 5. Establishment of identity and decision-making in cases concerning Syrian asylum seekers

This chapter discusses how the studied countries have dealt with the establishment and verification of the identity of asylum seekers claiming to be Syrian, and how they have organised and/or adapted the decision-making process in relation to Syrian asylum applications. According to a 2017 EMN study, “the importance of identity management in migration procedures has increased significantly in recent years in light of the rise in the number of applications for international protection since 2014/2015 and of current heightened security challenges. The ability to unequivocally establish the identity of a third-country national is of key importance in all migration processes.” As was already noted in chapters 1 and 3, the high influx from 2014 onwards brought about its own particular challenges in the context of the establishment and verification of the identity. It is well-documented that fake Syrian passports have been relatively easily available on the black market, that there are strong indications that Islamic State seized a large number of original blank Syrian passports, and that Islamic State may even have (had) access to machines that can/could print legitimate-looking Syrian passports. Because of these developments, authorities could no longer rely on genuine or legitimate documents to definitely establish someone was actually Syrian.

In recent years, two EMN studies have been carried out in to the establishment of the identity in Europe.<sup>332</sup> In this chapter, the information from these studies is taken as the starting point, and complemented with information from the interviews. Different definitions of ‘identity’ exist. The EMN Synthesis report of the 2017 study notes that “the term ‘identity’ is generally defined as a set of characteristics that unmistakably characterize a certain person. Such characteristics can include the person’s name, date and place of birth, nationality and biometric characteristics.”<sup>333</sup> In the context of this chapter, this definition will be followed when referring to the concept of identity.

The first part of the chapter will subsequently discuss the organisation of and actors involved in the identification process in §5.1; the methods used to establish the identity in §5.2; and the information exchange §5.3 on identity. The second part discusses the organisation of the decision-making process in the different focus countries in §5.4.

### 5.1. The identification process

This paragraph presents a short overview of the actors involved in the establishment of the identity in asylum cases, as well as the procedures, in the different focus countries.

#### 5.1.1. Actors involved in the identification

The 2013 EMN focussed study on challenges and practices in establishing the identity for international protection identifies three types of organisations with operational responsibility for establishing the identity of applicants for international protection in Europe:<sup>334</sup>

1. Offices in charge of deciding on asylum applications;

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<sup>332</sup> EMN (2013), *Establishing Identity for International Protection: Challenges and Practices*. February. Available online at <<http://www.refworld.org/docid/51b893e74.html>>; and EMN (2017), *Synthesis Report for the EMN Focussed Study 2017. Challenges and practices for establishing the identity of third-country nationals in migration procedures*, December. Available online at <[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00\\_eu\\_synthesis\\_report\\_identity\\_study\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_synthesis_report_identity_study_final_en.pdf)>.

<sup>333</sup> EMN (2017), p. 27

<sup>334</sup> EMN (2013), p. 10.

2. Police/law enforcement authorities, especially border guard services and units in charge of analysing intelligence and/or identifying forgery within the police;
3. Other organisations that provide a supporting role.

The study also distinguishes three “scenarios” with regard to the role and division of responsibilities that have been allocated to (a combination of) these three types of organisations:<sup>335</sup>

1. The organisation responsible for establishing the identity decides on the asylum application;
2. The organisation responsible for establishing the identity is independent from the office in charge of deciding on the asylum application;
3. More than one organisation has operational responsibility for establishing the identity (mixed).

According to the 2013 EMN study, the first scenario applies to Sweden, whereas the third scenario applies in all the other four focus countries. In Belgium and Germany, the organisation deciding on the asylum application is responsible for establishing the identity, while other organisations provide support. In the Netherlands and Norway, the aliens police are responsible for establishing the identity (and registration) upon arrival, and the asylum authority is responsible for investigating the identity during the asylum procedure.<sup>336</sup> With regard to the focus countries the situation had not changed in 2017.<sup>337</sup> In addition, the 2013 EMN study noted that Norway and the Netherlands had established ‘central competence centres’, which carried the responsibility for establishing the identity and/or investigating documents in some procedures or cases. The 2017 EMN study reports that since 2013, Belgium and Sweden have also established such centres.<sup>338</sup> These central competence centres are discussed in §5.2.1.

In Belgium, the Immigration Office is responsible for the registration of the asylum application and collection and comparison of biometrics in European databases such as Eurodac and the Visa Information System (VIS), whereas an assessment of the credibility of the declared identity and region of origin is part of the examination of the asylum application by the CGRS.<sup>339</sup> The Immigration Office also performs a ‘security screening’ in cooperation with the police and security services (see chapter 6). Almost all asylum applications are lodged and registered at the Immigration Office in Brussels.<sup>340</sup>

Similarly, in Germany, the identity of asylum seekers is documented and verified at two stages: at the registration, and during the personal interview. At the registration, different authorities may carry out identification measures to establish the identity: authorities under the federal states (foreigners’ offices, police and reception centres), as well as the BAMF (at one of its branch offices or arrival centres) or the federal police.<sup>341</sup> The Federal Criminal Police Office gives administrative assistance in evaluating the data obtained for the purpose of establishing identity, and the Federal Office of Administration may also be involved.<sup>342</sup>

In the Netherlands, actors involved in identification in the asylum process are the immigration services (IND), the aliens police (AVIM) and the border police (KMar). The initial identification and registration takes place in identification facilities, a so-called ‘ID-street’, which are run by the AVIM and the KMar,

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<sup>335</sup> EMN (2013), p. 11.

<sup>336</sup> EMN (2013), p. 11.

<sup>337</sup> EMN (2017), p. 24.

<sup>338</sup> EMN (2017), p. 23.

<sup>339</sup> EMN NCP Belgium (2017), Challenges and practices for establishing the identity in the migration process in Belgium. Study of the Belgian contact point of the European Migration Network (EMN), December, p. 5.

<sup>340</sup> R17. The Federal Police may take in asylum applications at the border, but 95% of the applications are registered by the Immigration Office.

<sup>341</sup> Tangermann (2017), p. 27.

<sup>342</sup> Tangermann (2017), p. 26.

with the IND's Identity and Document Investigation Unit (BDOC) performing tasks in the background (such as the examination of 'source documents', e.g. birth certificates; see §5.2.1). The KMar conducts the identification and registration process at the external Schengen borders and in the context of 'Mobile Security Monitoring' (MTV). During the asylum procedure at the IND, the claimed identity is further investigated.<sup>343</sup>

In Norway, the two main bodies responsible for establishing the identity of asylum seekers are the aliens police (PU) and the immigration services (UDI). PU is responsible for the registration of asylum applications and for establishing the identity. All asylum applicants report at PU's branch offices in Tøyen, Oslo, or at the Reception centre at Råde in the south of Norway.<sup>344</sup> As the authority examining and deciding upon asylum applications, UDI will also take into account any relevant information in relation to the identity and investigate the identity through interviews or other methods.<sup>345</sup>

In Sweden, the Swedish Migration Agency is the sole body responsible for establishing the identity; the police have no formal role in this process. If people claim asylum at the border, the police will write a short memo and transport the individual, or refer him/her to an application centre of the Migration Agency to lodge their application. During the high influx, however, the border police had a stronger role. Once Sweden reintroduced border controls, the police had to change their operations with respect to people applying for asylum. Agreements were made between the police and the Migration Agency to arrange the transportation of applicants to the application centres.<sup>346</sup> The Migration Agency and the police both have specialised units to perform tasks such as biometrics analyses and document verification.<sup>347</sup>

### 5.1.2. Procedure

This section describes the overall identification and registration procedures in the different focus countries. The specific methods that are used are elaborated further below in §5.2. An overview of the entire asylum procedure in the different countries can be found in Appendix 1.

When the Belgian Immigration Office registers the asylum application, a photo and fingerprints are taken. The fingerprints are compared with the fingerprints stored in national (PRINTRAK) and international databases (Eurodac, VIS). During this stage of registration, the Immigration Office records the identity information of the applicants, such as name, date of birth and nationality and asylum applicants hand over any documents they may have.<sup>348</sup> The documents are not taken in, but only copied.<sup>349</sup> The applicant is then interviewed. The interview at the Immigration Office consists of two parts: a statement about the identity, origin, travel route, civil status, family, etc., and a short statement which acts as a 'pre-filter' for the process at the CGRS (about asylum motives, why someone cannot return), using a questionnaire drafted by the CGRS.<sup>350</sup> The average interview takes one-and-a-half hour. The statements of the asylum applicants on identity, origin and travel route together with the answers to the questionnaire are forwarded to the CGRS.<sup>351</sup> Once at the CGRS, the applicant is again asked to produce his identity documents. The examination of the asylum application by the CGRS includes a credibility assessment on the identity "in a broad way", using methods such as

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<sup>343</sup> Van Wijk & Bolhuis (2016).

<sup>344</sup> R9.

<sup>345</sup> Klunderud (2017), p. 3, 8.

<sup>346</sup> R27; R28.

<sup>347</sup> EMN NCP Sweden (2017), p. 4.

<sup>348</sup> EMN NCP Belgium (2017), p. 26.

<sup>349</sup> R17. This will change under new legislation which was not yet in force at the time of writing.

<sup>350</sup> R17; R20.

<sup>351</sup> EMN NCP Belgium (2017), p. 30.

in-depth interviews, the inquiry of documentary evidence submitted, COI information and a social media screening.<sup>352</sup>

In Germany, the identification process takes place by means of standardised data recording stations, the 'PIK' stations, that were installed at BAMF branch offices and reception centres throughout the country in 2016 (see §4.2.2). While the BAMF and other authorities have assisted in the registration process in 2015, the idea is that reception centres undertake most of the identification process themselves, using the PIK stations.<sup>353</sup> The identification process consists of the following steps. By means of the PIK stations, a biometric photograph and fingerprints are taken. Together with personal data (biographic and biometric, and procedural data), they are stored in the Central Register of Foreigners, the BAMF's MARiS system, as well as the police database (AFIS/INPOL), which enables the reception centres of the *Länder*, the different branch offices of the Federal Office for Migration and Refugees as well as all police stations to carry out a comparison of fingerprints ('Fast-ID') in any encounter with asylum seekers.<sup>354</sup> These data are then checked against different databases, including Eurodac, but also databases of the Federal Intelligence Service, the Federal Office for the Protection of the Constitution, the Military Counter-Intelligence Service, the Federal Criminal Police Office and the Customs Criminological Office.<sup>355</sup> If this collection of data does not take place at the initial registration, it should be carried out at the time of the personal interview at the latest. During the interview, the applicant is obliged to hand over any documents that can help to establish his or her identity. These documents will subsequently be physically and technically investigated. The applicant will be interviewed about his or her person, origin, family and travel route. In case of doubt about the claimed country or area of origin, a language analysis may be carried out.

In the Netherlands, the identification process is laid down in the 'Identification and Labelling Protocol' (PIL). This describes the standard methods, which are the same in all different migration processes, for all the involved organisations.<sup>356</sup> The process in the ID-streets consists of the following steps. All personal belongings are searched and the applicant undergoes a body search; a full body search may be performed on indication. Documents and objects such as data carriers are taken in. A 'quick check', a manual check for photos, emails, contact lists and other content is performed, for indications in relation to travel route, travel and identity documents, national security and public order. The KMar evaluates documents on whether they are authentic, belong to the holder, and is qualified and authentic. Subsequently, an intake interview is performed. This is followed by the registration by means of the BVID kiosk, which includes the taking of fingerprints and a facial image. Any indications in relation to human smuggling, human trafficking or terrorism that came to the fore are then analysed using any available intelligence. The collected information is then evaluated by a supervisor, who may decide to have further investigations conducted, for instance the reading out of data carriers or a further hearing. Finally, the file is processed and checked, inter alia by checking whether there have been any matches with immigration databases such as Eurodac.<sup>357</sup> Every applicant's 'identifying data' (e.g. name, personal number, fingerprints, nationality, date of birth etc.) are collected and registered. The information that is collected is stored in the Central Shared Database with Information On Applicants (BVV). Via the BVV and the 'BVID-kiosks' underlying systems, including Eurodac and the VIS, are searched for all asylum seekers; the KMar, AVIM and IND all have access to Eurodac and the Schengen Information System (SIS) II.<sup>358</sup> The identification and registration process is not only aimed at establishing the identity; collecting signals of human trafficking, human smuggling and terrorism is also

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<sup>352</sup> EMN NCP Belgium (2017), p. 26; 31.

<sup>353</sup> Tangermann (2017), p. 26.

<sup>354</sup> Tangermann (2017), p. 15-16.

<sup>355</sup> Tangermann (2017), p. 27.

<sup>356</sup> EMN NCP The Netherlands (2017), p. 15.

<sup>357</sup> EMN NCP The Netherlands (2017), p. 78.

<sup>358</sup> EMN NCP The Netherlands (2017), p. 33, 44.

part of the objectives of the process (see chapter 6).<sup>359</sup> After the identification process, the IND conducts an intake interview (*'aanmeldgehoor'*), asking about identity, origin, and possible stay in third countries. After a rest and preparation period of at least six days, the general asylum procedure (AA) starts, with a first hearing (*'eerste gehoor'*) on the first day, about the identity, nationality, travel route, professional history and family members, and on the third day a further hearing (*'nader gehoor'*) about the need for protection.<sup>360</sup>

In Norway, upon the lodging of the asylum application, PU's registration section takes in the identity documents, searches the applicant, calls an interpreter, asks preliminary questions to the asylum seeker in an intake interview and opens a case file. Subsequently, fingerprints and a photo are taken.<sup>361</sup> In anticipation of the new process that will be adopted when the central arrival centre becomes operational (see §4.2.2), recently some adaptations have been made to the registration and identification process in some selected cases (for instance for Syrian applicants). The first interview is now limited to basic facts. After this first interview, the telephone is confiscated and sent to the technical team. Previously, the identity documents would not have been looked at this point unless there clearly was something wrong. In the new approach, the registration officer will wait for results from the different examination procedures, e.g. document analysis, the results of the analysis by the technical team, and open source analysis, before the second interview is taken. Before the second interview the case will usually also be presented to PU's identity team, who can indicate what to focus on in the further registration process. During the second interview, the interviewer has all the results of the analyses so far at his/her disposal.<sup>362</sup> As the authority examining and deciding upon asylum applications, UDI will also take into account any relevant information in relation to the identity and investigate the identity through one or more interviews or other methods.

In Sweden, following a reorganisation of the asylum procedure, with inter alia the introduction of separate tracks for case-handling, the bulk of the efforts concerning identity verification have been moved upfront to the initial stage of the procedure, in particular the verification of documents (see §5.2.1).<sup>363</sup> Upon the lodging of the asylum application, the Swedish Migration Agency takes fingerprints and a photo, ideally conducts a short preliminary interview, temporary documents are arranged and the reception process is started. Furthermore, the initial phase consists of the start of the investigation of the identity and origin, identification of special needs, assessment of the need for detention or supervision and a categorization into one of five tracks is made. Already some questions are asked about the asylum claim; this is important for the processing and the categorisation for the different tracks.<sup>364</sup> The Migration Agency performs the checks on the identity and in the migration databases in the initial phase (VIS, Eurodac, national fingerprint database). In a later phase, the police can do checks in e.g. the international police databases (most often, this is done in once a negative decision is to be executed).<sup>365</sup> Short follow-up interviews (*"id-samtal"*) may be conducted to establish the identity if necessary, and applicants may be given an 'assignment' to produce ID documents (*"id-uppdrag"*). Other methods that may be used include language analysis (Linguistic Origin Identification, LOID).<sup>366</sup>

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<sup>359</sup> EMN NCP The Netherlands (2017), p. 15.

<sup>360</sup> Van Wijk & Bolhuis (2016), p. 58.

<sup>361</sup> R9.

<sup>362</sup> R16.

<sup>363</sup> EMN NCP Sweden (2017), p. 29-30.

<sup>364</sup> R29.

<sup>365</sup> R27.

<sup>366</sup> EMN NCP Sweden (2017), p. 44.

## 5.2. Methods used to establish identity

The most important methods used to establish the identity are identity documents and fingerprints,<sup>367</sup> but they are certainly not the only one. The past few years have increasingly seen the use of different and new methods including language analysis, extraction of data carriers and social media research. The nature and the scale of the influx from 2014 are one of the driving factors between these innovations. The following section discusses practices in the different countries, as well as for each method the particular challenges and measures that are connected to the scale and nature of the high influx.

### 5.2.1. Investigation of documents

In all of the focus countries, either the aliens police or the immigration authority examine documents. The degree of the examination by ‘frontline’ workers and the employment of specialised services differs per country. The EMN synthesis report of the ‘Establishing identity’ study reports that all of the focus countries, except Germany, have central competence centres for the verification of documents. The Netherlands and Norway already had such centres for some time, and Belgium and Sweden have established these more recently.

The Netherlands has two competence centres which are responsible for document verification: the Identity and Document Investigation Unit (BDOC) and the Centre of Expertise for Identity Fraud and Documents (ECID). The BDOC, a unit within the IND, is responsible for the investigation of “source documents”, documents relating to the ‘capacity’ of the person, such as military cards, marriage certificates and birth and death certificates.<sup>368</sup> The ECID, an alliance between the KMar and the National Police, is the national contact point for identity fraud and travel and identity documents. The Norwegian (Identity Resolution) ID Centre is an independent administrative body under the Norwegian Police Directorate, which supports and evaluates the work of the immigration authorities and police in establishing the identity. It has developed a database for genuine and false documents and collects information on countries where there are specific challenges for establishing the identity of applicants. The centre also has a forensic documents unit and provides training and support.<sup>369</sup>

The Belgian Central Squad against Forgery of the Federal Police is not a central competence centre as such, but does provide advisory services and other forms of support to authorities responsible for establishing the identity.<sup>370</sup> The support especially concerns the authentication/verification of identity documents and takes inter alia the form of providing information and training to frontline officers. The Fake and Forged Travel Documents Unit (DFF/VVR) of the Federal Police at Brussels Airport or the specialised units at the other border posts may also examine the authenticity of identity documents, but this is mainly in the context of border control and only by exception in other cases. While only these specialised units can officially label documents false, other actors can do a ‘frontline’ examination of documents, including the local police and several units of the Immigration Office.<sup>371</sup> The CGRS may also decide itself that a document is manifestly false; in case of doubt, it could send documents to the Federal Police.<sup>372</sup>

The Swedish Migration Agency established a Unit for Biometrics and Document Verification (*ID-enheten*) in 2009. The unit is organised in three teams; one biometrics/analysis team and two

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<sup>367</sup> EMN (2017), p. 35.

<sup>368</sup> EMN NCP the Netherlands (2017), p. 15, 22.

<sup>369</sup> See Klunderud, K. (2017).

<sup>370</sup> EMN NCP Belgium (2017), p. 27.

<sup>371</sup> EMN NCP Belgium (2017), p. 27.

<sup>372</sup> R20; R23.



document verification teams. The biometrics/analysis team carry out fingerprint searches in VIS, national fingerprint registries (AFIS) and Eurodac, and serves as the contact point for the Swedish police and Interpol.<sup>373</sup> The unit used to examine all identity documents produced by asylum applicants,<sup>374</sup> but since part of its tasks were handed over to regional document verification experts in 2016, the unit has “progressively more taken on the role of an expert unit, which handles more challenging queries”.<sup>375</sup> One branch office of the Swedish National Forensic Centre (*Nationellt Forensiskt Center*, NFC) located in Stockholm administers the analogue and digital fingerprint registry.<sup>376</sup>

Germany does not have a central competence centre, but the BAMF’s physical and technical examination unit (PTU) plays a key role in checking documents.<sup>377</sup> “Physical and technical forensic methods which leave the documents in tact as much as possible are used to examine documents of all kinds in the document laboratory, for example through using high-resolution microscopes or comparing the documents with a comprehensive collection of comparable documents. Since 2013, this central division has not only changed the examination procedure [...] but also been provided with the latest technology”.<sup>378</sup>

#### *Particular issues or measures taken in relation to the nature and scale of the influx since 2014*

From the interviews, it seems that in relation to the nature and scale of the influx from 2014, there were four main challenges in relation to the investigation of documents: 1) lacking documentation; 2) reliability of documents; 3) use of fake identities; 4) capacity at the competence centres and expertise units. These challenges, and measures that have been taken to address them, will be discussed subsequently below.

In relation to the first challenge of lacking documentation, in general in all of the focus countries relatively many Syrian applicants produced a passport or another document that could aid in establishing the identity.<sup>379</sup> Explanations offered for this phenomenon include that Syrians could relatively easily (officially) obtain genuine Syrian documents, which for a long time made being granted international protection much more likely.<sup>380</sup> However, it seems that the number of documented Syrian applicants differed over time in the different focus countries. Belgian respondents, for example, indicated that in the beginning very few Syrian applicants were documented; the number of applicants that presented identity documents only gradually increased.<sup>381</sup> In Sweden the image is reversed. Respondents indicated that the number of documents handed over decreased over time. At a certain point, there was a rumour among applicants that an application was processed faster if the applicant could make plausible that he came from Syria *without* showing a passport. According to respondents, there probably was a certain truth in the rumour, because of the backlog in processing passports at the Unit for Biometrics and Document Verification (which was one of the reasons why the document check was decentralised; see above).<sup>382</sup>

Secondly, apart from the ‘lack’ of identity documents, the reliability of presented Syrian passports was a challenge, as there was information that Syrian passports were no longer reliable and the issuing of

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<sup>373</sup> EMN NCP Sweden (2017), p. 20.

<sup>374</sup> R27.

<sup>375</sup> EMN NCP Sweden (2017), p. 21.

<sup>376</sup> EMN NCP Sweden (2017), p. 21.

<sup>377</sup> Tangermann (2017), p. 29.

<sup>378</sup> Tangermann (2017), p. 29.

<sup>379</sup> R6; R10; R29; R38; R39; EMN Belgium (2017), p. 13; EMN NCP the Netherlands (2017), p. 20.

<sup>380</sup> R6; R10; R13; R22; R23; R29; R38; EMN NCP Belgium (2017), p. 13; EMN NCP NL 2017, p. 20.

<sup>381</sup> R22; R23.

<sup>382</sup> R27; R29.

passports was not fully under control of the Syrian authorities (see §3.2).<sup>383</sup> This meant that the fact that someone produced a legitimate document did not necessarily mean he was actually Syrian.<sup>384</sup> A respondent from Sweden noted that a brand-new passport in itself could be an indication to examine the passport more closely.<sup>385</sup> At one point, Interpol distributed a list of passport numbers from stolen passports.<sup>386</sup> Respondents noted that specialised document units put out warnings that passports issued by certain offices should be examined more closely.<sup>387</sup> For this reason the Dutch authorities have retroactively investigated suspicious passport series to find if there were matches with persons who had already been granted a residence status. If this led to a match, this was reported to the police and the security service AIVD, and it was reviewed whether there were grounds in the case to withdraw the status.<sup>388</sup> A respondent remarked, however, that an exhaustive list of suspicious passports is not available.<sup>389</sup> Answers to questions from Dutch media to the Ministry of Justice and Security show that in 2015 and 2016 about 30 asylum seekers entered the Netherlands using a passport that was signalled because it was presumably used by IS or other terrorist groups. After investigations by the police and security service AIVD, none of the thirty asylum seekers was qualified to be a threat to national security.<sup>390</sup> The Belgian EMN NCP notes that although few falsifications were identified by the specialised unit of the federal police (8 out of 107 documents in 2016), “protection officers of the CGRS indicate that there are indications that false documents or fraudulently obtained Syrian ID-documents are quite regularly submitted in the context of an asylum procedure”.<sup>391</sup> In the context of a German re-assessment project, 130 false passports out of 25.000 revisited passports had been identified in 2017 (see §5.2.9).

The third challenge was the use of fake identities by applicants. In Belgium, Norway and Sweden, there were indications that applicants who claimed to be Syrian have also (had a) legal stay in a third country. The Belgian authorities identified a particular influx of Roma immigrants (immigrants belonging to the ethnical group ‘Dom’), who may be of Syrian origin, but may also have the Armenian or Lebanese nationality, or had already had a legal stay in France or Germany prior to applying for asylum in Belgium as Syrians. This could also explain why some applicants do not have an interest in presenting identity documents.<sup>392</sup> Swedish respondents also had experienced that some of those claiming to be Syrian were in fact not Syrian, but Armenian or other nationalities; according to respondents, this was established in a limited number of cases.<sup>393</sup> A Norwegian respondent noted that late 2014, early 2015, different asylum seekers claiming to be from Syria had very similar stories, who turned out to come from neighbouring countries, from a certain region near the Syrian border (see §5.2.9).

Fourthly, the high influx was a challenge because the central competence centres or expertise units in some of the focus countries could not handle the amount of, or backlogs occurred which were a

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<sup>383</sup> R13; R23; R32.

<sup>384</sup> R13; EMN NCP the Netherlands (2017), p. 20.

<sup>385</sup> R27.

<sup>386</sup> R23.

<sup>387</sup> R30; R32.

<sup>388</sup> R32. The consequences of using false or forged identity documents in Europe was the subject of a 2017 EMN ad hoc query. See ‘Consequences of using false/forged ID-documents for immigration procedure: EMN ad hoc query’, requested on 16 June 2017, last visited 3 April 2018 at <[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/2017.1204\\_lu\\_impact\\_of\\_falseforged\\_documents.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/2017.1204_lu_impact_of_falseforged_documents.pdf)>.

<sup>389</sup> R32.

<sup>390</sup> A. Kouwenhoven, ‘30 asielzoekers in Nederland met een ‘IS-paspoort’’, NRC, 18 February 2018, last visited 4 April 2018 at <<https://www.nrc.nl/nieuws/2018/02/18/30-asielzoekers-in-nederland-met-een-is-paspoort-a1592712>>.

<sup>391</sup> EMN NCP Belgium, p. 13.

<sup>392</sup> R20; R22; R23; R24.

<sup>393</sup> R28; R29.

bottleneck for the rest of the asylum procedure. Over the last decade, the focus countries have increasingly established competence centres and specialised units and made other efforts to strengthen the identification process. In Sweden, for instance, pilot projects were carried out between 2011 and 2014, which entailed, inter alia, submission of all documents to the central competence centre for analysis.<sup>394</sup> With the high influx, however, such practices were no longer tenable. In Sweden, the backlog at the competence centre caused a further backlog at the Asylum Examination Units, because caseworkers were dependent on the examination of the identity documents.<sup>395</sup> In Belgium, it was decided to no longer submit all identity documents for authentication to the Central Squad against Forgery (CDBV/OCFR) of the Federal Police.<sup>396</sup>

In order to increase the efficiency of the document investigation process, and to ease the burden on the central competence centres, some of the tasks of the competence centres have been decentralised in Germany, the Netherlands and Sweden. Up to 2015, in Germany all original documents used to be examined at the BAMF headquarters, but it was decided to shift the first step of the examination procedure (for the most important countries of origin) to the branch offices and arrival centres. The headquarters provided training to staff at the branch offices to carry out these new tasks.<sup>397</sup> Since 2015, the document examination takes place in three stages. Firstly, there is an initial examination of the documents by trained staff at the branch offices or arrival centres; secondly, a more detailed examination of documents thought to be manipulated can be carried out by the BAMF's physical and technical examination unit; thirdly, a final examination and a possible determination of the document as false takes place at the BAMF's headquarters. Passport readers have been introduced nationwide, so that machine-readable documents can be examined automatically by the branch offices and arrival centres.<sup>398</sup> Since mid-2015, experts at the IND's competence centre BDOC make an upfront examination, to sort documents in different categories. The documents with the strongest indications are sent to the back office for an in-depth investigation.<sup>399</sup> A similar development has occurred in Sweden. Where the process of document verification used to be carried out by a central competence centre (the Unit for Biometrics and Document Verification), this was decentralised to some extent in 2016, when some of these tasks were taken over by regional document verification experts (*regionala dokumentgranskare*). The regional experts perform a first screening of documents and categorise the documents depending on the degree of certainty about the identity. If further research is needed, documents are submitted to the Unit for Biometrics and Document Verification for a more thorough examination.<sup>400</sup>

Also in Norway, a technical unit first examines all documents which are deemed not to be problematic. This ensures a speedy procedure. Typically, about 95% of the documents is considered not to be problematic.<sup>401</sup> Similar to practices in Germany, the Netherlands and Sweden, when a document is considered 'problematic' it is first assessed by the least trained or experienced colleagues. If they believe there is something strange with the document, the second line with more knowledgeable/experienced colleagues steps in. If they cannot handle it, it goes to other experts within the unit. Finally, there is the possibility to have the document checked by the national ID centre.

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<sup>394</sup> The VEFÖ I and II projects; see EMN NCP Sweden (2017), p. 30.

<sup>395</sup> EMN NCP Sweden (2017), p. 30.

<sup>396</sup> EMN NCP Belgium (2017), p. 13.

<sup>397</sup> Tangermann (2017), p. 33.

<sup>398</sup> Tangermann (2017), p. 33; R39.

<sup>399</sup> EMN NCP (2017), p. 46, 73.

<sup>400</sup> EMN NCP Sweden (2017), p. 29-30.

<sup>401</sup> R12.

### 5.2.2. Language analysis

Language analysis is standard in the Netherlands and Norway for some nationalities and optional when there are indications that the applicant has provided false information. Language analysis is optional in Belgium, Germany and Sweden.<sup>402</sup> According to a respondent, the Belgian CGRS in practice does not use language analysis in establishing the identity.<sup>403</sup>

In Germany, a language analysis may be carried out if there are reasonable doubts about the applicant's country or region of origin. The BAMF involves external language experts in the examination.<sup>404</sup> A linguist takes an interview of 30 minutes and writes a report based on that. If someone speaks Levantine Arabic, for instance, this may be an indication that someone comes from a certain country. If the indication is strong, the caseworker can try to confirm it with other information. The interviewer will get the language analysis report on forehand and can use it to decide what questions to ask.<sup>405</sup> Interestingly, cases in which language analysis is used are always reported to the internal security division of the BAMF.<sup>406</sup> In response to the high influx, the BAMF has also started a project on the digital recognition of dialects on the basis of a short voice recording (see below).<sup>407</sup> In Norway, for some nationalities, language analysis is standard practice, and for other nationalities, the language test may be used when there are indications that the information provided by the applicant is false. The language test is initiated by the PU and carried out by a subcontractor.<sup>408</sup> Similarly, in Sweden, language analysis may be used to establish the identity, but this is not the standard operating procedure. Language analysis only takes place later on in the process, if there is a situation of a non-established or non-credible identity. The language tests are now limited to an analysis of spoken language, whereas until the beginning of 2016, the language assessment also included questions on the country (questions on the country of origin are still asked in the asylum interview to assess the claim). Forensic analyses of language are outsourced.<sup>409</sup>

The Netherlands works with language analysis on the basis of a short voice recording. Linguists of the IND, with the assistance of language analysts at the OCILA (Office for Country Information and Language Analysis), analyse a 'language indicator'; a short recording (5-10 minutes) of the asylum seeker's voice. If the language in the recording can unequivocally be traced to the claimed country of origin, this is stated in the language indicator; if not, a complete language analysis is advised.<sup>410</sup>

#### *Particular issues or measures taken in relation to the nature and scale of the influx since 2014*

In the Netherlands, a standard language analysis in combination with a standard country of origin check (see §5.2.4) with respect to all Syrian applicants, both documented and undocumented, was introduced in November 2016, in response to information that Syrian passports were no longer

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<sup>402</sup> EMN (2017), p. 53.

<sup>403</sup> R20.

<sup>404</sup> Tangermann (2017), p. 27, 35.

<sup>405</sup> R40.

<sup>406</sup> Tangermann (2017), p. 35.

<sup>407</sup> Tangermann (2017), p. 37. According to Tangermann, critics have voiced concerns that such a system would not be accurate enough: "first, the programmes themselves would not be sufficiently precise yet, and second, people may develop regional, familial or social language variants within their dialect (e.g. youth language) which may make it more difficult to match their language with certain regions of origin. Moreover, dialects are often used across national borders, particularly Arabic dialects, which would make it even more difficult to match a language with a nationality". According to Tangermann, however, "The Federal Office for Migration and Refugees regards the software to be only an assistant system, which is to 'help employees to establish the identity of asylum applicants' by providing indications that make it easier to determine their origin'."

<sup>408</sup> Klunderud (2017), p. 11-12.

<sup>409</sup> R27; R28; R29.

<sup>410</sup> EMN NCP the Netherlands (2017), p. 37.

reliable and the issuing of passports was not fully under control of the Syrian authorities, for which reason Syrian passports were branded 'high-risk'.<sup>411</sup> Before that time, these methods could also be used when there were indications that a document was not authentic or legitimate.<sup>412</sup> Since 1 January 2017 similar measures have been taken with respect to third-country nationals with Libyan and Iraqi passports.<sup>413</sup> A language analysis is, however, not considered useful with Libyan applicants because the result does not say much about whether it can be assumed that the applicant holds the Libyan nationality. A large part of the Libyan people originates from Arabic language neighbouring countries, some of whom also hold the Libyan nationality. For this reason, the connection between origin, nationality and language variant is blurred. In the case of Iraqis, a linguist decides on a case-by-case basis whether language analysis is thought to be useful, depending on the claimed area of origin or ethnicity.<sup>414</sup>

In Germany, during the high influx, there were a lot of cases in which the applicant had no identity documents and the interpreter could not say with certainty where the persons originated from. The linguist department that carries out language analysis in such cases (see above) had a large backlog; the linguist specialists were not available in a large amount. The BAMF was looking for a way to filter cases before they were sent to the language analysis. In response, language biometrics software was developed to analyse voice recordings.

#### Language biometrics software

On the basis of a two-minute statement, software developed by the German BAMF can provide an analysis of the language that the applicant speaks, which is reported to the interviewer. The branch offices have special phones, which have five Arabic language modules. The applicants make a statement in the phone for at least two minutes, preferably without too many breaks. They can talk about a topic of their own choosing or they can describe pictures that are given to them. The software will process the recording and draw up a report. This gives a prediction of the dialect and a match percentage. On that basis, the decision-maker can make an assessment what questions to ask during the interview and/or whether to have an extensive language analysis conducted (R40).

This method is used only if the applicant does not present any documents. If an applicant provides genuine ID-documents, no language analysis – and neither any extraction of data carriers – will take place. On the contrary, the analysis of documents will always take place. Many Syrian applicants present a passport, but you do not know if the passports are genuine/legitimate. If there is a suspicion of forgery, then language analysis or extraction of data carriers will still take place.<sup>415</sup>

The project has been criticized in German media for lacking accuracy: “first, the programmes themselves would not be sufficiently precise yet, and second, people may develop regional, familial or social language variants within their dialect (e.g. youth language) which may make it more difficult to match their language with certain regions of origin. Moreover, dialects are often used across national borders, particularly Arabic dialects, which would make it even more difficult to match a language with a nationality”.<sup>416</sup> In response to this criticism, the German EMN submission in the context of the study on establishing identity notes that the BAMF “regards the software to be only an assistant system,

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<sup>411</sup> R32; EMN NCP the Netherlands (2017), p. 37.

<sup>412</sup> R32.

<sup>413</sup> EMN NCP the Netherlands (2017), p. 37.

<sup>414</sup> R32.

<sup>415</sup> R39.

<sup>416</sup> Tangermann (2017), p. 50.

which is to ‘help employees to establish the identity of asylum applicants’ by providing indications that make it easier to determine their origin”.<sup>417</sup>

### 5.2.3. Interviews

Interviews as a method to determine the identity are obligatory in all focus countries except the Netherlands, although the use of interviews is a standard procedure there.<sup>418</sup> In Germany, as an exception to the rule because of the high influx, interviews have not been conducted in all cases, as the interview was for a certain period of time (November 2014 to March 2016) replaced by a questionnaire on paper (see below).<sup>419</sup>

In Belgium, the Netherlands and Norway, interviews are taken by two different authorities. In Belgium, the Immigration Office conducts an intake interview, and the CGRS also investigates identity in follow-up interviews. Belgian respondents indicated that the Immigration Office takes the identity that is claimed during the intake as a given should there be doubt or indications that this is not correct, then this is reported to the CGRS.<sup>420</sup> In the Netherlands, the AVIM conducts an intake interview in the context of the identification and registration process. At three moments in time interviews are conducted by the IND; a first intake interview upon registration on identity, origin and possible stay in a third country. During the asylum procedure, a second interview (referred to as the *eerste gehoor* on identity, nationality and travel route, and a third interview (*nader gehoor*) on the need for protection. The first intake interview is typically taken by someone else than the second and third interview. In Norway, PU conducts an intake interview, followed by a second interview; UDI conducts one or more follow-up interviews which focus both on identity and the need for protection.

