

An analysis of the concept "Likelihood of Return" in family visitors' visas (Schengen C-visa) to Norway

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EXECUTIVE SUMMARY

1. The Parliamentary Ombudsman receives many complaints regarding decisions made by the Immigration Authorities. From the viewpoint of the Parliamentary Ombudsman, it is not sufficient that the Immigration Authorities refer to general experiences with particular nationalities in their rejections for applications for family visitors' visas; the Immigration Authorities also need to show how every case has been evaluated on its own merits.
2. In practice, discretionary assessment regarding the "Likelihood of Return" in every application is an important reason for rejections of family visitors' visa applications.
3. The main aim of this study is to examine the application of the concept "Likelihood of Return" in decisions concerning family visits to Norway. The central question here is whether the practicing of the concept is consistent across different levels in the Immigration Authorities, namely, in the Directorate of Immigration (UDI) and in the Norwegian Foreign Service Missions. The results of this study are important for UDI in its decision whether or not to go ahead with the development of codified criteria in the field of visa applications. The Immigration Authorities observe that the volume of applications for family visitors' visas is steadily increasing.
4. The project will, therefore, aim to bring into view the central elements in the concept "Likelihood of Return" in visa practice, and how these elements are evaluated or "weighed" by the Immigration Authorities. Put differently, the project will focus on how "strong" and "weak" Likelihood of Return are understood and applied by different levels in the Immigration Authorities.
5. The bulk of the empirical data in the project is drawn from a total of 245 cases from Pakistan, Iran and Sri Lanka. Some applications were granted visas and some were rejected visas (245 visa *decisions* as a result of first instance processing). 102 of the applications which were rejected filed appeals (102 visa *decisions* following appeal processing). In other words, the empirical data consists, therefore, of 245 visa *decisions* as a result of first instance processing and 102¹ visa *decisions* following appeal processing.
6. The project was challenging for several reasons:
 - Discretionary assessments e.g. regarding likelihood of return are fundamental in the evaluation of visa applications, but the project cannot get "into the heads" of visa officials.
 - When a visa is granted, the applicant receives a decision stating that fact: no reasons are given. Unless there is a written record in the files regarding how the decision to grant a visa was made, it is difficult for this project to study how the Immigration Authorities arrive at the decision or how Likelihood of Return is defined in a particular case.
 - Foreign Service Missions often forward visa applications to UDI for first instance processing, or for appeal (ie. second instance)

¹ 86 decisions by UDI and 16 decisions by the Norwegian Immigration Appeals Board (UNE), totalling 102 visa decisions.

processing, without stating explicitly why they do so. This makes it difficult for this project to grasp the way the Foreign Service Missions arrive at the decision to forward the case or how they understand the concept "Likelihood of Return".

- According to UDI's goals regarding administrative quality, visa practice adjustments can be traced to "signals" sent from UNE to UDI via visa decisions. This view is echoed in interviews with senior officials. However, in the appeals studied, it is difficult to observe a systematic chain of "signals" between the Immigration Appeals Board (UNE) and UDI, and, by extension, between UDI and the Foreign Service Missions. This presents a dilemma to this project as the basis for visa practice adjustments – as opposed to policy changes – regarding "strong" and "weak" definitions of Likelihood of Return, cannot be easily traced by research or by the Norwegian authorities themselves.
7. In order to deal with these problems, the project used a checklist to register the presence of selected criteria, e.g. previous visits to Schengen, in every case. In addition, the project also cross-checked all the cases with UDI's database for more data that could be relevant.
 8. Using a checklist implies that the closest the study can get to how the concept "Likelihood of Return" is applied, is to observe *general trends* regarding the evaluation of *single criteria* in visa applications. In other words, the checklist will not be able to demonstrate how the Immigration Authorities weigh several criteria "for" and "against" granting a visa in a comprehensive visa evaluation. The project therefore also used quantitative techniques to examine relationships between selected criteria to uncover relationships between them.
 9. More advanced statistical methods and a larger empirical base of visa applications – beyond the framework of this project – are needed if UDI wishes to obtain a more in-depth understanding of how the Immigration Authorities weigh criteria "for" and "against" granting a visa in a comprehensive evaluation. However, as the testing of codified criteria in visa processing is one of the longer-term interests of the Immigration Authorities, the proposed procedure in this study might be able to provide enough groundwork for the development of codified criteria, should UDI decide to go ahead here.
 10. The study compares visa practice in selected Foreign Service Missions to UDI. The three sets of criteria are:
 - Welfare (visit to children, visit to sibling, events such as birth, serious illness etc)
 - Age (60 years or older, 36-59 years, 19-35 years, 18 years or younger)
 - Various (previous visit to Schengen, spouse remains behind, spouse and children remain behind).
 11. The study of *general trends* regarding the evaluation of *single criteria* shows that the Norwegian Immigration Authorities have a generally consistent visa practice regarding family visitors' visas. The *single criteria* most often

registered when visas are granted are (in the following order): “previous visits to Schengen”, “visits to children” and “age 60 years and above”.

12. However, when quantitative techniques to examine relationships between selected criteria were applied, the project found that the following criteria were statistically significant in visa processing in the Foreign Service Missions:

- 1) visits to children
- 2) “happy-event related” visits (e.g. births, marriages etc)
- 3) age over 60 years
- 4) previous visits to Schengen
- 5) leaving spouse and/or child behind in country of origin.

However, this is not the case for the applications processed by UDI.

This suggests that there is a greater tendency in the Foreign Service Missions to employ selected criteria as standardized, codified criteria in the processing of family visitors’ visas. This also suggests that compared to the Foreign Service Missions, UDI seems to employ discretionary assessments to a greater degree.

13. The study also identifies several issues where improvements can be made that will increase the efficiency and quality of visa processing. The study includes recommendations regarding:

- How information – written and oral – can be made more user-friendly, transparent and respectful, and how better to meet the recipients’ expectations.
- A “checklist” of the most important criteria in visa processing and including this in all cases for the record, regardless of whether the visa application is granted or rejected.
- “Profiles” of applicants or applications with selected criteria to test out in a pilot project whereby visa applications are sorted into smaller piles. This can kickstart the development of codified criteria in visa processing as a measure to improve the efficiency and quality of visa processing. This is probably the one single measure with the largest potential for improved internal efficiency. The pilot project should concentrate on applications from a few select countries. The results from the pilot project can also point out if there is a need for more advanced statistical methods with a larger empirical basis of visa applications.
- More explicit communication between different levels of visa processing through reporting on visa decisions. This includes e.g. UDI preparing an annual analysis of the appeals which have been reversed or upheld; any visa practice adjustments suggested can then be put into a larger picture. The results of this analysis should be sent to the Foreign Service Missions.
- A more user-friendly standard decision in reply to a visa application (for both visas granted or rejected) with two sections; one with a checklist of criteria fulfilled/insufficiently demonstrated, and another section where the Immigration Authorities briefly conclude how it has

evaluated the relevant criteria. The legal basis for the visa decision can be included as an appendix.

- The language used in a new standard of response to the application should continue to be English. However, the Immigration Authorities might consider using Norwegian for the legal basis if this can improve efficiency and quality in visa processing.
14. Visa decisions are the result of parallel discretionary assessments of likelihood of return on one hand, and welfare grounds on the other. It is not possible to separate the two parallel assessments. It is therefore not possible to be more specific about “weak” or “strong” definitions of likelihood of return; however, this study has some observations regarding which criteria influence visa decisions and which combination of criteria is represented most often when visas are granted.

1 Introduction

Visa and the concept “Likelihood of Return”²”

As a general rule, all foreign nationals require a visa to visit Norway. The general practice is that visas are granted unless there are special considerations which mitigate against it.

A visa application is processed in accordance with the provisions of the Immigration Act and the Immigration Regulations Act. The visa institute contributes towards better entry control and is also a measure to regulate immigration to Norway.

Norway has visa-free agreements with several countries.

Norway is a member of Schengen; foreign nationals with valid travel documents and residence permits issued by a Schengen country are therefore exempted from the visa requirement. By participating in Schengen, Norway has undertaken to harmonize its visa system with the other Schengen countries.

A condition for granting a visitor’s visa³ is that the visitor returns to his/her country of origin upon the expiry of the visa.

The Immigration Act has provisions to deny a foreign national a visitor’s visa if “immigration regulatory considerations⁴” rule against it. In the evaluation of visa applications, immigration regulatory considerations are often the main source of difficult discretionary assessments.

A main element in “immigration regulatory considerations” is the applicant’s so-called “Likelihood of Return” to his/her country of origin when the visa expires. Likelihood of return is (...) “ the evaluation of the chances that a foreign national will return to his/her country of origin when the visa expires and will not remain in Norway or in another Schengen country.... Conditions in the applicant’s country of origin which facilitate return upon the expiry of the visa are also elements evaluated here”⁵. In short, assessments regarding likelihood of return are risk assessments.

In visa applications where the purpose is to visit family in Norway⁶, discretionary assessments often weigh “Likelihood of Return” against “welfare grounds”. For example, even if there is a poor likelihood that the applicant will return to his/her country of origin, a visa may still be granted if there are very strong welfare grounds. Examples of welfare grounds are visits to close family or events like births and deaths.

The Norwegian Directorate of Immigration (UDI) has previously examined how Norwegian visa practice is harmonized with visa practice in Schengen⁷. The present

2 “returforutsetninger”

3 Valid for a period of maximum three months.

4 “innvandringspolitiske hensyn”

5 Ot.prp nr. 75 (2006-2007).

6 Family visitor’s visas may be issued for visits up to 90 days within a period of 180 days.

7 Visitors’ visas in connection with family visits. Norwegian visa practice compared to a selection of Schengen countries. (March 2007, UDI).

researcher was responsible for the above study which compared Norwegian visa practice in connection with family visits (Schengen C-visa) with those of Sweden, Denmark, the Netherlands and Belgium.

Amongst its conclusions, the study observed that:

- The main reason for the rejection of visa applications for family visits (Schengen C-visa) to Norway from Pakistan and Turkey, the two countries examined in the above study, is what UDI perceives as the lack of "Likelihood of Return".
- Unlike Schengen countries like Belgium and Denmark, Norwegian visa practice is largely based on discretionary assessments ie. a comprehensive evaluation is made of several elements like relevant laws, Ministerial instructions etc., rather than on standardized, codified criteria.

The Parliamentary Ombudsman has received several complaints regarding family visitors' visas over the years.⁸

In these complaints, both the applicant and the reference person in Norway often feel unfairly treated; they feel that they are not believed and ask how they can document and prove their case. They wonder what the "guarantee" demanded of reference persons is actually worth. They want to know how the Norwegian authorities arrive at the conclusion that it is unlikely that they will return to their country of origin. They do not understand why they are considered to have weak ties or links to their country of origin when they have lived there all their lives.

The Parliamentary Ombudsman in Norway has recently examined applications to UDI for family visitors' visas to Norway⁹. The paper from the Ombudsman includes notes on the following:

- *Different* treatment, depending on nationality, is the point of departure in the area of visas.
- So-called "immigration regulatory considerations" made by the Immigration Authorities in visa processing is a major reason for the complaints to the Parliamentary Ombudsman.
- Norway is part of Schengen but unlike many Schengen countries, Norwegian authorities are required by law to give all rejected applicants a *specific reason* for the decision made. The Norwegian Immigration Authorities often point to general experiences with particular nationalities but, from the viewpoint of the Parliamentary Ombudsman, this is not sufficient grounds to reject an application. According to the Parliamentary Ombudsman, every case must be evaluated on its own merits and the reasons for rejections must reflect the evaluations arrived at in each case.

8 In 2008 the Parliamentary Ombudsman received 69 complaints regarding decisions made by The Norwegian Directorate of Immigration (UDI) and 66 complaints regarding decisions made by the Immigration Appeals Board (UNE). The complaints about the Immigration Authorities cover topics like residence and work permit, visa and citizenship, asylum and expulsion. By comparison, the Ombudsman received 311 complaints regarding the Norwegian Labour and Welfare Administration (NAV) and 123 complaints regarding the Tax Authorities (Skatteetaten). (Parliamentary Ombudsman, Annual Report, 2008)

9 Besøksvisum – Utlendingsdirektoratets generelle erfaringer med ulike søkergrupper. (Sivilombudsmannen, 3 September 2008).

- The Ombudsman points out that Norwegian Immigration Authorities need to be aware of how they communicate with visa applicants in general. In particular, it is important that applicants and reference persons¹⁰ receive better information regarding visa requirements, evaluation criteria and the need to substantiate their applications with documentation on employment, income, financial assets and other ties to their country of origin.
- In addition to information to applicants, the Immigration Authorities should also seek to improve the letters informing applicants of the visa decision made; these letters need to be concrete and understandable from the view of the applicant.

For the Norwegian Immigration Authorities, the dilemma is the high and steadily increasing volume of applications on the one hand, and the requirement to evaluate every case on its own merits on the other.

UDI's main challenge is, therefore, to increase both the efficiency and quality of its decisions regarding family visitors' visas.

Challenges observed:

1. What would a "dream" visa rejection decision look like from point of view of the Parliamentary Ombudsman? An applicant?
2. How can UDI address the situation where both the applicant and the reference person in Norway feel unfairly treated in the family visitors' visa application process – without providing a "recipe" for navigating relevant laws?

¹⁰ The person whom the visa applicant wishes to visit in Norway.

1.1 Assignment

In this assignment, UDI wishes to examine the practice of the concept "Likelihood of Return" regarding applications for family visits to Norway.

This project will evaluate whether practice of the concept "Likelihood of Return" in connection with visa applications for family visits is consistent across different levels in the Immigration Authorities; in particular in UDI and in the Norwegian Foreign Service Missions.

By consistent practice at different levels in the Immigration Authorities we mean consistent practice *between UDI and Foreign Service Missions*

The results from this project are important for UDI in its decision whether or not to go ahead with the development of standardized, codified criteria in the field of visa applications.

This project is not a legal study but an examination of how current laws and instructions are practiced by the Norwegian Immigration Authorities.

The aim of this project is to try to uncover the *central elements* in the concept "Likelihood of Return" and how these elements are *evaluated* by the Norwegian Immigration Authorities in the visa process.

To sum up, the aim of the project is to understand:

- The central elements in the concept "Likelihood of Return" in visa applications for family visits in UDI and in the Foreign Service Missions
- How these elements are evaluated at both levels
- Whether the practice of the concept "Likelihood of Return" is consistent across various levels in the Immigration Authorities, in particular in UDI and the Foreign Service Missions.

This project started on 1 August 2008 and was completed on 14 August 2009.

1.2 Organisation

Magister Long Litt Woon from Long & Olsen undertook this assignment.

She was supported by cand.mag. Gry Sørli and cand.polit. Bente Mæhlum.

1.3 Methodology, scope and limits

1.3.1 Methodology

This project will seek to examine how the concept "Likelihood of Return" is understood and applied:

- between two administrative levels
 - How are "strong" and "weak" Likelihood of Return defined?

- for two Foreign Service Missions both covering applications from a third country's citizens
 - How are "strong" and "weak" Likelihood of Return defined?

In order to gain a better understanding of visa practice, the project will analyze a representative number of visa cases and interview selected officials with long experience from visa processing.

The bulk of the empirical material will be from case material.

The project will interview around ten senior officials.

1.3.2 Scope: relevant categories of visa cases

When this project started in the autumn of 2008, the empirical basis was limited to visa cases available at UDI's¹¹ office in Oslo, Norway.

There are two relevant case categories at UDI's office: "first instance cases" and "appeals". ("Førsteinstanssaker", "klager")

- "First instance cases" are cases which have been sent to UDI by Foreign Service Missions because e.g. Foreign Service Missions are in doubt about the case, have a capacity challenge (especially in the summer, the "high season" for visa applications), or are unable to process an application because of a conflict of interest. UDI is therefore the "first instance" to process the case.
- "Appeals" are cases which are appealed to UDI after being rejected by the Foreign Service Missions. In this case, UDI is the "second instance" to process the case.

Relevant visa case categories available at the main office of UDI fall, therefore, into four categories:

Category 1	Rejections by Foreign Service Missions <i>that were reversed</i> by UDI following an appeal by the visa applicant.
Category 2	Rejections by Foreign Service Missions <i>that were upheld</i> by UDI following an appeal by the visa applicant.
Category 3	First instance cases that were <i>rejected</i> by UDI.
Category 4	First instance cases that were <i>granted visas</i> by UDI.

At the end of 2008, the empirical basis for this project was expanded to include first instance cases that were *granted visas* by Foreign Service Missions. The main reason for this is that the Foreign Service Missions process the bulk of visa applications; we can, therefore, assume that the potential for major administrative efficiencies are be found here.

¹¹ In addition to the main office of UDI in Oslo, visa cases can also be located at e.g. Foreign Service Missions.

Another visa case category included in the project is therefore:

Category 5	First instance cases that were <i>granted visas</i> by Foreign Service Missions.
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Finally, in order to examine how two different offices at the same administrative level process applications from citizens of one country, the following visa case category was included.

Category 6	Applications from citizens of one country that were processed by two Foreign Service Missions.
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1.3.3 A note about the two levels of visa processing in Norway

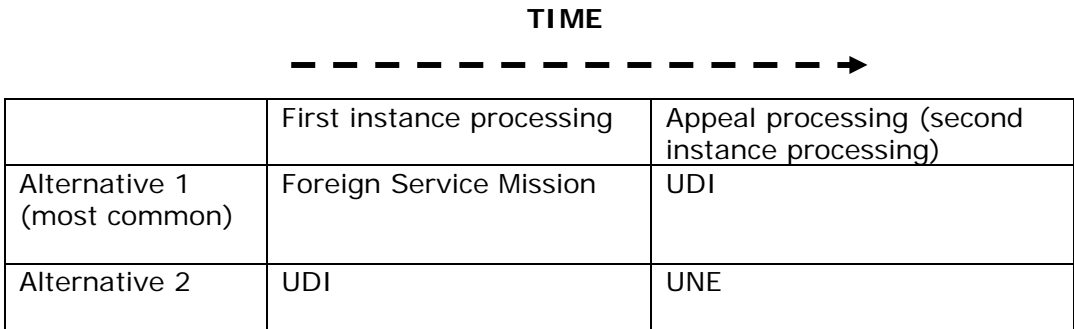
In the Norwegian visa application system, all visa cases can be processed at two administrative levels; starting with so-called “first instance processing” and followed by “appeal processing”, if the case is rejected and appealed.

Typically, the Foreign Service Missions perform first instance processing; rejections by Foreign Service Missions which are appealed are sent to the main office of UDI for appeal processing¹².

However, sometimes the main office of UDI performs first instance processing when Foreign Service Missions, for various reasons, are unable to do so. Rejections by the main office of UDI which are appealed are sent to the Immigration Appeals Board (UNE) for appeal processing.

The decision after appeal processing is final and cannot be further appealed.

Figure 1
Two levels of visa processing: possible alternatives



¹² Appeals are first evaluated by the administrative level that rejected the application in the first place. If the conclusion drawn is that the visa rejection will not be reversed, then the appeal is sent to the next administrative level for appeal processing.