In Germany and Sweden, all interviews are taken by the same authority. In Sweden, the Migration Agency conducts a preliminary interview upon registration, in which inter alia identity and origin are addressed, and some questions are asked about the need for protection to enable categorization into one of five tracks is made. In Germany, no ‘intake interview’ is conducted and there is normally one interview, after registration and identification has been completed.<sup>421</sup>

#### *Particular issues or measures taken in response to the nature or scale of the influx from 2014*

Different respondents indicated that, due to the high recognition rate for Syrian applicants, what was discussed in interviews with Syrian applicants deviated from what is usually discussed in asylum interviews. The interviews would not revolve around the reasons for fleeing, but mainly around establishing the identity and identifying possible national security or exclusion issues.<sup>422</sup> Some respondents noted that because of the high recognition rate there was no need for Syrian applicants to make elaborate statements.<sup>423</sup> One respondent in this respect indicated that Syrians ‘can only talk themselves out of a status’; the less they say during an interview, the greater the chance that they are given an asylum status.<sup>424</sup>

Belgium introduced a shortened procedure for some nationalities, including the Syrian (see §4.2.2). This reduced the duration of the asylum hearing by half; CGRS protection officers could now hear two

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<sup>417</sup> Ibid.

<sup>418</sup> EMN (2017), p. 54.

<sup>419</sup> R38; R39.

<sup>420</sup> R17.

<sup>421</sup> See AIDA, ‘Regular procedure Germany’, available online at

<<http://www.asylumineurope.org/reports/country/germany/asylum-procedure/procedures/regular-procedure>>.

<sup>422</sup> R6; R7.

<sup>423</sup> R6; R9; R34.

<sup>424</sup> R9.

persons a day instead of one.<sup>425</sup> As part of the shortened case handling, for a limited number of cases the first interview that is normally conducted by the Immigration Office, was conducted by CGRS staff. The intake-interview conducted by the CGRS was slightly more extensive than interviews carried out by the Immigration Office. Because of this, in cases where there were no particularities, the case could be decided right away.

In Germany, a 'simplified asylum procedure' consisted of a temporary suspension of personal interviews initially for Syrian and Iraqi, Yezidi, Christian and Eritrean asylum seekers, with the aim of speeding up the asylum procedure.<sup>426</sup> According to a respondent, there was a call from the public to apply shorter procedures for Syrian applicants. The BAMF considered to adopt a procedure similar to the one it had been applied in the 1990s with asylum seekers from Bosnia. At that time, Bosnian asylum seekers too did not have interviews and were offered temporary protection, without going through the asylum procedure or undergoing thorough checks. For Syrians, it was decided that it would be possible to grant them a status without an interview, but that they had to go through asylum procedures because then information would also be available to the security services.<sup>427</sup> German law requires a high recognition rate in order to discard the hearing; only in cases where it is likely that the asylum application is granted it is allowed to take this approach. At the time, the jurisprudence was unanimous that this could be done for the mentioned nationalities.<sup>428</sup> In these cases, decisions on asylum applications were taken based on a ten-page questionnaire, and decisions were taken on the basis of the written information. Refugee status would be granted "if the evidence was sufficient for recognising refugee status and there were neither concerns about the person's identity or security doubts".<sup>429</sup> The simplified asylum procedure was gradually abandoned from December 2015 onwards, due to "security concerns associated with the simplified procedure, among other things".<sup>430</sup> According to the German contribution to the EMN focussed study also made retroactive fingerprinting, photographing and examining passports necessary, which led to new challenges.

Remarkably, in Germany a respondent indicated that in establishing or verifying the applicant's identity, the caseworker guidelines instruct to consult interpreters during the interview and ask how they value the information that is being presented by the applicant. Perhaps the interpreter has noted something suspicious, or something that sounds incorrect or does not make sense, or identifies a specific dialect that indicates that an applicant has a different origin than he claims.<sup>431</sup> When this practice was discussed at the expert meeting, experts from other countries stated there are no such instructions in their countries and that something like that could even violate the guidelines or code of conduct in their respective countries. The interpreter is seen as an 'instrument' and is, in principle, not to interfere in the case. In exceptional circumstances, there can be interaction between a caseworker and an interpreter, but that is rather of a reactive nature: if the interpreter brings something up (e.g. indicates that (s)he doubts whether an applicant is from the area that he claims to be from), this could for a caseworker be a reason to ask more questions.

In order to increase the case processing speed, the Norwegian authorities introduced the 'Syria pilot', followed by the 'Syria track' (see §4.2.2). PU would conduct a more extensive first interview with Syrian applicants, which was not limited to checking the identity and look for possible security issues, but would also include questions about the reasons for asylum that would previously only be addressed in interviews at UDI. To facilitate the more extensive interviews, PU developed an indicator

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<sup>425</sup> R20.

<sup>426</sup> Grote (2018), p. 53-54.

<sup>427</sup> R38.

<sup>428</sup> R38.

<sup>429</sup> Grote (2018), p. 53-54.

<sup>430</sup> Ibid.

<sup>431</sup> R36.

list for cases of applicants claiming to be Syrian, that has been in use since 2017. The indicator list was developed to critically assess the identity of the applicants, identify indications that someone may have had legal residence in a third country, and to assess whether the individual poses a threat to national security or may have committed past crimes.<sup>432</sup> The list builds upon input from the security service PST and UDI.<sup>433</sup>

The indicator list also contained questions to be asked to applicants. The indicator list mentions the sort of questions a PU officer should ask to check the identity of applicants and is designed for the pressed, rushed situation that occurs during the intake interview: there is time pressure, everyone is communicating through an interpreter, children may be running around. The indicator list contains certain traits the caseworker should look and ask for, and suggests follow-up questions. The digital list contains different headers. Once the interviewer clicks on a header/subject in the list (for instance, 'worked in the military'), a set of questions unfolds which the interviewer is supposed to ask. There may also be smaller indications that are relevant to establish the origin or travel route. For example, if a toddler walks around with a toy or a milk bottle in its hand with Russian writing on it, this may indicate that the family came from Russia or Ukraine. Many Syrians have been trained as dentists or doctors in Ukraine. The Russian writing would be a starting point to go further into the matter. The same goes for clothes applicants are wearing. Applicants could also be heard speaking German, or pieces of a ticket from Ukraine were found in the luggage.<sup>434</sup>

Respondents from the UDI indicated that once the pilot was adopted as the standard for Syrian applicants, it proved challenging for UDI to rely on the interviews taken by PU.<sup>435</sup> Although according to respondents UDI tried to guide the PU on how to interview, the quality of the interviews was not always sufficient for UDI to decide on applications.<sup>436</sup> The estimates that two respondents – both responsible for a different unit – made of the number of cases in which an additional interview had to be conducted to gather more information, differ substantially: the one unit leader estimated that additional interviews were conducted in only 10-15% of the cases, whereas the other arrived at a much higher estimate of 50-60%.<sup>437</sup> An evaluation carried out by UDI concluded that the follow-up by UDI was not always adequate: in a sample of 60 Syrian cases where refugee status had been granted in 2016, a number of cases were found where – in deviation of the applicable protocols – information obtained by the PU in its intake interview on identity and/or national security was not investigated in an asylum interview by UDI.<sup>438</sup>

Respondents gave several explanations why handing over some of the UDI tasks to the PU in their view did not always work out in practice. One was that the PU also had to deal with lack of capacity and shortages in manpower.<sup>439</sup> Performing tasks for another agency, in addition to its own tasks, may not have been the largest priority.<sup>440</sup> Another possible reason was that staff at the registration units may have lacked the competences, the right qualifications and the expertise for the tasks, and did not have the same country of origin information or guidance and feedback at their disposal as UDI

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<sup>432</sup> R10.

<sup>433</sup> R16.

<sup>434</sup> R10.

<sup>435</sup> R5.

<sup>436</sup> R5; R6; R7.

<sup>437</sup> R7; R5. One of the respondents believed that in the end, UDI might have spent extra resources because of the Syria-track, instead of saving resources (R5).

<sup>438</sup> UDI (2017a), 'Sluttrapport for den årlige kvalitetsmålingen 2016' (on file with the authors), p. 10-11. See also L. Akerhaug, 'Syria-alarm: Sviktende identitets- og sikkerhetskontroll', 22 August 2017, last visited 6 June 2018 at <<https://www.minervanett.no/syria-alarm-sviktende-identitets-sikkerhetskontroll/>>.

<sup>439</sup> R5.

<sup>440</sup> R7.



caseworkers.<sup>441</sup> This also meant that PU staff could not always value the information collected in the interview.<sup>442</sup> The evaluation report that was mentioned above, noted that there was a need for a clear instruction to, and a training of, the PU on what information is needed to decide a case.<sup>443</sup>

#### 5.2.4. Country of origin checks

In all the studied countries interviews performed in the context of the asylum procedure generally entail questions about the country of origin. When interviewed, applicants are generally asked in detail about the area where they claim to come from, and the statements of the applicant are checked against country of origin information (COI). Belgian respondents noted that the type of questions that are asked can be adjusted to the profile of the applicant; an illiterate applicant would be asked different questions than an applicant who enjoyed university education. The protection officer decides which questions to ask, depending on the profile. Varying the questions has the additional advantage that applicants can less easily share among each other what questions to expect. The different units within the CGRS exchange questions that can be asked.<sup>444</sup>

While respondents indicated that the country of origin information desks in the different focus countries were generally well-informed, despite the ever rapidly changing situation in Syria,<sup>445</sup> several respondents mentioned the availability of adequate country of origin information as one of the main challenges during the high influx. It should be noted that these remarks related especially to information that was needed to assess aspects national security or exclusion issues (see §6.4.1).<sup>446</sup> Country of origin information is, to some extent, exchanged internationally via EASO.<sup>447</sup>

#### 5.2.5. Social media analysis

A development that more or less coincided with the high influx is the increasing use of social media research as a method to establish identity, origin and travel route. The method is also used to identify issues in relation to national security or exclusion; the use of social media research in that context will be discussed in chapter 6, although it is not always possible to separate the two contexts. The synthesis report of the EMN study into practices in establishing the identity, notes that the analysis of social media became a standard practice in inter alia Belgium, the Netherlands, Norway as well as two other EU member states, while it is optionally used by eleven member states.<sup>448</sup> The BAMF is exploring possibilities to conduct social media analysis in the future, but it has so far not been used.<sup>449</sup>

The Belgian EMN NCP reports that the protection officers of the CGRS have been receiving a training on social media analysis since August 2016, and have also been provided with guidelines for carrying out the analysis. Social media analysis is used to assess the credibility of an asylum application and to establish (elements of) the identity, or for indications of exclusion.<sup>450</sup> According to respondents, social media analysis is not done systematically, but only in cases where there are doubts or certain indications. This is partly due to the fact that social media analysis is time consuming.<sup>451</sup> Only

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<sup>441</sup> R5.

<sup>442</sup> R5.

<sup>443</sup> UDI (2017a), p. 10-11.

<sup>444</sup> R22; R23.

<sup>445</sup> R7; R20; R22; R23.

<sup>446</sup> R2; R5; R31; R32.

<sup>447</sup> R22.

<sup>448</sup> EMN (2017), p. 32.

<sup>449</sup> R38.

<sup>450</sup> EMN NCP Belgium (2017), p. 40.

<sup>451</sup> R22; R23.

information on the public part of the social media accounts is accessed.<sup>452</sup> On a conference in Norway, a representative of the CGRS noted that, as part of a special project on the implementation of the use of Facebook in the CGRS office, the organisation has a specialised unit for social media research under the country of origin information desk Cedoca. This unit provides continuous training to caseworkers, assists caseworkers in carrying out social media research, has staff members who read Arabic and Russian, and takes on 'difficult' cases such as exclusion cases.<sup>453</sup> An amendment of the Immigration Act created the possibility for the CGRS to invite the applicant to submit any relevant information on social media in case there are any suspicions that he or she withholds information.<sup>454</sup> Refusing to disclose information on social media does not lead to an automatic refusal of the asylum application, but can be taken into account in deciding upon the application, if there are other indications that may possibly be reason to deny the application. Refusing to cooperate in this sense may also be a reason to ask for information at the intelligence services.<sup>455</sup>

Since the high influx, the Dutch IND, KMar and police have been searching open sources on social media for indications of the identity of foreign nationals.<sup>456</sup> In March 2016, the IND has introduced a systematic 'screening' on enforcement aspects in the asylum procedure after the registration and identification is completed, which entails a social media analysis. Until that moment, 'enforcement coordinators' at the IND's application centre in Ter Apel already performed social media analysis on an ad hoc basis. When the 'screening' was officially introduced and standardized, it was implemented in such a way that it can take place in a coordinated, uniform and safe manner.<sup>457</sup> The screeners only search public information. The IND has a specialist team that can look more closely into information on social media.<sup>458</sup>

In Norway, both the PU and the UDI use social media analysis to facilitate establishing the identity. According to the EMN NCP, although the evidence of information on social media may be low, it has proven valuable in combination with information from other sources.<sup>459</sup> According to a representative of UDI, during the high influx UDI social media screening was not used systematically. Whether or not the method was used mainly depended on the familiarity of the caseworker with social media (young caseworkers would use it more often than older caseworkers). From the end of 2016, however, social media analysis started to be applied more systematically at UDI.<sup>460</sup>

In Sweden, social media analysis does not take place in all cases. Whether or not caseworkers use the method, is up to the individual caseworker. According to respondents, for the Migration Agency it is still somewhat of an unexplored area.<sup>461</sup> An internal policy document (drawn up in 2016) says that social media can and should be used in regular asylum cases. The document was partly the result from a process initiated by a decision by the Ombudsman concerning the use of results from social media vetting by the social services as evidence in court. In response, different government agencies had to come up with a policy on social media vetting. The document, however, does not specify in what way it should be performed, which leaves room for interpretation. The document does say that

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<sup>452</sup> R20.

<sup>453</sup> See a video of the conference, with the presentation by the representative of the CGRS, at <<https://www.udi.no/en/statistics-and-analysis/european-migration-network---norway/conferences-and-events/conferences/the-use-of-methods-and-technology-in-identity-verification-2017/>> (last visited 14 June 2018).

<sup>454</sup> EMN NCP Belgium (2017), p. 40.

<sup>455</sup> R20.

<sup>456</sup> EMN NCP the Netherlands, p. 45.

<sup>457</sup> R31.

<sup>458</sup> R31.

<sup>459</sup> Klunderud (2017), p. 13.

<sup>460</sup> R7.

<sup>461</sup> R28; R29.

caseworkers should not do social media vetting with a private computer or a private account.<sup>462</sup> The Migration Agency has a specialized unit for social media screening in relation to possible exclusion or national security cases (the FSUS-unit; see §6.4.2). It in particular deals with exclusion cases. It might be that in the side-line also identity issues are looked into, but questions in relation to someone's identity are typically not a trigger for social media screening by FSUS.<sup>463</sup>

#### *Value of information from social media*

None of the respondents was aware of the existence of any evaluations that assess the effectiveness of social media analysis. That said, respondents had different views on the value of social media analysis. Representatives of the Dutch IND, for example, considered the social media research very useful. For a period, there was a suspicion that the more applicants were aware that social media were systematically screened and that less information surfaced, but according to respondents the analysis still produced a lot of useful information at the moment of data collection. There have, however, been cases in which there are indications that applicants have set up a fake account as a matter of window-dressing, or cases in which applicants had several accounts. However, in the experience of Dutch respondents, applicants have to really prepare well to properly conceal that they have set up fake accounts, as in the Netherlands also data carriers can be extracted (see §5.2.6).<sup>464</sup> According to the Belgian EMN NCP, in particular in cases where there is a doubt regarding the credibility of the asylum motives, country or region of origin, or potential exclusion cases, information from social media has proven valuable.<sup>465</sup>

On the other hand, there were respondents who doubted the usefulness of social media analysis. One respondent, for instance, warned that social media analysis is of limited use when there is lack of knowledge among caseworkers how to find information on social media.<sup>466</sup> Contrary to the Dutch experience, some Norwegian and German respondents believed that the value of social media analysis should not be overstated, because applicants by now are well aware that the authorities will check their phone and social media accounts.<sup>467</sup> Respondents also indicated that the information presents weak evidence. Statements of respondents made clear that 'the value' of information taken from social media regularly is a source of discussion. One caseworker, for example, referred to discussions with younger colleagues who concluded that an applicant must have been Syrian because he displayed a Syrian flag and had many Syrian friends.<sup>468</sup> A Norwegian respondent referred to the fact that cases had been turned down because asylum seekers had claimed to be under age, while it had been found out that their Facebook account mentioned they were 21. The respondent questioned the value of the evidence taken from social media, as it is not uncommon for young social media users to present themselves online with a different age, because it may otherwise not be possible to create an account.<sup>469</sup> German respondents noted that a lot of the information on social media is only available in Arabic and that one needs special interpretation or analysis software to actually make sense of it. A particular challenge in Germany has been the size of the influx; doing a proper social media check on all applicants is simply not feasible. German respondents also referred to problems with regards to privacy protection/legal limitations in collecting and storing personal data.<sup>470</sup>

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<sup>462</sup> R43.

<sup>463</sup> R43.

<sup>464</sup> R31; R32.

<sup>465</sup> This is underlined by the fact that the substantiation of some decisions was based on information from Facebook, and has been accepted in appeal; see EMN NCP Belgium (2017), p. 40. See also §6.4.2.

<sup>466</sup> R7.

<sup>467</sup> R7; R38.

<sup>468</sup> R7.

<sup>469</sup> R12.

<sup>470</sup> R38; R39.

Finally, respondents stressed that social media analysis was not only useful to identify *problems* with regards to a claimed identity. Instead, information from social media can also make a claim stronger if it is consistent with other information.<sup>471</sup>

### *Legal issues*

It is not always clear what caseworkers are allowed to do in terms of social media analysis. As one respondent mentioned, the boundary of how far and by which means a non-investigative administrative authority, such as the immigration authority, may employ such searches in examining an immigration or asylum case is blurred.<sup>472</sup> Several respondents noted that if social media analysis is performed in an ad hoc or incautious manner, this may have severe consequences for the confidentiality of the asylum procedure and may even be illegal. A respondent in Norway gave the example that when UDI staff would type in the name of applicants on a search engine from their offices with the goal of obtaining more information on these individuals, this search engine can easily register from which address the search for this particular name is conducted. Consequently, this may create possibilities for third parties, such as the authorities of the applicants' country of origin, to identify that the applicant has applied for asylum in Norway. For this reason, he warned that only authorities with the right expertise should be engaged in social media analysis.<sup>473</sup> Swedish and Dutch respondents also acknowledged that the probing into a case of someone in need of protection by the Migration Agency might leave traces, which carries the risk of impeaching on confidentiality.<sup>474</sup> For this reason, the Dutch IND has adopted a specific approach in response to this risk.

#### **iRN computers: A method for safe social media research**

The Dutch IND has, from the official introduction of the enforcement screening, used special software that enables a safe way to perform social media research. The IND 'screen teams' have standalone computers at their disposal, with special accounts. These 'internet detective network' (iRN) pc's have been developed by the Dutch National Police in collaboration with a commercial cyber security company. Social media research can only be performed on these special computers. This is to secure the safety of staff, but most importantly because the efforts of Dutch authorities are not traceable for the government in a country of origin. The computers are available in different gradations; the screen teams use a 'light' version, whereas more specialised teams may use more advanced versions, which require special training (R31; R32).

### *Particular issues or measures in response to the nature or scale of the influx from 2014*

The increasing use of social media research seems to be unrelated to the *scale* of the high the influx from 2014 and can rather be explained by the advancement of technology, and the fact that in particular Syrian asylum seekers were relatively active on social media (the *nature* of the influx).<sup>475</sup> Arguably, the interest to use social media analysis was not only given in by the new possibilities that it offered to check someone's identity. As will be discussed in §6.4.2 there was also increased pressure to screen social media accounts because journalists, activists and interest groups, on the basis of social media searches, started publishing information about the alleged criminal background of asylum seekers in Europe on dedicated websites.

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<sup>471</sup> EMN NCP Belgium (2017), p. 40, R28; R29.

<sup>472</sup> R11.

<sup>473</sup> R12.

<sup>474</sup> R28; R31; R32.

<sup>475</sup> R31; R32; R34; R35.

### 5.2.6. Data carrier extraction

Apart from social media analysis, another development that coincided with the high influx is the extraction of information from data carriers, such as smartphones and laptops that asylum applicants may carry on them, with the aim of establishing the applicants' identity. The confiscation of data carriers is currently a standard practice in the Netherlands, optional in Norway and Germany, while it is not used in Belgium and Sweden.<sup>476</sup> In the Netherlands, currently not all confiscated data carriers are extracted, but the re-design for the identification and registration process provides for 100% extracting data from data carriers (see §4.3.2).<sup>477</sup>

In the Netherlands, since the influx increased, the immigration police AVIM subjects all data carriers to a general check (a staff member takes a 'quick look' by scrolling through the content on the data carrier). Depending on signals resulting from the quick look or other methods used during the identification process, the data carrier may be selected for further investigation, consisting of reading out and extracting all the data on the carrier. There may also be reasons to submit the data carrier for forensic digital examination by investigative authorities outside the identification and registration process.<sup>478</sup>

In Norway, checking smartphones already started before 2015, but was initially done on an ad hoc basis. A PU caseworker could do a 'quick scan', but this did not happen on a structural basis. At the time, there was no specific team with expertise or the right software or hardware to properly extract information from data carriers. Due to the high influx, the identity team also lacked the capacity to do this in a structural way.<sup>479</sup>

More recently, a more structural approach has been adopted. In this new approach, if the content on the data carriers is to be accessed, the data carrier will be extracted by a digital forensics unit at the PU. No manual 'quick scans' are performed anymore. The decision to extract information from data carriers is made on an ad-hoc basis based on informal criteria. For example, a single Syrian male between the age of 20-40 is very likely to have his phone extracted, even if his documentation does not seem to be problematic.<sup>480</sup> Respondents indicated that in Syrian cases, available data carriers will almost always be extracted, unless there are no doubts at all about the identity.<sup>481</sup> If applicants have no or clearly forged identity documents, something seems to be wrong with the identity documents, or if something is 'fishy' in the applicant's statements, this may lead to the decision to read out data carriers. The PU can make a decision to investigate data carriers at any given moment in the asylum process: very shortly after the first contact with PU, but also later on during the procedure at PU, or on the request of UDI.<sup>482</sup>

The PU differentiates the extraction process itself into four phases. The first phase is collecting and securing data, which can in itself already be quite a difficult process. Depending on the context, this could take thirty minutes to twenty hours or, in case of computers, even longer. In the second phase, a technical analysis is made. Information is decrypted and an automatic search for telephone numbers or names is performed. The third phase consists of a content-related analysis by forensic experts with knowledge of how to value and interpret the data. For example, if a picture of a man with a weapon is found on a telephone, it would be relevant to assess if the picture is taken with that telephone or if it is downloaded from the internet. Depending on the context, this could take two hours to two weeks.

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<sup>476</sup> EMN (2017), p. 32.

<sup>477</sup> R1.

<sup>478</sup> EMN NCP the Netherlands (2017), p. 45.

<sup>479</sup> R9; R12.

<sup>480</sup> R12.

<sup>481</sup> R14; R15; R16.

<sup>482</sup> R12.

During this search, the digital forensics unit looks very comprehensively on the basis of its police mandate. The unit also looks specifically for information on the basis of a list of indicators provided by UDI (e.g. – ‘can you find indications about the religion’). The final phase consists of writing reports on the findings. One report is drawn up for the police, containing all relevant information. A second report is written for UDI, which only contains information that the PU is allowed to share with UDI and which is deemed relevant for the UDI. If the unit is in doubt whether it can share certain information with UDI, it will seek advice at the PU’s legal department.<sup>483</sup>

In Germany, Belgium and Sweden, the institutional, and therefore legal, context with regard to extracting information from data carriers is very different from the Netherlands and Norway. In the latter countries, the aliens police organizations AVIM and PU, on the basis of their police mandate, are tasked with establishing or verifying an asylum seekers identity. As the police in Germany, Belgium and Sweden are hardly involved in the identification and registration process, the legal possibilities to extract information from data carriers is much more limited. Arguably, these countries in addition also lack the (police) ‘culture’ to look for information by extracting data from telephones.

The above explains why Belgium and Sweden do currently not use data carrier extraction. In Belgium, the method was only recently made possible due to legislative changes in November 2017. The CGRS was given the competence to use the method, but at the time of data collection it had only recently learned about this development, which came as a surprise, and had not yet figured out how to give effect to the change in the legislation. A respondent indicated that the CGRS will firstly figure out what is needed in technical terms to use the method, and then whether it is worthwhile to invest in it.<sup>484</sup>

Sweden too, does currently not read out data carriers. According to the respondents, there is a variety of explanations why such methods are not used. One explanation is that so far, the political environment was not receptive towards such methods. Introducing measures like these is always sensitive, especially considering that the Migration Agency is not a police organisation. Another explanation that was mentioned is that there was no need for the Migration Agency to resort to such methods, as caseworkers usually have enough information to make a decision.<sup>485</sup> Respondents noted, however, that there has more recently been more interest in these methods as immigration authorities in surrounding countries are using these methods. The Migration Agency is interested to learn more about the legal basis that underlies the use of data carrier extraction in these countries, and whether the authorities believe it to be useful.

One of the countries in which the immigration authorities have recently started extracting data is Germany. It introduced legislation to enable the extraction of data carriers, albeit under strict conditions (further details, see below).<sup>486</sup> The BAMF can only extract data to establish the identity, not for other purposes, such as reconstructing the route. Secondly, the method can only be used if no less intrusive method is available.<sup>487</sup> The data extraction system does provide information about locations, but there are, for example, no time stamps.<sup>488</sup> A legal expert from the BAMF needs to approve the ‘validation’ of the data (i.e. the storage, which entails a determination of what source and place the data come from) on proportionality. As soon as the BAMF validates the data, software ‘looks’ into data and the privacy may be affected. Once the legal expert has approved the measure, a report is being made of the data, which is put into the applicant’s file. Then the file can also be used by other

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<sup>483</sup> R12.

<sup>484</sup> R20.

<sup>485</sup> R27; R28; R29; R30.

<sup>486</sup> Tangermann (2017), p. 35.

<sup>487</sup> R38.

<sup>488</sup> R39; R40.

authorities, such as alien registration authorities, administrative courts and so on, that are entitled to look into file.<sup>489</sup>

German respondents note that decision makers can make use of the information of the extracted telephones as input to improve (subsequent) asylum hearings.<sup>490</sup> For example, aspects that do not concur with the story told during an initial interview – when geo-data indicate that the telephone has been in a certain country the applicant has not talked about – can be brought up in the interview. A decision maker could for instance say to the applicant, ‘we have information that indicates that your story is not true’, or can ask a follow up question like ‘have you ever been in country X?’. Based on the given answers, a decision-maker could report that the telephone was ‘located in an unknown country’, which diminishes the likelihood of being granted a refugee status instead of subsidiary protection (i.e. temporary limited permission to stay).<sup>491</sup>

It was decided only to extract information for the purpose of deciding on the nationality. It is hence not allowed to delve further into private data.

#### *Value of information from data carriers*

In none of the studied countries are there any evaluations available about the value of extracting information from data carriers. Similar to social media analysis, there are respondents who believe it is useful, while others have doubts. For example, various Norwegian respondents indicated that as there are few leads in the early phase of the asylum procedure, any available lead is valuable, and the method of data carrier extraction could produce such leads. At the same time, these respondents indicated that they saw a trend where applicants would increasingly show up without a smartphone or any other personal belongings on them.<sup>492</sup> This is in line with the remark of a representative of the Belgian Immigration Office who expressed doubts whether the method has value. The respondent expected that as soon as you would start extracting data carriers this would become known among applicants and they would no longer bring their smartphones.<sup>493</sup> Remarkably, as was already noted in §5.2.5, Dutch respondents did not encounter such an effect with respect to social media research, while similar fears had existed in that context.

A representative of the Belgian CGRS noted that he especially expected that data carrier extraction would have limited value in the form in which it will be introduced in Belgium. While the responsible state secretary originally envisaged that data carriers would be extracted in the registration phase by the Immigration Office, that could not count on enough political support, for which reason the competence was assigned to the CGRS. As the CGRS only sees applicants once they have been in Belgium for some time, the respondent expected that reading out data carriers will have less value at that stage.<sup>494</sup>

#### *Legal issues*

In the Netherlands, the confiscation and extraction of data carriers is used on the largest scale and in the most far-reaching way. Unlike in some of the other focus countries the introduction of this method has not led to much debate, or required legislative changes. The introduction of the extraction of data carriers was possible within the existing legislative context, as the terms “documents and records” laid down in the Dutch Aliens Act have been interpreted in a broad fashion

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<sup>489</sup> R39.

<sup>490</sup> R40.

<sup>491</sup> R39.

<sup>492</sup> R14; R15; R16.

<sup>493</sup> R17.

<sup>494</sup> R20.

by judges in relation to the establishment of identity, which means that data carriers fall within the scope of these terms.<sup>495</sup>

In Norway, the legislation permits Norwegian law enforcement/immigration authorities to (temporarily or permanently) confiscate data carriers and access their content in the context of establishing or verifying the identity. Similar to the Netherlands, according to the national EMN contribution, these searches are laid down indirectly in the legislation.<sup>496</sup> PU (the aliens police) confiscates and extracts the data carriers.

As referred to above, in Germany, recently legislation was introduced to enable the BAMF to extract information of data carriers under strict conditions (Section 48 of the Residence Act). An analysis of data carriers is only permitted to the extent that it is necessary to establish the identity and nationality of the asylum applicant, and if no less intrusive method is available. The data carriers may also only be analysed by certain qualified staff members. The measure is not allowed when there are indications that analysing data carriers would provide only insights “into the core area of private life”. If such insights are acquired, they may not be utilised, and any records thereof have to be deleted immediately, and a written record has to be made of the fact of their acquisition and deletion. Personal data acquired through this method that are no longer necessary for the purpose of establishing the identity or nationality have to be deleted immediately.<sup>497</sup>

The introduction of data carrier extraction through legislative changes led to considerable debate in Belgium and Germany, on two issues: whether data carrier extraction is consensual or coerced (Belgium); and whether data carrier extraction infringes on privacy (Germany).

In Belgium, the CGRS was given the competence to extract information from data carriers through an amendment of the Immigration Act on 21 November 2017. This was preceded by extensive debate in parliament and society on the issue of whether accessing information on data carriers was only possible on the basis of consent (with the approval of the applicant) or whether such cooperation could also be enforced upon the applicant.<sup>498</sup> The Belgian Privacy Commission in this regard issued a negative advice on the initial law, criticizing the law for lacking provisions on how applicants would be asked to give access to data carriers in their possession, how the collected data would be stored and how it would be evaluated. UNCHR was also critical on the issue of cooperation. In response, the government announced that it would lay down its policies in a Royal Decree.<sup>499</sup> As a result of this debate, the law in its final form does require that access to data carriers can only be obtained on the basis of the applicant’s consent.<sup>500</sup>

Despite the requirement of the applicant’s consent, refusing to obtain access to data carriers can certainly impact the outcome of an asylum request in Belgium. Although refusal to cooperate can in itself not be a ground for denying asylum, it can be an element in the evaluation of the asylum application.<sup>501</sup> The Belgian approach is in this regard similar to the situation in other countries. In the Netherlands, the IND can reject an asylum application as manifestly unfounded, in the event that the third-country national does not cooperate in or even thwarts the establishment of his or her identity.<sup>502</sup> The Norwegian PU can also use coercive measures to enforce cooperation.<sup>503</sup> In Germany,

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<sup>495</sup> EMN NCP the Netherlands (2017), p. 17.

<sup>496</sup> Klunderud (2017), p. 13.

<sup>497</sup> Tangermann (2017), p. 22-24.

<sup>498</sup> R20; EMN NCP Belgium (2017), p. 60.

<sup>499</sup> EMN NCP Belgium (2017), p. 60. This was not available at the time of data collection (R20).

<sup>500</sup> R17; R20.

<sup>501</sup> R17; R20.

<sup>502</sup> EMN NCP the Netherlands (2017), p. 52.



applicants have a general obligation to cooperate in determining their identity. This duty to cooperate was also extended to data carriers: on request, asylum applicants have to present and hand over all data carriers in their possession which may help to establish their identity and nationality. If the applicant fails to meet this obligation while there are indications that he or she is in possession of data carriers, the authorities can search the applicant and his belongings. The applicant should also hand over passwords or other information necessary to access the devices. In case of refusal, data can also be obtained from telecommunication providers.<sup>504</sup>

A representative of the CGRS noted that software that limits the reading out of data carriers to the relevant information (such as identity, who was contacted) without accessing content on the data carrier itself could be used to address privacy concerns.<sup>505</sup> The German BAMF currently uses such software (see above).

In Germany, different organisations voiced data protection concerns in reaction to the announcement of the introduction of data carrier extraction. Opposition party DIE LINKE ('The Left') described the method as "an infringement on citizen's rights, seeing that mobile phones could be analysed without a court order even if there was no suspicion of a crime". The opposition party Bündnis 90/Die Grünen ('Alliance 90/The Greens') opposed that the scope of the method was ill-defined. Civil society organisations were critical about the way in which the use of these methods would affect the (confidential) relationship during interviews with the BAMF.<sup>506</sup> Respondents also indicated that data protection in general is a sensitive issue in Germany.<sup>507</sup>

Another legal issue, that was raised in Norway, related to the manual 'quick scans'. Although the PU had used this practice in the past, it had stopped using this practice at the moment of data collection for at least two reasons. The first reason is that there are doubts with regard to the legality. One respondent claimed that there is no legal basis to browse through the phone by means of a quick scan, even if the applicant voluntarily hands over the data carrier to a staff member.<sup>508</sup> Secondly, such quick looks may on the long run have negative legal consequences. If a UDI caseworker or PU staff member browses through pictures on a phone this will already change the pictures' time stamps. When the timestamp is changed, it cannot be established when the picture was last opened before. This could have serious repercussions in a possible future criminal case. For this reasons a PU respondent stressed that neither UDI staff, nor PU staff, should by itself manually check information on data carriers, even if the applicant says that he or she can substantiate his or her claim and requests the staff member to look into the phone. In such instances UDI and PU staff members should ask specialists of the PU to extract the data. The respondent remarked that this is a difficult message to get across, even within the own organization, as everyone has become so accustomed to looking at information on phones.<sup>509</sup>

### 5.2.7. Investigation of biometrics and facial photographs

In conformity with European law, fingerprints of all applicants with the age of 14 and older have to be taken, for comparison with the Eurodac database.<sup>510</sup>

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<sup>503</sup> R11.

<sup>504</sup> Tangermann (2017), p. 21-24.

<sup>505</sup> R20.

<sup>506</sup> Tangermann (2017), p. 49.

<sup>507</sup> R38; R39; R40.

<sup>508</sup> R12.

<sup>509</sup> R12.

<sup>510</sup> Article 9 of Regulation EU/603/2013 of 26 June 2013 determines: "Each Member State shall promptly take the fingerprints of all fingers of every applicant for international protection of at least 14 years of age and shall,

Recent years have seen an increase in the taking of facial images in the focus countries which could be used for comparison to photographs contained in different databases. Taking photographs for comparison with national and European databases is obligatory in the Netherlands, standard practice in Belgium and Germany and optional Sweden.<sup>511</sup> Norway has plans to implement standard collection and storage of facial photographs.<sup>512</sup>

However, in their current form, the collection and storage of facial photographs does not contribute to the identification and registration itself, but can be complementary to the identification or other processes, or is used to prevent double registrations in existing systems.