1.3.4 Contribution of the selected visa case categories

Category 1	Rejections by Foreign Service Missions that were <i>reversed</i> by UDI following an appeal by the visa applicant.
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According to UDI's statistics for 2007¹³, UDI performed appeal processing in 1324 visa cases where the aim of the visit was "family reasons"¹⁴. Out of these 1324 cases, rejections by Foreign Service Missions were reversed in 52 cases (or 3.9 per cent of the cases). In short, visa rejections are rarely reversed.

According to UDI's internal guidelines¹⁵, there are mainly three core areas in an evaluation of "Likelihood of Return": general likelihood of return, individual likelihood of return, and welfare reasons. In each of these areas, several elements are evaluated.

Because all rejections are formal and written, the project will go through a selection of cases where UDI *reverses rejections* from the Foreign Service Missions to see how the Directorate and the Foreign Service Missions each define "Likelihood of Return": what the central elements are and how these are evaluated. In particular, this case category can show how

- Foreign Service Missions define "weak" likelihood of return
- UDI defines "strong" likelihood of return.

This case category can contribute towards a better understanding of visa practice *between two administrative levels*: UDI and the Foreign Service Missions.

Category 2	Rejections by Foreign Service Missions that were upheld by UDI following an appeal by the visa applicant.
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According to UDI's statistics for 2007, rejections by Foreign Service Missions were upheld by UDI after appeal processing in 1272 (out of 1324) cases.

Because all rejections are formal and written, the project will examine a selection of cases where UDI *upheld rejections* from the Foreign Service Missions, to see if the Directorate and the Foreign Service Missions have a consistent practice in the evaluation of core areas in judging "Likelihood of Return" and the weighting of specific elements within these areas¹⁶.

This case category can provide empirical data to answer questions like: What elements are important when the "Likelihood of Return" are considered to be weak by UDI and by the Foreign Service Missions? In addition, how are elements evaluated when "Likelihood of Return" is seen to be weak?

In short, this case category can show how

- Foreign Service Missions define "weak" likelihood of return

¹³ All statistics from UDI are from UDI's Office for Statistics and Analysis.

¹⁴ According to UDI, the coding practice at the foreign missions might not be consistent. This may affect statistics in this area.

¹⁵ Praksisnotat 2008-021. See also <http://udiregelverk.no/default.aspx?path={244DCA06-85B6-4E80-8C3A-1EB05FE6AAA6}>

¹⁶ It will also be possible here to "filter out" cases which are reversed because of e.g. new information in the case.

- UDI defines “weak” likelihood of return.

This case category can contribute towards a better understanding of visa practice *between two administrative levels*: UDI and the Foreign Service Missions.

Category 3	First instance cases that were <i>rejected</i> by UDI.
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In 2007, UDI processed 1873 first instance visa applications for family visits. 1050 applications were rejected by UDI.

This case category will provide empirical data regarding UDI’s visa practice towards selected countries.

In short, this case category can show how

- UDI defines “weak” likelihood of return.

Category 4	First instance cases that were <i>granted visas</i> by UDI.
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Of the 1873 visa applications for family visits which were processed by UDI as first instance, 823 applications were granted visas by UDI in 2007.

This case category can show how

- UDI defines “strong” likelihood of return.

Category 5	First instance cases that were <i>granted visas</i> by Foreign Service Missions.
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Visas in general and family visitors’ visas in particular tend to be processed by the Foreign Service Missions.

In 2007, the Foreign Service Missions processed over 97% of all visa applications¹⁷.

This case category can show how

- Foreign Service Missions define “strong” likelihood of return.

Category 6	Applications from citizens of one country that were processed by two different Foreign Service Missions.
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In order to compare how Foreign Service Missions practice the concept “Likelihood of Return” in connection with visa applications for family visits it was decided also to include a small number of applications from citizens of one country which are processed by two Foreign Service Missions.

This case category can show how

- “Likelihood of Return” for citizens from the same country are processed by two different Foreign Service Missions.

¹⁷ The statistical trend is echoed in 2008. In 2008, a total of 107 000 visas were processed; 16 000 applications were applications for family visitor’s visas. 90% of all visa applications were granted visas. In 2008, the foreign missions processed over 98% of all visa applications.

1.3.5 Limits: selection of countries

In order to select the countries to be included in this project, available statistics for the above categories were studied to shortlist the countries.

Category 1	<p>Rejections by Foreign Service Missions that were <i>reversed</i> by UDI following an appeal by the visa applicant.</p> <p><u>Pakistan and Iran</u> are represented by 17 and 14 reversed rejections respectively in 2007. In other countries there was only one or, at the most, two, such cases.</p>
Category 2	<p>Rejections by Foreign Service Missions that were <i>upheld</i> by UDI following an appeal by the visa applicant.</p> <p>In 2007, there were 400 visa cases in this category from <u>Pakistan</u> and 318 visa cases from <u>Iran</u>.</p>
Category 3	<p>First instance cases that were <i>rejected</i> by UDI.</p> <p>Only three countries have more than 100 visa applications for family visits processed in UDI as first instance in 2007: <u>Iran</u> (182), <u>Syria</u> (99) and <u>Sri Lanka</u> (84).</p>
Category 4	<p>First instance cases that were <i>granted visas</i> by UDI.</p> <p>Visa applications for family visits were granted by UDI in first instance to applicants from <u>Iran</u> (119), <u>Sri Lanka</u> (34) and <u>Syria</u> (24) in 2007.</p>
Category 5	<p>First instance cases that were <i>granted visas</i> by Foreign Service Missions.</p> <p>The rate for granting family visitor's visas by Foreign Service Missions (as first instance) is 83 % in 2007.</p>
Category 6	<p>Applications from citizens of one country that were processed by two different Foreign Service Missions.</p> <p>Citizens of <u>Afghanistan</u> tend to send their applications to Foreign Service Missions in Pakistan and Iran while citizens of <u>Iraq</u> tend to send their applications to Foreign Service Missions in Iran, Syria and Jordan.</p>

The limits of the project allow us to select three countries. Pakistan, Iran and Sri Lanka are obvious candidates because of the volume of cases from these countries.

Afghan citizens apply for family visitors' visas via Foreign Service Missions in Islamabad (Pakistan) and Teheran (Iran). Since Pakistan and Iran are among the selected countries for this project, it makes sense to focus on Afghan rather than Iraqi citizens.

The following analysis also supports the selection of Pakistan, Iran and Sri Lanka.

Table 1

Foreign Service Missions named in the tender documents ranked according to the size of the group in Norway. 2007. (Statistics Norway)

Foreign Service Mission	
Islamabad	1
Hanoi	2
Teheran	3
Ankara	4
Colombo	5
Manila	6
Bangkok	7

Table 2

First instance decisions in visa applications where the reason for the visit to Norway is given as family reasons. 2007.

Citizen of	No. of decisions
Russia	2760
Iran	1593
Former Serbia and Montenegro	1309
Pakistan	1303
Thailand	1095
Rest of the world	7859
Total	15919

Table 3

Rejection rate as a result of first instance decisions in visa applications where the reason for the visit to Norway is given as family reasons. 2007¹⁸.

Citizens of	No. of decisions	Rejection rate (%)
Iraq	215	95,3
Afghanistan	142	86,6
Pakistan	1303	61,9
Syria	100	58,0
Sri Lanka	365	48,2
Marocco	247	41,7
Iran	1593	38,7
Eritrea	113	32,7

The above tables can be summed up in the following manner:

Large group in Norway, many applications, high rejection rate: *Pakistan and Iran*.

Large group in Norway, high rejection rate: *Sri Lanka*

Large group in Norway, many applications: *Thailand*

Of these countries, persons from Pakistan, Iran and Sri Lanka have the longest residence period in Norway. We can assume that length of residence increases the wish to have visits from family members abroad.

This project will therefore focus on visa applications for family visits from the following countries: Pakistan, Iran and Sri Lanka.

¹⁸ Only countries where there are 100 or more decisions. UDI.

In addition the project will also include visa applications from Afghan citizens who apply through the Norwegian Foreign Service Missions in Pakistan and Iran.

1.3.6 Limits: Time frame and number of cases

UDI would like an analysis of "today's situation". This means that the project should not go too far back in time as there have been practice changes with regards to these countries over time.

A reasonable time frame is from 1 January 2006 to 1 August 2008. The project will therefore pick a representative selection of cases in the above categories from within this time frame.

The empirical data for this project will be drawn from a total of 245 cases from Pakistan, Iran and Sri Lanka. The distribution of cases between the countries in the various categories will reflect, as far as practically possible, the actual statistical proportions.

The project will also include 13 cases from Afghan citizens (6 via Iran and 7 via Pakistan).

1.3.7 Final selection of cases

A representative selection of family visitors' visa cases from Islamabad (from Pakistani citizens), Teheran (from Iranian citizens) and Colombo (from Sri Lankan citizens) where decisions were made between 1 Jan 2006 and 31 July 2008 was therefore requested from UDI's Office for Statistics and Analysis.

The project requested:

- 50 cases in Category 1
- 50 cases in Category 2
- 25 cases in Category 3
- 25 cases in Category 4.

The reason for the difference in the number of cases was that the project expected more relevant data in categories 1 and 2 than in categories 3 and 4.

UDI provided the project with more cases than requested in Categories 3 and 4. The project therefore picked at random from these categories in order to arrive at the final selection. Furthermore, when the project examined the cases provided, some cases had to be excluded e.g. because the contents were not available. In the final selection, the project tried to ensure that the balance between the three countries reflected the statistical balance between them within the various categories as far as this was possible.

The final selection for the project was:

- 43 cases in Category 1 (Pakistan 30, Iran 13)
- 43 cases in Category 2 (Pakistan 22, Iran 19, Sri Lanka 2)
- 36 cases in Category 3 (Pakistan 3, Iran 16, Sri Lanka 17)
- 32 cases in Category 4 (Pakistan 6, Iran 20, Sri Lanka 6)
- 91 cases in Category 5¹⁹ (Pakistan 31, Iran 30, Sri Lanka 30)
- 13 cases in Category 6 (Pakistan 7, Iran 6).