In Germany, taking a facial image was added to the range of identification measures covered by the Residence Act in 2015 and 2016.<sup>513</sup> Photographs are taken as a standard measure and stored in the Central Register of Foreigners, but currently not checked against databases.<sup>514</sup> In the Netherlands, it became possible in 2014 to take the fingerprints and facial images of all third-country nationals within all processes of the organisations cooperating in the immigration process and store them in a central database, through the Biometrics Amendment (*Wetswijziging Biometrie*) which came into effect on 1 March 2014.<sup>515</sup> In Sweden, facial identification is carried out at the Migration Agency's Unit for Biometrics and Document Verification.<sup>516</sup> According to respondents, the Migration Agency is looking into possibilities to use biometrics, photos and fingerprints in every immigration case (not only asylum).<sup>517</sup>

The Belgian NCP notes that a legislative amendment in Belgium has “create[d] a legislative framework for automated facial comparison and could be considered as an indication that automated facial comparison might be increasingly used as identification method in the near future for establishing identity in the asylum and return procedures”, but that “it is important to emphasize that this is not an identification method in the absence of documentary evidence but complementary”.<sup>518</sup>

Photograph comparison with national and European databases is currently not used in Norway.<sup>519</sup> However, Norway will establish its own national fingerprint and facial photo databases in a ‘cross sectoral’ ABIS system (Automated Biometric Identification System), and start using facial recognition and fingerprint identification, in line with amendments to the Immigration Act in 2016. In 2018, the ABIS will be filled with existing facial photographs and fingerprints and the authorities will start to register facial photos suitable for facial recognition in the ABIS, in order to ensure that third country nationals are registered with one identity.<sup>520</sup>

As noted in §4.3.2, the German and Dutch authorities are currently testing, or have recently acquired technology to perform automated facial recognition for comparison to databases. The German BAMF is currently testing a “biometric crosscheck of newly taken photographs with photographs already

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as soon as possible and no later than 72 hours after the lodging of his or her application for international protection [...] to the Central System”.

<sup>511</sup> EMN (2017), p. 57.

<sup>512</sup> Klunderud (2017), p. 20.

<sup>513</sup> Tangermann (2017), p. 23.

<sup>514</sup> Tangermann (2017), p. 37.

<sup>515</sup> EMN NCP the Netherlands (2017), p. 29.

<sup>516</sup> EMN NCP Sweden (2017), p. 27.

<sup>517</sup> R27; R28; R29.

<sup>518</sup> EMN NCP Belgium (2017), p. 40.

<sup>519</sup> Klunderud (2017), p. 12.

<sup>520</sup> Klunderud (2017), p. 20.

stored in the asylum database in order to prevent double registrations (image-based biometrics)".<sup>521</sup> The system was developed by a special taskforce within the BAMF.<sup>522</sup> A respondent in the Netherlands indicated that the authorities are exploring possibilities to enable crosschecks against databases, including security and intelligence databases.<sup>523</sup>

## 5.2.8. Other methods for establishing the identity

### *Luggage checks*

According to the 2013 EMN study, "The competent authorities in most (Member) States [except France], following also the Asylum Procedures Directive, have the right to search the applicant and the items he/she carries with him/her in order to obtain information on, for example, the country of origin, travelled route and any information indicating first, last name, date, place of birth and residence address." Above the legal and practical dilemmas that come with extracting information from data carriers were discussed; an arguably much easier 'old school' way to search for information on an applicant's identity is to perform a luggage check. A personal belongings or luggage search is obligatory only in the Netherlands, and optional (but not standard practice) in Norway and Germany.<sup>524</sup> Besides the luggage search in the Netherlands, a pat-down search is also obligatory there, and a body search may be performed in some cases.<sup>525</sup> The PU in Norway has introduced a screening machine for the luggage check during the high influx.<sup>526</sup>

The Belgian Immigration Office does not use any other methods besides examining the identity documents and conducting an interview. For luggage, a security check is performed at the entrance of the Immigration Office's premises in Brussels using x-ray.<sup>527</sup> In Sweden, no personal belongings checks are performed.<sup>528</sup>

### *Automated name transliteration*

In particular when proper documents are lacking and names are not originally written with roman letters, problems with a uniform spelling of names of asylum seekers across different government institutions may occur. The BAMF is currently testing automated name transliteration of Arabic names into the Latin alphabet. The aim is to ensure early on that the spelling of the name is uniform and unequivocal. In addition, an analysis of the name may help to give hints of the potential origin of the applicant.<sup>529</sup> The tool is a web-service and available in all BAMF branches. A staff member gives in the number of the branch office, the case number, and the applicant number. The applicant is then asked to give in his/her own first and last names, with an Arabic keyboard. If the applicant is illiterate, the interpreter will do so (if this is the case, it will be marked in the system). The system will propose a transliteration of the Arabic name in Latin spelling. The staff employee will register the name in the system and work with that given name from that moment onwards. The system also matches the transliterated name in a database and provide an indication of the country of origin.<sup>530</sup> Respondents acknowledged that as it is, both the name transliteration and the facial recognition (see §5.2.7) are mainly tools to keep up quality in the BAMF's own systems. However, they do see a potential for these

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<sup>521</sup> EMN (2017), p. 60.

<sup>522</sup> R40.

<sup>523</sup> R1; see §4.3.2.

<sup>524</sup> EMN (2017), p. 55.

<sup>525</sup> EMN NCP the Netherlands (2017), p. 41, 75.

<sup>526</sup> R9.

<sup>527</sup> R17.

<sup>528</sup> R28.

<sup>529</sup> Tangermann (2017), p. 37.

<sup>530</sup> R39; R40.

tools to be made pan-European, in which case it would be easier to identify a person who has lived or already applied for asylum in another European state in the past under the same name.<sup>531</sup>

### 5.2.9. Re-assessment of established identity in Syrian cases

As discussed in §5.2.1 several respondents referred to the existence of indications that non-Syrian applicants tried to take advantage of the Syrian situation by claiming to be Syrian. Particularly in Norway and Germany special initiatives have been taken to retroactively re-assess the identity of applicants (who claimed to be) of Syrian nationality.<sup>532</sup>

The Norwegian PU has set up a so-called 'Syria team' within the identity unit that is specifically tasked with re-assessing the identity of applicants who entered Norway during the high influx and claimed to be from Syria. A respondent of the PU stated that there had not been enough focus on establishing the identity during 2015, but that the situation improved during 2016 when the PU took several steps to raise awareness in the organisation.<sup>533</sup> This means that the Syria team is in particular focusing on applicants who entered Norway before the spring of 2016.

In Norway, the PU has the impression that false claims of the Syrian nationality were fairly organized, as illustrated by the example that was already mentioned in §5.2.1. Late 2014, early 2015, there were several asylum seekers with similar stories, claiming to be from Syria. It turned out they were all from neighbouring countries, from a certain region near the Syrian border. They could not read or write, could not speak Arabic and only carried a civil registration document which is hard to verify. There were indications that their family members had applied for asylum in the 1990s, at that time presenting themselves as Iraqi citizens.<sup>534</sup>

The Syria team can independently start an investigation, but most often does so in response to requests from other units within the PU or the UDI. The team only takes on cases in which the UDI has not yet taken a decision, as well as cases in which a negative decision has been issued. Such a request is, for example, done if UDI gets a tip-off that someone has lied during the asylum procedure or when social media analysis by UDI leads to questions about the presented identity.<sup>535</sup>

The PU's identity unit has adopted a specific approach to establish or verify a claimed identity in a later phase – after the asylum procedure is over – using the coercive measures that it has at its disposal as a police body. Applicants who have not presented any documents at the time of their registration, can for instance be given a surprise visit at their residence, months after they first applied for asylum. A court authorization is needed for these house visits. Respondents indicated that the threshold for such a court authorization is not very high. For example, if someone has said during an interview that he is a goat herder from Syria but has no documents at all to substantiate any of this, this consternation alone can be enough of a reason to allow for a house search.<sup>536</sup>

During such a visit the team searches for indications that can verify or debunk the claimed identity. The team looks for smartphones or documents which it can confiscate for further analysis. These

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<sup>531</sup> R39; R40.

<sup>532</sup> As noted in §5.2.1, the Dutch authorities have retroactively investigated suspicious passport series to find if there were matches with persons who had already been granted a residence status. If this led to a match, this was reported to the police and the security service AIVD, and it was reviewed whether there were grounds in the case to withdraw the status.

<sup>533</sup> R13; R14.

<sup>534</sup> R15.

<sup>535</sup> R13; R14; R15; R16.

<sup>536</sup> R13; R14.

documents or data carriers may contain information that contradicts earlier statements about identity. In all of about twenty cases where such visits were made by the Syria team, some relevant information was found. Still, the identity team has the feeling that they have only found the ‘tip of the iceberg’.<sup>537</sup>

Although this practice already existed before the high influx, respondents mentioned that the approach has become increasingly relevant because of the influx from Syria.<sup>538</sup> Apart from the Syrian team, which focuses on applicants during the asylum procedure, PU’s revocation unit uses a similar approach. This team too, can re-assess the identity, for example if it receives information that applicants transfer money to a certain country that was not mentioned by the applicant. The revocation team too, regards visits useful as these might produce documents that could verify the person's real identity.<sup>539</sup>

As far as the researchers have been able to establish, similar methods of proactively re-assessing applicants’ identity by means of house visits are not used in any of the other focus countries. Germany, however, launched a different type of large-scale re-assessment operation after the case of Franco Albrecht, a German national who applied for asylum posing as a Syrian refugee (see §3.2.4).<sup>540</sup> This case initially led to a re-assessment of about 2.000 cases with a similar profile. This assessment “showed that there were errors concerning the plausibility of asylum decisions, but there was no second case with similar procedural errors” and that “identification measures were used in all 2.000 cases”.<sup>541</sup> However, the case prompted a re-assessment operation of a much larger scale in 2017 and 2018 (referred to as the ‘withdrawal project’<sup>542</sup>). German newspaper *Süddeutsche Zeitung* reported in March 2018 that 200 new staff members were to be hired on temporary contracts to assist in carrying out the massive operation, in addition to the 200 additional staff members that had already been hired at the end of 2017.<sup>543</sup> A German respondent noted that the reassessment is conducted for applicants from Syria, Iraq and Eritrea. The selection is based on a profile defined by the counterterrorism centre; the profile e.g. mentions men in the age of 15-35, and single males/females; children or families will typically not be reassessed.<sup>544</sup> According to Minister for the Interior De Maizière, 150.000 cases in total had to be re-assessed; about half of those cases were reopened in 2017, while only 2.500 could be closed. This led to a withdrawal of a status in 421 cases (just under 17 percent). Among 25.000 tested identity documents, 130 false documents were discovered. The operation was criticised by a left-wing politician, who complained that the federal government was silent on whether any person had been identified who posed a security threat and argued that the time and energy should – instead – be spent on raising the quality and speed of the asylum procedure.<sup>545</sup> Another re-assessment operation was prompted by the discovery that 1.200 asylum seekers had been granted asylum on an insufficient legal basis at the BAMF office in Bremen; allegedly bribes had been paid by asylum seekers.<sup>546</sup> The former director noted in defence that the Bremen office had been ‘trimmed’ to increase speed and efficiency and that all involved parties were aware

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<sup>537</sup> R13; R14.

<sup>538</sup> R13; R14.

<sup>539</sup> R15.

<sup>540</sup> R38.

<sup>541</sup> Tangermann (2017), p. 49.

<sup>542</sup> R38.

<sup>543</sup> B. Kastner, ‘BAMF stellt Asylzusagen auf den Prüfstand’, *Süddeutsche Zeitung*, 18 March 2018, last visited 4 April at <<http://www.sueddeutsche.de/politik/fluechtlinge-bamf-will-positive-asylbescheide-ueberpruefen-1.3911158>>.

<sup>544</sup> R38.

<sup>545</sup> Ibid.

<sup>546</sup> Dm/msh, ‘Bremen migration officer investigated for allegedly granting asylum in exchange for bribes’, *Deutsche Welt*, 20 April 2018, last visited 7 June 2018 at <<http://www.dw.com/en/bremen-migration-officer-investigated-for-allegedly-granting-asylum-in-exchange-for-bribes/a-43471724>>.

that the existing staff within the office could not in time process the increased number of applications.<sup>547</sup> The Interior Ministry announced in May 2018 that 18.000 asylum applications that have been granted at the Bremen BAMF branch office would be reviewed, involving a team of 70 staff members, which was expected to cause a further rise in the backlog.<sup>548</sup>

### 5.3. Information exchange on identity

The exchange of information during the identification and registration process differs considerably in the focus countries, due to the setup of the procedures and actors involved in the respective countries. Norway and the Netherlands both have similar systems in which responsibilities for establishing the identity are shared between the immigration authorities and the aliens police. In Belgium, Germany and Sweden, law enforcement actors are not involved in the identification process or only have a supportive role (see §5.1.1).

In Sweden, identification/registration and the examination of/decision on the asylum are conducted by one and the same body (the Migration Agency). In Germany, one body is responsible for identification/registration and examination/decision-making, but other authorities may be involved in the identification and registration process. In Belgium, the Immigration Office registers and identifies applicants, while the CGRS examines both the identity and the asylum claim and takes a decision. Over the last years, information exchange between authorities in Germany was enhanced due to the creation of a centralised data system upon entry into force of a Data Sharing Improvement Act. This 'core data system' contains personal data of asylum seekers which can be accessed and registered by all competent public authorities at the federal, regional and local level. Furthermore, the introduction of the PIK stations has made registering and storing the collected data centrally easier. In Belgium, the exchange between the Immigration Office and CGRS is not fully digital and takes place on paper to some extent, but plans exist to change this (see §4.3.2).

#### *Information exchange between law enforcement and immigration authorities*

As noted above, Norway and the Netherlands have a system in which responsibilities for establishing the identity are shared between the immigration authority and the aliens police. As was already discussed above, such a system has its advantages: the police have different competences than the immigration authority and have coercive measures at their disposal, and can thus – presumably – collect more information that may be relevant to the asylum process than immigration authorities by themselves. The Norwegian PU, for instance, can use coercive methods such as arrest and remand in custody, seizure and search of the person and his/her belongings or residence, and can apply traditional police methods like surveillance and mapping a person's network.<sup>549</sup>

The division of responsibilities between law enforcement and immigration authorities, however, may also have its disadvantages. A first possible disadvantage is that not all the information collected by law enforcement agencies can be shared with immigration authorities, especially if the information was collected for purposes that have no direct relevance for the decision on asylum claims itself. A second possible disadvantage is that there may be overlap in the tasks of the different authorities, which could result in (unnecessary) double work.

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<sup>547</sup> 'Bamf-Beamtin: Stehe zu allem, was ich getan habe', Frankfurter Allgemeine Zeitung, 30 May 2018, last visited 7 June 2018 at <<http://www.faz.net/aktuell/politik/inland/bremer-bamf-beamtin-stehe-zu-allem-was-ich-getan-habe-15614495.html>>.

<sup>548</sup> Ls/rt, 'German interior minister sorry for asylum scandal', Deutsche Welt, 30 May 2018, last visited 7 June 2018 at <<http://www.dw.com/en/german-interior-minister-sorry-for-asylum-scandal/a-43988551>>.

<sup>549</sup> R10; R11; Klunderud (2017), p. 4.

In the Netherlands respondents generally indicated not to experience much problems in relation to information-exchange between the AVIM and the IND. A previous study on the Dutch situation found that the IND had access to all of the relevant information that was collected by the AVIM, including lists with striking features (*'NVIK-looplijsten'*) that were scored by the AVIM at the time. For a short period of time, the AVIM in Ter Apel had shared raw data carrier extraction reports with the IND, while at that time the legal framework for doing so was not clear; in 2016 the organisations indicated that they were working out how to formally arrange this.<sup>550</sup>

Both issues, however, played a role in recent discussions about information exchange between the PU and UDI in Norway. Respondents of UDI, for example, indicated that they experienced there were 'walls' between the organizations.<sup>551</sup> This resulted in 'double work', as both the PU and the UDI engage in methods such as social media research to establish the identity.<sup>552</sup> One of the respondents, interestingly, noted that double work in itself does not have to be a bad thing: having an assessment of the identity at two points in time may be an additional way of double checking information and assessing whether the provided information at UDI is still consistent with what someone said several months ago at the PU.<sup>553</sup>

A second issue in Norway, relates to the fact that the legal framework of sharing information was not clear, since the PU and UDI have different mandates and competences. PU has taken the position that extracted information cannot always be shared with UDI.<sup>554</sup> Legislation demands that PU should provide UDI with all information relevant to the asylum case. But if a telephone, for instance, contains pictures of heroin – information about a possible crime and thus relevant to the police, but not relevant for UDI – this information should not be shared. The information PU gathers in the context of establishing the identity or in the context of assessing whether there is a security threat might for this reason contain information UDI is legally not entitled to see.<sup>555</sup> The sharing of information from data carriers or social media analyses with UDI therefore takes place through reports drawn up by PU, not by sharing 'raw' data carrier extraction reports. Writing such reports is time-consuming,<sup>556</sup> and when writing the report PU staff members are to make choices what type of information to share with UDI and what information to withhold. The fact that there are different strands of information, some which may be shared, but others which under no circumstances may be shared, makes it difficult to share information quickly.<sup>557</sup> In recent years, discussions emerged with regards to the breadth and depth of the information that PU shared with UDI. Representatives of UDI stated that not enough info was shared.<sup>558</sup> At a certain point in time the lack of clarity as to what type of information could be shared was such, that the sharing of such information was halted altogether. At the moment of data collection, such information was however shared again.<sup>559</sup>

Because of the above discussed previous experiences, in the new asylum process that is being developed in Norway (the PUMA-project; see §4.3.2), the idea is to reduce as many barriers as possible to allow for swift information exchange, thereby acknowledging that the PU and UDI have different roles, mandates and responsibilities.<sup>560</sup> Representatives of both the PU and UDI stressed that

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<sup>550</sup> Van Wijk & Bolhuis (2016), p. 138-139.

<sup>551</sup> R4; R6;

<sup>552</sup> R7.

<sup>553</sup> R13.

<sup>554</sup> However, if someone were to be convicted for a crime, in the end that could come back to UDI when it has to decide on a permit (R9).

<sup>555</sup> R11.

<sup>556</sup> R9.

<sup>557</sup> R11.

<sup>558</sup> R5; E6.

<sup>559</sup> R9.

<sup>560</sup> R4.

the PU has more tasks than establishing the identity alone.<sup>561</sup> In the newly developed process PU and UDI ideally work shoulder-by-shoulder and jointly assess what information is needed, in order to involve the different perspectives across the different competences.<sup>562</sup> A PU representative stressed that it is imperative that all actors involved understand each other's roles, possibilities and limitations, and that for the PU it is not a matter of not *wanting* to share information with UDI, but rather of not *being able* to do so within the existing legal framework.<sup>563</sup>

Another issue that was brought forward in the interviews in Norway is that the PU and UDI have different standards for accepting someone's identity. With regard to the asylum process, the PU is engaged in establishing the identity in two instances: at the beginning of an asylum procedure (as has been discussed), but also at the end of a failed asylum procedure, when someone has to be forcibly returned. In the latter case, the threshold for the PU to make a claim that someone does or does not have a certain identity is very high. The alleged country of origin will otherwise not accept anyone. ; The PU, in this regard, aims to find information which makes it close to 100% certain that someone has that nationality. For UDI, the standard for establishing someone's identity is much lower. As one respondent mentioned, if it is 51% credible that someone holds a given nationality, this is, in principle, enough to consider that person holds this nationality. As these different perspectives between the two different organizations exist, they need to find common ground here.<sup>564</sup>

Norwegian and Dutch respondents had different views as to which authority is best positioned to perform certain research methods in the identification phase. UDI and PU representatives were generally of the opinion that ideally, PU would make an assessment of information from data carriers and do social media screening, inter alia because they can access databases that the UDI cannot and can use repressive means if necessary, such as arresting and searching applicants and has a wider range of search options than other actors in relation to digital media and devices.<sup>565</sup> Finally, experts within the police have received specialized education to engage in digital forensic methods (see §5.2.5 and 5.2.6).<sup>566</sup>

Representatives of the Dutch IND did not dispute the fact that AVIM was best positioned to extract information from data carriers, but did note that the IND was better positioned to perform social media research. In this respect, they referred to the broader focus of the IND on the consequences for the asylum procedure; if someone has committed identity fraud, this may not be relevant to the aliens police, but it is relevant for the decision on the asylum application. The AVIM is less familiar with the decision making in the asylum process. Furthermore, the IND may, based on the interview, have more information at its disposal than the AVIM.<sup>567</sup> Nevertheless, in the Netherlands, there has been a discussion whether a stronger involvement of the aliens police AVIM in social media research would be beneficial. The AVIM and IND have exchanged their experiences and working methods, but a report with conclusions was still due at the moment of data collection.<sup>568</sup> The possibility of setting up a mixed team comprising both AVIM and IND staff has been discussed in the Netherlands, but respondents indicated that this would most likely lead to legal complications.<sup>569</sup>

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<sup>561</sup> R4; R11.

<sup>562</sup> R4.

<sup>563</sup> R11.

<sup>564</sup> R4.

<sup>565</sup> R5; R7; R10; R11. One of these respondents, however, remarked it is difficult to make a sound assessment of that information if one does not know the case.

<sup>566</sup> R12.

<sup>567</sup> R31; R32.

<sup>568</sup> R31.

<sup>569</sup> R31; R32.



## 5.4. Organisation of the decision-making process

This paragraph discusses the way in which the decision-making process is organized in the focus countries and what measures in the decision-making process have been taken to increase the processing capacity due to the high influx.

### 5.4.1. Organisation of decision making and country of origin specialisation

#### *Country of origin specialization*

One of the main differences in the organisation of the decision making in asylum cases in the different focus countries, is the use of geographical specialisation. The Netherlands and Sweden do not work with country of origin specialisation, which means that every caseworker is expected to be able to deal with applications from any country/region of origin.<sup>570</sup> In Belgium, Germany and Norway on the other hand, decision makers are specialised in a geographical region or country of origin. The Belgian CGRS, for instance, has six units for dealing with asylum cases: Congo, Africa, Balkan, Eastern Europe, Asia/Middle East and the 'Project section'. This section was established in 2010 to assist in situations of a high influx. Within this section, the staff have experience with diverse geographical areas.<sup>571</sup> With respect to Germany, there is a difference between arrival centres and regional branch offices. In arrival centres, which are the first contact points, staff should be able to interview anyone; the regional branches, however, work with geographical specialisation. Because of the distribution key that is used to assign each applicant to a federal state (*Königsteiner Schlüssel*), certain nationalities are overrepresented in some states, so different decision makers throughout the country can be specialised in different countries of origin.<sup>572</sup> The Norwegian UDI has units of about 10-12 caseworkers, specialized in different geographical areas or countries.<sup>573</sup>

#### *Interviewing and decision making*

Another difference in the organisation of the decision making is whether or not the staff member who conducts the interview is the same person as the one who takes the decision in that case. The Netherlands is an exception in this regard, as both roles are purposely separated. The caseworker who makes the decision only analyses the written file and has not interviewed the applicant him or herself. This strict division between interviewing and decision making is believed to increase the objectivity of the decisions.<sup>574</sup>

Within the Belgian CGRS every section consists of a number of units with four to five 'protection officers' who conduct the interviews, and one supervisor. The CGRS works with the 'four-eyes' principle: the protection officer who has conducted the interview makes a draft decision, which is checked by the supervisor before a final decision is drafted.<sup>575</sup> Both in Germany and Sweden, in principle the caseworker who conducts the interview also remains responsible for the case and makes a decision,<sup>576</sup> although this principle can be deviated from. In Germany, as an emergency measure, 'decision making centres' were established, where decisions were made based on a paper file containing a report of an interview conducted elsewhere by other caseworkers (see §4.2.2 and 5.4.2).

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<sup>570</sup> Any regional unit can deal with any case; which region is responsible for a case depends on the place where the applicant makes his application. In this regard, some clustering occurs; applicants of Mongolian origin, for instance, predominantly apply in Stockholm (R27).

<sup>571</sup> R23.

<sup>572</sup> R36; R37.

<sup>573</sup> R2; R5; R6; R7.

<sup>574</sup> Doornbos (2006), p. 47.

<sup>575</sup> R23.

<sup>576</sup> R29; R36.

Based on several pilot projects that have been conducted in Germany, the BAMF concluded that it is more effective to have one and the same person do both the interview and make the decision. While acknowledging that separating the two would be more objective, one German respondent stated it is difficult to take a decision about a person you have never seen, and it is especially difficult to assess whether you believe the applicant's story.<sup>577</sup>

#### 5.4.2. Particular issues or measures taken in response to the nature or scale of the influx from 2014

In response to the changes in scale and nature in the influx from 2014, several measures have been taken in the organisation of the decision making in the different focus countries. Some of these measures, including the hiring of new staff and the introduction of 'fast-tracking' in Germany, the Netherlands and Sweden, have already been addressed in chapter 4. As noted above, in Germany 'hearing units', which only conducted interviews, and 'decision making centres', which would only take decisions, were established as an emergency measure.<sup>578</sup> The aim of the decision-making centres was to ease the burden on the branch offices and to eliminate the backlog; in 2016, 66% of all the decision was taken at the decision-making centres.<sup>579</sup>

In the countries that use geographical specialisation, the increase in the number of Syrian applicants meant a larger workload for the units dedicated to Syria (or the larger region), whereas other geographical units had less work. In Belgium and Norway, the number of units dedicated to Syria was enlarged and existing units were redirected to working on Syria. In Belgium, as noted in §4.2.2, the full capacity of four of the six geographical units was dedicated to Syrian cases as one of the measures to deal with the increasing influx.<sup>580</sup> In Norway, before 2015, there were two units within UDI dedicated to Syria; one was in charge of the policy and case handling and another unit had a supporting role. Late 2016, eleven different units (some which previously were dedicated to deciding on other regions) were dealing with Syrian applicants. One respondent noted that the presence of senior staff who used to work on other areas than Syria could lead to problems with the examination of the asylum applications. For instance, if the senior staff member had experience in working on African countries or Afghanistan, they would typically not give much attention to identity documents, but instead be more concerned with how truthful the story of the applicant was. For Syrian applicants, however, the most relevant aspects to spend resources on were establishing the identity and national security/exclusion issues.<sup>581</sup>

A question all administrations in the selected countries had to deal with was the following: are cases of Syrian asylum seekers to be considered 'easy' or not? If so, new staff could deal with these cases; if not, handing these cases to more experienced staff might be more appropriate. Although the recognition rates with regard to Syrian applicants are generally high (see §3.1.3), different respondents indicated that Syrian cases were 'atypical' cases and therefore perhaps less suitable for handling by inexperienced staff members.<sup>582</sup> This was for instance because of possible national security or exclusion issues, which requires specific knowledge about the country of origin, the definition of different crimes and of relevant legislation.<sup>583</sup> Swedish respondents indicated that specifically for Syrian applicants, it was at times a challenge to make (new) caseworkers aware that not all Syrian cases were 'straightforward and 'easy' cases; they had to be made aware that they in some

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<sup>577</sup> R37.

<sup>578</sup> R36; ECRE (2017), p. 8.

<sup>579</sup> Grote (2018), p. 41.

<sup>580</sup> R22.

<sup>581</sup> R7.

<sup>582</sup> R22; R23; R24; R28.

<sup>583</sup> R28.

cases had to pay close attention. As several respondents noted, if you have experience and know what you are doing as a caseworker, a Syrian case could sometimes be less complicated, but for those with less experience these cases aren't necessarily easy.<sup>584</sup>

In this regard, it is interesting to contrast the approaches in Belgium and Norway. In Belgium, when the number of Syrian applicants started to rise, it was decided that decisions in Syrian cases were not made by new protection officers but reserved for experienced decision makers.<sup>585</sup> The four units that were devoted to Syrian cases consisted of caseworkers with at least some experience. Newly hired personnel were mainly attributed to units dealing with Afghan and Iraqi cases, the reasoning being that new caseworkers should preferably process 'ordinary' cases.<sup>586</sup> One of the sections focusing on Syria, the 'Congo'-section, included a number of newly hired caseworkers, so this unit was handed the relatively 'easy' areas in Syria.

In Norway, on the other hand, the units that dealt with Syrian cases primarily existed of new staff. The units always included a few senior caseworkers, but they too did not necessarily have experience with Syrian cases.<sup>587</sup>

## 5.5. Conclusion

- This chapter discussed how the studied countries have dealt with the establishment and verification of the identity of asylum seekers claiming to be Syrian, and how they have organised and/or adapted the decision-making process in relation to Syrian asylum applications.
- The most important methods used to establish the identity continue to be identity documents and fingerprints. The focus countries all have central competence centres or specialised units dealing with the investigation of documents.
- In addition, the focus countries increasingly use different and new methods to establish and/or verify an applicant's identity, including digital language analysis, extraction of information from data carriers and social media research. The nature and the scale of the influx from 2014 – in addition to technical innovations – are some of the driving factors behind these developments.
- The influx of Syrian asylum applicants presented a number of specific challenges with respect to establishing the identity.
  - With respect to document analysis, challenges included: lacking documentation; the reliability of presented documents; the use of fake identities; and insufficient capacity at the competence centres and expertise units.
  - With respect to interviewing, challenges included: lack of a need to make elaborate statements for applicants claiming to be from Syria because of the high recognition rate; the availability of adequate and up to date country of origin information; and coordination between different actors (e.g. when certain routines and interview protocols were adopted because of the high influx).
- The new methods of social media analysis and data carrier extraction also present their own challenges. Respondents had different views on the value of the information gathered through these methods.
  - Respondents from countries that use these methods were generally positive. They stressed that in particular when these methods can be used in combination, these

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<sup>584</sup> R7; R28; R29.

<sup>585</sup> R21.

<sup>586</sup> R21; R22; R23; R24.

<sup>587</sup> R6; R7.

methods can be useful in identifying whether someone concealed his/her true identity, but that these methods can also confirm the applicant's story.

- Respondents from countries that do not use these methods were generally more sceptical. Some doubted whether information from social media is valuable, as applicants are aware that the information will be checked. They indicated that the information presents weak evidence, or that they experienced or foresaw legal issues with the collection or storage of information obtained through these methods. Finally, it was expressed that the use of these methods, and the analysis of the information gathered through them, require a lot of capacity, which is not always available.
- Because of indications that non-Syrian applicants tried to take advantage of the Syrian situation by claiming to be Syrian, in some countries (Norway, Germany) special initiatives have been taken to retroactively re-assess the identity of applicants (who claimed to be) of Syrian nationality.
- Unlike in Belgium, Germany and Sweden, the tasks in relation to the establishment of the identity are divided between law enforcement and immigration authorities in the Netherlands and Norway. From the perspective of establishing an applicant's identity, an advantage of this division of tasks is that law enforcement actors typically have more means at their disposal to collect information on asylum applicants than immigration authorities. The influx in the past years has, however, also pointed out disadvantages of this division of labour: there may be limits to the information that can be shared between the authorities, and the approach may be less efficient and more time-consuming under pressure. There is a risk of doing double work.
- With the high influx, countries that do not work with country of origin specialisation in the decision-making (the Netherlands and Sweden) had an advantage in the sense that every caseworker could deal with any case, which gave flexibility and eased scaling up. The countries that do work with country of origin specialisation had to redirect units working on other areas to working on Syria, which presented some challenges. The countries also took different approaches in whether or not new caseworkers were handed Syrian cases or not, depending on whether those were seen as relatively 'easy' or not.

## Chapter 6. Organisation of the screening of Syrian asylum seekers in relation to national security and 1F exclusion

One of the central tensions that this study seeks to address revolves around the need for efficient and quick status determination for Syrian asylum seekers on the one hand, and the need to carefully screen asylum seekers on possible involvement in serious crimes or possible risks they may pose to national security on the other hand. The authorities in the studied countries are all faced with similar challenges: how to identify persons that have allegedly committed crimes or may pose a (future) threat to national security? As this chapter will demonstrate, the approaches in this regard show similarities, but there are also differences, because of the differences in institutional make-up and scale of the influx in the respective countries.

The chapter will describe the context of national security and 1F exclusion screening in §6.1 and subsequently discuss structures for reporting and information exchange in §6.2. Efforts aimed at equipping staff to identify national security and exclusion issues will be discussed in §6.3, while information sources used in identifying these issues are presented in § 6.4. Finally, §6.5 describes whether and how attention is given to national security and exclusion in family reunification procedures.

### 6.1. Context national security and 1F exclusion

#### 6.1.1. 'National security'

The concept of 'national security' or 'security of the state' is used in different ways in the context of asylum. When an asylum seeker poses a danger to the security of the state, this can be a reason to refuse or withdraw certain statuses, for instance on the basis of art. 14 and 17 EU Qualification Directive.<sup>588</sup> Furthermore, "(compelling) reasons of national security" can be invoked for instance to refrain from issuing a residence permit which must be valid for at least 3 years and renewable as soon as possible after international protection has been granted (art. 24 Qualification Directive) or issuing travel documents (art. 28 Refugee Convention, art. 25 Qualification Directive).

What a danger to the security of the state or compelling reasons of national security entails differs from country to country. An EMN ad hoc query from 2016 gives some insight into how these concepts are defined or understood in the focus countries.<sup>589</sup> The ad hoc query asked inter alia whether the country's national asylum legislation defines the term "danger to the state security" and what actions, deeds or behaviour of an applicant can constitute a danger to the state security.

In answer to these questions, Belgium noted that the Belgian Immigration Act does not clearly define a danger to the national security. Art. 52/4 of the Immigration Act of 15 December 1980 states that there should be "reasonable grounds to consider the person as a danger to national security", which

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<sup>588</sup> Art. 14 reads: "4. Member States may revoke, end or refuse to renew the status granted to a refugee by a governmental, administrative, judicial or quasi-judicial body, when: (a) there are reasonable grounds for regarding him or her as a danger to the security of the Member State [...]". Art. 17 reads: "1. A third-country national or a stateless person is excluded from being eligible for subsidiary protection where there are serious reasons for considering that: [...] (d) he or she constitutes a danger to the community or to the security of the Member State in which he or she is present."

<sup>589</sup> EMN Ad-Hoc Query on Ad-Hoc Query on the criteria for application of exclusion clause – danger to the community and danger to the state security – while reviewing the applications for international protection. Requested by SK EMN NCP on 6th September 2016.

according to the Belgian answer “could be considered as an assessment of proportionality”.<sup>590</sup> Germany refers in its answer to Section 60(8) Residence Act, which determines cases in which the prohibition of deportation of Section 60(1) Residence Act shall not apply, namely if “for serious reasons, the foreigner is to be regarded as a threat to the security of the Federal Republic of Germany or constitutes a threat to the general public because he or she has been finally sentenced to a prison term of at least three years for a crime or a particularly serious offence”.<sup>591</sup> The Netherlands provided a response to the ad hoc query with the request to not disseminate it further. The answers to the questions in the ad hoc query can also be found in other sources, however. In its advice on aliens policy and counter-terrorism,<sup>592</sup> the Dutch Advisory Committee on Migration Affairs (2003, p. 24) concludes that there is no legal definition of the concept of ‘national security’ in Dutch law, but the task description of the General Intelligence Service AIVD in the law on the intelligence and refers to the concept.<sup>593</sup> This provision mentions a number of factors, including risks for the functioning of and cooperation with for the Netherlands relevant international organisations, tensions that can lead to a threat to international stability or the international rule of law, and the infrastructure for terrorism. Norway does not have a specific definition of these terms, according to the answers to the EMN ad hoc query. Section 31 of the Immigration Act mentions grounds for excluding or expelling asylum seekers due to concerns for national security, namely if the applicant has “been convicted by final judgment of a particularly serious crime and for this reason constitutes a threat to Norwegian society” or “based on fundamental national interests”.<sup>594</sup> However, the Ministry of Justice and Public Security has drafted an instruction for ‘security cases’, which determines in the threshold for when a case affects ‘fundamental national interests’ (or ‘foreign policy considerations’).<sup>595</sup> The Swedish Aliens Act also does not define national security as such, but quotes national security as a reason for refusal, expulsion and withdrawal inter alia in Chapter 1, Section 7, and Chapter 5, Section 1.<sup>596</sup>

In its answer to the question what actions, deeds or behaviour of an applicant can constitute a danger to the state security, Belgium notes that this is to a large extent the discretion of the Minister or his representative: “The Minister or his authorized representative will send all the elements regarding the danger to the national security to the Office of the Commissioner for Refugees and stateless Persons. Whether an individual is considered as a danger to state security and whether he should be excluded on this ground from an international protection status is based on a case by case decision and it is not possible to list the actions, deeds or behaviour constituting a danger to the state security.” Germany notes that “it is considered a danger to the Federal Republic, e.g. if someone is a member or active

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<sup>590</sup> The ‘Wet betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen’ of 15 December 1980 is available online at [http://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=nl&la=N&table\\_name=wet&cn=1980121530](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=1980121530).

<sup>591</sup> A translation of the Residence Act is available at [http://www.gesetze-im-internet.de/englisch\\_aufenthg/englisch\\_aufenthg.html#p0896](http://www.gesetze-im-internet.de/englisch_aufenthg/englisch_aufenthg.html#p0896).

<sup>592</sup> See <https://acvz.org/wp-content/uploads/2015/07/Advies-ACVZ-NR4-2003.pdf> (in Dutch only).

<sup>593</sup> See Art. 6(2)(a) and (d) Wet van 7 februari 2002, houdende regels met betrekking tot de inlichtingen- en veiligheidsdiensten alsmede wijziging van enkele wetten (Wet op de inlichtingen- en veiligheidsdiensten 2002) and the ‘Regeling van 10 juli 2002 tot de aanwijzing van onderwerpen als bedoeld in artikel 6, tweede lid, onder d, van de Wet op de inlichtingen- en veiligheidsdiensten 2002’ (10 July 2002/ No. 02G434823, Stct. 2002, 132).

<sup>594</sup> A translation of the Norwegian Immigration Act can be accessed at <https://www.regjeringen.no/en/dokumenter/immigration-act/id585772/>.

<sup>595</sup> R2; this instruction ‘GI-03/2016 - Instruks om behandling av saker som kan berøre grunnleggende nasjonale interesser eller utenrikspolitiske hensyn etter utlendingsloven kapittel 14, § 35, og saker etter eksportkontrollregelverket’ is publicly available at <https://www.regjeringen.no/no/dokumenter/gi-032016---instruks-om-behandling-av-saker-som-kan-berore-grunnleggende-nasjonale-interesser-eller-utenrikspolitiske-hensyn-etter-utlendingsloven-kapittel-14--35-og-saker-etter-eksportkon-trollregelverket/id2479921/> (only in Norwegian).

<sup>596</sup> The Swedish Aliens Act can be accessed at [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/utlanningslag-2005716\\_sfs-2005-716](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/utlanningslag-2005716_sfs-2005-716).

supporter of an organization on the EU list of terrorist organizations. Propaganda or collecting donations for such organization may already be considered serious reasons". The response of the Netherlands was not disseminated. The Aliens Regulation 2000, however, lays down the policy for the cases in which the IND may refuse a temporary residence permit because of indications that an applicant poses a danger to national security. The provision requires "concrete indications", which may become clear *inter alia* from an official (individual) report (*ambtsbericht*) drafted by the national or a foreign intelligence service; a conviction for a terrorist crime in the Netherlands or abroad; or from "particularly serious acts with a terrorist intention" conducted by the applicant.<sup>597</sup> In Norway, as noted above, applicants can be excluded or expelled "based on fundamental national interests, or the foreign national, having been convicted by final judgment of a particularly serious crime, thereby constitutes a danger to Norwegian society". Sweden notes that what actions, deeds or behaviour can constitute a danger to security is decided on a case by case basis depending on information given by the Swedish Security Service.

### 6.1.2. 1F exclusion

Unlike the concept of 'danger to national security', refugee 'exclusion' is defined in more or less the same way in all of the studied countries. The concept refers to the exclusion of alleged perpetrators of serious criminality from asylum and subsidiary protection on the basis of Article 1F of the Refugee Convention (hereafter: Article 1F),<sup>598</sup> and its derivatives in the EU Qualification Directive.<sup>599</sup> However, the way in which Article 1F is applied in practice differs considerably across Europe. For instance, it differs from country to country whether inclusion is considered before exclusion, what standard of proof is used, what level of involvement in the alleged crimes is required for exclusion, what defences are available and which limbs of Article 1F (a, b or c) are used.<sup>600</sup> Because the issue of refugee exclusion is also not equally prioritised in different European countries, the number of excluded individuals differs considerably per country.

In Belgium, Article 1F is incorporated through Articles 55/2 (asylum) and 55/4 of the Immigration Act (subsidiary protection). In Germany, exclusion from asylum and subsidiary protection is regulated in Section 3(2) and 4(2) of the Asylum Act (*Asylgesetz*) respectively.<sup>601</sup> In the Netherlands, Section C2/7 of the Aliens Regulation provides for exclusion in asylum and subsidiary protection cases. Section 31 of the Norwegian Immigration Act determines that applicants for residence permits shall not be entitled to recognition as a refugee if they fall under the exclusion clauses of the Refugee Convention. In the

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<sup>597</sup> Para. B1/4.4 Vc 2000, translation by authors; the Aliens Regulation can be accessed at <<http://wetten.overheid.nl/BWBR0012289/2018-04-01>>.

<sup>598</sup> The United Nations Convention relating to the Status of Refugees (hereinafter the Refugee Convention) was adopted in 1951. Article 1F reads: 'The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that: (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; (b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee; (c) he has been guilty of acts contrary to the purposes and principles of the United Nations.' In this report the term exclusion refers solely to Article 1F Refugee Convention; the other exclusion clauses (Articles D and E), are not addressed. Whenever mention is made of 'excluded' individuals, asylum applicants who have been denied refugee protection due to Article 1F are referred to, for practical reasons in the masculine pronoun.

<sup>599</sup> Art. 12 and 17 of the Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast).

<sup>600</sup> For more on these differences, see Rikhof (2012) and Aas (2013).

<sup>601</sup> A translation of the Asylum Act is available at <[https://www.gesetze-im-internet.de/englisch\\_asylvfg/index.html](https://www.gesetze-im-internet.de/englisch_asylvfg/index.html)>.

Swedish Aliens Act, Article 1F has been incorporated in national legislation through chapter 4, section 2(b) (asylum) and section 2(c) (subsidiary protection).

### 6.1.3. Number of cases since the high influx

#### *National security*

The number of 'national security cases' is difficult to determine. As noted above, the definition of what constitutes a national security case differs from country to country. There is also a substantial difference between reporting a case to the intelligence and security services, and refusing an asylum application because the applicant poses a danger to the national security. Respondents were generally reserved to give insight into the number of cases reported to the intelligence and security services and the actual number of national security cases. In Belgium,<sup>602</sup> the Netherlands,<sup>603</sup> and Sweden,<sup>604</sup> there was a rise in the number of reported cases in absolute terms since 2014. In a previous study, the authors reported that in the Netherlands, the number of reports from the IND liaisons (on behalf of the IND, reception agency COA and departure and repatriation service DT&V) in 2015 had multiplied by four as compared to 2014, and almost by six compared to 2013. It must be noted, however, that the number of asylum applications had also increased (it had multiplied by four in 2015 as compared to 2013).

However, as noted above, a rise in the number of reports does not necessarily mean that the number of refusals on national security grounds also rises, in relative or even in absolute terms. In the Netherlands in 2016, the increased number of reports had not led to an increase in the number of reports issued by the AIVD that can form the basis to refuse an asylum application.<sup>605</sup> A representative of the CGRS noted that, since the competence to refuse applications for residence on the basis of national security grounds was allocated to the CGRS, it had only used this in a handful of cases, which all concerned returning 'foreign fighters' rather than Syrian nationals.<sup>606</sup> Swedish respondents provided detailed figures of the number of cases reported and these show that the number of cases where a residence permit application was made (not only asylum) that had been referred to the Swedish Security Service increased twelvefold in the period 2013 to 2017.

As Belgian respondents pointed out, a logical consequence of the fact that more agencies have become occupied with national security matters, and also in general the awareness of national security aspects has increased due to developments such as the terrorist attacks in Brussels and Zaventem in March 2016, is that the number of reported cases rises.<sup>607</sup> On the other hand, increased knowledge among caseworkers may also increase their capacity to point out the 'right' cases and have an inhibitory effect.<sup>608</sup> It is therefore difficult to interpret these increases in the numbers of reported potential national security cases.

#### *Exclusion*

The number of exclusion cases can be determined rather straightforwardly, by counting the number of exclusion decisions; the definition of exclusion is the same in the focus countries, as noted above. This number is often not publicly available, however. The Dutch Minister of Justice and Security reports on

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<sup>602</sup> R19.

<sup>603</sup> Van Wijk & Bolhuis (2016), p. 119.

<sup>604</sup> R28.

<sup>605</sup> Van Wijk & Bolhuis (2016), p. 158.

<sup>606</sup> R20.

<sup>607</sup> R18; R19.

<sup>608</sup> Van Wijk & Bolhuis (2016), p. 120.



the number of exclusion cases in its annual Reporting Letters on International Crimes to parliament.<sup>609</sup> Until 2016, the Belgian CGRS used to make the exclusion figures publicly available via its website,<sup>610</sup> but figures from 2017 onwards are not available there. As far as the authors are aware, none of the other focus countries publishes these figures.

In the context of this study, especially exclusion cases regarding Syrian applicants are relevant. Table 7 shows the number of Syrian exclusion cases per country. For Sweden, only the overall numbers on exclusion were made available. For this reason, no figures on Sweden are presented in the table below.<sup>611</sup> Germany has not provided any numbers on exclusion.

Table 7. Number of excluded Syrian asylum applicants 2013-2017

	2013	2014	2015	2016	2017
<i>Belgium</i> <sup>612</sup>	10	7	2	2	<i>not provided</i>
<i>Netherlands</i> <sup>613</sup>	<i>not provided</i>	about 10	about 10	about 5	about 10
<i>Norway</i> <sup>614</sup>	<i>not provided</i>	3	0	3	19

As to the nature of the exclusion cases from Syria, respondents mentioned the following. A representative of the CGRS believed that all 1F cases in Belgium in relation to Syria related to persons associated with the Assad regime, rather than opposition or other groups.<sup>615</sup> In the Netherlands a shift has occurred. Since the beginning of 2017 the number of cases regarding people who belong to other belligerent parties than the regime has increased. Respondents indicated that it is generally easier to build a case against an Assad-regime official, for instance because more is known about the command structure of the Syrian army. If someone claims not to have served in the army, while because of his age he would normally have had to complete obligatory military service, you have an indication to look into a case; you would not have such an indication with the other belligerent parties.<sup>616</sup> A Norwegian respondent indicated that since 2015, Syrian exclusion cases concerned firstly individuals associated with the Assad regime, who have in various ways contributed to torture, working for the police, security police, as prison guards or as soldiers in the Syrian army. Secondly, there have been exclusions of individuals associated with rebel groups (including the Peshmerga) who are believed to have committed unlawful killing(s). Thirdly, individuals who have committed other serious offenses, and been convicted for this in a country other than their country of origin prior to arrival in Norway, have been excluded.<sup>617</sup> For Germany and Sweden, no additional information about the nature of the Syrian exclusion cases has been obtained.

#### 6.1.4. Relevant actors

In the different focus countries, the organisational setup for the case handling in national security and exclusion cases within the body responsible for examining and deciding upon asylum applications,

<sup>609</sup> See e.g. the Reporting Letter over 2017 at <<https://www.rijksoverheid.nl/documenten/kamerstukken/2018/03/05/tk-rapportagebrief-internationale-misdrijven-2017>>.

<sup>610</sup> See <<https://www.cgrs.be/en/figures>>.

<sup>611</sup> The overall number of exclusion cases in Sweden per year is: 2013 (not provided), 2014 (20), 2015 (20), 2016 (68), 2017 (105). Information provided by R28.

<sup>612</sup> R20.

<sup>613</sup> R31; R32. In the Netherlands, from 2014 to 2016, the number of Syrian cases was about half of the total number of 1F cases, in 2017 it was about one third.

<sup>614</sup> R2.

<sup>615</sup> R20.

<sup>616</sup> R34.

<sup>617</sup> R2.

differs significantly. Firstly, there are differences in whether national security and exclusion cases are handled by specialised units, by specialised decision-makers within regular units, or by regular decision makers with advice from specialists/consultants. Secondly, there are differences in whether the specialisations for national security on the one hand, and exclusion on the other hand, are concentrated in one unit, or divided over separate units.

Belgium, Germany and Sweden do not have specialised units responsible for the handling of all potential national security or exclusion cases, but have exclusion specialists advising regular decision makers (Sweden), or specialised decision makers within regular units (Belgium and Germany). Germany and Sweden do have specialised units that will step in in national security cases.

### *National security*

An important difference between the Scandinavian countries and the other countries studied in this report, is that the intelligence and security services are part of the police (Norway) or have police authority (Sweden), whereas in Belgium, the Netherlands and Germany, they are separate agencies. This is a relevant difference, because it may affect the way in which actors in the immigration process exchange information with intelligence and security services; for instance, in Norway, the aliens police and intelligence and security services are formally part of the same national police. In the Netherlands, on the other hand, the aliens police and the intelligence and security services are distinct actors.

Within the Belgian CGRS, there is no specialised unit for exclusion or national security cases. In potential national security cases, CGRS caseworkers can discuss any indications of national security aspects they come across with the unit supervisor, who could liaise with the head of the asylum department, who on his or her turn could discuss the case with the Commissioner-General. There are three contact persons within the CGRS for the intelligence and security services.<sup>618</sup> Furthermore, the Commissioner-General takes part in the monthly meetings of the Plan R Working group (see §6.2.1).

In Germany, every branch office has special envoys for national security and exclusion cases, who have received special training to deal with exclusion and security questions. If a decision maker has doubts about possible national security or exclusion aspects, he or she turns to these specialists. Decision makers have a 'criteria catalogue' (*Kriterienkatalog*) at their disposal, issued by the security and intelligence services (both the external and internal security and intelligence services), which provides the caseworker with indicators for national security and exclusion cases (see §6.3.2). If on the basis of these indicators, the decision maker believes there may be national security or exclusion issues, he or she will consult with the special envoy. The BAMF always takes the decision on the asylum application. In security cases, when the decision maker and special envoy agree that there are indications in relation to national security, the case is sent to the BAMF headquarters in Nuremberg. At the headquarters, there is a specialised unit that will review the case and may decide to send it on to the security and intelligence services.<sup>619</sup> Media coverage suggests that the intelligence and security services have participated in interviews for a period of several weeks, without informing the applicant on forehand.<sup>620</sup> Respondents have not confirmed that this is correct.

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<sup>618</sup> E3.

<sup>619</sup> R38.

<sup>620</sup> A. Biselli, 'Internes Papier des Innenministeriums: Verfassungsschutz darf direkt an Asylanörungen teilnehmen (Update: Statements)', 12 December 2016, last visited 22 May 2018 at <<https://netzpolitik.org/2016/internes-papier-des-innenministeriums-verfassungsschutz-darf-direkt-an-asylanhoerungen-teilnehmen/>>; and A. Biselli, 'Bundesregierung erklärt Asylbewerber pauschal zum Sicherheitsrisiko', 27 June 2017, last visited 22 May 2018 at <<https://netzpolitik.org/2017/bundesregierung-erklaert-asylbewerber-pauschal-zum-sicherheitsrisiko/>>. According to experts at the expert meeting, this practice is not used in other countries. In this context, it was discussed that the intelligence and security services and the immigration services are separate agencies, and one would have to be very clear on the different roles.

In Sweden, the way in which national security cases and exclusion are handled has been significantly reorganised over the last couple of years.<sup>621</sup> Every regional unit has three to six ‘exclusion specialists’ who can act as consultants to the units. These specialists (specially trained caseworkers) are to be contacted by caseworkers in every case where exclusion or national security may possibly be an issue. They are to be involved in those cases as early as possible. Besides assisting in the assessments of cases, they have to have the legal knowledge, but also be able to raise awareness within the units, for instance by providing oral presentations and being ‘ambassadors’ for national security and exclusion, try to create a ‘buzz’ for the topic.<sup>622</sup> The specialists work for 50% of their time on regular cases, and act as consultant the other 50% of their time. Being a consultant means they discuss with the responsible caseworker what to do: for instance, conduct an additional interview, do additional checks on the basis of country of origin information, or inform the Swedish Security Service. The exclusion specialists also deal to some extent with national security cases; with respect to Syria, for instance, national security and exclusion are not two separate areas but intertwined. There could be suspicions of war crimes, but also of participation in a jihadist group that may pose a threat to national security. However, the exclusion specialists focus mostly on exclusion. In national security cases, who decides the case depends on the feedback received from the Security Service after a case is referred to them. In the Aliens Act, the Swedish Security Service is determined as a ‘referral body’, meaning they are obliged to assist and have a mandate to make recommendations to the Migration Agency what it should do in given cases. If the Security Service recommends that the individual is refused entry, deported, not given a residence permit, etc., the case will be handled by specially trained case officers and decision makers. Nationwide, there are specialists, including ‘contact points’ for the Security Service in each of the regional units (see §6.2.1), a national coordinator, a legal advisor, an advisor in non-asylum cases who are part of the ‘Special Operations’ department. Additionally, there is a department (the FSUS-unit) specialised in social media research, which deals in particular with exclusion cases.<sup>623</sup>

Norway and the Netherlands work with specialised units for exclusion and potential national security cases. The ‘F1 unit’ at the Norwegian UDI is – in spite of what its name may suggest – in charge of *both* national security and exclusion cases. Caseworkers who believe a case may have exclusion or national security aspects, based on internal guidelines, may consult the F1 unit or refer the case to the unit. In national security cases, the F1 unit will get the advice from the Ministry of Justice and Public Security, which may also decide the case or give instructions on matters of fact or interpretation of the law. UDI will in most cases present the draft decision to the Ministry of Justice and Public Security (see §6.2.2).<sup>624</sup> When the influx started to increase in 2015, the unit had around 11 or 12 staff members. In the spring of 2016, the unit had been expanded and consisted of around 15 staff members. In 2017, the unit was further increased to a total of 20 caseworkers. In 2016, a ‘twin unit’ was established; they

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If the intelligence and security services would sit in with an interview it is more difficult to make clear what the influence is of the intelligence and security services in that case and to document the contribution of the different authorities.

<sup>621</sup> A respondent (R28) indicated that some particular cases acted as a catalyst for developing a more robust way of handling national security and exclusion cases. For example, there was a case of a Syrian applicant claiming to have been an officer in the security branches. The applicant emphasized that he had only been involved in administrative affairs. Two experienced decision makers were involved in dealing with the case, without asking any in-depth questions. This showed that more awareness and knowledge was needed. Another example is that when caseworkers had a training on the EASO-module, the respondent asked some of them – who were mostly junior staff members – if they had had experience with exclusion or national security cases. Some mentioned rather high-ranking officials in Syria. This made clear that there was a need to more carefully think through how to distribute and deal with these more complex cases.

<sup>622</sup> R28.

<sup>623</sup> R28; R43.

<sup>624</sup> R2; E4; E6.

took the Eritrean cases. The number of people dealing with 1F and security issues more or less doubled between 2014 and 2017. At the end of 2017, seven caseworkers left the unit. Currently, caseworkers from the F1-unit are often working on family reunification cases because of the decline in cases where exclusion or national security may be an issue.<sup>625</sup>

Within the Dutch IND, a 'Unit Special Cases' (USZ) and three officers with the title "advisor national security" – who are also liaison officers for the IND at the security services – are responsible for handling potential national security cases. Caseworkers have guidelines at their disposal, instructing them what to do with cases in which there may be indications in relation to national security or exclusion. In the Netherlands a reporting structure for national security cases exists for the IND and other actors in the immigration process. Within the IND, caseworkers can consult 'enforcement coordinators asylum'. Three to four of these senior caseworkers are stationed at every IND location where asylum claims are handled, who can liaise with the special cases unit USZ or the advisors national security on what should happen with a case. The enforcement coordinators also act as 'ambassadors' for the topics of national security and exclusion. The IND has also introduced a 'screening' procedure during the high influx (100% from March 2016),<sup>626</sup> an upfront examination of different aspects including national security and exclusion after the identification and registration phase. Specially designated 'screeners' can liaise with the enforcement coordinators, who can decide whether a certain case should be referred to the 1F unit, or to the special cases unit, again if necessary after consultation with specialists at these units.<sup>627</sup>

### Exclusion

At the Belgian CGRS, all protection officers are trained to identify exclusion cases, and can additionally rely on assistance by two reference persons who have specialised legal knowledge of Article 1F exclusion. Cases with exclusion indications are handled by experienced case officers who have developed an expertise for 1F cases and received a specialisation training. A respondent indicated that the way in which possible 1F cases are handled within the CGRS is currently being formalised further, because there is a need for optimisation of the coordination of 1F cases. For this purpose, internal guidelines are updated and supervision by the legal department and a section overarching coordination are foreseen.<sup>628</sup>

As noted above, in Germany, every branch office has special envoys for national security and exclusion cases. If there are enough indications for exclusion, the special exclusion envoy in the branch office will take over the case of the 'regular' decision maker and decide the case. Similarly, in Sweden every regional unit has three to six 'exclusion specialists' who can act as consultants to the units. However, the exclusion specialists focus mostly on exclusion.

The F1-unit within the Norwegian UDI is responsible for both exclusion and national security cases. The Dutch IND has a separate unit in charge of exclusion cases (the 'Unit 1F'). Caseworkers have guidelines at their disposal, instructing them what to do with cases in which there may be indications in relation to national security or exclusion. They are to refer cases to the 1F unit, possibly after coordination with the 1F unit. These referrals used to be made through a fixed format, but it was decided to make the referral form free, as a result of which the 1F unit is now often involved in the process or can think along in an earlier stage. The 1F unit will conduct a 1F hearing and may decide to take over the case. The capacity of the 1F unit has remained about the same during the high influx at 21 FTE.<sup>629</sup>

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<sup>625</sup> R2.

<sup>626</sup> R31.

<sup>627</sup> Van Wijk & Bolhuis (2016), p. 64, 72.

<sup>628</sup> R23.

<sup>629</sup> R35.

### *Other actors*

Besides immigration authorities, external actors may be involved in, or informed on, national security and/or exclusion cases for follow up. In terms of involvement in the decision-making or follow-up action, these actors are mainly intelligence and security services and law enforcement (counterterrorism or criminal police) actors in national security cases, and criminal police in exclusion cases. In terms of informing other actors for security or vigilance purposes, these actors can be reception centres or other actors with a role in the immigration process. How the information exchange between these actors takes place is addressed in the following paragraph.

## 6.2. Reporting and information exchange structures, and cooperation

Information exchange in the context of 1F exclusion was the subject of a previous study commissioned by UDI in 2016.<sup>630</sup> This paragraph will be limited to information exchange in national security cases, whereby relevant information is (to be) exchanged with intelligence and security services and counter terrorism departments within law enforcement.<sup>631</sup>

### 6.2.1. Reporting and information exchange structures on national security

Two forms of information exchange can be distinguished: first, there is the reporting of information by immigration authorities and other actors involved in the immigration process to actors that are responsible for following up on this kind of information, such as intelligence and security services; second, there is information exchange between the actors for the purpose of informing each other. For the latter, multilateral forums have been established in Belgium and the Netherlands, which will be addressed separately in this paragraph.

#### *Reporting by actors in the immigration process to intelligence and security services/law enforcement*

In Belgium, the CGRS exchanges information directly and bilaterally with the state security service VSSE and police and vice versa.<sup>632</sup> The CGRS will inform the intelligence and security services by means of a letter, for which a fixed format is available.<sup>633</sup> According to a representative of the CGRS, this bilateral exchange functions well in practice.<sup>634</sup> The Immigration Office also has its own bilateral exchange with different agencies, through the Radicalism Cell. The Immigration Office's Radicalism Cell, established as of 1 May 2016 and currently consisting of seven staff members, exchanges information on a daily basis with the VSSE, the military intelligence service ADIV/SGRS, the coordination unit for threat analysis OCAD/OCAM and the federal police FP.<sup>635</sup> To facilitate the bilateral exchange, a liaison officer of the VSSE is the direct contact point for the CGRS, the Immigration Office, and Fedasil.<sup>636</sup>

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<sup>630</sup> Bolhuis & Van Wijk (2015).

<sup>631</sup> It should be noted that in Norway and Sweden, the intelligence and security services are part of the police or have police authority, whereas the Belgium and the Netherlands have a separate counter-terrorism police.

<sup>632</sup> An amendment of the Belgian aliens act in September 2015 included an adaption of the provision on the professional secrecy of the CGRS. According to a CGRS representative, the aliens act now clearly determines that the sharing of information with the intelligence services, the public prosecutor and the police are not contrary to the professional secrecy of the CGRS. Previously, there has been discussion about whether such exchange was allowed (R20).

<sup>633</sup> R23.

<sup>634</sup> R20.

<sup>635</sup> R18.

<sup>636</sup> R18; R19.

In Germany, the BAMF is responsible for deciding upon the asylum claim, while the federal states organise reception and accommodation. The BAMF has a bilateral exchange with the intelligence and security services. If further action from the BAMF is required, this goes through the Joint Counter-Terrorism Centre in Berlin (*Gemeinsames Terrorismusabwehrzentrum*, GTAZ).<sup>637</sup> Since 2012 the BAMF has a 'hotline' for de-radicalisation.<sup>638</sup> If reception centre staff, or volunteers assisting asylum seekers with their integration, have the idea that someone has radicalised or is in the process of radicalising, they can call the hotline. The hotline receives calls in this respect, from frontline workers asking for advice. The hotline has so far received about 4.000 calls; in about 2.500 cases this has led to advice or other action. In this context, the BAMF has partners within civil society that it works with; those close to the person are approached and given advice how to help the person.<sup>639</sup> Information received via the hotline could be relevant to partners that the BAMF works with, such as the security services. If the BAMF believes there is something that the security services need to know, it is reported to them.<sup>640</sup>

In the Netherlands, the aliens police AVIM and the border police KMar have their own conduit for reporting information to intelligence services or within the own organisation for law enforcement or criminal investigation purposes. The National Police has national and regional information 'hubs' (the DLIO and DRIO), which are to refine, interpret and share information for instance with regional police intelligence services (RID-WIV or LID/WIV), connected to the general intelligence services) and the police's counter-terrorism department CTER. The KMar is to contact the KMar information hub (KIK), the Special Service (BD) of the KMar and the public prosecution's office.<sup>641</sup> For the IND, COA and DT&V, a reporting structure has been set up. If any of these organisations has an indication of an aspect that may relate to national security, this is to be reported to the special cases unit USZ and the three IND-liaison officers, who are in direct contact with the intelligence services AIVD and MIVD. The liaison officers can add to that from the IND information, or gather additional information through a network within the IND, assisted by the special cases unit USZ.<sup>642</sup> The liaison officers receive information via a uniform referral format, that is used by all three organisations.<sup>643</sup>

### **Referral format national security**

Because of the establishment of the national council on radicalization in the migration process (*landelijk regieoverleg*, LRO; see below), the referral format that is used to report indications in relation to national security has been made more elaborate than it used to be. It forces caseworkers to go through a number of specific questions, with the purpose of challenging the caseworker to specify the report and think through and interpret what they see more carefully. Being forced to go through a number of questions may make the caseworker think about other striking details. The format also aims to make reports more uniform and complete, and to prevent unnecessary reports. The indicators in the referral format have been adapted to make them more similar to indicators used by AVIM and KMar. Subject that are covered include remarkable contacts, remarkable behaviour, religious conviction, willingness to use violence, dissatisfaction, (spreading) propaganda, travel movements, training and social concerns (R31, R32).

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<sup>637</sup> R38.

<sup>638</sup> The Advice Centre on Radicalisation; see <<http://www.bamf.de/EN/DasBAMF/Beratung/beratung-node.html>>. This centre also offers a brochure entitled 'Faith or extremism?', available online at <[http://www.bamf.de/SharedDocs/Anlagen/EN/Publikationen/Broschueren/glaube-oder-extremismus.pdf?\\_\\_blob=publicationFile](http://www.bamf.de/SharedDocs/Anlagen/EN/Publikationen/Broschueren/glaube-oder-extremismus.pdf?__blob=publicationFile)>.

<sup>639</sup> R38.

<sup>640</sup> R38.

<sup>641</sup> Van Wijk & Bolhuis (2016), p. 69-71.

<sup>642</sup> Ibid., p. 71.

<sup>643</sup> R31; R32.

Within the IND, the previously mentioned ‘enforcement coordinators’ are the ones to forward information to the liaison officers. If a case contains elements which are possibly relevant both in the context of national security and exclusion, the liaison officers take the lead, while in the meantime the Unit 1F can see what it can already find out about the case.<sup>644</sup> When staff of the reception agency COA refers indications to the IND liaison officers using the referral format, they will also have to report the indications to the police officer responsible for the neighbourhood where the reception centre is located (*wijkagent*). The police officer will use the same reporting structure as the AVIM and share the information with the National Police’s information hubs.<sup>645</sup>

In Norway, the PU and the UDI have their own way of reporting possible indications relating to national security to the intelligence and security services (the PST, which is part of the police). According to a PST representative, with regard to asylum seekers, the UDI is the most important organisation for PST in terms of providing information. In other words, UDI presents more, or more relevant, information than other actors working in the asylum process, such as housing contractors or the aliens police. The PST assessment of whether someone actually poses a threat to national security relies primarily on the narrative that is given to the UDI, rather than on the establishment of the identity by the PU.<sup>646</sup> PST’s work is based on a strict legal framework and cooperation with UDI is based on a certain protocol. Information from UDI should only be directed to PST via the F1-unit. PST would not accept a case received from an individual UDI employee who has not gone through the proper channels.<sup>647</sup> The intelligence and security services are not informed by way of a referral format. Instead they receive a notification. Pointed to a case by this notification, the PST can access the asylum file in UDI’s system where it can find a very brief factual summary of why the case might be relevant to the PST. Such a summary could, for instance, state: ‘The applicant says he belonged to LTTE for 8 years’. The PST itself can then access the UDI database and can find out more about the case itself by accessing the file. In principle, the UDI only is required to bring the case to the attention of the intelligence and security services. One reason why the UDI merely uses these brief notifications and does not share more elaborate information is that the applicant will be able to see the content of the notification. Another reason is that UDI deliberately does not make an assessment of the case.<sup>648</sup> Information from the PU can be reported to the PST in two ways: via an internal reporting system and through the general front desk. If a possible threat is reported through the front desk and assessed as important, the front desk will deal with the information immediately. The individual police officer always also has to report a signal to PST via the reporting system.<sup>649</sup> The PU’s DUF system contains a specific procedure for reporting issues relating to security.<sup>650</sup> The PU also has a contact person for the PST.<sup>651</sup> If an employee at a reception centre would want to send information to PST, he or she would be expected to share this with the general front desk. According to a PST representative, the PST does occasionally receive such tips from reception centres.<sup>652</sup>

In Sweden, as the Migration Agency is the main actor in all aspects of the asylum procedure, information exchange on national security issues is mainly bilateral information exchange between the Migration Agency and the Swedish Security Service (*Säkerhetspolisen*), although the Security Service does also receive signals from other actors.<sup>653</sup> According to a respondent, it is expected of the

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<sup>644</sup> R35.

<sup>645</sup> Van Wijk & Bolhuis (2016), p. 74.

<sup>646</sup> R8.

<sup>647</sup> R8.

<sup>648</sup> E6.

<sup>649</sup> R8; R9.

<sup>650</sup> R16.

<sup>651</sup> R14.

<sup>652</sup> R8.

<sup>653</sup> R41.

Migration Agency that it facilitates information sharing with the Swedish Security Service.<sup>654</sup> For this purpose, a system of contact points was set up in 2015. The idea was to harmonise the way national security cases are dealt with in the six regions, in cooperation with the SSS. The way how one particular region dealt with this was a model for the structure that was set up for the entire country. The method developed in practice over the years, also as a result of the high influx.<sup>655</sup>

### Contact points and caseworker presentations

Each regional unit within the Migration Agency has a contact point, who act as liaison officers. They are in charge of information sharing with the Swedish Security Service in individual cases and make sure that this is done in an orderly fashion. The contact point and their Swedish Security Service counterpart meet at least once a month. Many have meetings weekly or biweekly; ad hoc meetings are also possible. Before every meeting, the contact point, who is specialised in national security and exclusion, will explore in the regional unit if there are cases that might be of relevance to the Security Services. If a caseworker has a case in which he or she believes there is an indication, the contact point and caseworker will meet with the Swedish Security Service representative, where the caseworker presents the case face to face. (R28; R30).

According to respondents, the regular meetings between the regional contact points where Migration Agency caseworkers can present cases they believe may be interesting to the Security Services should be seen as an open briefing. The caseworker presents the case and the Security Service contact point will decide based on his or her knowledge or information he or she has whether the case is interesting to the Security Service – within the frames that the Security Service has set.<sup>656</sup> The input from the Security Service contact point based on the presentation could take three forms: 1) the case is interesting to the Security Service, please refer the case; 2) the case is not interesting; 3) the case could be interesting, but it is too early to decide. In the third scenario, the input from the Security Service will generally not consist of concrete suggestions to the caseworker for follow-up questions to ask; however, it could be that the Migration Agency on the basis of the meeting decides to have an additional interview. On the basis of new information from the interview, it might be that the Security Service makes another assessment.<sup>657</sup>

A representative of the Migration Agency indicated that when this new structure was put in place, there was initially some scepticism within the regional units, as they believed that the existing system for detecting and reporting security cases in their region was sufficient. However, there were concerns that not all relevant cases were reported to the Swedish Security Services; some caseworkers felt they did not have to refer certain cases because they believed the Swedish Security Service would not be interested, based on previous experiences. By the time of data collection, the new structure had generated positive feedback from the regional units, had increased information exchange and taught caseworkers what to look for (see also §6.3.3).<sup>658</sup>

Staff in the reception centres have received some training on a regional level but the Migration Agency is looking into a more systematic approach (see also §6.3.1). Reception centre staff are to report possible indications via the contact point of the regional unit if it is connected to the case of an individual asylum applicant. All information, whether it comes from the asylum caseworker, or a reception centre staff member, should be channelled through the same regional contact point; that is

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<sup>654</sup> R28.

<sup>655</sup> R28; R42.

<sup>656</sup> R28; R41; R42.

<sup>657</sup> R28; R42.

<sup>658</sup> R28; R30.



also the strength of the system, according to a respondent. The same respondent noted that in theory, it could be that two different caseworkers may both have a 'subtle' indication and not know it from each other, while taken together the signals would be interesting. If the system works, this is found out by the regional contact point.<sup>659</sup> The Migration Agency also has a security department, in charge of the security of staff and in reception facilities. If there is information that in a certain reception facility activities (not connected to a specific individual) are occurring that might pose some kind of security issue, then it is up to the regional security officer to deal with it. This officer can also liaise with the police, the regional administration and the director of the reception facility.<sup>660</sup> In June 2017, an agreement was made public in parliament to further emphasize the need of information exchange between the Migration Agency and Swedish Security Service. If needed for their task as a referral body, they are entitled to access the Migration Agency's database.<sup>661</sup>

#### *Information exchange between actors in the immigration process*

The reporting structures that have been described in the previous section related to the bilateral information exchange between actors in the immigration process on the one hand, and intelligence services and law enforcement actors on the other hand. The actors within the immigration process, may however also exchange information among themselves for the purpose of notification, rather than reporting.