¹⁹ A representative selection picked by the Foreign Service Missions

1.3.8 Bias in sample

The three offices responsible for the decisions discussed in this study are the Foreign Service Missions, UDI and UNE. As explained previously, they can be the first or second instance to process the application.

All cases

N=9117	First instance	Second Instance	Total
Foreign Service Missions	77 %	0 %	77 %
UDI	8 %	14 %	22 %
UNE	0 %	1 %	1 %
Total	85 %	15 %	100 %

Sample

N=347	First instance	Second Instance	Total
Foreign Service Missions	51 %	0 %	51 %
UDI	20 %	24 %	44 %
UNE	0 %	5 %	5 %
Total	71 %	29 %	100 %

There are two possible outcomes when an application is processed: rejection or approval.

Bias of outcome

All cases in the first instance

N=2123	Rejected	Approved	Total
UDI	68 %	33 %	100 %
Foreign Service Missions	55 %	45 %	100 %
Total	56 %	44 %	100 %

Sample (first instance):

N=245	Rejected	Approved	Total
UDI	55 %	45 %	100 %
Foreign Service Missions	48 %	52 %	100 %
Total	50 %	50 %	100 %

Bias of outcome
All cases in the second instance

N=1395	Upheld	Reversed	Total
UDI	96 %	4 %	100 %
Foreign Service Missions	90 %	10 %	100 %
Total	95 %	5 %	100 %

Sample (second instance):

N=99	Upheld	Reversed	Total
UDI	48 %	52 %	100 %
UNE	50 %	50 %	100 %
Total	48 %	52 %	100 %

This shows that the bias of outcome in the sample is not that strong for the first instance cases, but that it is very strong in the appeal cases.

However, because we expect to gain more data from the appeal cases which are reversed, and because of the limitations of the project, there is a bias in the unit of decision and outcome in our sample.

The statistical analysis will be expanded later.

2 Family visitors' visas

2.1 The context for family visitors' visas

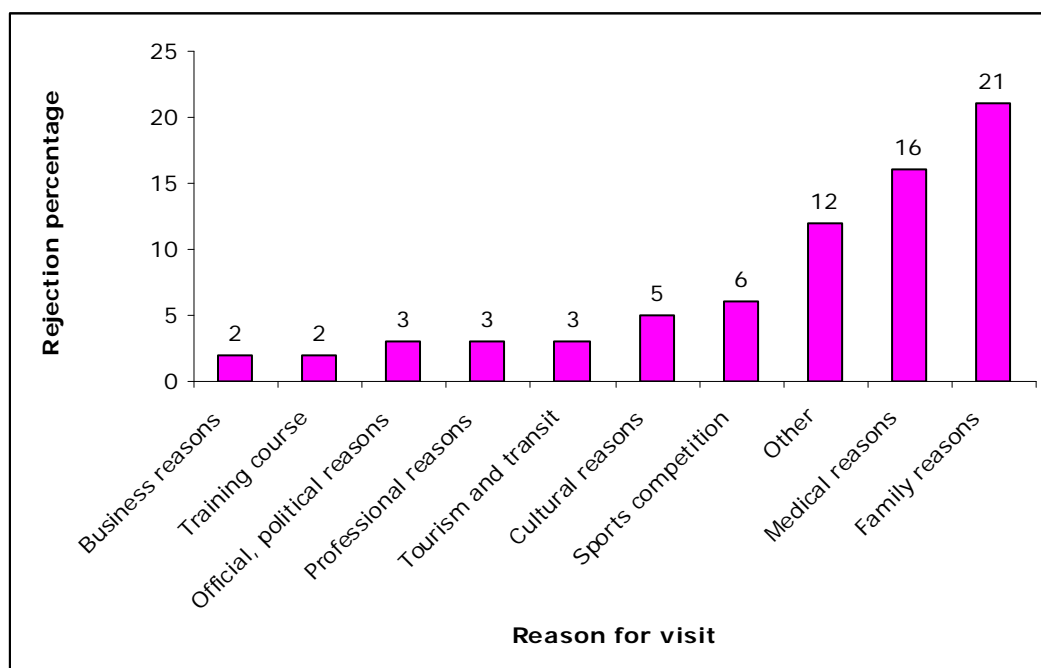
According to UDI's annual publication on statistics²⁰, the number of visa applications (all categories) has increased steadily from year to year. In 2002, over 78 000 visa applications were processed; in 2008, the number rose to over 107 000 visa applications.

Most visas granted are tourist visas (39% in 2008)²¹. The rejection rate for all visa applications is fairly low; over 90% of the applicants in 2008 were granted visas to Norway. The Norwegian Foreign Service Missions tend to process the majority of visa applications to Norway. In 2008, 98% of all visa applications were handled by the Norwegian Foreign Service Missions, echoing a similar tendency from previous years.

2.2 Family visitors' visas

The rejection rate for family visitors' visas tends to be higher than the rejection rate for visas for other purposes of travel: in 2008, about 21 % of the applications for family visitors' visas were rejected.

Figure 2
Reasons for visit. Rejection percentage. 2008

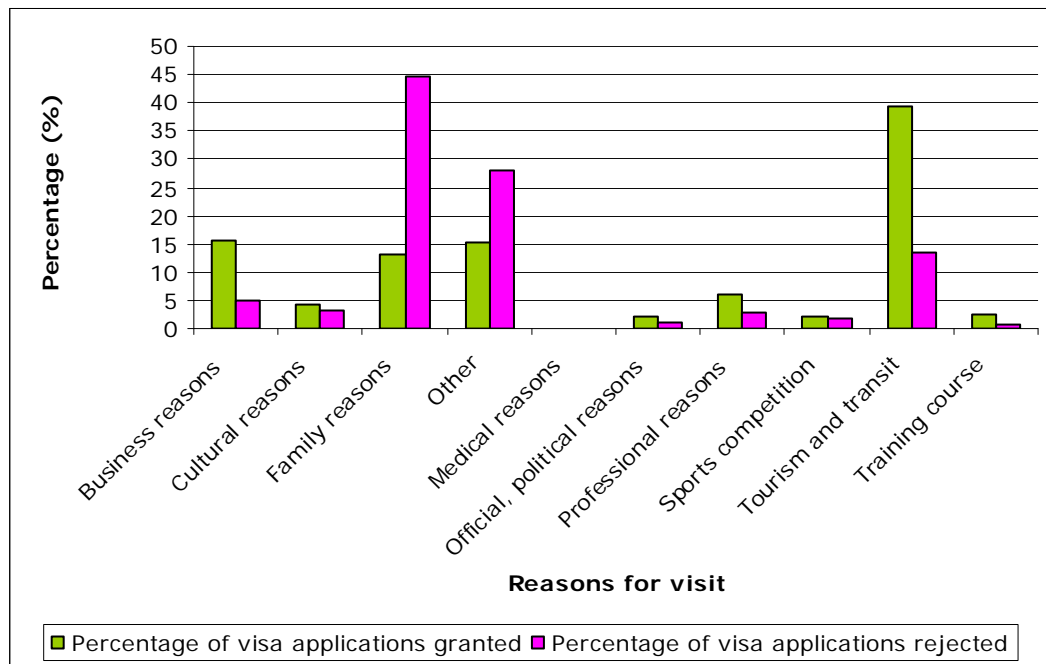


When we compare the reason for visiting Norway in the visa applications which were granted to those which were rejected, we see that "family reasons" dominate the visa applications rejected while "tourism and transit" dominate the visa applications granted.

²⁰ Facts and figures, 2008 (UDI, 2008)

²¹ The other groups are: commercial and business travelers (24%), Family reasons (15%), Cultural reasons (4%), Researchers/Professional sportspersons (4%) and Others (13%). (UDI, 2008)

Figure 3
Reasons for visit. Percentage of visa applications granted and rejected. 2008.



The countries in this study are among the countries where the rejection rate is much higher than the average and where 100 or more visa applications are normally processed annually.

Table 4
Family visitors' visas. Percentage granted and rejected by the Norwegian Immigration Authorities. Selected countries, 2007.

Country	% granted visas	% rejected visas	No. of cases
Afghanistan	11%	89%	217
Pakistan	36%	64%	2523
Iran	43%	57%	2346
Sri Lanka	59%	41%	729

Citizens from the countries in this study are among the top ten countries which appeal family visitors' visa rejections.

The results of appeals from Pakistan, Iran and Sri Lanka following appeal processing in UDI are the following:

Table 5
Family visitors' visas. Results of appeal processing in UDI. Percentage of decisions reversed or upheld. Selected countries. 2007.

Country	Decision reversed	Decision upheld	No. of cases
Pakistan	6%	94%	644
Iran	4%	96%	318
Sri Lanka	0%	100%	31

The results of appeals from Pakistan, Iran and Sri Lanka following appeal processing in UNE are the following:

Table 6

Family visitors' visas. Results of appeal processing in UNE. Number of decisions reversed or upheld. Selected countries. 2007.

Country	Decision reversed	Decision upheld	No. of cases
Pakistan	0	3	3
Iran	3	47	50
Sri Lanka	2	5	7

2.3 Reasons for granting or rejecting visa applications

UNE's Visa Practice Report (2007)

According to UNE, the point of departure for the Immigration Authorities is that it is not a legal right to be granted a visitor's visa to Norway. Every case is evaluated on its own merits. Welfare grounds are secondary in the sense that if the likelihood of return is found to be sufficient, there is no additional requirement for granting a visa that the applicant also has to have welfare grounds for a visit.