In Belgium, apart from the Plan R working group (see below), the different actors have their own ways to bilaterally exchange information on national security issues. The CGRS is only allowed to share information with other authorities than the intelligence services, the public prosecutor and the police, if this is relevant for the performance of their duties. If an applicant would be an acute threat to the national security, the CGRS would not report this to Fedasil, for instance, and it would only report this to the Immigration Office if the information is relevant for establishing the identity or the return of the applicant. Sharing such information would violate the individual's privacy as well as the professional secrecy of the CGRS.<sup>662</sup> If there is an acute threat, the CGRS assumes that other authorities will act upon this. If the Immigration Office would find anything that is relevant for the decision-making process, it could report this to CGRS via an existing information system. If the Immigration Office has made a report to the intelligence services, this will be noted in the file that is accessible to the CGRS.<sup>663</sup> Since Fedasil is also part of the Plan R working group, it can use that to report information on radicalism to the Immigration Office.<sup>664</sup> The information exchange between Fedasil and the Immigration Office on radicalism has been a topic of debate in the past, according to one respondent. Now that Fedasil falls under the same state secretary as the Immigration Office, information exchange is easier than it used to be, but Fedasil has a confidential relation with applicants and works with subcontractors, the Red Cross and private partners. Staff in the reception centres are social workers, and not government personnel.<sup>665</sup> According to respondents, the VSSE will inform Fedasil if there is a need to know for its staff, if someone poses a danger. At the moment of data collection, the arrangements on the information exchange with Fedasil were being revised.<sup>666</sup>

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<sup>659</sup> R28.

<sup>660</sup> R28.

<sup>661</sup> R28.

<sup>662</sup> R20.

<sup>663</sup> R23.

<sup>664</sup> As noted above, employees in the reception centres are obliged to make reports to the Fedasil headquarters, the reception centre manager and the local police.

<sup>665</sup> R17.

<sup>666</sup> R18; R19.

The German BAMF does not inform reception centres about individuals possibly posing a security threat; a BAMF representative was unaware whether staff at the federal states are informed about possible national security cases in another way.<sup>667</sup>

In the Netherlands, the AVIM's information system PHSV is connected to the Central Shared Database with Information On Applicants BVV; in this way, the IND can access information from AVIM. Information exchange between the KMar and IND runs through the IND's office at Schiphol, and in the ID-streets.<sup>668</sup> The National Police, KMar and the return and repatriation service all have access to the BVV, but not to the IND's information system INDiGO. Indications on national security issues are shared by the AVIM with the IND through the NVIK checklists from the identification phase. Furthermore, such indications are exchanged based on a new covenant was signed on 22 January 2018 between the National Police, the KMar and the IND in order to decrease legal obstacles in the information exchange.<sup>669</sup> In the covenant, arrangements are laid down how information is exchanged for the purpose of preventing and investigating terrorism and radicalisation and the execution of the aliens act and residence act. The IND is also part of the multidisciplinary (local) consultation in the municipalities.<sup>670</sup> A separate consultation platform has furthermore been established specifically for the identification and registration process, which can also be used for the exchange of 'soft' signals.<sup>671</sup>

In Norway, the PU and the UDI have no specific system or procedure in place to structurally share information on national security aspects,<sup>672</sup> but there are several ways in which the UDI could find out about relevant information that the PU has on national security aspects. Firstly, the PU and UDI both work in one registration system, called DUF. The PU always makes a report on its findings which is available in the DUF system so that also UDI caseworkers can read that. Information such as that the passport may be false is mentioned in these reports. The UDI can also tell from the DUF system that the PU has reported something to PST, although it cannot see the content of what has been reported.<sup>673</sup> Secondly, as UDI can see the transcript of the PU interview via DUF, the UDI caseworker can also deduce relevant information from the interview reports. If something relevant is discussed in the interview, it will not be hidden in the interview report and UDI will be able to see it.<sup>674</sup> Thirdly, the PU may also share information via email or phone.<sup>675</sup> This will, however, depend on the individual police officer.<sup>676</sup> Fourthly, for a while, in the context of the 'Syria track' (see §5.2.3), there was an encrypted channel for sharing information with the UDI, but at the time of data collection, PU did not use that channel anymore.<sup>677</sup> A representative of the UDI had the impression that the UDI would not always receives all information that is relevant for the UDI from the PU, and that the UDI was not always informed in cases where the PU had reported a case to the PST.<sup>678</sup> As pointed out in §5.3, the information exchange between the PU and the UDI has been a topic of debate in recent years. According to different respondents, no system is in place to facilitate information exchange between the UDI and reception centres on national security issues.<sup>679</sup> Occasionally, the UDI receives

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<sup>667</sup> R38.

<sup>668</sup> Van Wijk & Bolhuis (2016), p. 71.

<sup>669</sup> 'Convenant voor het delen van informatie tussen de Immigratie- en Naturalisatiedienst enerzijds en de Politie en Koninklijke Marechaussee anderzijds in het kader van de terrorismebestrijding', last visited 9 April 2018 at <<https://www.officielebekendmakingen.nl/stcrt-2018-5374.pdf>>.

<sup>670</sup> R31; R32.

<sup>671</sup> R1. This is a different platform than the LRO platform that is discussed below.

<sup>672</sup> R9; R10.

<sup>673</sup> R16.

<sup>674</sup> R9; R16.

<sup>675</sup> R2.

<sup>676</sup> R9.

<sup>677</sup> R9.

<sup>678</sup> R2.

<sup>679</sup> R2; R6; R8.

information from reception centres, for instance that applicants are praising IS.<sup>680</sup> Such information could be shared via email, with the head of the F1 Unit or UDI's head of security. 'Soft' signals are not shared with the reception centres; if the F1 Unit concludes in a given case that there is not enough to deny a residence permit on security grounds, the case is sent back to a unit to be dealt with in the regular case-flow and the staff at the reception centre will not be informed about the previous suspicions. As far as one respondent knew, sharing 'soft signals' between UDI and staff working at reception centres has not been discussed in Norway.<sup>681</sup> A representative of the PST did not see it as a key issue that there is currently no extensive information exchange on national security issues between the UDI and the reception centres. For the performance of its own duties, the PST mainly relies on UDI information and that suffices. The respondent would applaud increased information exchange between relevant actors in the immigration process, including organisations managing the reception centres, but only if it will be very well-regulated. According to the PST representative, there is a risk that when it becomes known that persons working in reception centres start sharing information with PST, this may impact their safety. Furthermore, the PST representative was convinced that if there is a concrete safety risk in the reception centres, that would be shared with the local police.<sup>682</sup>

In Sweden, the regional officer in charge of security matters should be informed if a caseworker has an indication in relation to national security; it is up to the security officer to ensure that proper measures are taken for the security in the reception facility. Respondents indicated that this will be easier once the reception facilities are all run by the Migration Agency again; due to the high influx, the management of some of the facilities had been outsourced.<sup>683</sup> The Migration Agency may share some information or potential national security cases with the 'regular' police. The Swedish Security Service and the regular police have different responsibilities and mandates: in general, matters relating to national security are the mandate of the Swedish Security Service, whereas severe criminality is the police's mandate.<sup>684</sup>

#### *Multilateral exchange forums*

Both Belgium and the Netherlands have recently established multilateral forums where multiple actors can share information, both on individual cases and on a more strategic level. There are two important differences between Belgium and the Netherlands in this respect: 1) the involvement of the aliens police AVIM and the border police KMar (which are law enforcement agencies themselves) in the identification process in the Netherlands, while in Belgium the police plays a very limited role in the asylum process, and 2) the close cooperation between the immigration authority, reception agency and the return authority in the Netherlands (IND, COA and DT&V), which can be contrasted to the independent position of the CGRS in Belgium.

In Belgium, the 'Working group Plan R, asylum and migration' was established, under chairmanship of the Immigration Office, and with the VSSE, CGRS and Fedasil as the other members.<sup>685</sup> This working group was established as a central platform for the immigration actors, in response to the finding that two of the November 2015 Paris attackers entered Europe as part of the asylum influx, and the influx consisted of mainly single men from Syria, Afghanistan and Iraq.<sup>686</sup> The working group is one of several

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<sup>680</sup> R6.

<sup>681</sup> R2.

<sup>682</sup> R8.

<sup>683</sup> R27; R28.

<sup>684</sup> R28.

<sup>685</sup> Earlier on, another cooperation platform already existed (R20).

<sup>686</sup> R18.

in the context of 'Plan R', an anti-radicalisation program of the Belgian government.<sup>687</sup> Meetings of the Plan R working group have a strategic part, where the information flow between the partners is discussed, but also an operational part discussing possible interventions in relation to individual persons.<sup>688</sup> The working group also acts as a contact point. Any of the agencies participating in the working group can inform the other agencies about individual cases that show indications of radicalism or extremism. The information is collected, and possibly forwarded, by the Immigration Office. This quick information exchange should make decision making more efficient. Whether or not, and to which agency, the information is forwarded, depends on which authority has competence to deal with the case at that moment; if the applicants asylum procedure is still ongoing, or is in the appeals phase, the CGRS is the authority that should be informed. If the asylum procedure has resulted in a negative decision, there is no need to know for the CGRS and it will not be informed. When information received from the intelligence services in a given case is forwarded to any of the other authorities, it is likely that this authority has already been informed bilaterally. It has been agreed that all the involved actors receive the same information.<sup>689</sup> Only non-classified information can be shared via the working group. An example of non-classified information is that someone studied a certain topic at a university. If an international partner provides classified information, the VSSE takes over the same level of classification and such information is not transmitted to the Immigration Office. An example of classified information is that VSSE has been informed by a foreign intelligence services that someone may for certain reasons pose a threat to national security. The VSSE wants to send as much information as possible to the Immigration Office and will try to do what it can to 'declassify' information that is classified. For example, if a foreign intelligence service sends classified information, VSSE will ask whether it can share such information (in accordance with the 'third party rule').<sup>690</sup>

According to representatives of the Immigration Office, the VSSE and the CGRS, the working group has made the information exchange between the actors more structured, which has also increased the commitment of the involved actors.<sup>691</sup> The added value is in the establishment of permanent contacts and the possibility to strategically discuss whether the information exchange takes place in a good fashion.<sup>692</sup> Since 15 March 2016, staff in the reception centres is obliged to report indications of radicalisation via a referral format to the Fedasil headquarters, the manager of the reception centre, and the local police.<sup>693</sup> In addition, there is added value in the inclusion of Fedasil in the working group. An Immigration Office representative noted he believed that Fedasil was in a better position to find indications of radicalism than the Immigration Office.<sup>694</sup> In a number of cases, information from within the reception centres has come to the attention of the CGRS in this way.<sup>695</sup> A CGRS representative noted, however, that the CGRS would itself not use the platform to share indications that it encounters with other actors; if there is information that is relevant to the intelligence and security services, that will be shared only bilaterally. CGRS does use the working group to inform about the latest status in cases that have been suspended on the basis of information received from other

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<sup>687</sup> The main goal of Plan R is to take measures on persons who pose a threat in relation to radicalism. This means that measures can be taken in respect of the stay of a person, freezing assets, but also non-repressive measures, for instance social assistance to get a person out of the radicalized context. On the local level, in the big cities, there are local taskforces involving local police, local VSSE and ADIV branches, the prosecution office. The philosophy of Plan R is to exchange information, in order to take measures on persons (R19).

<sup>688</sup> R19.

<sup>689</sup> R18.

<sup>690</sup> R19. The third-party rule establishes that intelligence received from one party can only be shared with a third party by the second party, after permission from the first party.

<sup>691</sup> R18; R19; R20.

<sup>692</sup> R20.

<sup>693</sup> Van Wijk & Bolhuis (2016), p. 33.

<sup>694</sup> R17.

<sup>695</sup> R20.

authorities; it has stressed on several occasions with the other authorities that if something is signalled, it should also actually be investigated.<sup>696</sup>

In the Netherlands, the national council on radicalization in the migration process (*landelijk regieoverleg*, LRO), was established early 2017 in reaction to a report on the follow-up of national security indications by the Inspectorate for Security and Justice (IV&J). The report recommended that the exchange of ‘soft’ signals<sup>697</sup> between the National Police, the KMar, the IND and the COA should be strengthened; that the learning capacity of these actors should be strengthened by making shared analyses of signals of inter alia terrorism; and that the different cooperation initiatives that exist should be better coordinated.<sup>698</sup> Over the following months, the LRO was equipped and prepared to become operational. Early 2018, the LRO was operational and met biweekly. The National Police, KMar, IND (also on behalf of the COA and the DT&V) and AIVD are represented; the national coordinator for security and counterterrorism NCTV holds the chairmanship. The public prosecution office does not take part, as they cannot share information on ongoing criminal investigations.<sup>699</sup> The fact that the AIVD takes part has added value because it can help interpret information and point out developments and trends. The organisations use the network to discuss and interpret casuistics; the aim is to ‘stack’ and jointly interpret signals. Cases are discussed on an anonymous basis, as the NCTV is not entitled to be informed about personal data. Cases are given a code that is traceable to the individual only for the actors that are entitled to have knowledge of the person. Before every meeting, the partners that are allowed to share information with each other will share information about the cases that are to be discussed; this enables the actors to look up the person in their own systems on forehand.<sup>700</sup> Only information that is necessary for making sense of casuistics and determining in which context the case will be dealt with outside the LRO, is shared; the organisations are bound by the legislation on information exchange.<sup>701</sup> ‘Soft’ signals can be shared horizontally (between the different actors in the immigration process) through the LRO. If the reception agency COA hears from two residents that an individual would have been part of IS, and the neighbourhood police officer has noted a signal from a local resident, then the National Police could bring this in in the LRO, and decide afterwards to start an investigation.<sup>702</sup> The LRO can also be used as platform to promote the learning capacity of the organisations. The AIVD could say about a given signal that it should not be interpreted as radicalisation, but relates to adolescent behaviour. The COA and the DT&V do not take part in the LRO; the communication goes via the IND liaison officers. When the reception agency COA has reported something that is not deemed relevant, the IND liaison officer that takes part in the LRO can communicate this to the COA. If there is reason for follow-up, for instance in the form of an investigation by the counterterrorism police department, this would not be reported back to the staff member who made the report. If the COA is informed about the outcome of the discussion of a case, this goes through the COA’s security and integrity bureau BVI, which should inform the staff member who reported the case.<sup>703</sup>

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<sup>696</sup> R20.

<sup>697</sup> The IV&J (2017, p. 10) distinguishes ‘hard’ from ‘soft’ signals. Hard signals give reason for immediate follow-up – examples are flags of IS or extremist movies on a data carrier. Soft signals do not give reason for immediate follow-up, but are deviations from a normal situation – examples are remarkable clothing or hair dress, or changes in behaviour. Several soft signals together may be a reason for follow-up; hence it is important, according to the IV&J, that soft signals are brought together.

<sup>698</sup> IV&J (2017).

<sup>699</sup> R31.

<sup>700</sup> R31.

<sup>701</sup> R32.

<sup>702</sup> R31.

<sup>703</sup> R31.

### 6.2.2. Consequences for case handling and follow-up to reporting

What happens when a case has been reported to the intelligence and security services or law enforcement actors, differs in the different focus countries. In the context of this study, the authors have focused on the reporting to the intelligence and security services.

In Belgium, what happens depends on the stage in which the case is reported, and on how acute a possible threat to national security is. In the case of an acute threat to national security, the law provides for several intervention options, depending on whether a case is ongoing, whether the applicant has a residence status, or whether the applicant has received a negative decision and has exhausted all legal remedies. If the procedure is ongoing, the responsible Minister can decide what administrative measure is needed; one of the options is detention.<sup>704</sup> If only 'soft' signals are available, the Immigration Office's Radicalism Cell will regularly check whether there are particularities and check with the VSSE, among others, whether more information is available. There is a constant communication.<sup>705</sup> When CGRS reports a case to the VSSE, it will ask whether the VSSE can provide more information and whether they will investigate the case. In most of the cases where a report has been made to the VSSE, the case will be suspended until more information is available.<sup>706</sup> Not every case will be suspended, however.<sup>707</sup> There are cases in which there is no concrete threat to national security, but information is shared because it is nevertheless interesting to the security services; an example could be if someone comes from occupied territory. The security services could, however, request the CGRS to suspend such a case if they have more information and want to conduct an investigation.<sup>708</sup> According to a VSSE representative, in some cases the VSSE had received signals from CGRS, after which it held a separate interview with the applicant at the asylum centre. The reason why VSSE would conduct an interview itself, is that it cannot instruct CGRS to ask certain specific questions to an individual. If VSSE would want to know more from an individual, VSSE would have to separately speak to the individual, without the involvement of CGRS. After such meetings, it would then inform CGRS and the Immigration Office through a letter when there have been any relevant findings or to make suggestions. When the necessary checks are done, VSSE informs CGRS either that the applicant is a danger, detailing concrete threats, or that he is not a threat. CGRS decides independently whether or not someone is not granted a status because he or she poses a threat.<sup>709</sup>

The CGRS can take information that is received from the VSSE, or comes forward from the Working Group Plan R, into account in its own examination or in the decision. The VSSE will generally inform the CGRS through a letter. If the information is unclassified, it can be added to the casefile and be used in a decision if necessary. If the information is classified, it cannot be used in the file but can be a reason for the CGRS to conduct a further investigation.<sup>710</sup>

Decisions on international protection and on residence are separated in Belgium; the CGRS decides on international protection, while the Immigration Office decides on residence (taking into account any decision made by the CGRS). If someone has been granted international protection, the Immigration

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<sup>704</sup> R18.

<sup>705</sup> R18.

<sup>706</sup> R20. According to one expert at the expert meeting, there is no deadline for the intelligence and security services to get back to the CGRS with more information (E6), unlike in the Netherlands (see below). In Belgium, the CGRS could send a reminder if nothing has been heard for a long time, and if still no more information is received, the CGRS will assess the case without information from the intelligence and security services. The applicant will be told that additional research is needed in the case, but will not know what the reason is for the additional research (E6).

<sup>707</sup> R23; R24.

<sup>708</sup> R20.

<sup>709</sup> R19.

<sup>710</sup> R20.

Office could formally request the CGRS to withdraw the international protection status; the CGRS will decide independently on such a request. If the CGRS decides to refuse or withdraw international protection, the Immigration Office could decide to end the legal residence.<sup>711</sup> The CGRS could, however, determine that the applicant is protected against *refoulement*.<sup>712</sup> While the CGRS is independent in deciding whether there are reasons to refuse an asylum application, it will normally base its decision on relevant information and possibly an assessment by one of the competent authorities: the VSSE, the military intelligence service ADIV/SGRS and the coordination unit for threat analysis OCAD/OCAM. The CGRS receives most information from the VSSE in this respect.<sup>713</sup>

Since an amendment of the aliens act in September 2015, the CGRS is the competent authority to take a danger to national security into account in deciding upon the application for international protection. Before the amendment, the responsible Minister could decide on terminating legal residence, but this was separated from international protection; the applicant's asylum application was nullified, rather than decided upon. The CGRS can now itself explicitly deny an application for international protection on the basis of danger to national security.<sup>714</sup>

In Germany, if a case is sent to the BAMF headquarters (as noted in §6.1.4), the case-processing will be put on hold. The security unit will let the decision maker know whether or not the case can be decided. If there are security indications and there is special knowledge from other authorities, then specialists in the headquarters will decide the case. However, it may also be that the security service knows something but cannot prove it, or cannot disclose information that proves it. In those cases, there is no basis to deny the application, the case is sent back to the decision maker to process it in an ordinary way. The BAMF rarely hears from the security and intelligence services what happens with reported cases. Occasionally, feedback may be received. If further action from the BAMF is required, this goes through the Joint Counter-Terrorism Centre in Berlin (*Gemeinsames Terrorismusabwehrzentrum*, GTAZ). The BAMF could get feedback or an instruction (for instance that a case should be decided quickly, or handled in a certain way), but this only happens in 'heavy' cases (for instance, cases where there is evidence of contacts with terrorist organisations, or the person is expected to pose a danger himself). If, based on feedback from the GTAZ, there is reason to deny a claim, it will be denied. If the information gives reason to believe the person committed crimes that the BAMF was unaware of, there are possibilities to exclude the applicant.<sup>715</sup> Information received via the hotline that was mentioned in the previous paragraph could be relevant to an asylum case. However, the information received not necessarily concerns asylum applicants, but can also concern German nationals. If information is received about someone and there happens to be a hearing with the person the following week, the interview could be used to ask additional questions related to the signals of radicalization; but according to a respondent, this would be exceptional. Information received via the hotline is not necessarily used in the decision-making process.<sup>716</sup> In relation to whether information received via the hotline is relevant to an asylum case, the division of responsibilities between the BAMF and the federal state authorities also needs to be borne in mind. The BAMF takes the decision on international protection. If the federal state authority or somebody else gets the idea that someone may be radicalising, then the federal state authority has the most contact

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<sup>711</sup> R18.

<sup>712</sup> R20.

<sup>713</sup> R20.

<sup>714</sup> R20. The amendment is not uncontroversial and is challenged by asylum lawyers before the Belgian constitutional court, who argue that the way in which the relevant provisions have been formulated at current adds an exclusion ground to the exclusion grounds of the Refugee Convention and cannot be sustained for refugees. A representative of the CGRS did not agree with this reasoning, arguing that if it is possible to end the legal residence of a refugee on the basis of Article 33(2) Refugee Convention, then it should also be possible to end or refuse a refugee status (R20).

<sup>715</sup> R38.

<sup>716</sup> R38.

with the applicant. They know the person better than the BAMF does. The federal state authorities will deliberately not provide the BAMF with too much information, in order not to influence the decision making. The BAMF decides on the asylum claim; a *possible* process of radicalisation is not really part of that evaluation, according to a respondent.<sup>717</sup>

In the Netherlands, if within the IND a case is reported, a 'silent procedure' will be initiated. The referral format is filled out and forwarded to the AIVD or MIVD, after which the case is suspended. In principle, the intelligence and security services will inform the liaison officers whether the case should remain suspended within two working days. Because of the increased pressure, the increased number of reports and the operational pressure on the AIVD, it was decided that the AIVD can deviate from this arrangement and inform the liaison officers within ten working days; in 'emergency' cases, the two-working-day reaction period was still observed.<sup>718</sup> It is not possible for a caseworker to take a decision in favour of the foreign national as long as the liaison officers have not yet received feedback from the AIVD or the MIVD on the outcome of the silent procedure. . If the intelligence and security services, based on the silent procedure, should decide to issue an individual report that concludes that the individual poses a threat to national security, the case is taken over from the caseworker by the special cases unit USZ.<sup>719</sup> As noted above (see §6.1.1), the IND could refuse or withdraw a residence permit on the basis "concrete indications", which may become clear inter alia from an official (individual) report drafted by the national or a foreign intelligence service; a conviction for a terrorist crime in the Netherlands or abroad; or from "particularly serious acts with a terrorist intention" conducted by the applicant.

In Norway, if a regular caseworker refers a case to the F1 Unit, the case will be taken out of the ordinary case handling process and the F1 Unit will take over the case. Within the F1 Unit, caseworkers take turns in deciding in what way the case should be processed. The Norwegian Police Security Service (PST) may be informed or asked for advice. Depending on the outcome of the deliberations the F1-unit can decide to process the case itself or to send it back to the original caseworker. There is no fixed period of time to return a case.<sup>720</sup> If the F1 Unit concludes that a case does not affect fundamental national interests or foreign policy considerations or there is not enough in a case to deny a permit on the basis of 1F, the case is sent back to a unit to be dealt with in the regular case flow.

Using the instruction that the Ministry of Justice and Public Security has provided (see §6.1.1), the F1 Unit tries to determine whether a case can affect "fundamental national interests" and/or "foreign policy considerations". It will request PST for advice on whether the case affects fundamental national interests.<sup>721</sup> Similarly, UDI will request the Ministry of Foreign Affairs for advice on whether the case affects foreign policy considerations. If the case possibly affects fundamental national interests or foreign policy considerations UDI will send a letter to the Ministry of Justice and Public Security for advice on the decision on the asylum application. It is up to the Ministry of Justice and Public Security to decide whether the case affects fundamental national interests or foreign policy considerations. In those cases, the Ministry decides whether it takes the final decision on the asylum application itself or leaves the case for UDI to decide.<sup>722</sup> According to one respondent, during the high influx only a small number of cases were escalated to the Ministry.<sup>723</sup>

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<sup>717</sup> R39.

<sup>718</sup> Van Wijk & Bolhuis (2016), p. 72.

<sup>719</sup> Van Wijk & Bolhuis (2016), p. 72.

<sup>720</sup> R2.

<sup>721</sup> R8.

<sup>722</sup> R33.

<sup>723</sup> R33.



As noted above (see §6.1.4), the Swedish Security Service is designated as a ‘referral body’, meaning it is obliged to assist and has a mandate to make recommendations to the Migration Agency on what it should do in given cases. If there is an indication that an applicant may pose a threat to national security, or if the Swedish Security Service indicates it is interested in a case, the case is referred to the Swedish Security Service. The Swedish Security Service can advise to refuse entry or expel an applicant; deny the application; withdraw a status; refuse to issue a travel document; or refuse citizenship. If the Swedish Security Service makes a recommendation (with one of the abovementioned outcomes), the case will be handled by specially trained case officers and decision makers. If the Swedish Security Service makes no recommendation, indicating that the case is not of interest, the case will (continue to) be handled by the regional units. In some cases, the Swedish Security Service issues a confidential report. Those cases are handled by a specific section; the applicant is interviewed and the case is assessed, and in most cases this in the end leads to refusal of a residence permit.<sup>724</sup> There are also ‘extra sensitive’ security cases; the Swedish Security Service has the possibility to request the Migration Agency that someone is deported on the basis of an evident severe threat to national security. This happens only in a few cases. Those cases are not dealt with through the Aliens Act, but by separate particular legislation on specific aliens control. In many cases, these cases concern revocation of a status/residence permit.<sup>725</sup>

### 6.3. Awareness training and tools

Frontline professionals at the different authorities involved in the asylum process are expected to assist in the detection of threats to national security and possible past involvement in serious crimes. In academic literature, this is referred to as ‘passive detection’.<sup>726</sup> This paragraph describes the efforts of the different authorities in providing their staff with tools and raising their awareness to assess these aspects. The paragraph first describes if and how frontline professionals have received awareness trainings, subsequently it discusses what type of tools frontline professionals have been provided with in this regard, while it finally turns to the threshold for reporting cases to- and receiving feedback from other authorities.

#### 6.3.1. Awareness training

This section looks specifically at the training that has been or is offered to existing or new staff on the topics of national security and exclusion. The general training provided to new staff members was already discussed in §4.2.3. Training on national security and/or exclusion can be provided in the context of these general trainings, as is the case in the Netherlands and Norway, or offered as specialisation training, as is the case in Belgium, Germany and Sweden. Training on jihadism or radicalisation to staff of authorities other than those responsible for deciding on asylum applications, such as reception centre staff, has been provided in Belgium, the Netherlands and Sweden. Especially in the field of exclusion, the European Asylum Support Office (EASO) offers trainings and tools that may be used by national authorities. EASO offers a Practical Guide on Exclusion,<sup>727</sup> as well as a judicial analysis of the exclusion clauses.<sup>728</sup> In 2013, EASO also produced a non-public report on how exclusion is applied in different Member States.<sup>729</sup>

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<sup>724</sup> R28.

<sup>725</sup> R28.

<sup>726</sup> Van Wijk & Bolhuis (2017a).

<sup>727</sup> See <<https://www.easo.europa.eu/sites/default/files/EASO%20Practical%20Guide%20-%20Exclusion%20%28final%20for%20web%29.pdf>>.

<sup>728</sup> The judicial analysis consists of an analysis of the current state of legislation and case law, produced by and for judges from different Member States. EASO only facilitated the process of drafting this report. Because the analysis was produced by judges, there may be slight differences between the judicial analysis and the practical

In Belgium, national security and exclusion are not covered in the basic training for new protection officers. As the coach in this training typically selects 'easy cases', new protection officers will not have to handle cases in which exclusion or national security may be an issue.<sup>730</sup> It is possible to specialize in exclusion, but the specialization training will take place after the 6-month basic training and is limited to protection officers who will specialize in exclusion cases. This specialized training consists of the exclusion module offered by EASO. All 'regular' (i.e. non-specialised) protection officers working with Syrian cases have, however, received additional training on Syria, which apart from discussing available working instructions and country of origin information (general and per region), also discusses working instructions specifically on national security and exclusion.<sup>731</sup> In addition, there was a more general training on Syria, provided by the country of origin information desk Cedoca.<sup>732</sup> Finally, the VSSE has trained employees of the CGVS on detecting signs of radicalisation.<sup>733</sup> Apart from the CGRS, such a training has also been provided to employees of other relevant authorities. Early 2016, Fedasil, in combination with the VSSE,<sup>734</sup> set up a training with the aim of instructing employees how to notice signs of radicalisation, prevent radicalization and give tools to respond adequately to incidences of radicalisation.<sup>735</sup> All those involved in the Radicalism Cell (see §6.2.1) have received training on radicalism when the Cell was established.<sup>736</sup> Interviewers at the Immigration Office have not received training on radicalism or jihadism; they have been informed that they are to report someone if they suspect that he or she is radical, or to discuss a case with a supervisor in case of doubt.<sup>737</sup> The Radicalism Cell has plans to organise trainings for frontline professionals within the Immigration Office; this was being developed at the moment of data collection. A respondent noted the importance of tailoring trainings to the organisations, because they fulfil different tasks and the nature and extent of the contact with applicants differs from one organisation to the next. Developing tailored trainings takes time.<sup>738</sup>

In the training provided to decision makers at the German BAMF, there is no special attention for 1F exclusion or national security. Caseworkers learn to deal with these cases on the job.<sup>739</sup> However, additional specialisation trainings are available, including EASO modules. Eventually, all decision makers are required to undergo these specialisation trainings. It may however take some time before caseworkers have done so, as they have to be made free for the duration of the course (up to 2 weeks) and for preparing themselves for the course (also up to 2 weeks).<sup>740</sup> According to information

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guide (R25). See

<<https://www.easo.europa.eu/sites/default/files/public/Exclusion%20Final%20Print%20Version.pdf>>.

<sup>729</sup> In the future, EASO hopes to produce a publicly available study, but according to an EASO representative it is currently difficult to say in what format and when this will be delivered (R25).

<sup>730</sup> R21.

<sup>731</sup> R23.

<sup>732</sup> R24.

<sup>733</sup> EMN Ad Hoc Query on Detecting jihadists in the asylum procedure, requested on 17 June 2016, last visited 1 December 2017 at <<http://www.emnetherlands.nl/dsresource?objectid=4313&type=org>>.

<sup>734</sup> R19.

<sup>735</sup> The training consists of an E-learning tool about the phenomenon of radicalisation and face-to-face meetings with employees of the VSSE and radicalisation experts. Subjects discussed include the geopolitical context in Iraq, Afghanistan and Syria and the influence on migration, role and functioning of the VSSE and the cooperation with Fedasil, Islamic radicalisation and recognizing and reporting signs of radicalisation and recruitment. EMN Ad Hoc Query on Detecting jihadists in the asylum procedure, requested on 17 June 2016, last visited 1 December 2017 at <<http://www.emnetherlands.nl/dsresource?objectid=4313&type=org>>. According to R19 not all social workers have yet followed this training.

<sup>736</sup> R18.

<sup>737</sup> R17.

<sup>738</sup> R18.

<sup>739</sup> R37.

<sup>740</sup> R36.

submitted to the EMN, Germany has developed brochures for employees with information on jihadist Salafist movements in Syria.<sup>741</sup> Germany reported to EMN that employees of the BAMF who have a lot of contact with asylum seekers receive training on indicators which are relevant in relation to (national) security.<sup>742</sup>

In the Netherlands, in order to improve awareness among frontline professionals in the asylum process about radicalisation, jihadism and exclusion, a training was provided to employees of the immigration service IND, the reception agency COA and other organisations.<sup>743</sup> In response to information that IS operatives might be using asylum migration routes to enter Europe, or that asylum seekers might be vulnerable for recruitment for the jihad or radicalisation, an ‘awareness tour’ – involving the specialised Special Cases and 1F units – was organised for employees of these organisations, in the context of which over 40 presentations were provided to IND and DT&V staff, and over 50 to staff of the COA from November 2014.<sup>744</sup> Subsequently, a training was developed by the *Rijksopleidingsinstituut tegenaan Radicalisering* (ROR) for the IND, COA and DT&V, which started in September 2016. Since then until the moment of data collection, 24 trainings have been provided (about 12 participants per training). The trainings are purposely given to a mixture of IND, COA and DT&V staff, in order to have ‘cross-pollination’. A smaller group has received a ‘train the trainer’ training, so that they can provide training to their colleagues on their own. The ROR-training is part of the curriculum for IND ‘screeners’.<sup>745</sup> Furthermore, meetings between the contact points in the reporting structure for national security matters within the three organisations are organized for increasing awareness, discussing recent developments and consolidating the mutual network.<sup>746</sup> In addition, the attention of IND staff was drawn to relevant public publications by the National Coordinator for Security and Counterterrorism NCTV and the General Intelligence and Security Service AIVD. The ‘enforcement coordinators’ (see §6.1.4) are also made aware of new updates of the threat assessment made by the NCTV (*Dreigingsbeeld Terrorisme Nederland*, DTN).<sup>747</sup> IND staff has also received additional instructions on 1F exclusion and Syria (for instance, who are the different actors, what crimes have occurred, what are indicators for those crimes?).<sup>748</sup> Unit 1F is also involved in the curriculum for screeners and new employees of the IND.<sup>749</sup> Staff of the aliens police AVIM have not received training on identifying jihadism or radicalism.<sup>750</sup>

Norway reported to the EMN that every new caseworker within the UDI must undergo a specialised training of a half day in identifying potential exclusion cases or security cases, provided by the F1 unit.<sup>751</sup> This training is provided in the second week of the training described in §4.2.3.<sup>752</sup> In the period 2015-2016, this was a 2,5-hour general training on the basics of exclusion (what is the relevant legislation, what is a war crime, etc.) and security issues. There was no particular focus on Syria in the

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<sup>741</sup> EMN Ad Hoc Query on Detecting jihadists in the asylum procedure, August 2016. This could e.g. be the brochure ‘Wie erkenne ich extremistische und geheimdienstliche Aktivitäten? Eine Handreichung für Flüchtlingshelferinnen und –helfer’ van de BfV kunnen betreffen, last visited 1 December 2017 via <<https://www.verfassungsschutz.de/de/oeffentlichkeitsarbeit/publikationen/allgemeine-publikationen/broschuere-2017-08-handreichung-fuer-fluechtlingshelfer>>.

<sup>742</sup> Literal answer in EMN Ad Hoc Query on Detecting jihadists in the asylum procedure, August 2016: “indicators for security relevant constellation”.

<sup>743</sup> Van Wijk & Bolhuis (2016), p. 103-104.

<sup>744</sup> R31; R32.

<sup>745</sup> R32.

<sup>746</sup> R32.

<sup>747</sup> R31.

<sup>748</sup> R34; R35.

<sup>749</sup> R31; R32.

<sup>750</sup> R1.

<sup>751</sup> EMN Ad Hoc Query on Detecting jihadists in the asylum procedure, August 2016.