According to information from UDI²², there can be several reasons for rejecting applications:

Failure to meet formal requirements

One of the reasons why visa applications are rejected is that the applicant has not provided sufficient documentation, or does not meet the requirements laid down for visa applications.

Examples of this may include not having a valid passport or other approved travel document or not having provided documentation of valid travel insurance for the whole visa period as required.

Discretionary assessments

A large proportion of visa rejections are due to *immigration regulatory considerations* suggesting that a visa should not be granted. Rejections on grounds of immigration regulatory considerations are based on a *discretionary assessment* assuming that there is doubt as to whether the applicant will return to her/his country of origin when the visa expires.

Central to the assessment is the applicant's ties or links to their country of origin. Relevant assessment factors in this respect may be the applicant's marital status, age, nationality, housing, work/study situation, etc.

In cases where the Immigration Authorities decide that the applicant does not have sufficiently strong links to her/his country of origin, the application will be rejected, unless there are *specific welfare considerations* that support the granting of the visa²³.

²² <http://udi.no/templates/Tema.aspx?id=7407>

²³ The Immigration Authorities may grant a visa if there are sufficiently substantial welfare considerations. Welfare considerations which carry weight in visa processing include:

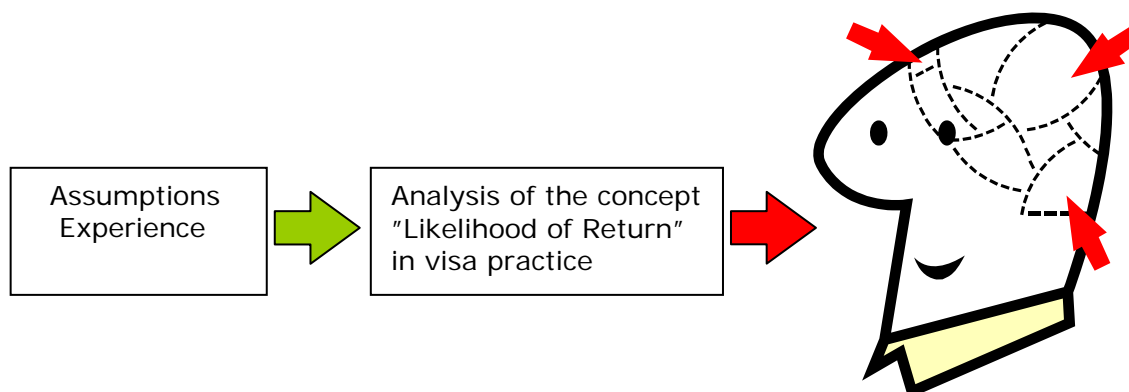
- Visit to close family (e.g. a visit to your own child or other close family members)
- Events/occasions (e.g. Christening, wedding, funeral or cultural/sports event)
- Serious illness or death of a close family member.

There are also other discretionary assessments which may lead to a visa application being rejected:

- There are grounds to doubt the purpose of the trip
- There are grounds to doubt the information provided.

3 Project challenges

3.1 Difficulty in getting "into the heads" of visa officials



When trying to uncover how "strong" and "weak" likelihood of return are defined, this project had to deal with some challenges that are compounded by the fact that a large proportion of visa rejections are based on discretionary assessments - and not on standardized, codified criteria.

This means that the project cannot get "into the heads" of visa officials: the final "weighing" of case elements "for" and "against" granting a visa *which is not written down in the case material* is hidden from research, and from the Norwegian authorities themselves.

An analysis of the concept "Likelihood of Return" through this project can confirm assumptions and visa practice experience (or vice versa) but it cannot, in the final instance, expose the individual evaluations of any particular case - unless this is accessible in the case material.

In short, the project can say something about general trends regarding the evaluation of single elements in visa applications. The project might also be able to say something about *combinations* of elements in visa applications e.g. some combinations of elements are more likely to be registered in "strong", and other combinations are more likely to be registered in "weak" likelihood of return.

3.2 Lack of written records

When applications are *granted*, the applicant usually receives a decision stating that fact. No reasons are given to the applicant for the decision made and there is no written record of how the decision had been reached in the file. In other words, the individual evaluation of the application is not easily accessible. This presents a challenge to the Immigration Authorities and to research in this field.

However, when a visa application is *rejected*, the applicant is informed about the decision, given the reasons for the rejection and information about the appeal system. Rejections provide, therefore, the most important empirical data for the project.

3.3 Implicit reasons

Foreign Service Missions often forward visa applications for first instance processing or for appeal (second instance) processing to UDI without being explicit regarding why they do so. This also presents a challenge to the national authorities and to research in this field.

3.4 Difficulty in tracing adjustments to visa practice

In line with traditional principles in Norwegian administrative practice, visa practice development over time can be traced to *policy changes* because of new instructions from a Ministry and *adjustments of practices* (e.g. because of political developments in a country²⁴).

Practice adjustments can, according to UDI's quality goals²⁵, be traced to "signals" sent from UNE to UDI. By extension, and confirmed by interviews with experienced officials, this also covers "signals" sent from UDI to the Foreign Service Missions.

As in Norwegian administrative practice, the channel for these so-called "signals" are case decisions. Following this line of thought, when UNE reverses a visa decision made by UDI, UNE sends a "signal" to UDI regarding how UNE thinks the case should have been evaluated²⁶.

UDI's quality goals states that a single visa decision reversal by UNE is "normally not sufficient to express UNE's practice.... However, if there are several UNE reversals in the same direction, this could be an expression of UNE's practice. This can lead to practice adjustments in UDI".

To an observer, the critical word here is "several": how many cases does this imply?

By extension, when UDI reverses a visa decision made by a Foreign Service Mission, UDI sends a "signal" to the Foreign Service Mission regarding how UDI thinks the case should have been evaluated²⁷. However, a single visa decision reversal by UDI is normally not sufficient to express UDI's practice. If, on the other hand, there are several UDI reversals in the same direction, this could be an expression of UDI's practice and can lead to practice adjustments in the Foreign Service Missions.

Again, to an observer, the critical word here is "several": how many cases does this imply?

Though the results of visa appeals are studied and discussed by UDI and the Foreign Service Missions when they are available, it was difficult in this project to observe a systematic treatment of "signals" between UNE and UDI, and between UDI and the Foreign Service Missions.

24 If the political situation becomes more tense, this could imply an increase in numbers of asylum seekers, a situation which could lead to more strict processing of family visitors' visas.

25 Kvalitet i saksbehandlingen, 28. november 2006 (UDI)

26 Unless new information available is the reason for the reversal.

27 Unless new information available is the reason the the reversal.

This presents a challenge to the project as visa practice *adjustments* - regarding definitions of "strong" and "weak" likelihood of return, cannot be easily traced - by research or by the Norwegian authorities themselves.

3.5 Getting around project limitations

The project will first use a simple registration method. The registration of single criteria will allow us to say something about *general tendencies* for how *single elements* tend to be evaluated by both UDI and by the Foreign Service Missions. It will be able to show if there are any single elements which tend to push an application in its favor or disfavor.

The registration method will not be able to demonstrate how one particular element "automatically" leads to the granting of a visa or the rejection of an application. Nor is this the aim of the exercise as there are always many elements in each case.

This approach is chosen partly for reasons of economy but also for practical reasons. As the testing of codified criteria in visa processing is one of the longer-term interests of the Immigration Authorities, the proposed procedure of evaluating single criteria in visa applications might be better suited to provide the necessary basis for the development of codified criteria. Suggested follow-up procedures need to be easy to implement and not require a procedure that is almost similar to a discretionary assessment itself.

In order to understand the visa evaluation process in more depth, more advanced statistical models and a larger empirical base of visa applications – beyond the framework of this project – are needed. UDI has had long term plans to conduct a thorough statistical analysis of visa practices once the data system "VIS" has been in use in Schengen for a few years.

3.5.1 Registration in excel

An excel page was created for each category of cases. All the cases were therefore registered regarding the following data:

- Registration number²⁸
- Dates (application, rejection, appeal etc)
- Country of citizenship
- Age²⁹
 - 60 years and above
 - Between 36-59 years
 - Between 19-35 years
 - 18 years and below
- Assets (property, bank account)
- Travel history (Previous visits to Schengen, other countries)
- Marital status
- Number of children
- Relation to reference person in Norway
- Reference person's characteristics (years of residence in Norway, whether former asylum seeker)
- Guarantee form
- Applying alone or together with other family members
- Family members who are staying behind (relations, number)
- Source of income (public sector, business, pension etc)
- Birth, christening, wedding, illness, funeral etc.
- Visa decision from first instance processing
- Contents of appeal including documents attached
- Appeal decision

3.5.2 Cross-checking with UDI's database

The Norwegian authorities have an electronic database where all visa cases are registered. In order to check if there is more relevant data on the selected cases, this project will also cross-check with UDI's database. Questions we hope to answer are, for example, the following:

1. Were the visas actually issued?
2. In the cases where the applicant was part of a travelling party – were visas issued to the rest of the party? E.g. did the mother travel when the visa for the child was rejected?
3. Did the applicant apply for a new visa/residence permit during the visit to Norway?
4. Did the applicant overstay or leave Norway when the visa expired?

²⁸ So-called DUF number.

²⁹ The age groupings here were created for the project. UDI does not operate with explicit age groups. However, officials do speak of "young" applicants or "old" applicants in a general way.

3.5.3 Correlations between some criteria

In order to examine the relationship between criteria with approval rates, quantitative techniques will be used.

Challenges encountered:

1. Lack of written records, especially regarding how decisions to grant visas are made.
2. Foreign Service Missions often forward visa applications to UDI without being explicit regarding why they do so.
3. Unclear how visa practice is developed through the appeal process. This raises questions regarding communication - through visa decisions- between UDI and Foreign Service Missions, and between UNE and UDI.

4 Findings

Which criteria are registered most often³⁰ in visas granted? How is the concept "Likelihood of Return" understood and applied by the Immigration Authorities in Norway?

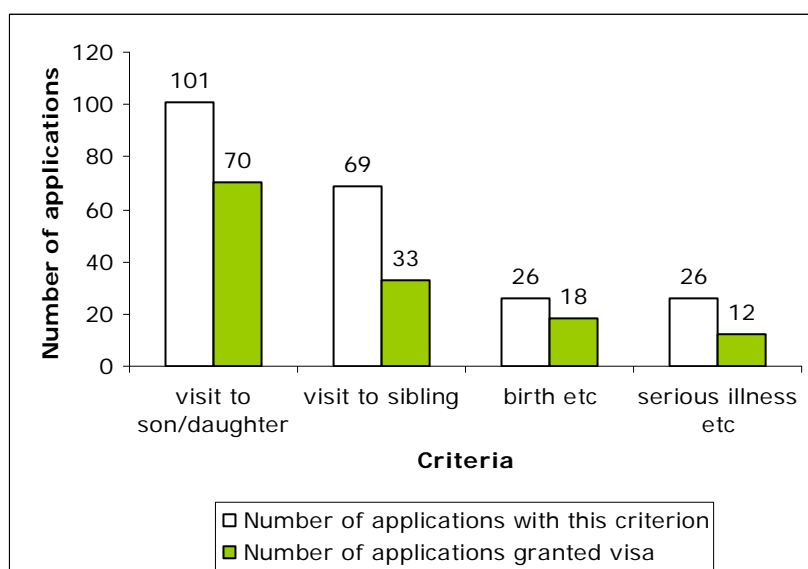
A preliminary analysis of all 245 cases (245 decisions following first instance processing and 102 decisions following appeal processing) reveals that some elements seem to be particularly relevant in the definition of "Likelihood of Return".

The straightforward registration in Excel of all cases in the sample reveals the following.

4.1 First instance processing (245 decisions)

Figure 4

Family visitors' visas. First instance processing. Welfare criteria. Number of applications.



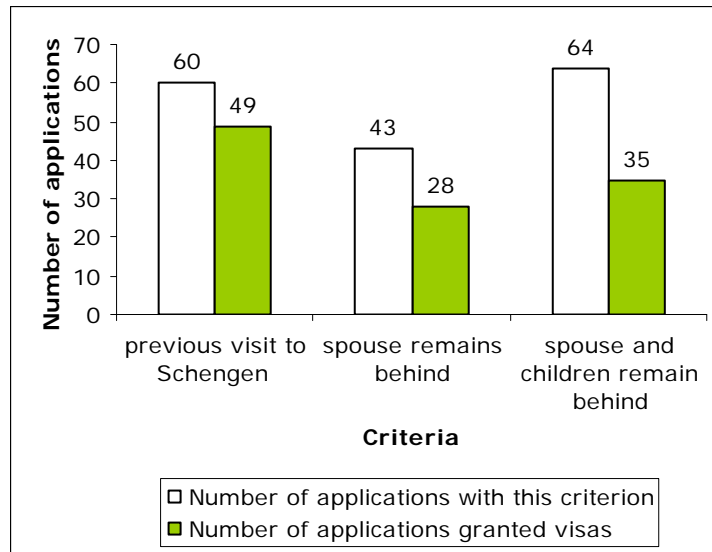
Details for the above figure are the following:

- Among the 245 decisions examined in this project, we registered 101 cases documenting kinship to **sons or daughters in Norway** whom the applicants wished to visit; 70 of these applicants were granted visas (69%).
- We registered 69 cases where the applicant wished to visit a **sibling in Norway**; 33 of these applicants were granted visas (48%).
- We registered 26 cases where the reason for the visit was a **birth, christening, confirmation or wedding**; 18 of these applicants were granted visas (69%).
- We registered 26 cases where the reason for the visit was **serious illness or a funeral**; 12 of these applicants were granted visas (46%).

³⁰ Cf. Registration in excel (3.5.1)

Figure 5

Family visitors' visas. First instance processing. Various other criteria. Number of applications.

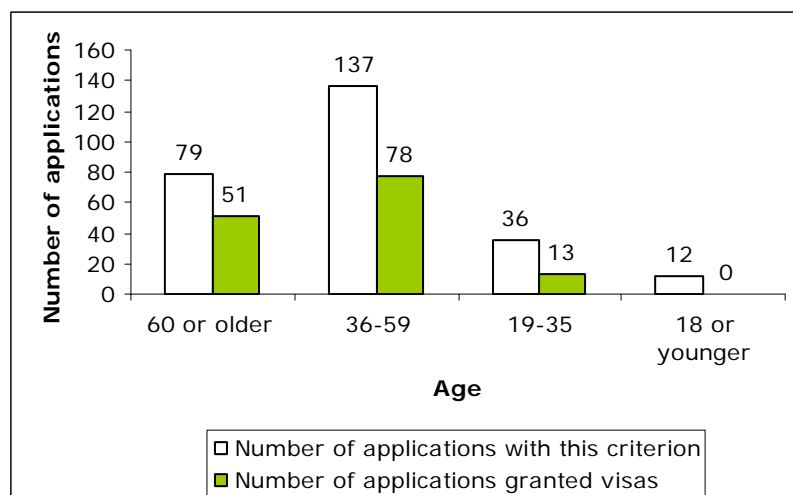


Details for the above figure are the following:

- Among the 245 decisions examined in this project, we registered that 60 cases could document **previous visits to Schengen** which were completed in recent years; 49 of these applicants were granted visas (82%).
- We registered 43 cases where the **spouse was staying behind**; 28 of these applicants were granted visas (65%).
- We registered 64 cases where **spouses and children were staying behind**; 35 of these applicants were granted visas (55%).

Figure 6

Family visitors' visas. First instance processing. Age as a criterion. Number of applications.

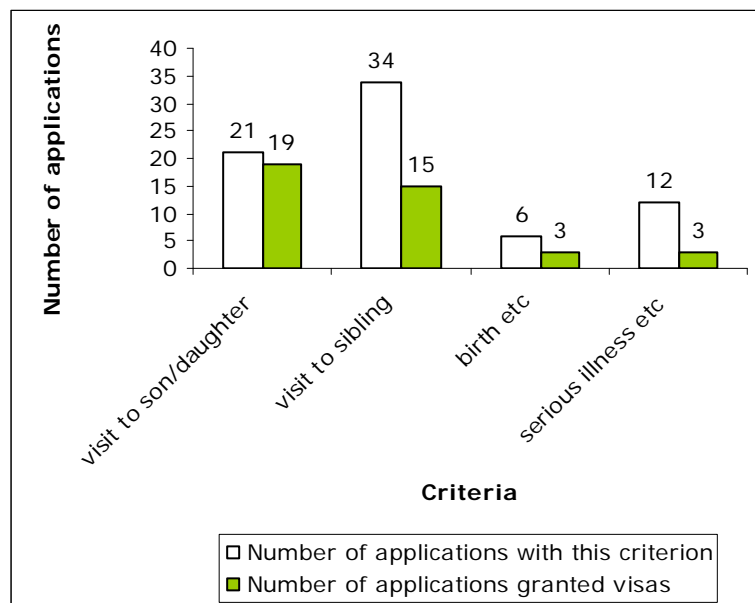


When we look more closely at age as an element in visa applications, we found:

- Among the 245 decisions examined in this project, we registered 79 cases where the applicants were **60 years of age or older**; 51 of these applicants were granted visas (66%).
- We registered 137 cases where the age of the applicant was **between 36 -59 years**; 78 of these applicants were granted visas (57%)
- We registered 36 cases where the age of the applicant was **between 19-35 years**; 13 of these applicants were granted visas (36%)
- We registered 12 cases where the age of the applicant was **18 years or younger**; 0 of these applicants were granted visas (0%)

4.2 Appeal processing³¹ (102 decisions)

Figure 7
Family visitors' visas. Appeal processing. Welfare criteria. Number of applications.



Details for the above table are the following:

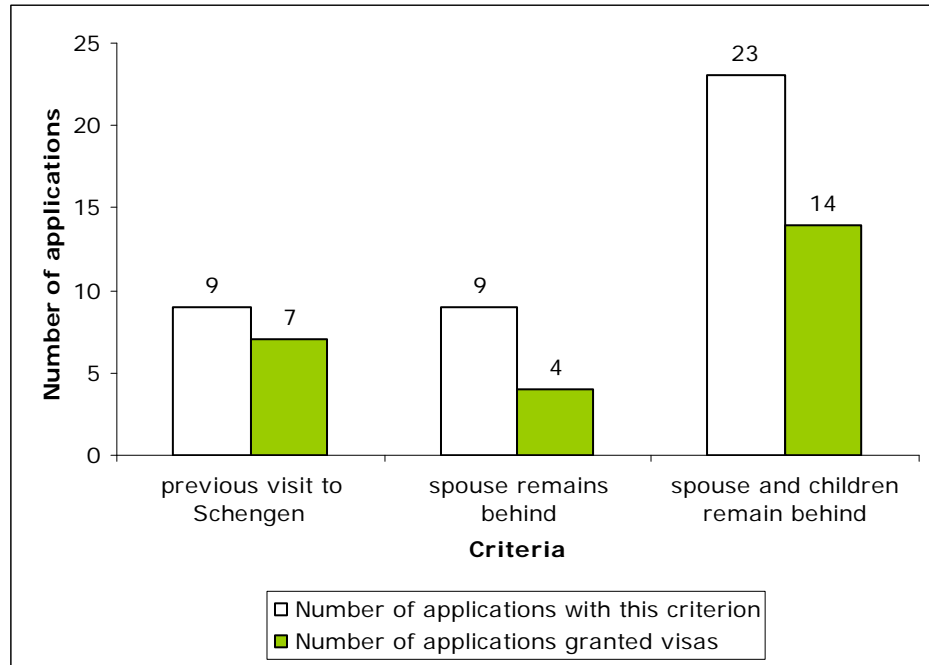
- Among the 102 decisions examined in this project, we registered 21 cases that could document **kinship to sons or daughters in Norway** whom the applicants wished to visit; 19 of these applicants were granted visas (90%).
- We registered 34 cases where the applicant wished to visit a **sibling in Norway**; 15 of these applicants were granted visas (44%).
- We registered 6 cases where the reason for the visit was a **birth, christening, confirmation or wedding**; 3 of these applicants were granted visas (50%).