<sup>752</sup> R3.

training; as it was provided to caseworkers that would be working on all different geographical areas, the training had a much broader focus than the Middle East. However, Syria may have come up when examples were given. Caseworkers working with Syria, Iraq and Afghanistan received an additional 1-hour training on national security and exclusion in the respective countries. These additional trainings recapped some of the information that was provided in the 2,5-hour training, but then specified concerning applicants from these countries. These trainings would also discuss the content of the country of origin information documents. At the end of this training, new employees should at the least be able to find the COI-documents. As new caseworkers started to conduct interviews and make assessments of cases once their four-week initial training was over, they would 'on the job' often continue to contact the F1-unit with questions about exclusion and security related issues. As one respondent noted, answering these questions was in a way also providing a sort of guidance; especially new caseworkers sought this type of guidance.<sup>753</sup> One respondent remembered that it sometimes was very challenging when caseworkers in their first week – when working on a 'real case' - were already confronted with a case that contained security issues, although they had not yet received training on the issue.<sup>754</sup> As to the other actors in the asylum process, Norway reported to the EMN that the aliens police "have an increased focus on reporting possible jihadist connections" and provides written instructions with examples on how to identify and detect potential jihadists. Staff is made aware of these routines and new caseworkers are provided with training regarding internal procedures and reporting structures.<sup>755</sup> As far as one respondent responsible for the training program for new employees was aware, UDI has not provided trainings to external partners, such as HERO, which manages reception facilities.<sup>756</sup>

At the Swedish Migration Agency, in the general training for new employees there is no specific attention for exclusion or national security. New caseworkers get 'on the job' training from the regional exclusion specialists and – in a later stage – by following the EASO module on exclusion.<sup>757</sup> The staff in the reception centres have received some training on a regional level but the Migration Agency is looking into a more systematic approach. According to one respondent, in principle it is important for the Special Operations department of the Swedish Migration Agency that staff in the reception centres also have knowledge and understanding of exclusion/national security. This is, however, in particular challenging for reception facilities that were administered by private contractors and where there is no Migration Agency staff.<sup>758</sup>

### 6.3.2. Tools and indicators

Above it was already discussed that the authorities in the different focus countries have developed tools that can assist caseworkers in identifying national security or exclusion aspects. Because in all of the focus countries caseworkers who have no specific expertise with respect to national security and exclusion are expected to identify such cases, there is a demand for concrete indicators. During the high influx situation between 2014 and 2016 this demand was, for two reasons, even more pertinent: 1) there was pressure on the system to process cases fast, which meant that the available time and opportunities to identify national security or exclusion aspects were more limited; 2) because of the high recognition rates for Syrian applicants, less information came forward from the asylum procedure, for instance because applicants were not interviewed, or when they were, did not (have to) make extensive statements to support their claim.

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<sup>753</sup> R33.

<sup>754</sup> R3.

<sup>755</sup> EMN Ad Hoc Query on Detecting jihadists in the asylum procedure, August 2016.

<sup>756</sup> R3.

<sup>757</sup> R28.

<sup>758</sup> R28.

The use of indicators, however, is not undisputed.<sup>759</sup> Terrorism experts warn that it is tremendously complex to identify terrorists or jihadists on the basis statements, appearance, or behaviour. They note how difficult it is to come to a reliable system of ‘terrorist profiling’ and that it is necessary to take a nuanced approach. The use of indicators focusing on statements, appearance, or behaviour to identify terrorists or jihadists is therefore not uncontroversial. Furthermore, it is not known what negative effects the use of indicators could have in terms of stigmatization and over-reporting. This section therefore addresses the use, development and content of indicators on national security and exclusion, both at the national and the international level.

#### *Use and development of indicators*

The Belgian CGRS has made indicator lists available to protection officers on national security and 1F exclusion; in addition, there is a specific instruction on Syria which contains certain profiles of persons to pay extra attention to.<sup>760</sup> The VSSE has transmitted parameters to the CGRS of what it deems relevant to receive reports on from the CGRS. These parameters partly matched the indicators that the CGRS already used; especially with respect to Syria, specific elements were added.<sup>761</sup> In the context of exclusion, the European Asylum Support Office (EASO) has also shared a document which contains indicators (see more below). This document was not the basis for the indicator lists that CGRS uses, but the EASO indicators were checked and it proved that these indicators largely correspond with the CGRS indicators.<sup>762</sup>

In Germany, the domestic and external security services (*Bundesamt für Verfassungsschutz/BfV* and *Bundesnachrichtendienst/BND*, respectively) have together developed and issued the catalogue for caseworkers; the BAMF was not involved.<sup>763</sup>

The Dutch IND makes use of different documents to assist both the ‘ordinary’ caseworkers and the ‘screeners’ in identifying indications that may point to national security or exclusion. With respect to national security, a list of indicators which ‘require alertness’ is available on the intranet. For the ‘screeners’, additional instructions are available. A document has been drawn up on the basis of information from experts within IND, the War Crimes Unit of the National Police, the KMar and the Expertise centre on human trafficking and human smuggling (EMM). The content has been coordinated with the AIVD and MIVD.<sup>764</sup> Besides the indicators available on the intranet, the referral format for the IND, COA and DT&V (see §6.2.1) also refers to indicators and points out questions or topics that force the caseworker to specify the report and think through and interpret what they see more carefully. Similarly, the Dutch aliens police AVIM uses a checklist (the ‘NVIK’ checklist; see §5.3) that contains indicators in relation to war crimes and national security. It must be noted that this checklist serves a much broader purpose than merely identifying aspects that are relevant in the context of national security or exclusion. The purpose of the lists is to filter out cases that require further research (such as the extraction of data carriers or an additional interview).<sup>765</sup>

In Norway, both the PU and the UDI work with indicator lists for identifying national security and exclusion aspects. The UDI’s F1-unit developed a ‘threshold document’ or indicator list. The document sets out criteria which cases to send to the F1 unit, both in relation to exclusion and security.<sup>766</sup> The document developed by the F1-unit builds upon the publicly available document from the Ministry of

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<sup>759</sup> Van Wijk & Bolhuis (2016), p. 125; Van Wijk & Bolhuis (2017a).

<sup>760</sup> R20; R23; R24.

<sup>761</sup> R20.

<sup>762</sup> R22; R23.

<sup>763</sup> R38.

<sup>764</sup> Van Wijk & Bolhuis (2016), p. 101.

<sup>765</sup> R1; Van Wijk & Bolhuis (2016), p. 107.

<sup>766</sup> R2.

Justice and Public Security (see §6.1.1), but makes it more concrete and also sets out criteria for 1F-exclusion. The F1-unit's indicator list is not an official or public document.<sup>767</sup> The PST contributes to the process of creating indicator lists and provides advice on what type of information should be on the lists, but establishing the list is in the end the responsibility of the F1-unit and PU. PST analysts work continuously on updating and reviewing the indicator list, to see whether developments in specific countries should be taken into account in the list.<sup>768</sup> According to UDI representatives, the information received from the PST is rather general, which makes it challenging to translate the information into concrete indicators.<sup>769</sup> The list for Syrian asylum seekers that PU uses (which was also addressed in §5.2.3), has been in use since 2017. This list was compiled by using a list of indications of national security issues and war crimes from EASO, a list of indicators for security issues from the PST, and the UDI document.<sup>770</sup>

In Sweden, the Swedish Security Service has provided the Migration Agency with indicators. Also in Sweden, the indicators provided are rather general. The Migration Agency prefers to keep it that way; the Security Service can use the meetings between the contact points (see §6.2.1) to ask additional questions.<sup>771</sup> According to a Migration Agency representative, 'awareness' is not just limited to indicators; it is more complex and dynamic. One of the points of the contact point system is to keep the level of awareness among caseworkers high and to have an ongoing dialogue between the caseworkers and the Security Service contact points.<sup>772</sup> A Security Service representative added that indicators should not be static, because what is interesting to the Security Service can change over time. The indicators that are provided only indicate very generally something *could* be interesting.<sup>773</sup>

### Content

For reasons of not wanting to give too much insight into modus operandi, respondents generally were reserved in sharing details of the content of the indicator lists and other tools that are used to identify possible jihadists. Most respondents, however, did speak about the content of such instruments in general terms.

Indicators first of all relate to *profiles or positions held by the applicant* in his/her country of origin. At the Belgian CGRS for instance, if there is an indication that a person has been involved in opposition groups, militias, the Syrian army, the police, or held certain positions within such organisations, that is a reason to take the case apart in order to question the applicant extensively. For applicants who have been in the military, it would for instance be relevant to know whether they were professional soldiers and what rank they held.<sup>774</sup> Also in Germany, membership of certain organisations could be a reason to do further research or report a case.<sup>775</sup>

*Specific places of residence* (Raqqa) or specific travel route from and towards the Caliphate were also mentioned as indicators, for example by CGRS representatives.<sup>776</sup> The document drafted by UDI's F1 Unit initially instructed caseworkers that 'any mention of IS or other rebel groups should be reported'. This included e.g. if applicants had crossed border posts that had been manned by IS or other rebel groups. Later on, this was further specified: for instance, was there an affiliation with IS, did the

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<sup>767</sup> R2.

<sup>768</sup> R8.

<sup>769</sup> R33.

<sup>770</sup> R10.

<sup>771</sup> R28.

<sup>772</sup> R28.

<sup>773</sup> R42.

<sup>774</sup> R20; R22; R23.

<sup>775</sup> R38; R39.

<sup>776</sup> R22; R23.

applicant live in a specific area like Raqqa; has IS (or another organisation such as Al-Nusra) tried to recruit them; or have they been in contact with IS (or other organisations) or have such organisations shown an interest in them; had they been in 'IS-schools', et cetera.<sup>777</sup>

Other indicators include certain *content found on social media or data carriers*, such as photographs of beheadings (for example in the Netherlands)<sup>778</sup> and 'persons who have symbols and images related to possible terrorist or war activities'.<sup>779</sup> The use of a *false name* was mentioned as an indicator by the Dutch AVIM.<sup>780</sup>

Indicator lists may also contain *indicators in relation to radicalization*, such as the CGRS list.<sup>781</sup> In the tools available to IND caseworkers, besides indicators on the content of the casefile and the travel route, there are also indicators on changing behaviour that may relate to radicalization. The instruction for the 'screeners' in relation to jihadism includes an instruction to look for 'dubious statements' or certain content that is posted on social media.<sup>782</sup> The indicator list used by the PU includes indications of radical sympathies and gives suggestions for questions that could be asked if a caseworker suspects radicalisation (names of mosques, imams, network, Islamic schools et cetera).<sup>783</sup>

In the indicator list used by the Dutch IND, reference is made to *certain types of behaviour* (e.g. denying shaking a female staff member's hand, avoiding eye contact, the use of Salafist jargon), or *specific characteristics with regard to appearance* (certain types of clothing, tattoos) which may indicate that someone is a jihadist. On the intranet and during trainings, it is at the same time emphasized that all these factors should be seen in conjunction (interdependently) and that these may 'of course' also be an indication of something other than jihadism or terrorism.<sup>784</sup> Staff members are furthermore advised to trust their 'professional intuition' or their 'gut feelings', to discuss suspicions with their colleagues, and to make their suspicions as concrete as possible before issuing an alert.<sup>785</sup> Also indicator lists used by the AVIM mention indicators such as statements that applicants make, deviating behaviour or acting very nervously or perspiring.<sup>786</sup>

Based on the interviews in the context of this study, none of the other countries seems to have similar indicators *in writing* on behaviour or appearance. Belgian,<sup>787</sup> German,<sup>788</sup> Norwegian<sup>789</sup> and Swedish<sup>790</sup>

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<sup>777</sup> R2. Reports from the Norwegian media also suggest that the PST in the early stage of the influx adopted a rather low threshold. A representative of the Norwegian PST reported to the newspaper VG in 2015 that the indicators provided by PST include indicators like 'single men traveling alone without family, with a focus on younger men' and that it is interested in 'persons from conflict areas, specifically areas controlled by IS in Iraq and Syria'. N. Johnsen, 'Slik overvåker PST asylstrømmen', 13 December 2015, last visited 20 May 2018 at <<https://www.vg.no/nyheter/innenriks/i/429Bo/slik-overvaaker-pst-asylstroemmen>> (translated by authors).

<sup>778</sup> R1.

<sup>779</sup> N. Johnsen, 'Slik overvåker PST asylstrømmen', 13 December 2015, last visited 20 May 2018 at <<https://www.vg.no/nyheter/innenriks/i/429Bo/slik-overvaaker-pst-asylstroemmen>> (translated by authors); Van Wijk & Bolhuis (2016), p. 108.

<sup>780</sup> R1.

<sup>781</sup> R22; R23.

<sup>782</sup> Van Wijk & Bolhuis (2016), p. 110.

<sup>783</sup> R10.

<sup>784</sup> At the expert meeting, Dutch experts stressed that the indicators are not only about the way people dress or act, but caseworkers need to assess such aspects in combination with other indicators or deviant behaviour (E1; E2).

<sup>785</sup> Van Wijk & Bolhuis (2017a), p. 42.

<sup>786</sup> R1.

<sup>787</sup> E3.

<sup>788</sup> R38.

<sup>789</sup> R2; R5.

<sup>790</sup> R28; R41.

respondents/experts indicated that the indicator lists used in their organisations do not explicitly mention indicators on behaviour or appearance. This may suggest that the Netherlands takes a fundamentally different approach to the issue. At the expert meeting, however, it was noted that in Belgium and Norway behaviour or appearance in actual practice do play a role. The representative from Belgium, for example, mentioned that if a caseworker encounters an applicant who refuses to be interviewed by female staff, this behaviour – similar to the Netherlands - is considered a reason to search for other indications, e.g. in the file, in the personal history, in the asylum story, in the family links, et cetera. A feeling that something is ‘fishy’ about a case in itself would not be sufficient to report it, but it could be an indication to dig deeper into the case.<sup>791</sup> In Norway, including indicators on behaviour and appearance was considered and discussed extensively, but was considered too difficult to catch in words to write it down. Different respondents at the UDI, however, mentioned that indications of radicalism, although they were not written down, in practice played a role and were a reason to ask additional questions.<sup>792</sup> According to one of these respondents, it is for example common sense if someone has a conservative appearance to ask additional questions.<sup>793</sup> Having a ‘bad feeling’ is a reason to ask more questions.<sup>794</sup> A PU representative, noted appearance in itself does not say much about radicalism, but if someone wears a hijab, it would be relevant to know more about what Islamic school of thought someone adheres to. Such follow-up questions could be asked in an interview. The list does not take the wearing of a hijab as such into consideration. The PU representative stressed that much is about the ‘gaze’ of the caseworker; an arrogant attitude could be as meaningful to pursue as clues on appearance (wearing a hijab or beard).<sup>795</sup> A Swedish respondent also noted that the attention of a caseworker could be raised if he or she notes a certain appearance or behaviour in combination with other indicators.<sup>796</sup>

The use of such indicators on behaviour and appearance for the purpose of identifying possible jihadists is not undisputed.<sup>797</sup> As discussed above, it is not known what negative effects the use of indicators could have in terms of stigmatization and over-reporting. Various respondents in this regard stressed the downsides connected to the use of indicators in general. A UDI respondent working for the F1 unit remembered that there was initially hesitation to come up with a document with specific indicators at all, because merely listing certain indicators (but leaving out others) might mean that caseworkers will send cases that match the provided criteria, but might miss out on cases that do not meet the criteria but may nonetheless be relevant. There were fears that caseworkers would miss out on cases where the indications were more ‘soft’.<sup>798</sup> A PST representative stressed that, no matter how useful indicator lists can be, it is in the end much more important to have skilled people at UDI and PU, than to have a ‘static’ indicator list.<sup>799</sup> A representative of the Swedish Migration Agency agreed, noting that the using general indicators is just one tool to identify security threats; a vigilant, experienced decision maker who knows what the threshold is, who knows about exclusion and what to look for, is in the end much more valuable.<sup>800</sup> During the expert meeting it was noted that while there is a demand from caseworkers for indicators, caseworkers may also become ‘blind’ or ‘stop thinking for themselves’ if a list of indicators is presented. In addition, the indicators may also change, because the caseload changes over time.<sup>801</sup> A Dutch representative noted that for this reason in the Netherlands, the indicators are not to be considered as a ‘checklist’ but as a starting point that should

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<sup>791</sup> E3.

<sup>792</sup> R5; R6.

<sup>793</sup> R6.

<sup>794</sup> E4.

<sup>795</sup> R10.

<sup>796</sup> R28.

<sup>797</sup> See Van Wijk & Bolhuis (2017a).

<sup>798</sup> R2.

<sup>799</sup> R8.

<sup>800</sup> R28.

<sup>801</sup> E6.



lead the caseworker to ask more questions; for instance, if someone resided in a certain area, the caseworker should try to find out what the role of the person was there.

#### *Guidance from international bodies*

Paragraph 6.3.1 discussed that national tools or trainings are based on, or consist of, tools or modules offered by EASO.<sup>802</sup> Besides these general tools, EASO has also developed a screening tool on exclusion exclusively for Syrian applicants, which came out in June 2016. According to an EASO representative, the initial demand for such a tool occurred in relation to the relocation process. Relocation decisions by Member States had to be based on a basic registration in Italy or Greece, rather than a full assessment of the asylum claim. Member States therefore had a need for indicators to detect issues in relation to exclusion. In response, EASO proposed to develop a screening tool; not for an assessment of the asylum case, but merely for the purpose of detecting cases where exclusion might be an issue. The tool was thus made available through the EASO Exclusion network. Once the tool was made available for the relocation process, Member States started to make use of it in other contexts, such as the asylum examination phase, as well.<sup>803</sup>

The tool was developed as follows. First, EASO asked Member States whether they themselves had lists of indicators or tools available to detect cases that warrant extra attention in relation to exclusion and whether they would be willing to share these with EASO. In response, EASO received national tools for detection from a number of Member States. Then a workshop was organised at EASO in Malta, where it was discussed with exclusion specialists from 15-20 Member States what profiles they considered relevant. In addition, content was provided by EASO's own COI-sector, which provided additional information on Syria. In the process of validating the tool, external experts on the Syrian conflict were also involved. When the draft was ready, there was a final consultation with the Member States. Since it was finalised, the document has not been changed, but it is very well possible there will be an update in the near future. For now, the Member States have asked EASO rather to cover a new country than updating the existing tool for Syria; that tool thus is still sufficiently relevant.<sup>804</sup> The screening tool on Syria is currently used as the basis in the creation of a screening tool for exclusion on Afghanistan.<sup>805</sup>

In terms of the content, the tool focuses on 'profiles'; unsurprisingly, there are similarities with the indicator lists referred to above. It, for example, points towards considering professional profiles and the membership of certain groups or organisations. The tool also contains time and space considerations. What matters is when someone has been doing something and where. Different indications taken together may be a reason to investigate further. According to an EASO representative, the tool is really meant to be used as a trigger to decide whether or not an in-depth examination should take place.<sup>806</sup>

The screening tool on Syria was developed for exclusion cases. As not all the national authorities in charge of asylum are also in charge of national security matters, some of the participants in the exclusion network made clear that they have no mandate to make decisions on matters of national security. Although the EASO tool focuses on exclusion and excludable acts this does not exclude the possibility of using the provided profiles to detect individuals who may pose a threat to national security, as there might be overlap between exclusion and national security considerations. Yet, the tool and the indicators are not presented as such.<sup>807</sup>

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<sup>802</sup> The Norwegian PU used an EASO tool for input in drafting the indicator list (R10).

<sup>803</sup> R25.

<sup>804</sup> R25.

<sup>805</sup> R26.

<sup>806</sup> R25.

<sup>807</sup> R25.

According to an EASO representative, until now, there has been no specific demand from Member States for guidance on national security matters; there has been a discussion on the level of the EASO Exclusion network on whether or not the network should take national security into account. This might change, however. With exclusion, EASO had seen the interest change quickly as well; whereas it had been working on the topic of exclusion since its establishment, in general the support for EASO's guidance on this topic used to be limited, until the influx rose in 2015. Since then, there is a clear interest. For now, the focus is on exclusion, but the EASO representative did not exclude the possibility that national security would be covered in the future.<sup>808</sup>

A Norwegian respondent indicated that he saw a clear need for international guidance. When the respondent was in Greece to give an EASO-training on exclusion, the respondent noted that European agencies face the same challenges as national authorities, and that national authorities were all struggling with how to assess and what to do with information that may concern national security.<sup>809</sup>

### 6.3.3. Reporting threshold and feedback

Once frontline professionals working in the asylum process are aware of what they should pay attention to and whom they should report their possible suspicions to, the next question is when they should make such a report: when does an indication reach the threshold where it may or should be reported to another actor? This question is particularly relevant in the context of information sharing between different authorities, in the context of this study most notably between immigration services and intelligence and security services. Setting the threshold at the right level is important especially from the perspective of maintaining national security. If the threshold is too high, there is a risk that intelligence and security services miss information that may affect the national security. If the threshold is too low, there is a risk that the intelligence and security services receive a lot of irrelevant information which still needs to be checked, which will infringe on their capacity and can lead to overburdening in times when the capacity of these services may already be under pressure because of heightened threat levels. The interviews demonstrate that authorities in the different focus countries have struggled with determining the right threshold. In addition, it was discussed that ideally caseworkers are provided with feedback on whether they report the 'right' cases,<sup>810</sup> but that it is often difficult for intelligence and security services to provide feedback due to the nature of their work. Setting the threshold and providing feedback to caseworkers are discussed subsequently in this section.

#### *Reporting threshold*

Although respondents from all countries expressed they found it hard to find appropriate ways to formulate the threshold to report, in particular Norway offers an interesting illustration of this struggle. According to a UDI representative, much effort and energy was spent on finding the right focus and balance in this respect: (new) caseworkers had little knowledge about the conflict and needed concrete tools, but on the other hand the use of such tools could lead to too many referrals.<sup>811</sup>

As was noted in §6.3.2, both the *internal* threshold for reporting cases within UDI (to the specialised F1 unit), and the *external* threshold for reporting to PST was initially set rather low. Within UDI, the initial 'indicator document' that was provided to the asylum units stated that any mention of IS or other rebel groups should be reported. Already before the high influx, the mantra was: 'in case of

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<sup>808</sup> R25.

<sup>809</sup> R33.

<sup>810</sup> Providing feedback is also important to keep caseworkers motivated to report cases. This dilemma has been explored by the authors in a previous study. See Van Wijk & Bolhuis (2017a).

<sup>811</sup> R7.

doubt, send the case to the F1 unit'. This mantra was continued in the first phase of the high influx. A head of one of the units working on Syria cases indicated that he indeed forwarded every case in which there was doubt.<sup>812</sup> Rather than investing time in trying to find more information about the respective asylum applicant, at least at a certain point in time, caseworkers simply forwarded cases to the F1-unit right away. Another respondent remembered that the F1 unit was on the phone all the time with caseworkers from the Syria units about whether or not a specific case should be forwarded. Given the low threshold given by PST, staff at the F1 unit too was unsure what was relevant, they too were afraid to miss something. Cases where people had a 'bad feeling' without any specific information were reported to the F1 unit, but the F1 unit could not simply forward such information to PST.<sup>813</sup> The low internal threshold resulted in a lot of cases being referred to F1 by all units within UDI.<sup>814</sup> The PST on its turn also received many cases from UDI's F1 unit.<sup>815</sup> The low threshold thus led to an overburdening of the F1 unit within UDI, as well as the PST.

Several respondents at the UDI had the impression that even to the PST it was in the beginning not clear what kind of cases it was interested in.<sup>816</sup> A representative of the PST confirmed that during the first months of the high influx, PST had been overwhelmed with work and did not have the time or capacity to oversee the type of information that was forwarded via the F1 unit. In 2016, UDI and PST had a meeting on the basis of which it was decided that the F1-unit heightened the external threshold for reporting to PST.<sup>817</sup> In the dialogue between the two organisations, much energy was devoted to clarifying PST's mandate and providing suggestions to reformulate the list of indicators. On the basis of the conversations the F1 unit changed its routines.<sup>818</sup> Also the internal threshold was lowered and the list of indicators was narrowed down, in the summer of 2016.<sup>819</sup> Over time, both staff at the F1 unit and the caseworkers in the other units became more confident about what cases should be forwarded. It took the caseworkers about a year before they were more secure about what cases (not) to send through.<sup>820</sup>

Remarkably, the Swedish respondents indicated that the Migration Agency has over the past years deliberately employed a low threshold for its initial consultations with the Swedish Security Service without the Security Services complaining to be overwhelmed. Representatives of the Swedish Security Service did note that the volume of cases referred by the Migration Agency was the biggest challenge for the Security Service during the high influx. While the threshold employed by the Migration Agency at the time of the influx was not of such a nature that it negatively affected the cooperation with the Security Service, it did lead to heightening the internal threshold employed by the Security Service, which means that it would more often say that a case was 'not interesting' to the Migration Agency.<sup>821</sup> To some extent the Migration Agency knows what to look for, but it is the responsibility of the Security Service to make the call whether they are interested or not. A representative of the Swedish Security Services illustrated why it is important that they are the ones to decide what is interesting or not. It could be that, in two *seemingly* similar cases, the Security Service has information on one of the applicants that makes that one case interesting, while the other is not because it does not have any further information. That is why it is dangerous for the Security Service to say that it is not interested in a particular kind of cases or to set a very high threshold, and why it

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<sup>812</sup> R5.

<sup>813</sup> R2.

<sup>814</sup> R2; R6.

<sup>815</sup> R8.

<sup>816</sup> R2; R5.

<sup>817</sup> R2.

<sup>818</sup> R8.

<sup>819</sup> R6.

<sup>820</sup> R2.

<sup>821</sup> R41; R42.

wants to remain in charge of deciding what is interesting and what is not interesting.<sup>822</sup> Considering that there are a lot of caseworkers, it is a balancing exercise to determine what information can be communicated via indicator documents. That is also why these lists should be generic and the threshold for indications is low.<sup>823</sup>

### Feedback

As noted above, caseworkers are ideally provided with feedback on whether they report the 'right' cases, and to keep them motivated to report cases. The intelligence and security services have an interest in improving the quality of reports made to them. However, it may be difficult for intelligence and security services to provide feedback due to the confidential nature of their work. Respondents generally acknowledged this tension. Although representatives of the specialized units may receive general or specific feedback during bilateral meetings with the security services (see below), frontline professionals who forward alerts to the specialized units typically do not receive feedback in any way. Sweden, however, is an exception to this.

According to representatives of the Swedish Migration Agency, the contact point system described in §6.2.1 offers a possibility for the Swedish Security Service to give direct feedback to caseworkers working for the Migration Agency. At the meetings between the contact points of the two agencies, caseworkers of the Migration Agency can present cases which they believe to contain information relevant to the Security Service in a face to face setting with a representative of the Swedish Security Service.<sup>824</sup> According to a Migration Agency representative, in terms of learning and feedback, the main point of the oral presentations is the learning for the individual caseworker. However, the regional contact point who is also present at the meetings might also pick up things that (s)he can use in the feedback that spreads throughout the organisation (in seminars, training etc.).<sup>825</sup> To the extent possible, the Security Service tries to explain why a certain case is interesting or not.<sup>826</sup>

With regard to general bilateral information exchange, respondents reported that there is regular contact between the immigration authority and intelligence and security services.<sup>827</sup> The situations in the Netherlands and Norway are illustrative in this regard. In the Netherlands, the points of contact are the liaison officers and the special cases unit, in Norway representatives of the specialised unit have contact with the intelligence and security services every now and then. The topics that are discussed are for example the reporting threshold, or the indications that have been reported in the past period. This could also lead to adaptations in the indicator lists. In the Netherlands, the liaison officers liaise with the enforcement coordinators and other caseworkers on a regular basis and can update them on the feedback that was received from the security services. In Norway, UDI and the intelligence and security services regularly discuss the quality of the reports over the past period and whether or not the threshold needs to be adapted. In Norway, usually it is the head of unit who attends regular meetings with the PST. However, if there are questions in relation to the threshold in an individual case, the head of unit can bring along caseworkers working with the particular case.<sup>828</sup>

## 6.4. Sources of information

Chapter 5 discussed the different methods the immigration authorities used to establish the identity of asylum applicants. Information that is gathered through these methods may also be relevant in the

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<sup>822</sup> R41.

<sup>823</sup> R28; R29.

<sup>824</sup> R28; R30.

<sup>825</sup> R28.

<sup>826</sup> R42.

<sup>827</sup> R8; R19; R20; R28; R31; R32.

<sup>828</sup> E4.

context of national security or exclusion, or these methods may be employed specifically to gather information on national security or exclusion aspects. This paragraph discusses how and to what extent information from interviews, social media searches, extracted data carriers and other methods to establish an individual's identity are used and deemed useful in identifying national security or exclusion aspects.

#### 6.4.1. Interviews

All respondents indicated that information obtained through interviews can be relevant in identifying threats to national security or exclusion. From the interviews, it becomes clear that there were several challenges when it comes to interviewing asylum applicants during the high influx, and Syrian applicants more in particular, in the context of assessing national security or exclusion aspects.

Firstly, as was also noted in the context of establishing the identity, because of the high recognition rate for Syrian asylum applicants, they had less of a need to make extensive statements.<sup>829</sup> As one respondent noted, Syrian applicants 'can only talk themselves out of a status'; the less they say during an interview, the greater the chance that they are given an asylum status.<sup>830</sup> With less information, it is more difficult to make assessments on national security and exclusion. If an applicant could make plausible that he was a Syrian citizen and remained in Syria until he fled, he would normally get asylum. Dutch respondents stated that it was noticeable that applicants were also aware of this fact.<sup>831</sup> In this context, respondents from the Netherlands and Norway referred to efforts they had made to establish whether an applicant had served in the military. A Norwegian respondent, for example, noted that many men claimed that they had been granted postponement of their military service for studies or other reasons. In those instances, the interview was used to try and establish if this was probable or not. The applicant was in such instances, for instance, asked to provide more information on how to get such a postponement, what office to go to et cetera.<sup>832</sup> Dutch and Norwegian respondents noted that many of the men who did claim to have done military service, often claimed they were cooks, drivers or barbers.<sup>833</sup> In those cases it was important to ask follow-up questions about the unit in which they served and where they had been stationed in what period.<sup>834</sup>

However, there are obviously limits to what the immigration authorities can find out by asking follow-up questions. As a Norwegian respondent noted, applicants almost all said they had not used weapons themselves; if a caseworker has reason to doubt such a statement, he can ask questions in different fashions, but applicants could quite easily choose to stick to their statements.<sup>835</sup> If a Syrian applicant was confronted with information from other sources, such as certain video material that was found on his social media account, applicants would typically come up with an alternative explanation.<sup>836</sup> Even if an applicant would in such an instance have a very implausible explanation, respondents stated that there is very little one can do.<sup>837</sup> As a Dutch respondent said, a *possibly* untruthful statement does not block a positive decision for Syrian applicants.<sup>838</sup> In the Netherlands, this has led to a different

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<sup>829</sup> R34.

<sup>830</sup> R9.

<sup>831</sup> R34; R35

<sup>832</sup> R5.

<sup>833</sup> R6; R34; R35.

<sup>834</sup> R6; R35.

<sup>835</sup> R6.

<sup>836</sup> R2; R34; R35.

<sup>837</sup> This is painfully illustrated in the Dutch documentary "Het Kaf en het Koren", which follows the day to day work of caseworkers at the 1F Unit. April 2017, last visited 20 May 2018 at <<https://www.2doc.nl/documentaires/series/2doc/2017/april/het-kaf-en-het-koren.html>>.

<sup>838</sup> R34; R35.

approach to substantiating 1F-decisions at the IND using information from sources such as social media (see §6.4.2).

A second challenge, as was also noted in chapter 5, was that while respondents indicated that the country of origin information desks in the different focus countries were generally well-informed, several respondents mentioned the availability of adequate country of origin information as one of the main challenges during the high influx, especially the kind of detailed information that is necessary to assess national security and exclusion aspects.<sup>839</sup> During the high influx, the conflict was still ongoing, chaotic and rapidly changing, which made it challenging for the COI-desks to keep up with the developments.<sup>840</sup> A Norwegian respondent indicated that in response, caseworkers in the 'regular' units started doing their own research; one caseworker for instance made an overview of all the logos used by the different militias.<sup>841</sup> A PST representative noted that despite the Syrian conflict being the best documented conflict ever, it was very challenging to obtain information on individual applicants.<sup>842</sup> Having such information, however, is necessary in order to verify or debunk statements made by applicants, and to substantiate exclusion decisions.<sup>843</sup> A challenge that Dutch respondents referred to was that intelligence and security services may have information on an applicant that suggests he or she has been involved in terrorist activities or a terrorist organisation, but cannot always share information if it is designated as a state secret.<sup>844</sup> Representatives of the Dutch IND noted that in response to the challenges connected to gathering country of origin information, the Unit 1F made sure that asylum applicants would provide as much information as possible in a very early stage. In the first intake, applicants themselves had to provide information on where they come from, what job they had there, whether they had been in military service or had studied, but also how they had experienced their stay in a war zone. These verifiable facts were then used to already in an early phase prepare for the interview, allowing the caseworker to ask specific follow-up questions.<sup>845</sup>

Thirdly, in response to the high influx, changes to the ordinary routines were made to increase the case handling speed, which had their impact on the information available from interviews. In Norway, interviews were in the course of the earlier mentioned 'Syria track' (see §5.2.3) conducted by the aliens police PU, who may not have the necessary knowledge and expertise to assess aspects that are relevant for exclusion.<sup>846</sup> Some UDI respondents remembered that in some cases where the applicant said he or she was from an IS-dominated region, PU stopped there and did not seek for more information. Instead, according to one of the respondents, it would have been better to ask follow-up questions, like: how long did you stay there, how did you get out? How were you able to survive in IS-controlled territory? The same happened in some cases where applicants stated they had been in the military and had not fought in the civil war.<sup>847</sup> While staff at the PU registration units may have lacked the competences, the right qualifications and the expertise for the tasks, it should be noted that they also did not have the same country of origin information or guidance and feedback at their disposal as UDI caseworkers. This also meant that PU staff could not always value the information collected in the interview.<sup>848</sup> An illustration of the above, given by one respondent, is the way in which PU responded to a request from UDI to give extra attention to assessing whether applicants may have radical

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<sup>839</sup> R2; R5; R8; R20.

<sup>840</sup> R2; R5

<sup>841</sup> R5.

<sup>842</sup> R8.

<sup>843</sup> R20.

<sup>844</sup> R31; R32.

<sup>845</sup> R35.

<sup>846</sup> R5. This 'fear' was also mentioned in media reporting; N. Johnsen, 'Slik overvåker PST asylstrømmen', 13 December 2015, last visited 20 May 2018 at <<https://www.vg.no/nyheter/iinnenriks/i/429Bo/slik-overvaaker-pst-asylstroemmen>>.

<sup>847</sup> R5; R7.

<sup>848</sup> R5.

religious views. The idea was that PU employees could, in the course of their work, look for indicators of radicalization. In response, PU included the following extra question on the form that applicants are to fill out: “What do you think about the use of violence in a political/religious context?”<sup>849</sup> According to the respondent, such a question at best provides nothing of interest, but at worst alerted applicants, preventing them to provide information that might have been accessed with a more tactical approach.<sup>850</sup> As noted in §5.2.3, however, also the follow-up by UDI was not always adequate. An evaluation conducted by UDI found that a number of cases where – in deviation of the applicable protocols – information obtained by the PU in its intake interview on identity and/or national security was not investigated in an asylum interview by UDI.<sup>851</sup>

It was already noted that in Germany, interviews were temporarily not used in Syrian cases between November 2014 to March 2016. German respondents noted that when making the decision to resort to written procedures, the BAMF did not sufficiently realise how that would impact the screening of persons posing a security threat. The respondents acknowledged that from a security perspective, it is not desirable to have no interview. At the same time, they noted, the handling of cases would have lasted much longer if there had been interviews from the beginning.<sup>852</sup> That the screening on security has not always been sufficient was confirmed by the scandal at the Bremen BAMF branch office, when it turned out that at least two asylum seekers, one who had been ‘labelled as a potential terrorist threat’ and another who ‘was known to have Islamist extremist ties’ had not been processed properly and had been granted asylum.<sup>853</sup> Although in Sweden, the interview was not abolished, the introduction of the initial abridged registration during the high influx also was, according to one respondent, also not ideal from a security perspective. The minimal registration meant that fingerprints and photographs were taken, but that there was no interview taken in the initial phase.<sup>854</sup>

#### 6.4.2. Social media research and extraction of data carriers

Apart from interviews, respondents indicated social media and data carriers could also present relevant information in establishing national security or exclusion issues. For the immigration authorities in the focus countries, the Syrian conflict was the first in which these research methods were available and also useful, because as noted in chapter 5 – compared to other groups of asylum seekers – many Syrian applicants used social media or had data carriers in their possession. There was also increased pressure to screen social media accounts because journalists, activists and interest groups, on the basis of social media searches, started publishing information about the alleged criminal background of asylum seekers in Europe on dedicated websites.<sup>855</sup> Hence, while the interviews with Syrian applicants generally did not lead to much detailed information, this was to some extent compensated by the availability of information from these alternative sources. However, from the interviews it becomes clear that it is not self-evident that these sources of information are always useful.

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<sup>849</sup> The question was removed at a certain point, but was in use much over 2015, when many Syrians entered.