³¹ Including 16 appeals processed by UNE (Pakistan 2, Iran 8, Sri Lanka 6).

- We registered 12 cases where the reason for the visit was **serious illness or a funeral**; 3 of these applicants were granted visas (25%).

Figure 8

Family visitors' visas. Appeal processing. Various other criteria. Number of applications.

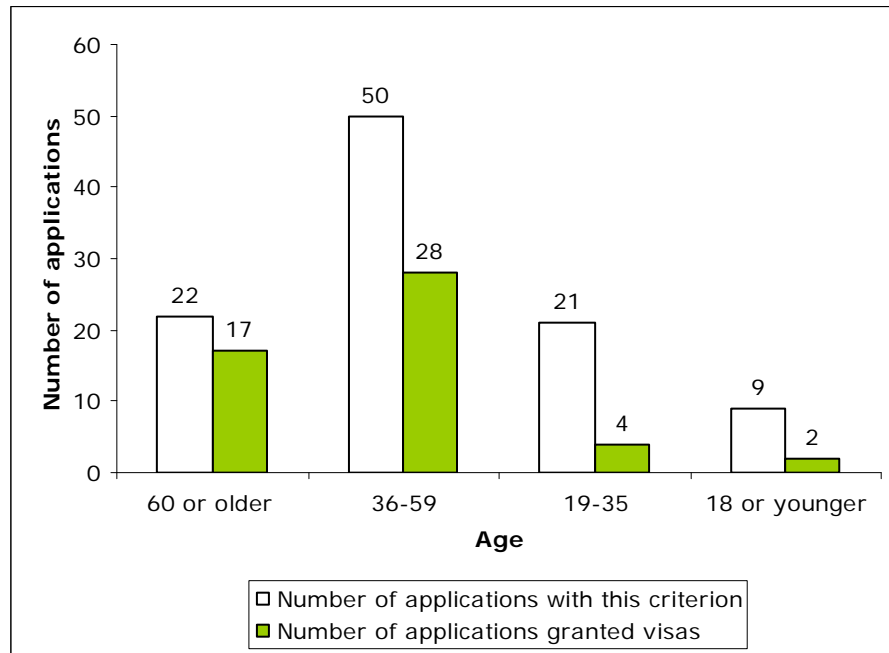


Details for the above table are the following:

- Among the 102 decisions examined in this project, we registered 9 cases documenting **previous visits to Schengen** in recent years; 7 of these applicants were granted visas (78%).
- We registered 9 cases where the **spouse was staying behind**; 4 of these applicants were granted visas (44%).
- We registered 23 cases where **spouses and children were staying behind**; 14 of these applicants were granted visas (61%).

Figure 9

Family visitors' visas. Appeal processing. Age as a criterion. Number of applications.



When we looked more closely at age as an element in visa applications, we found:

- Among the 102 decisions examined in this project, we registered 22 cases where the applicants were **60 years of age or older**; 17 of these applicants were granted visas (77%).
- We registered 50 cases where the age of the applicant was **between 36 -59 years**; 28 of these applicants were granted visas (56%)
- We registered 21 cases where the age of the applicant was **between 19-35 years**; 4 of these applicants were granted visas (19%)
- We registered 9 cases where the age of the applicant was **18 years or younger**; 2 of these applicants were granted visas (22%)

4.2.2 Preliminary findings from first instance and appeal processing

From the above, we see that some elements seem to play a larger role in the definition of strong likelihood of return than others, for example previous visits to Schengen.

Looking more specifically at age as an element, the age group "60 years or older" seems to count most positively. At the same time, the age groups "between 35- 19 years" and "below 18 years" are viewed as having a weak likelihood of return.

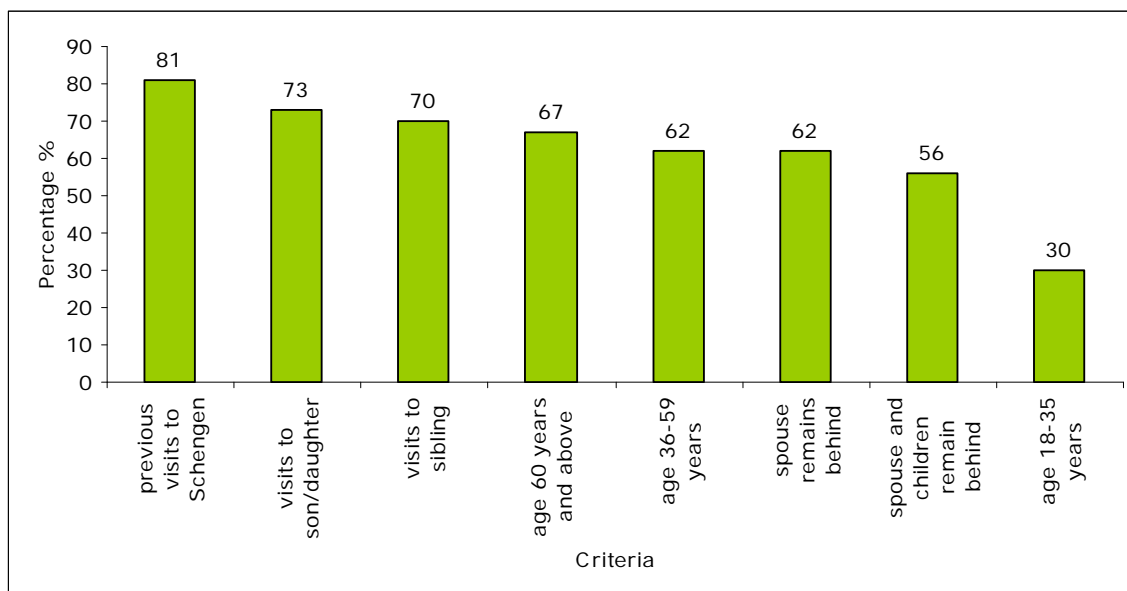
The above ranking of single elements confirms interviews with experienced visa officers who tend to view, for example, previous visits to Schengen positively, and "young" applicants, negatively. However, it should be noted that the age group "below 18 years" is the smallest group in both first instance and appeal processing.

In this selection of cases the criterion "birth, christening, confirmation or wedding" ("happy events") tends to be viewed more positively than the criterion "serious illness or funeral" ("unhappy events"). However, it must be noted that the number of cases here is relatively small.

Following the above ranking, we can assume that, for the Immigration Authorities in Norway, some *combinations of elements* carry more "weight" (e.g. previous visits to Schengen *combined* with visits to children in Norway).

Figure 10

First instance and appeal processing. Criteria which are registered most often in visas granted. 347 decisions. Percentage.



In the table above we have excluded the criteria where too few cases are registered.

4.3 Correlations between some criteria

In order to examine the relationship between criteria, such as whether some criteria tend to occur together with others, or whether they correlate with approval rates, quantitative techniques have been used. In the following, only the 245 decisions in the first instance have been used unless otherwise noted, in order to avoid inflating correlations by analyzing the same cases twice.

4.3.1 Correlations between age and whom one visits

The bivariate correlation between the dichotomous variables “age over 60 years” and “visiting children” is quite strong, with a Pearson’s R of .533³².

There is also a pattern in which those over 60 years have, to a greater extent, visited Schengen before. In the sample 42 per cent of those over 60 years have made previous visits to Schengen, whereas 21 per cent of those below the age of 60 years have done so.

This may mean that the high number of visas being granted to those over 60 years (see section 4.1) is because many of these follow the same pattern of elderly parents repeatedly visiting their adult children in Norway.

Among those over 60 years in this sample, 37 per cent fall into this category of repeat visits to children, and this group has an approval rate of 86 per cent in this particular sample.

The sample is biased towards approved cases (see section 1.3.8), so the approval rate for all cases where the applicant is over 60 years may actually be lower.

4.3.2 Correlations between event-related purpose of visit and citizenship of visitor

The majority of visits registered in the sample are not related to specific family events. However, 22 per cent of the decisions in the sample are related to specific family events.

Persons visiting from Sri Lanka are more likely to visit because of “happy events” such as marriage, births etc than because of “unhappy events” such as deaths and illness: 88 per cent of event-related visits by Sri Lankan citizens are because of “happy events”.

By comparison 62 per cent of event-related visits by Pakistani citizens are tied to “happy events” while 57 per cent of event-related visits by Iranian citizens are tied to “unhappy events”³³.

³² Significant at the 0.01 level.

³³ Citizenship of applicant is shown to be statistically significant by way of a chi-square test. The chi-square for the observed distribution of all cases is 11.127, for only the cases where there is an event registered, the chi-square for the observed distribution is 7.673 (Significant at the 0.05 level.)

4.3.3 Correlations between previous visits to Schengen and other variables

As shown previously, a key factor for being judged as having a good likelihood of return is having previously visited Schengen. But apart from those over 60 years and those visiting their children, there are no significant positive correlations between this criterion and other variables.