<sup>850</sup> R5.

<sup>851</sup> UDI (2017a), p. 10-11. See also L. Akerhaug, ‘Syria-alarm: Sviktende identitets- og sikkerhetskontroll’, 22 August 2017, last visited 6 June 2018 at <<https://www.minervanett.no/syria-alarm-sviktende-identitets-sikkerhetskontroll/>>.

<sup>852</sup> R38; R39.

<sup>853</sup> ‘BAMF office in Bremen allowed at least two extremists to enter Germany’, Deutsche Welt, 3 June 2018, last visited 7 June 2018 at <<http://www.dw.com/en/bamf-office-in-bremen-allowed-at-least-two-extremists-to-enter-germany/a-44062003>>.

<sup>854</sup> R28.

<sup>855</sup> See e.g. ‘EU Militia Watch’, last visited at 20 May 2018 at <<https://www.frbui.com/militias-in-eu-160516061578158715761610-1605160416101588161015751578-16011610-15751608158515761575.html>>.

As noted in chapter 5, social media screening is conducted in all cases in the Netherlands, is used in some but not all cases in Belgium, Norway and Sweden, and is not used in Germany. In the Netherlands, the social media vetting is part of the standard ‘screening’. In Sweden, the Migration Agency has a specialized unit for social media screening in relation to possible exclusion or national security cases (the FSUS-unit); the Belgian CGRS also has a unit that can assist in such cases.

Data carrier extraction takes place in Germany, the Netherlands and Norway and is currently not used in Belgium and Sweden. In Belgium, the CGRS can politely ask if the applicant wants to give insight into the data carriers, but if the applicant refuses, there are no legal means to enforce cooperation in that sense.<sup>856</sup> As noted in §5.2.6, in Germany data carriers may only be extracted under strict conditions, namely only for the purpose of establishing the identity, if there is doubt about the identity and if more lenient means are not available.<sup>857</sup> This means that the method cannot be used in the context of assessing aspects of national security or exclusion, and according to the submission to the EMN study on establishing identity, the use of information from data carriers has not been discussed yet in the context of assessing aspects of national security or exclusion in Germany.<sup>858</sup> In Sweden, data carrier extraction is currently legally not possible, and a respondent conveyed the expectation that should it be made legally possible to extract data carriers, this would be only for the purpose of establishing the identity.<sup>859</sup> By contrast, in the Netherlands, the increasing use of social media research and data carrier extraction was partially given in by the increasing attention for national security issues.<sup>860</sup>

Different respondents noted that in general, data carriers and social media are useful sources of information for assessing national security or exclusion aspects. A representative of the Swedish Migration Agency indicated that the information from the COI desk is contextual and is useful in presenting an overview, but does in and of itself not necessarily help in the individual case on exclusion issues. The Migration Agency’s FSUS-unit primarily tries to fill the gap between contextual country of origin information and more concrete information that is needed in individual exclusion cases.<sup>861</sup> Dutch respondents indicated that information from social media and data carriers is seen as a welcome addition when information from other sources (i.e. statements from applicants) are more limited. Where statements by asylum applicants are still the main source for substantiating 1F decisions in the Netherlands, the importance of information from social media is growing. A lot of information is found that could (at the least) be a reason to do further investigation, but respondents indicated that the IND’s 1F unit is currently also testing the waters to what extent information from social media can be used to substantiate decision making.<sup>862</sup> Respondents from the Netherlands and Sweden indicated that information from social media has been used to substantiate exclusion decisions; in a Dutch case the decision also held in court when it was appealed.<sup>863</sup>

However, respondents also indicated that information from social media as well as from data carriers is often very difficult to interpret. As a respondent of the Norwegian PST noted, if you see a brutal photo on an applicant’s cell phone, is that because he is documenting what is happening during the war, or is it his hand holding the knife?<sup>864</sup> The head of the PST Erik Haugland noted the following in an interview with a Norwegian newspaper: “There may be several reasons for having such images. You can be a witness and want to show others what you have seen, or you may have symbols linked to

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<sup>856</sup> E3.

<sup>857</sup> Tangermann (2017), p. 22-23; R38; R39; R40.

<sup>858</sup> Tangermann (2017), p. 50.

<sup>859</sup> R41.

<sup>860</sup> R1.

<sup>861</sup> R28.

<sup>862</sup> R31; R32.

<sup>863</sup> R28; R34. The Dutch judgment was not (yet) available online at the time of data collection. With regards to Sweden, no specific references to case law were provided.

<sup>864</sup> R8.



organizations that control areas you pass through for tactical reasons. What looks alarming can have other explanations than support for terrorist organizations.” He added: “One problem for us is that we hardly ever have any history of these people, even from countries we work closely with.”<sup>865</sup>

Related is the question whether the information can be used as evidence for substantiating decisions on asylum applications, particularly exclusion decisions. A UDI representative noted that the value of information from these sources as evidence is limited. If a caseworker sees a picture of an applicant with an IS flag in his hand on an open profile, that in itself would never be enough to have a decisive impact on the outcome of a case; you would need much more. However, the information may still be relevant to actors such as PST.<sup>866</sup> An IND representative gave the example of a Syrian applicant who during the interview had claimed to have lived in Damascus his whole life, while there were also pictures available of him being photographed in Aleppo, dressed in a military uniform and with a Kalashnikov in his hands. In such a case, there is a suspicion that the applicant has something to hide, but that is in itself not enough for exclusion. While there is a need for additional information, the IND meets the boundaries of what it can do as an immigration service; it does not have investigative powers.<sup>867</sup> In the Netherlands, the increasing reliance on information from social media and data carriers has led to a different approach to how exclusion decisions are substantiated by the IND’s 1F unit. While the 1F unit in relation to the abovementioned example would typically have tried to substantiate that the applicant was a member of certain organization, the reasoning is turned around in the currently adopted approach: the sum of the fact that 1) someone was at a certain location where he had no business, 2) in a uniform, 3) with a weapon in his hand, combined with the fact that 4) he has demonstrably made untruthful statements about this event, leads to the conclusion that there is no other explanation than to assume the applicant has participated in the armed conflict. If the IND can then also substantiate that there are serious reasons for considering that the unit the applicant allegedly fought for was engaged in war crimes, this may be sufficient to substantiate an exclusion decision. Currently, the IND is trying to find out to what extent this way of motivating exclusion decision is accepted in court. According to the respondent, the ‘classic’ substantiation of exclusion decisions detailing the crime, place and time is hardly achievable anymore. The respondent acknowledged that this leads to the question whether the threshold for exclusion is de facto lowered. The IND, however, reasons that the standard of proof remains the same and that only the approach is different. The 1F unit increasingly uses legal advisors in drafting the decisions, in order to translate information from pictures to evidence for a judge to review.<sup>868</sup>

With respect to data carrier extraction, an important question is who extracts the data and on the basis of which competence, and with whom and for what purposes the information is then shared. As noted in chapter 5, in Norway there is a discussion between the aliens police PU and UDI on whether the data extracted by the PU police can be shared with UDI. According to one of the experts, a challenge is that the aliens police increasingly invokes police legislation, rather than the Norwegian Immigration Act, as a legal basis for using competences to extract information from data carriers, which leads to questions on what can be shared with UDI. UDI wants to receive more information obtained from data carriers than the aliens police currently gives.<sup>869</sup>

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<sup>865</sup> N. Johnsen, ‘Slik overvåker PST asylstrømmen’, 13 December 2015, last visited 20 May 2018 at <<https://www.vg.no/nyheter/innenriks/i/429Bo/slik-overvaaker-pst-asylstroemmen>> (translated by authors).

<sup>866</sup> R33.

<sup>867</sup> Nevertheless, the IND has moved closer towards criminal investigation. As noted in chapter 5, the IND uses special computers to perform the social media analysis, developed by the National Police. The gradual move in the direction of criminal investigation, resulting from pressure from politics and the society, also means that the expectations from the IND are higher (R34).

<sup>868</sup> R34.

<sup>869</sup> E6.

In the Netherlands, the aliens police conduct a ‘quick check’ of all data carriers, and can extract more information if needed for the purpose of establishing the identity and relevant information for the handling of the asylum application, based on the Dutch Aliens Act. If the IND notes that a data carrier has been extracted in a given case, it can ask the aliens police to share that information. According to one expert, it is important to analyse the information extracted from data carriers and to have clear agreements on how to share it. For the immigration service, a lot of useful information could be found on data carriers that could verify or debunk the asylum story and statements, such as pictures, information on travel route, places of residence et cetera. However, it takes a lot of time to analyse the data and to draw conclusions from that.<sup>870</sup> The aliens police are therefore working on a tool to better and quicker analyse the content.<sup>871</sup>

### 6.4.3. Information from the identification and registration process

Apart from information from interviews, social media and data carriers, there are other sources of information that are obtained in the context of establishing an applicant’s identity that can offer information that can be relevant for assessing national security or exclusion aspects. Apart from data carriers, other personal belongings can be searched (see §5.2.9). In the Netherlands, a 100% luggage check was introduced partially because of the increasing focus on national security.<sup>872</sup> The IND also has the ‘NVIK’ checklists with striking features that the aliens police AVIM uses in the identification and registration process at its disposal (see §5.3).

In Belgium and Sweden, the intelligence and security services perform a check on the names of all incoming asylum applicants.<sup>873</sup> In Germany, the intelligence and security services have access to the central foreigners’ administration database,<sup>874</sup> and in Norway the intelligence and security services have access to UDI’s database. In the Netherlands, only in cases where there are indications of national security issues names will be shared with the intelligence and security services, which will in turn then check their own databases.<sup>875</sup>

### 6.5. National security and exclusion in family reunification and other processes

While the number of asylum applications has decreased substantially in all of the focus countries since 2016, as was noted in chapter 3, the countries are currently faced with increased numbers of family reunification applications. The routines for handling these cases often differ from the routines for handling asylum applications. This raises the question to what extent and how aspects of national security and exclusion are screened in family reunification procedures. This question is particularly relevant in cases where family members that came first and applied for asylum have not been excluded or are not regarded to pose a threat to national security (for instance, spouses, children), while there are indications that their family members who want to reunite should be excluded or could pose such a threat. Arguably, as often different actors are involved in family reunification cases compared to asylum cases, different methods, routines and approaches are in place.

In Belgium, family reunification is not part of the responsibility of the authority responsible for deciding on the asylum application, the CGRS, but the responsibility of the Immigration Office. In the context of this study no information is available whether and how the Immigration Office screens

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<sup>870</sup> E2.

<sup>871</sup> R1.

<sup>872</sup> R1.

<sup>873</sup> EMN NCP Belgium (2017), p. 40; R28.

<sup>874</sup> In addition, according to Biselli (2017), data of asylum seekers from designated countries of origin are automatically forwarded to several agencies including the security and intelligence services.

<sup>875</sup> E1; E2.

applicants for family reunification. What, however, has become clear is that there is no official system or database in place for the CGRS to share relevant information with the Immigration Office. This means that the expertise and information coming from the asylum application of family members is not shared with or otherwise available to the Immigration Office in the context of family reunification or other visa applications.<sup>876</sup> What this means *in concreto*, was discussed during the expert meeting. Imagine the following case: when an Iraqi woman applies for asylum it becomes clear that her husband is a senior member of the Baath regime. It is difficult to exclude the woman on that basis, but as an immigration authority you want to make sure that – should her husband want to reunite with his wife – those responsible for deciding on his family reunification application are aware of his profile and will take the available information about his background into account.<sup>877</sup> In Belgium there is currently no system in place to share such information.

In Germany, security checks in relation to family reunification are done when the person concerned is still abroad. Family reunification is based on a visa. Everyone applying for family reunification will be checked in the immigration databases, but there is no screening or social media research concerning persons applying for family reunification when they are still abroad or after they arrive in Germany. It is possible to conduct an interview, but this will be carried out by the embassy in the country where the person concerned resides. These interviews do not cover national security or exclusion issues.<sup>878</sup>

In the Netherlands, the family reunification procedure is carried out by the IND, while the consular posts of the Ministry of Foreign Affairs outside the Netherlands also play a role.<sup>879</sup> Regardless of the type of application, a family reunification procedure focuses on establishing the family ties. There is little opportunity to do further investigations; in principle, there is no interview in family reunification cases.<sup>880</sup> If based on the information from (the asylum procedure of) the reference person there is a reason to do further research, there however is the possibility to hold an interview with the applicant at a consular post of the Ministry of Foreign Affairs via video conference.<sup>881</sup> Already from the end of 2013, a pilot was in place for the screening of Syrian applicants of family reunification on 1F exclusion aspects.<sup>882</sup> More recently, a number of other initiatives have been taken:

- In the Netherlands, a family reunification application that follows from an asylum application by a family member, is treated as an asylum application and will be handled by the asylum department. This means that the expertise on national security and exclusion that has been built up in the asylum department is also used in family reunification cases. It furthermore has the advantage that more information is already available from the asylum procedure of the reference person (the family member in possession of a residence permit).
- The family reunification application can be initiated by the applicant him- or herself, or by the reference person. When an applicant initiates the application him/herself, (s)he is currently asked more questions about his past than would have been done a couple of years ago. In cases where the reference person initiates the application, additional questions are asked to the reference person about the applicant: what is his background, has he served in the military and if so, where?

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<sup>876</sup> E3.

<sup>877</sup> E3.

<sup>878</sup> R38.

<sup>879</sup> State Secretary of Justice and Security, letter to parliament 'Screening nareis', 6 January 2018, last visited 22 May 2018 at <<https://www.rijksoverheid.nl/documenten/kamerstukken/2018/02/06/tk-screening-nareis>>.

<sup>880</sup> R34.

<sup>881</sup> R35.

<sup>882</sup> *Kamerstukken II*, 2015-2016, 34300 VI, no. 89, 23 May 2016. The Ministry of Justice and Security reported in 2016 that this pilot has also led to the investigation of potential exclusion cases.

- In anticipation of a possible future request for family reunification, asylum applicants are already during their asylum procedure asked targeted questions about their family members.<sup>883</sup>
- As part of the assessment of the family reunification application, the IND also performs checks on the applicant in different systems.<sup>884</sup>
- Since 1 September 2016, the IND conducts the same screening that is also used in the asylum procedure (see §5.2.5) in family reunification cases that are about to be granted. In this screening, the screeners look for things like phone numbers, email addresses and do social media research. A photograph of the applicant is also taken, which can be used in the social media screening.<sup>885</sup>
- When a family reunification application is granted, the identification takes place and biometrical information is collected at the consular posts. Staff at these posts has received special instructions and the staff of some of these posts has attended awareness sessions organised by the AIVD, NCTV and Foreign Affairs.<sup>886</sup>

In Norway, family reunification applications are assessed by a different department than asylum applications. With reference to the example of the Iraqi woman with a Baath member husband, it was discussed during the expert meeting that the Norwegian asylum department can flag a person to the family reunification department in order for them be aware to pay extra attention to the husband. In actual practice, however, the asylum department has never heard back on any of the cases flagged; it is unknown if this means family members never came, or whether the flag was not taken into account. The flag is available in the digital file, but whether or not it is used all depends on whether the colleague at the family reunification department actually notices the flag and decides to do something with it. The asylum department does not check cases that are flagged.<sup>887</sup> Because there currently is too much capacity at the asylum department within UDI due to the decreased influx, caseworkers from the asylum department, including the F1-unit, are handling family reunification cases.<sup>888</sup> This, in a way, is a blessing in disguise, as these caseworkers have a stronger awareness of exclusion and national security issues.

In Sweden, a respondent indicated that the focus has so far been on the asylum process, although the Migration Agency is now working on developing routines for other processes, such as family reunification and visa applications. There is one specialist within the Special Operations department focusing on enhancing the procedures regarding family reunification and visa applications.<sup>889</sup>

## 6.6. Conclusion

- One of the central tensions that this study seeks to address revolves around the need for efficient and quick status determination for Syrian asylum seekers on the one hand, and the need to carefully screen asylum seekers on possible involvement in serious crimes or possible risks they may pose to national security on the other hand.

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<sup>883</sup> R34; R35. Respondents acknowledged that this requires additional capacity in the asylum phase. On the other hand, it shortens the family reunification procedure, and it may be easier to obtain information from the reference person who may be more on guard in a later stage.

<sup>884</sup> For Syrian, Iraqi and Libyan applicants, the documents are also checked in the Stolen and Lost Travel Documents (SLTD) and the National Documents System; *ibid*.

<sup>885</sup> State Secretary of Justice and Security, above note 876; R31.

<sup>886</sup> State Secretary of Justice and Security, above note 876.

<sup>887</sup> E6.

<sup>888</sup> R2.

<sup>889</sup> R28.

- During the high influx, a major challenge with regard to screening was that the high recognition rate made that the opportunities to assess national security and exclusion aspects were limited, while the scale of the influx made that less time and less experienced staff was available to make assessments of these aspects.
- Respondents indicated that the attention for security and exclusion cases in the immigration process has increased in the past years. Although figures on national security and exclusion cases are not available for all of the focus countries, the figures quoted in this chapter suggest the number of national security cases in general, as well as the number of exclusion cases concerning Syrian applicants, increased during and after the high influx.
- During the high influx, many countries developed new structures for information exchange on (potential) national security cases between the immigration authorities and intelligence and security services. The extent to which information on such cases is shared with other actors in the immigration process differs significantly between the different focus countries: for instance, reception centre staff is kept in the loop in some countries, but not informed at all in other countries.
- The different authorities have provided their staff in various ways with tools to create and raise awareness in relation to aspects of national security and exclusion.
  - In some countries, all caseworkers have received special training on identifying national security and/or exclusion indications, whereas in other countries, such training was only provided to specialised caseworkers.
  - In all of the countries, caseworkers had tools – in the form of indicator lists or lists with background information – at their disposal to help them in identifying aspects of national security and/or exclusion. Such tools have been developed by, or in close cooperation with, intelligence and security services. While there is a demand from caseworkers for tools in the form of indicators, respondents stressed the downsides of using ‘static’ indicators, such as the risk that too much focus on the provided indicators may lead to missing out other indications. They stressed that these tools should therefore mainly be regarded as a starting point for a caseworker to ask more questions.
- In the process of identifying national security or exclusion cases, relevant actors were confronted with a number of challenges, including the following:
  - The interviews demonstrate that authorities in the different focus countries have struggled with determining the right threshold for reporting potential national security cases. In some countries, the threshold was initially set so low that actors on the receiving end – the intelligence and security services or specialized exclusion units – were overburdened.
  - While respondents acknowledged that caseworkers are ideally provided with feedback on whether they report the ‘right’ cases, the interviews suggest that caseworkers in most countries hardly receive direct feedback.
  - Respondents indicated that information collected through interviews was not always valuable in assessing aspects of national security or exclusion, or that its value could not be assessed in the right way, for example because of the limited need of applicants to make extensive statements, because information could not be checked against adequate country of origin information, because the staff conducting interviews did not have the right expertise, or because information was not followed up adequately. In this respect Germany was confronted with a specific problem, as for some time no interviews at all were conducted.
- Limitations to information from interviews were to some extent compensated by the availability of information from social media and data carriers. Although not all countries use information from these sources in the context of assessing national security or exclusion aspects, respondents noted that, while information from social media as well as from data carriers can be very valuable, it is often very difficult to interpret and/or to use as evidence.

- The focus countries are currently faced with increased numbers of family reunification applications. The interviews indicate that national security and exclusion issues are not given due attention in the context of such procedures in all of the focus countries; when it comes to screening activities, most attention is directed at 'spontaneous' asylum seekers and resettlement/relocation cases.

## Chapter 7. Conclusions and recommendations

This report discussed how five European countries (Belgium, Germany, Norway, the Netherlands and Sweden) have organized the identification, registration and decision-making in relation to asylum applications made by Syrian nationals, and the screening of Syrian nationals with regard to possible national security and 1F exclusion aspects, in the period 2014-2017. The study made use of interviews with representatives of immigration authorities and aliens police agencies, as well as representatives of intelligence and security services and representatives of the European Asylum Support Office (EASO). In addition, the research entailed a review of available academic literature, relevant rules and regulations and available formal and informal policy documents.

This final chapter summarizes the most important findings in paragraph 7.1 for the three main themes: organisational capacity and management; establishment of identity and decision-making; and screening on national security and 1F exclusion.<sup>890</sup> Furthermore, for the main three themes a selection of noteworthy practices that have been developed in response to the challenges that were posed by the high influx are presented and discussed, based on input from respondents and experts.<sup>891</sup> The discussion of these practices can be used by actors involved in the immigration process – not only in the focus countries but also in other countries – to further develop or redevelop existing approaches and strategies. Considering that this research was commissioned by the Norwegian Directorate of Immigration UDI, the relevance and feasibility of implementing the described practices from a Norwegian perspective is addressed separately. Paragraph 7.2 presents a number of general reflections that follow from the research.

### 7.1. Summary of findings and noteworthy practices

#### 7.1.1. Organisational capacity

##### *Summary of findings*

*To what extent and how have the selected countries changed and/or improved their organisational capacity to process the increased number of asylum claims since 2014?*

Chapter 4 provided an overview of responses to the challenges in relation to the organisational capacity and management, aimed at reducing the number of asylum seekers, and at processing the increased number of asylum claims. At the moment of writing, the influx in all of the focus countries has decreased and backlogs have been reduced to a ‘normal’ level in most countries. As a consequence, all of the countries are currently scaling down organisational capacity with respect to dealing with spontaneous arrivals of asylum applicants.

Structural measures that have been taken or are envisaged to deal with possible changes in the influx in the future include the development of national contingency plans, ‘centralisation’ of activities in one or more centralised arrival centres, ‘flexibilisation’ of accommodation and/or staff capacity, and further ‘digitisation’ of the asylum process.

In general, respondents interviewed in the context of this study believed that the experiences gained during the recent high influx have made the actors better prepared, more aware of the division of

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<sup>890</sup> A more elaborate summary of the main findings can be found in the final paragraphs of the chapters 3 to 6.

<sup>891</sup> As was noted in §2.4, hardly any of the focus countries have so far conducted any sound evaluations to validate to what extent applied practices or new routines are effective or efficient. Nor is it always feasible or possible to implement practices that are used in one country also in another country. Whether or not a certain practice is recommendable is often very country or organization-specific. For these reasons, rather than referring to ‘best practices’, this report presents ‘noteworthy practices’.

responsibilities, improved internal communication and improved cooperation with other actors in the immigration process. Respondents believed the 'system' in their respective countries is ready for a new high influx, although this does depend on the nature of the influx, for example in terms of the recognition rate, identification issues and national security and exclusion issues.

### *Noteworthy practices*

Noteworthy practices that could possibly be implemented to improve the processing of a future high influx of Syrian asylum seekers or other nationals with similar characteristics are the following.

#### **1. Pre-registration (§4.2.2)**

When the pressure on the registration procedure was such that large numbers of applicants were not registered for a longer period of time, Belgium, Norway and Sweden introduced a system of pre-registration: before being fully registered, a basic registration was conducted, which allowed asylum applicants to (at least) enter the system.

##### *Possible pros:*

- If the registration system clogs up due to a high influx, a basic first registration makes sure that applicants are at least registered in the systems, so that it is easier to not lose applicants out of sight.
- A pre-registration makes it possible to differentiate cases at an early stage (for instance for 'fast-tracks'; see below).

##### *Possible cons:*

- As a more extensive registration will still have to be conducted in a later phase, this approach does lead to a certain amount of 'double work'.

#### **2. Fast-track (§4.2.2)**

Germany, the Netherlands and Sweden all introduced approaches to prioritise or accelerate the asylum procedures for certain caseloads (for instance cases that were highly likely and highly unlikely to be granted, and more complex cases), in the form of 'fast-track' or 'cluster' approaches.

##### *Possible pros:*

- The decision-making is made easier because it is more focused; it is easier to concentrate decision-making capacity on a certain strand of cases.
- More cases can be handled with the same amount of staff.
- Asylum seekers stay shorter in reception centres and have to be transported less frequently.

##### *Possible cons:*

- Accelerated procedures may deviate from normally applicable procedural time limits, principles and guarantees, which possibly negatively impacts the legal position of applicants.
- Fast tracks may entail less extensive interviews, which may not be desirable if there are concerns regarding national security or exclusion.
- Prioritised or accelerated case handling may put pressure on other actors; a consequence might be that e.g. housing (outside a reception facility) has to be arranged in a very short time span.

#### **3. 'Under-one-roof' arrival centres (§4.2.2)**

A number of countries (plan to) make use of centralised 'arrival centres'. The idea behind these centres is that as much of the asylum process as possible can be carried out under 'one roof', including identification, interviewing and decision making.



*Possible pros:*

- Having different authorities together in one location enables the different authorities to work in parallel processes, and to have different procedural steps follow each other up faster.
- Different authorities can communicate more easily and efficiently if they are together in one location, which could improve cooperation and also improve the understanding of each of the actors' roles.
- Applicants have to be moved around less.
- If the applicant during the procedure is housed in or resides close to the arrival centre, it is easy to conduct an additional interview if needed.
- A centralised arrival centre could – if managed properly – be more flexible to accommodate highs and lows in the influx.
- Centralised arrival centres may be more cost-efficient, as different actors share costs for real estate and facilities and can benefit from economies of scale.

*Possible cons:*

- If there is only one centralised arrival centre in a larger country, the fact that applicants will have to be transported to this facility may mean that they are unregistered for a certain period.
  - *Possible solution:* In larger countries, a number of regional centralised arrival centres could be a solution.

#### **4. Flexibilisation (\$4.3.2)**

Germany and the Netherlands have developed plans to respond more flexibly to possible future fluctuations in accommodation capacity demands, by making the capacity of reception facilities or arrival centres flexible and fit for use for other purposes. Similarly, the German immigration authorities want to improve the flexibility of their own staff by capacitating and qualifying them in a second field of tasks in addition to their current duties, or by offering employees seconded from other agencies training once their secondment has ended.

*Possible pros:*

- The development of the influx since 2014 has shown that the asylum influx can fluctuate very strongly; flexibility seems to be key to addressing fluctuations.

*Possible cons:*

- Preparing/training staff for a second field of tasks may require regularly updating their skills, while training infringes on capacity.
  - *Possible solution:* In times of a low influx, it is likely that there is overcapacity and more time for training, which can be used to train staff in a second field of tasks.

#### *Relevance and feasibility of implementation in Norway*

Based on the input from the interviews and the expert seminar, the following can be said about the relevance and feasibility of implementing these noteworthy practices in Norway.

The envisaged new first phase of the asylum procedure (the PUMA-project) entails a number of the practices that have been described here, including an under-one-roof arrival centre and pre-registration. 'Flexibilisation' of the capacity in the arrival centre could be a particular point of attention. Norway could also consider introducing a fast track approach, at least for high influx situations. The pre-registration could be used for sorting or differentiating cases in an early phase.

## 7.1.2. Establishing identity and decision-making

### *Summary of findings*

*How have the selected countries organized the establishment and verification of the identity and the decision making in cases of Syrian asylum seekers?*

Chapter 5 discussed how the studied countries have dealt with the establishment and verification of the identity of asylum seekers claiming to be Syrian, and how they have organised and/or adapted the decision-making process in relation to Syrian asylum applications. In addition to the investigation of identity documents and taking fingerprints, the focus countries increasingly use different and new methods to establish and/or verify an applicant's identity, including digital language analysis, extraction of information from data carriers and social media research. The nature and the scale of the influx from 2014 – in addition to technical innovations – are some of the driving factors behind these developments.

The chapter discussed a number of specific challenges with respect to the use of the different methods to establish the identity including the reliability of presented documents; the use of fake identities; lack of a need to make elaborate statements for applicants claiming to be from Syria; and the availability of adequate and up to date country of origin information.

With respect to decision-making, the high influx showed that countries that do not work with country of origin specialisation in the decision-making could more easily scale up their efforts. Countries took different approaches in whether or not new caseworkers were handed Syrian cases or not, depending on whether those were seen as relatively 'easy' or not.

### *Noteworthy practices*

Noteworthy practices that could possibly be implemented to improve the establishment and verification of identity of Syrian asylum seekers or other nationals with similar characteristics are the following.

#### **5. Language biometrics software (§5.2.2)**

German authorities have developed language biometrics software to analyse voice recordings. On the basis of a short statement by the applicant, the software can provide an analysis of the language that the applicant speaks, which is reported to the interviewer.

##### *Possible pros:*

- The software can decrease the dependence on interpreters to evaluate the origin of the language that someone speaks, which can be an indication that can verify or debunk a claimed identity.

##### *Possible cons:*

- Concerns relating to the accuracy of the software have been raised in Germany. It has been questioned whether the software can accurately analyse regional, familial or social language variants within dialects or match them to a nationality.
  - *Possible solution:* The system should be used exclusively for the purpose of assisting the decision maker, rather than providing a definitive conclusion about an applicant's nationality.

#### **6. Special software for social media research (§5.2.5)**

The Netherlands uses special software that enables staff of the immigration authorities a safe way to perform social media research. Those performing social media research have standalone computers at their disposal, with special accounts, developed by the Dutch National Police in collaboration with a commercial cyber security company.

*Possible pros:*

- Efforts of immigration authorities are not traceable for the government in a country of origin.
- The safety of staff conducting social media research is secured.

*Possible cons:*

- The development of such a system requires an investment.
- Staff needs to be trained to work with such a system.

### **7. Automated name transliteration (§5.2.8)**

Problems with a uniform spelling of names of asylum seekers across different government institutions may occur, especially when proper documents are lacking and names are not originally written with roman letters. German authorities are currently testing automated name transliteration of Arabic names into the Latin alphabet.

*Possible pros:*

- Such a tool ensures already in an early phase that the spelling of the name is uniform and unequivocal throughout the process.
- An analysis of the name may help to give hints of the origin of the applicant.
- The transliterated name can be matched to a database and in that way, provide an indication of the country of origin.

*Possible cons:*

- As it is, name transliteration is mainly a tool to keep up quality in the immigration authority's own systems.
  - *Future perspective:* If the tool would be made pan-European, it would be easier to identify a person who has lived or already applied for asylum in another European state in the past under the same name, if fingerprints are unavailable.

### **8. Coercive measures for the reassessment of identity (§5.2.9)**

Using the coercive measures that it has at its disposal as a police body, the Norwegian aliens police can give applicants who have not presented any documents at the time of their registration a surprise visit at their residence, months after they first applied for asylum. During such a visit, the police searches for indications that can verify or debunk the claimed identity.

*Possible pros:*

- Information that is not available during the registration and identification process that sheds a different light on an applicant's origin, may be easier to obtain when an applicant is approached 'off-guard'.

*Possible cons:*

- This method can only be used in countries where the police are involved in the immigration process.
- The use of coercive measures infringes on applicants' fundamental rights, such as the right to a private life, and can lead to uncertainty about the value of an obtained status.
  - *Possible solution:* The legal basis for the use of coercive measures should be clear (for instance, what level of suspicion is needed) and a court authorisation (as is required in Norway) could offer the necessary safeguards.

### **9. Country of origin specialisation and a 'satellite' unit (§5.4.1)**

Belgium, Germany and Norway use country of origin specialisation in their decision-making, whereas the Netherlands and Sweden do not. Belgium has a 'satellite' unit, which can be deployed flexibly where it is needed.

#### *Possible pros:*

- Country of origin specialisation makes it easier to acquire and consolidate country specific knowledge in geographical units;
- It saves time for decision makers if they can focus on one country for a longer period; handling different countries every day requires more preparation time.
- This approach could arguably raise the quality of interviews and decisions.

#### *Possible cons:*

- Country of origin specialisation is less flexible and less responsive to the changing scale and nature of the asylum influx. If caseworkers are ready to deal with any case, this makes upscaling easier in a high influx situation.
  - *Possible solution:* A system that has a smaller 'core' specialised unit (comprised of a few staff members who have built up expertise in the region over the course of several years), and a flexible shell whose capacity can easily be increased could offer an efficient alternative.

#### *Relevance and feasibility of implementation in Norway*

Based on the input from the interviews and the expert seminar, the following can be said about the relevance and feasibility of implementing these noteworthy practices in Norway.

Language biometrics software, special software for social media research and automated name transliteration are tools that could be useful to the Norwegian authorities, although they would require investments. While problems with name transliteration or language analysis did not come up in the interviews with Norwegian respondents, the possible negative consequences when social media analysis is performed in an ad hoc or incautious manner did come up. The idea of making the geographically specialised units more flexible with a smaller 'core unit' and a flexible shell, or the idea of working with 'satellite' units, could be useful and relatively easily implemented as well.

### 7.1.3. Screening on national security and 1F exclusion

#### *Summary of findings*

*How have the selected countries organized the screening of Syrian asylum seekers in relation to national security and 1F exclusion?*

Respondents indicated that the attention for security and exclusion cases in the immigration process has generally increased in the past years. During the high influx, a major challenge with regard to screening was that the high recognition rate made that the opportunities to assess national security and exclusion aspects were limited, while the scale of the influx made that less time and less experienced staff was available to make assessments of these aspects. Many countries developed new structures for information exchange on (potential) national security cases between the immigration authorities and intelligence and security services. The different authorities have provided their staff in various ways with tools to raise and create awareness in relation to assessing aspects of national security and exclusion.

In the process of identifying national security or exclusion cases, relevant actors were confronted with a number of challenges, including determining the right threshold for reporting potential national security cases; providing feedback to caseworkers; and the generally more limited value of information collected through interviews. Respondents indicated that information from social media and data carriers can be very valuable in the context of assessing national security or exclusion aspects, but also that such information is often very difficult to interpret and/or to use as evidence.

Finally, the interviews indicate that national security and exclusion issues are not given due attention in the context of family reunification procedures in all of the focus countries.

#### *Noteworthy practices*

Noteworthy practices that could possibly be implemented to improve the screening of (Syrian) asylum seekers in relation to national security and 1F exclusion are the following.

#### **10. 'Screening' (§6.1.4)**

The Dutch immigration service has introduced a 'screening' that is carried out in all asylum and family reunification cases, an upfront examination of different aspects including national security and exclusion after the identification and registration phase. Specially designated 'screeners' can liaise with 'enforcement coordinators', who can decide whether a certain case should be referred to the 1F unit, or to the special cases unit, again possibly after consultation with specialists at these units.

##### *Possible pros:*

- The fact that the screening is conducted upfront makes it possible to take cases that need special attention apart in an early phase.
- The screening is not limited to national security and exclusion, but also focuses on other 'enforcement' aspects, including indications of identity fraud or human smuggling.
- By making the screening a separate procedural step, carried out by designated screeners, the screeners can fully focus on possible indications, rather than having to pay attention to such aspects in addition to other tasks. By training the screeners, they can develop a good sense of how to look for relevant indications of enforcement aspects, and how to deal with them.

##### *Possible cons:*

- A system of screening requires capacity that may be unavailable during times of high influx, and such a system may be too costly to sustain when the influx is of such a nature that enforcement aspects are less of an issue.
  - *Possible solution:* In the Netherlands, the screeners do not conduct the screening fulltime, but also work as part-time decision-makers, which makes their deployment flexible.

#### **11. Referral format (§6.2.1)**

The Dutch immigration authorities make use of an elaborate referral format to report indications in relation to national security. While the format also contains an open text box, it forces caseworkers to go through a number of very specific questions.

##### *Possible pros:*

- The specific questions challenge the caseworker to specify the report and think through and interpret what they see more carefully.
- Being forced to go through a number of questions may make the caseworker think about other striking details.
- The format makes reports more uniform and complete, and can prevent unnecessary reports.

##### *Possible cons:*

- If such a format is used to report to intelligence and security services, it should be clear that immigration authorities are allowed to share that kind of detailed information from an asylum file.

#### **12. Oral presentations potential national security cases (§6.2.1)**

The Swedish immigration authorities have set up a system with contact points for the intelligence and security services in each regional unit. The contact point and his Swedish Security Service counterpart meet at least once a month. Before every meeting, the contact point, who is specialised in national

security and exclusion, will explore in the regional unit if there are cases that might be of relevance to the Security Services. If a caseworker has a case in which he or she believes there is an indication, the contact point and caseworker will meet with the Swedish Security Service representative, where the caseworker presents the case face to face.

*Possible pros:*

- The caseworker receives direct, one-on-one feedback on what to report. The caseworker also receives advice on how to approach a case.
- In this approach, the intelligence and security services remain in charge of deciding whether a case is interesting or not; of two seemingly similar cases, one may be interesting because the intelligence and security services have other information, while the other may not.
- Less non-relevant cases may be reported to the intelligence and security services.

*Possible cons:*

- Having caseworkers join in on the contact point meetings requires capacity and may be difficult to sustain in high influx situations, especially when there are many potential national security cases.
- If the caseworker receives feedback, it does not necessarily reach the broader organisation.
  - *Possible solution:* In Sweden, the regional contact point who is present at the meetings, is expected to also pick up things that (s)he can use in the feedback that spreads throughout the organisation (in seminars, training etc.).

### **13. Multilateral information exchange forums (§6.2.1)**

Belgium as well as the Netherlands have established multilateral forums where multiple actors can share information on cases that potentially affect the national security, both on the level of individual cases and on a more strategic level.

*Possible pros:*

- A multilateral forum establishes permanent contacts and the possibility to strategically discuss whether the information exchange takes place in a good fashion.
- Such a forum can make information exchange between the actors more coordinated and structured, which can improve the cooperation between, and commitment of, the different actors.
- The involvement of a broad range of actors makes it less likely that relevant developments or trends, or relevant cases or 'soft' signals, are overlooked, and strengthens the learning capacity of these actors. Signals can be 'stacked' and jointly interpreted.

*Possible cons:*

- Creating the legal preconditions for exchanging information multilaterally may be challenging.
- A multilateral forum is especially useful in countries where a great number of different, but government-controlled, actors are involved.

### **14. Specialised unit for social media research (§6.4.2)**

The Swedish and Belgian immigration authorities have specialised teams for social media screening, that focus on or assist in potential national security and/or exclusion cases.

*Possible pros:*

- Doing social media research in a safe manner requires technical skills, but also language skills (speaking Arabic or Russian, for instance). By concentrating those skills in a specialised unit that assists caseworkers, caseworkers can focus on other tasks, which may improve social media screening quality and be more efficient.
- The safety of caseworkers and the confidentiality of the asylum procedure may be more easily safeguarded if specialists carry out social media research.
- A specialised team can arguably do more advanced research.

*Possible cons:*

- A specialised body may be overburdened in times of high influx or when the influx is of such a nature that national security or exclusion are more prominent issues.

### **15. Substantiation exclusion decisions on basis of social media (§6.4.2)**

In the Netherlands, the increasing reliance on information from social media and data carriers has led to a different approach to how exclusion decisions are substantiated. Instead of using information to substantiate that an applicant was a member of certain organization, the reasoning is turned around: if there is no plausible explanation for information from social media or data carriers (for instance, when an applicant is shown in a picture at a location where he has no business, in a uniform and with a Kalashnikov in his hands, and he has demonstrably lied about this), that could be enough to substantiate that there are serious reasons for considering someone is guilty of crimes that fall under 1F.

*Possible pros:*

- Information from social media and data carriers presents weak evidence; this approach may solve that.

*Possible cons:*

- It is as of yet unclear whether this way of reasoning is accepted by courts.<sup>892</sup>

### **16. Family reunification screening (§6.5)**

In the Netherlands, a family reunification application that follows from an asylum application by a family member, is treated as an asylum application and will thus be handled by the asylum department. This means that – to the extent possible – the same screening that is used in the asylum procedure is conducted. In anticipation of a possible future request for family reunification, asylum applicants already during their asylum procedure are asked targeted questions about their family members.

*Possible pros:*

- In this way, the expertise on national security and exclusion that has been built up in the asylum department is also used in family reunification cases.
- More information is available from the asylum procedure of the reference person (the family member in possession of a residence permit).

*Possible cons:*

- Asking additional questions about family members, also to applicants whose family will not apply for family reunification, takes an additional time investment.

### *Relevance and feasibility of implementation in Norway*

Based on the input from the interviews and the expert seminar, the following can be said about the relevance and feasibility of implementing these noteworthy practices in Norway.

The referral format for national security cases may not be a viable option in Norway. Respondents indicated that the immigration authority merely sends brief notifications to the intelligence and security services, because the applicant will be able to see the notification, and the immigration authority deliberately does not make an assessment of the case.

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<sup>892</sup> Considering the far-fetching consequences of exclusion, commentators have stressed that exclusion decisions should be substantiated with information that clearly indicates the role and responsibility of an individual in alleged crimes.

With respect to the multilateral forums, Norwegian experts indicated that while from a pragmatic point of view this approach is valuable, it would be difficult to realise in Norway because of data protection and privacy rules. It is difficult enough to share information with the intelligence and security services alone. Moreover, in Norway, many of the reception centres are run by private parties. To involve those actors directly in such forums is complex. Information from the reception centre information system is not available to UDI's asylum department, because sharing that information is not seen as appropriate. In addition to privacy concerns, there could also be concerns that organizing such forums means actors are stigmatizing someone before even knowing whether the applicant poses a threat.

The Norwegian authorities could consider introducing a screening such as the one that exists in the Netherlands in an early phase of the asylum procedure. The central arrival centre could make it easier to conduct such a screening in an early phase.

The oral presentations of potential national security cases to the security and intelligence services could, in principle, be implemented in Norway, although the question how such an approach is sustained in a situation of high influx needs to be taken into account. It is also unclear whether the PST would see added value. At the same time, the oral presentations might in particular be worthwhile to explore in the Norwegian context. Currently, PST merely receives a notification that a certain case might be relevant to the PST, after which the PST can access the asylum file in UDI's system where it can find a very brief factual summary of why the case might be relevant. One of the reasons why the UDI only uses these brief notifications and does not share more elaborate information is that the applicant will be able to see the content of the notification. With 'open briefings' between the two agencies on potentially interesting cases, concerns that applicants will be alerted could be taken away. In addition, such an approach would allow the UDI to not only share factual information established during the procedure, but also share more 'soft' signals.

A specialized unit for social media for national security and/or exclusion cases within the UDI could have added value in the Norwegian context, especially considering that the possible negative consequences when social media analysis is performed in an ad hoc or incautious manner came up in interviews with Norwegian respondents, and it is relatively easy to implement.

Finally, the interviews suggest that Norwegian respondents are aware that it would be beneficial if more attention would be devoted to national security and exclusion issues in the context of family reunification cases. Although caseworkers from the asylum department, who have a stronger awareness of national security and exclusion issues, have been assisting in handling family reunification cases, this came about coincidentally and a more structural solution may be needed. The Dutch approach could offer valuable insights.

## 7.2. General reflections

The above paragraph *stricto sensu* answered the research questions as presented in the introduction. In addition, this final paragraph – inspired by the literature review, the interviews and the expert meeting – presents a number of general reflections and ideas on how the quality, efficiency and effectiveness of the asylum process could be improved. These reflections and ideas do not necessarily have an empirical grounding, but should rather be read as 'additional remarks' to inspire, stimulate and further the debate on how to go about in balancing efficient and fair asylum processing with rigorous screening activities.



## From a perfect storm... to wind still weather

In terms of challenges in relation to screening, the high influx of Syrian asylum seekers could be considered a 'perfect storm'. Still picking up the pieces of the 'economic crisis' and after having had a relatively low and stable influx of asylum seekers for years, European governments were suddenly confronted with a very substantial number of newly arriving asylum seekers from an active battlefield where numerous war crimes and crimes against humanity were committed by all parties, including designated terrorist organizations openly challenging the western world. Intelligence and security services perceived these asylum seekers to pose a serious security threat and in various European countries, immigration authorities were pressed by politics and media to raise awareness and alertness on war criminals and terrorists arriving in Europe by making use of the asylum system.

What facilitated, but also complicated, the identification of possible war criminals and terrorists, was that an unprecedented body of information was available. Various respondents referred to Syria as the 'best documented conflict ever'. At the same time, it could be considered the most 'messily documented conflict ever'. Not only did established western organizations such as Amnesty International, Human Rights Watch or the International Crisis Group publish formal reports, in addition also Arabian news outlets, the warring parties themselves, bloggers and citizen journalists posted an unparalleled number of articles, videos and blogs online. Evidence of the commission of serious crimes was available for analysis almost in real-time, sometimes distributed by the perpetrators themselves, sometimes tampered with or forged. Immigration authorities had to develop strategies, routines and protocols on how to deal with this profusion of data. In addition, many of the relatively well-to-do Syrian asylum seekers who entered Europe were active social media users and arrived with telephones and computers which contained an abundance of – *possibly* relevant – information. Never before had Europe been confronted with such a large group of asylum seekers from the Middle East. Never before had they been pushed so much to serve as a first line of defence against threats to national security, tasked with 'picking out' bad apples. And never before had they had so much information available to analyse. During the high influx, the authorities quickly developed new procedures and routines to deal with these challenges.

With the storm having largely died down, actors in the immigration process are currently rethinking and refining their routines and procedures. As one respondent stated: 'you need to repair the roof of the house when it doesn't rain'. This report could be regarded as part of this exercise. In response to political pressures – or given in by the logics of bureaucracy – this rethinking and refining of policies has in some countries also led to more, and more rigorous, 'standardized' and 'protocolled' security assessments. A case in point is the Netherlands, which already conducts social media screening on all incoming asylum seekers, but also plans to confiscate and check all the applicants' personal belonging directly after arrival at any police station, and to read out 100% of their data carriers.<sup>893</sup> With the current relatively low influx, it may for executive branches be appealing to engage in such standardization and protocolling. Yet, the question is whether such standards and protocols can also be adhered to in times of a new high influx. Will in those circumstances enough sufficiently equipped staff be available? Will it then really be possible to live up to the currently formulated expectations? Politically and practically speaking, it is wise not to 'over standardize' in times of low influx; one needs to take into account that a period of high influx might come again. On the other hand, will it be possible to sustain everything that has been or is being set up with the recent experiences fresh in everyone's mind, and to keep up the awareness within the organisations over time, when the influx does not increase or security threat levels are deemed to be lower?

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<sup>893</sup> R1.

## Lack of evaluations

It is striking to note that, as discussed in chapter 5 and 6, in particular when it comes to data carrier extraction and social media there seem to be ‘believers’ and ‘non-believers’ in these methods. Representatives from countries that use these methods are generally positive about the possibilities and results, while representatives from countries that do not use these methods are sceptical and refer to various – presumed – disadvantages. To independently assess whether or not the presumed disadvantages outweigh the possible advantages is currently virtually impossible. Based on the conversations during this study, the authors have the impression that sound evaluations with proper cost-benefit analyses of these new methods are not – or at least not publicly – available. This impairs a fact-based and normative debate on whether or not, and to what extent, the implementation of such methods is recommendable. Hence, there is a clear need for such evaluations.

Apart from questions relating to effectiveness and cost-efficiency, the application of these methods also leads to all sorts of legal, normative and ethical questions that are currently hardly (publicly) discussed.<sup>894</sup> This is striking; data carrier extraction, for example, creates a huge dataset which is gathered under the legal pretext of establishing the identity. Yet, the information may remain available long after the identification checks have taken place, which creates the risk of a so-called ‘function creep’.<sup>895</sup> There is a risk that such information is used in a later stage, for different purposes. This too, is a reason to properly evaluate such new methods.

## The use of indicators on appearance and behaviour

We reported that of all focus countries, the Netherlands is the only country that specifically and *in writing* has distributed an indicator list among frontline professionals that makes reference to certain types of conservative religious behaviour. This seems to suggest that the Netherlands takes a fundamentally different approach to the issue. However, as it turned out during the expert meeting and also during some of the interviews that we had with practitioners,<sup>896</sup> also frontline professionals in other countries in practice are triggered – and might even be *expected* to be triggered – to act on the basis of an applicant’s behaviour or appearance. In Belgium, for example, similar to the Netherlands, when a caseworker encounters an applicant who refuses to be interviewed by female staff, this behaviour is considered a reason to search for other indications, e.g. in the file, in the personal history, in the asylum story, in the family links, et cetera.<sup>897</sup>

As previous research has demonstrated that frontline professionals engaged in passive detection of terrorism can be uncertain of what is expected of them,<sup>898</sup> the authors suggest that authorities make more explicit to their frontline professionals how they are expected to act when, for example, being confronted with applicants who by means of appearance or behaviour indicates to hold a conservative interpretation of Islam. It should be clear to frontline professionals whether this should be regarded an indicator to be alert – and possibly ask extra questions – or not. In this regard, it may be wise to initiate an internal discussion on the pros and cons of distributing such indicators in writing.

## Innovate and experiment

One of the challenges identified by our respondents is to keep frontline professionals motivated to continue reporting signals in relation to national security and exclusion cases. Another challenge is to provide them with direct feedback. In addition, it is currently unknown to what extent providing awareness trainings and providing indicator lists actually leads to more and relevant alerts. Previous

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<sup>894</sup> Except perhaps in Germany; see Biselli (2017).

<sup>895</sup> See Brouwer (2011), p. 274.

<sup>896</sup> R5; R28; R38.

<sup>897</sup> E3.

<sup>898</sup> Van Wijk & Bolhuis (2017a).

studies highlighted that there is a lack of proper evaluation studies on the effects of awareness trainings and the use of indicator lists.<sup>899</sup> It is known what alerts are made, but unknown in which instances and why frontline professionals decide *not* to make an alert.

One possible innovative way that may contribute to dealing with several of the abovementioned problems at the same time, is to experiment with a specific form of training. Enacted real-life cases, or even actors filing an asylum application, which contain clear or more subtle indications that should lead the caseworker to give a certain follow-up, could be used to evaluate to what extent routines and protocols are sufficiently adhered to in practice – similar to the concept of ‘mystery shoppers’. Such a training should be well-thought through, because it can obviously lead to many questions, such as: is applying such an instrument proportional, is it cost-effective, could it not also *demotivate*, does it lead to unrest within the organization? At the same time, an experiment along these lines may be an original way to keep national security on the agenda within the organization and within the mind-set of frontline professionals. In this way, they can also directly receive feedback on the way in which they handled the case.

### International cooperation in developing tools

This study demonstrates that different countries have over the course of the past years initiated different projects to improve case management and screening. In particular tools that have been developed in the context of the German ‘Digitisation Agenda 2020’ may prove interesting for immigration authorities in other countries. As suggested above, this could for example be the case for the transliteration tool, which entails an automated plausibility check for name spelling (§5.2.8). What makes this tool particularly interesting, is that it has not been developed by a commercial actor but by the BAMF itself. This could, arguably, make it relatively inexpensive to implement the tool at a European level.

It may in this regard be fruitful for European immigration authorities to team up, to think through what other tools could be relevant to be developed in the future, already with the idea in mind that such tools could be rolled out Pan-European. Rather than developing or acquiring these tools independently from each other, these could be cofounded and possibly co-developed in-house or in public-private partnerships. European countries should have an interest in making use of similar systems, as this could cut costs, simplifies (future) information exchange and promotes cooperation. EASO could be an actor that takes the lead in facilitating such a process.

### International guidance on matters of national security

At the expert meeting, the feasibility of and need for international guidance on national security issues was discussed. The impression is that EASO is increasingly working on the topic, as EU member states recently received questions from EASO on the handling of national security cases. Recently, the waters were also tested whether national security should be covered by the exclusion network. During the expert meeting, there was consensus that it would be useful to have an international forum to exchange practices and experiences not only on matters of exclusion, but also on national security.

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<sup>899</sup> In previous work the authors have noted that there is a need for empirical research with regard to the use of awareness trainings and indicator lists and the reporting of cases that are possibly of interest to security and intelligence services. Acknowledging the challenges related to conducting such research, the authors have argued that it is imperative to engage in more empirical research that can answer, amongst others, the following questions: What type of indications do frontline professionals typically report to intelligence and security services? How do these reports relate to the information provided during trainings or through tools such as indicator lists? Are there situations of ‘over-reporting’ and what consequences does this have? What type of alerts have proven – or are considered by the security and intelligence services – to be the most relevant? How often is information from reported cases not stored and for what reasons? Are there any concrete examples of alerts having led to stigmatization or other negative consequences? (Van Wijk & Bolhuis, 2017a).

More contact has been established internationally on this topic in recent years, but a forum is still lacking. There was consensus that it would be valuable to step outside one's own framework and learn from other practices. EASO was considered the most suitable actor to coordinate such a forum.

### Creating awareness beyond the immigration authorities

This study focused on the level of awareness among, and tools available to, frontline professionals working within the immigration authorities. However, in all of the studied countries asylum seekers are not *exclusively* the responsibility of the immigration authorities. For example, representatives of NGOs may assist asylum seekers in many ways and the management of reception centres may be outsourced to other (private) parties. During our conversations, we noted that it is not a given that awareness trainings have also been expanded to representatives working for these non-government actors. In an earlier study the authors have concluded that representatives of Dutch NGOs who work with asylum seekers acknowledge the importance of sharing possible signs of jihadism with relevant governmental actors, but struggle in striking a balance between serving the interests of their clients and pupils, on the one hand, and assisting in identifying possible national security threats, on the other hand. The study also indicated that these frontline professionals may not always know where and how to make such alerts.<sup>900</sup> We expect that non-government actors and/or civil society organizations in other countries experience similar dilemmas, challenges and reservations. In this respect, it is recommendable that the immigration authorities and/or intelligence and security services assess the extent to which relevant non-governmental organizations have currently been made aware of national security issues and properly informed on how to make alerts.

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<sup>900</sup> Van Wijk, & Bolhuis (2017b).

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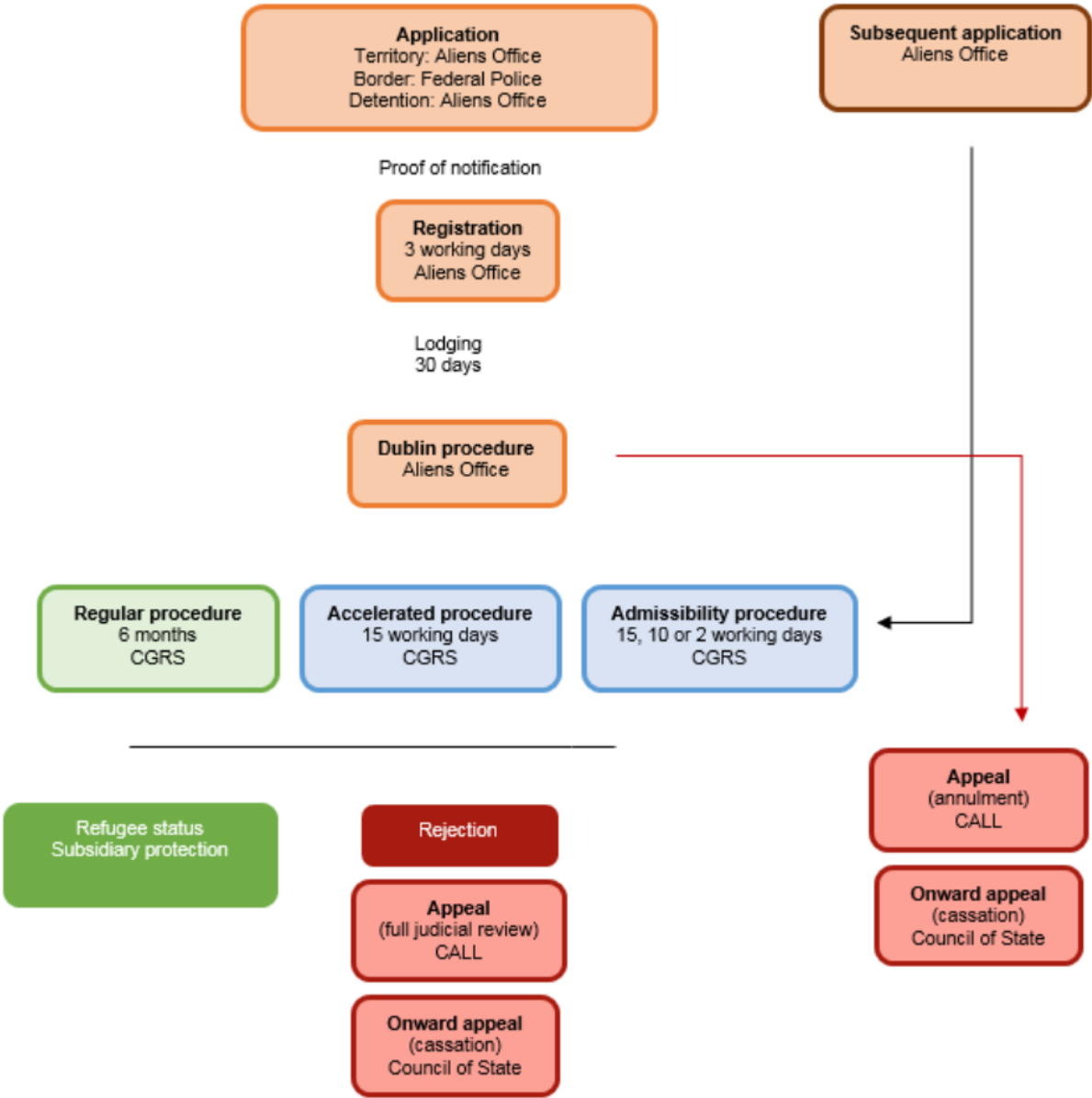
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# Appendix 1. Asylum procedure flow charts

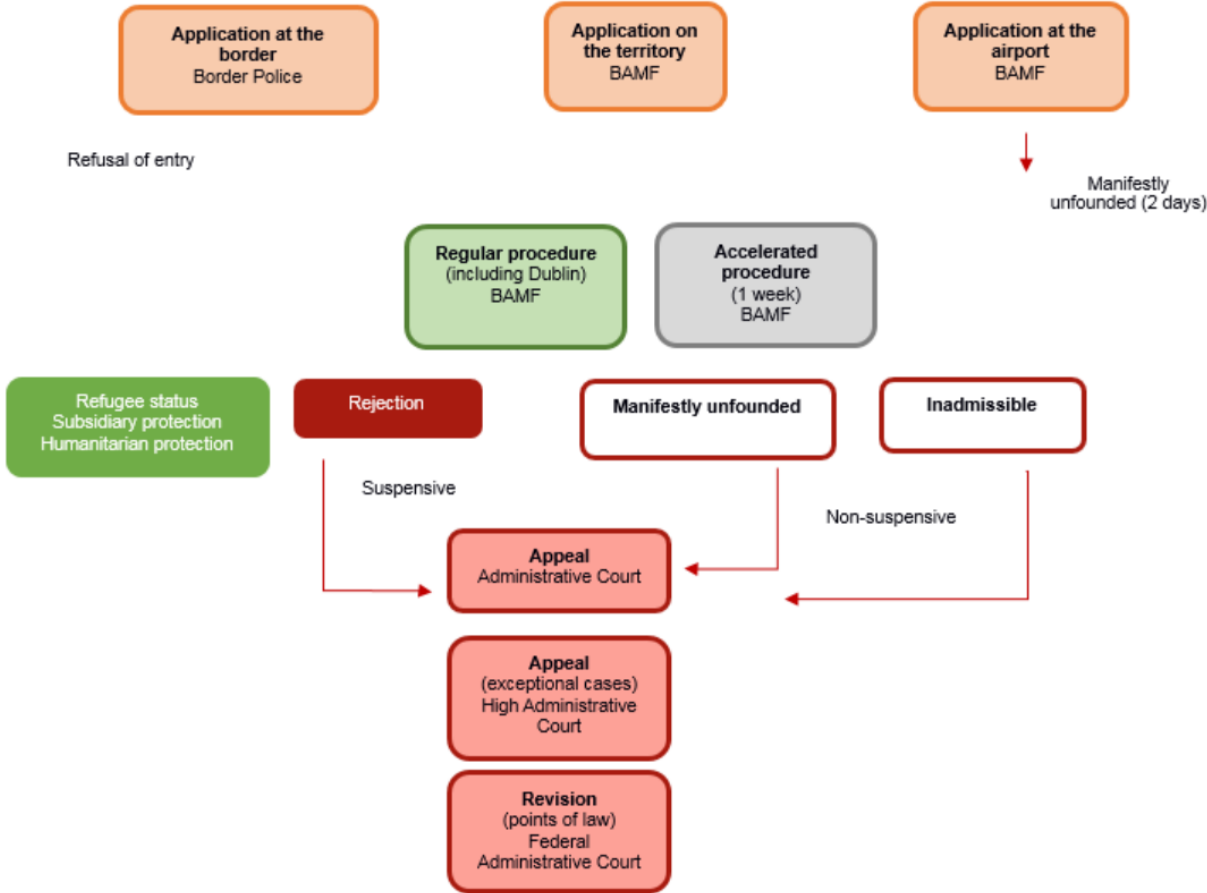
## Belgium



Source: <http://www.asylumineurope.org/reports/country/belgium/asylum-procedure/general/flow-chart>

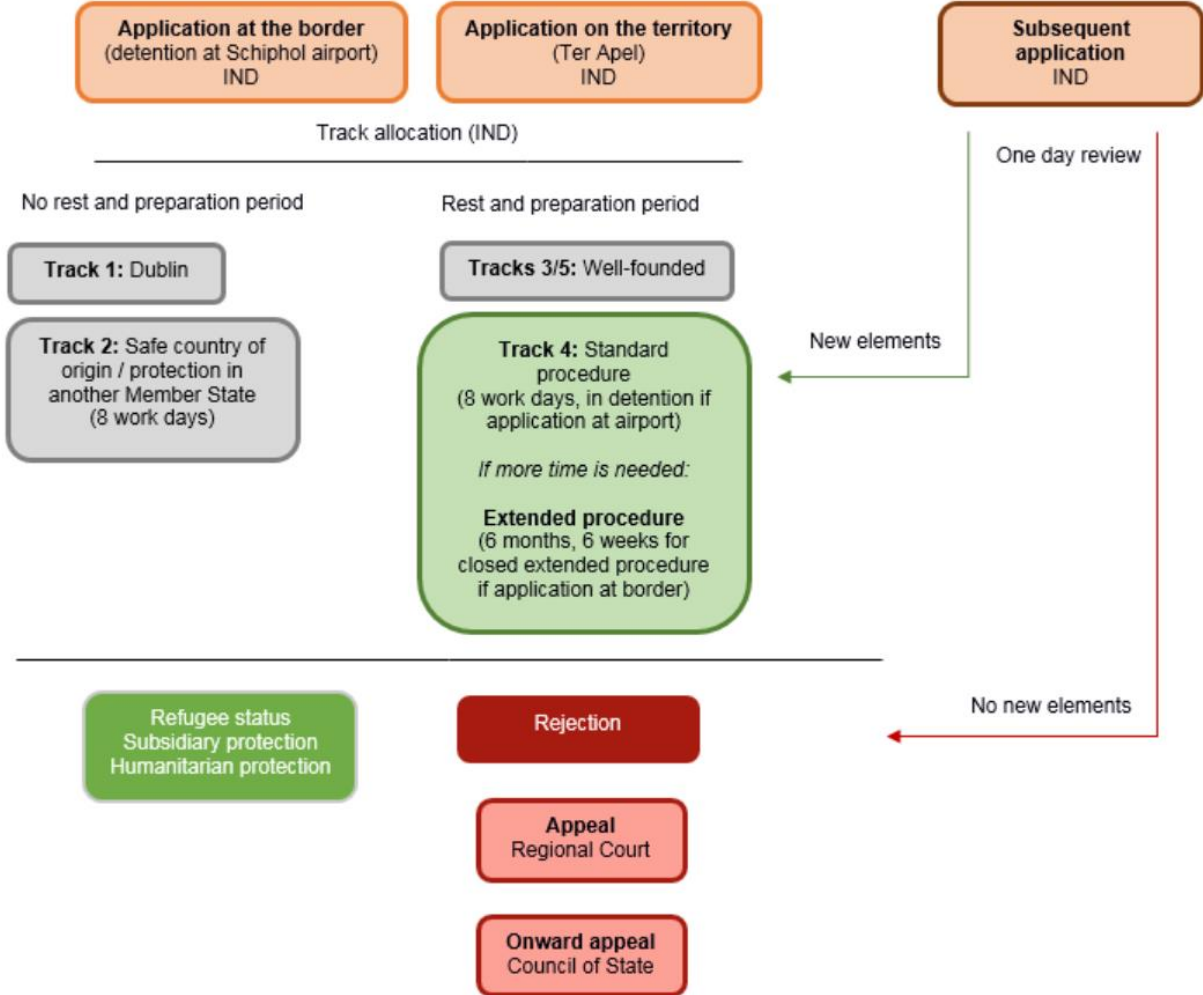


Germany

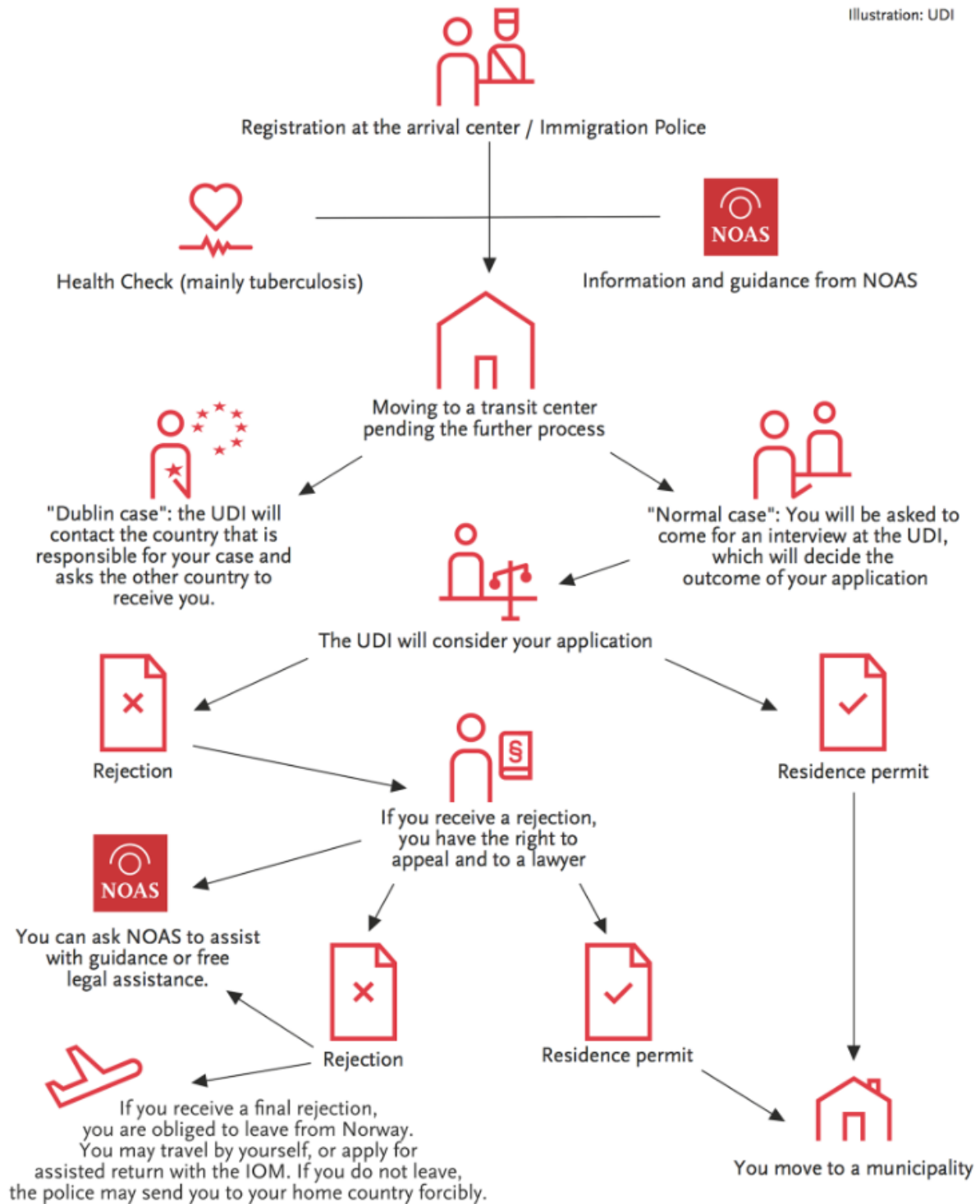


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The Netherlands

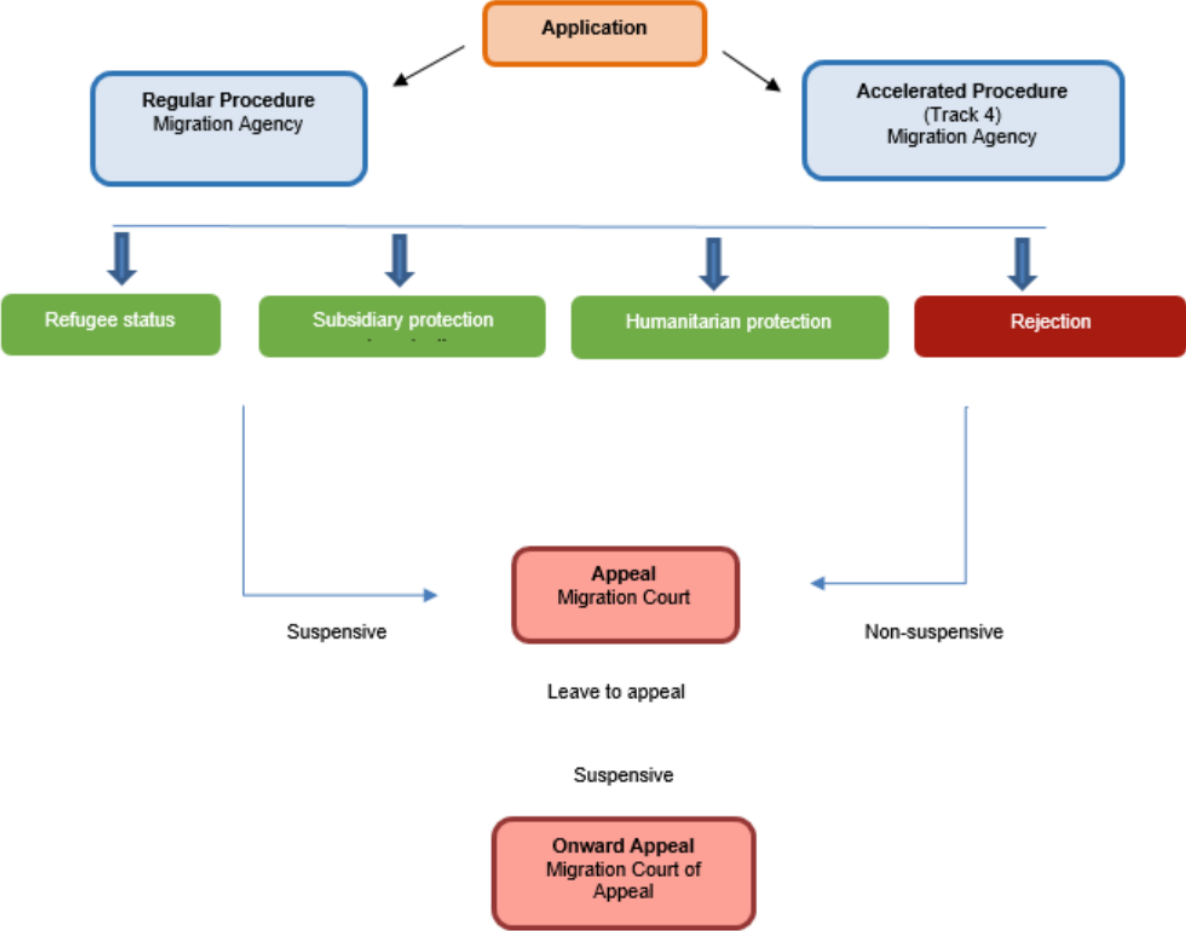


Source: <http://www.asylumineurope.org/reports/country/netherlands/asylum-procedure/general/flow-chart>



Source: <http://www.noas.no/en/for-asyum-seeker/information-about-the-asylum-procedure/asylum-procedure-map/>

Sweden



Source: <http://www.asylumineurope.org/reports/country/sweden/asylum-procedure/general/flow-chart>