However, there is a moderate *negative* correlation of $-.141^{34}$ between being under the age of 18 years and previous visits to Schengen. This is not surprising given that the likelihood of travelling abroad increases with age. This may also explain the authorities' hesitation in granting visas to young persons, who, unlike older people, do not have a history of going abroad and returning.

4.3.4 Who leaves a spouse or child behind?

There is a clear pattern in that those who visit one of their children in Norway often leave their spouse and/or other children behind in their country of origin. 76 per cent of those who visit one of their children in Norway do so while leaving a spouse and/or child in the home country. Among those who visit other family members i.e. siblings or other relatives, the proportion of those who leave a spouse and/or child in the home country is 47 per cent.

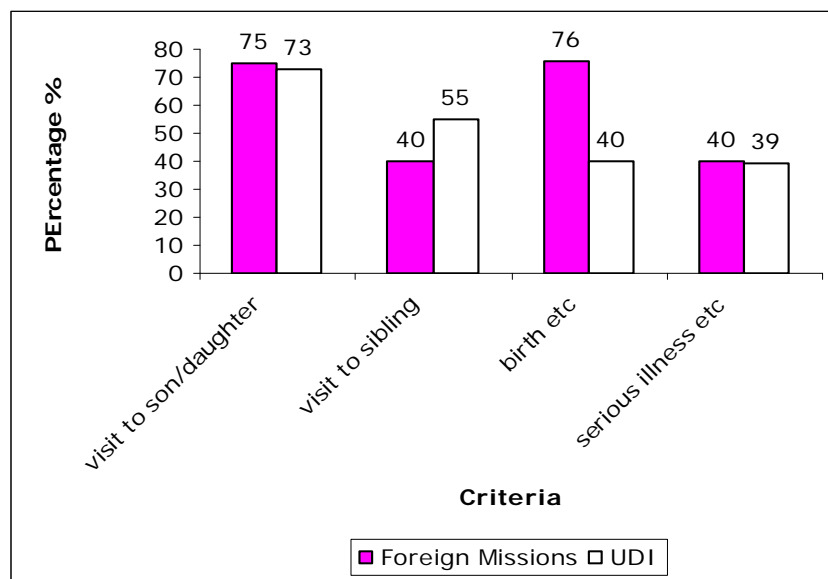
³⁴ Significant at the 0.05 level.

4.4 Comparison: visa practice in Foreign Service Missions and UDI

In this project, we have compared the decisions made by the selected Foreign Service Missions (177 decisions) to those made by UDI (154 decisions) from both first and appeal processing.

An analysis of these decisions shows that similar elements seem to be present in the definition of "Likelihood of Return" for both administrative levels.

Figure 11
Family visitors' visas granted by Foreign Service Missions and UDI. Welfare criteria. Percentages.



The following details elucidate the table above:

- Among the 177 decisions made by the Foreign Service Missions, we registered 75 cases that could document kinship to **sons or daughters in Norway** whom the applicants wished to visit; 56 applicants were granted visas (75%). Among the 154 decisions made by UDI, we registered 45 cases documenting kinship to children in Norway whom the applicants wished to visit; 33 applicants were granted visas (73%).
- Among the 177 decisions made by the Foreign Service Missions, we registered 53 cases where the applicant wished to visit a **sibling in Norway**; 21 applicants were granted visas (40%). Among the 154 made by UDI, we registered 49 cases where the applicant wished to visit a sibling in Norway; 27 applicants were granted visas (55%).
- Among the 177 decisions made by the Foreign Service Missions, we registered 21 cases where the reason for the visit was a **birth, christening, confirmation or wedding**; 16 applicants were granted visas (76%). Among the 154 decisions made by UDI, we registered 10 cases where the reason for the visit was a birth, christening, confirmation or wedding; 4 applicants were granted visas (40%).
- Among the 177 decisions made by the Foreign Service Missions, we registered 20 cases where the reason for the visit was **serious illness**

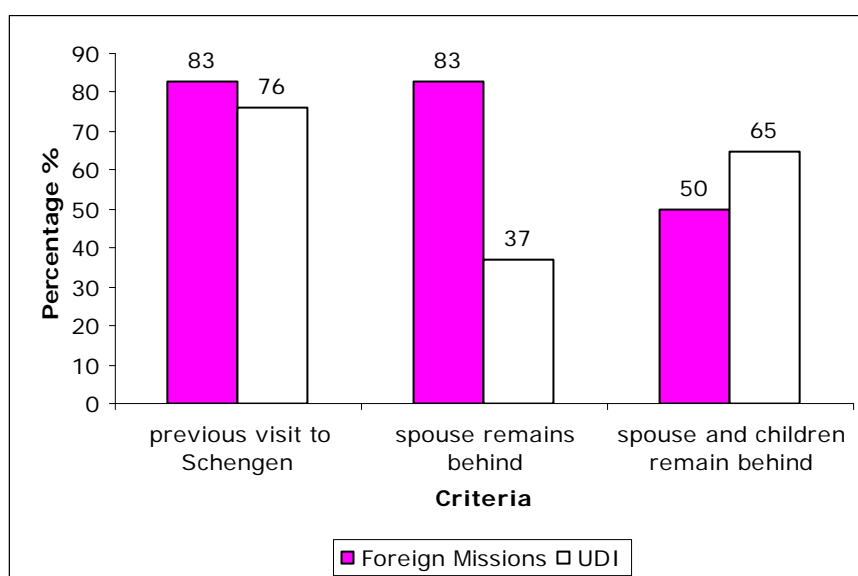
or a funeral; 8 applicants were granted visas (40%). Among the 154 decisions made by UDI, we registered 18 cases where the reason for the visit was serious illness or a funeral; 7 applicants were granted visas (39%).

The Foreign Service Missions and UDI tend to grant visas at the same rate in cases where visits to children are registered as a criterion.

The cases where criteria such as births and deaths etc are registered in the files are few in number. Comparisons between the Foreign Service Missions and UDI are therefore difficult.

There seems to be a difference in the rate in which the Foreign Service Missions (40%) and UDI (55%) tend to grant visas regarding visits to siblings. However, as siblings represent a wide range of profiles (previous visits to Schengen, age etc), we would need more a detailed study – beyond the framework of this project – to be able to draw any further conclusions.

Figure 12
Family visitors' visas granted by Foreign Service Missions and UDI . Various other criteria. Percentages.



- The following details elucidate the table above. Among the 177 decisions³⁵ made by the Foreign Service Missions in this project, we registered 52 cases that could document **previous visits to Schengen** that were completed in recent years; 43 applicants were granted visas (83%). Among the 154 decisions³⁶ made by UDI in this project, we registered 17 cases that could document previous visits to Schengen that were completed in recent years; 13 applicants were granted visas (76%).
- Among the 177 decisions made by the Foreign Service Missions in this project, we registered 29 cases where the **spouse was staying**

³⁵ Category 1 (43 cases) , category 2 (43 cases) and category 5 (91 cases).

³⁶ Category 1 (43 cases), category 2 (43 cases), category 3 (36 cases) and category 4 (32 cases).

behind; 24 applicants were granted visas (83%) Among the 154 decisions made by UDI in this project, we registered 19 cases where the spouse was staying behind; 7 applicants were granted visas (37%).

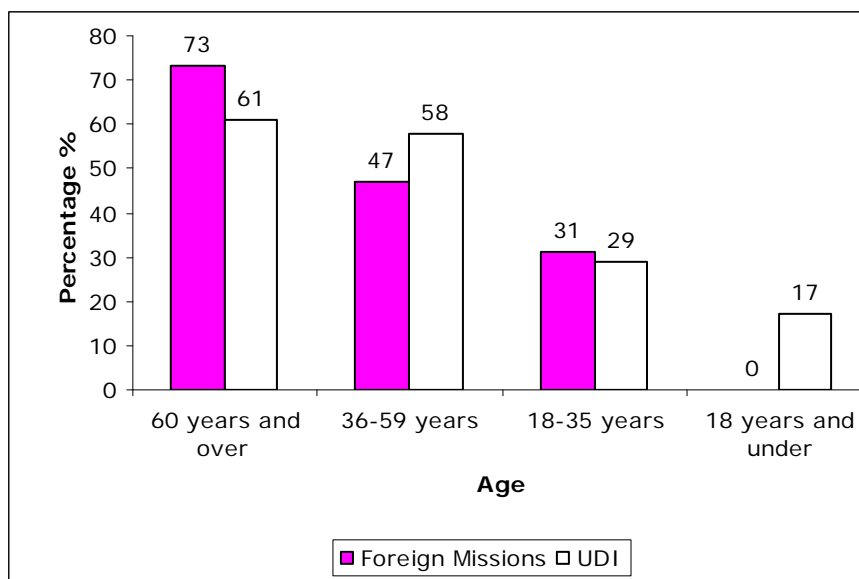
- Among the 177 decisions made by the Foreign Service Missions in this project, we registered 42 cases where **spouses and children were staying behind**; 21 applicants were granted visas (50%). Among the 154 decisions made by UDI in this project, we registered 64 cases where spouses and children were staying behind; 49 applicants were granted visas (65%).

The Foreign Service Missions and UDI tend to grant visas at the same rate in cases where “previous visits to Schengen” and “spouse and children remain behind” are registered as criteria.

The cases where “spouse remains behind” are few in number in the sample. Comparisons between the Foreign Service Missions and UDI are therefore difficult.

Figure 13

Family visitors’ visas granted by Foreign Service Missions and UDI . Age as a criterion. Percentages.



When we look more closely at age as an element in visa applications, the table shows that:

- Among the 177 decisions made by the Foreign Service Missions in this project, we registered 59 cases where the applicants were **60 years of age or older**; 43 applicants were granted visas (73%). Among the 154 decisions made by UDI in this project, we registered 36 cases where the applicants were 60 years of age or older; 22 applicants were granted visas (61%).
- Among the 177 decisions made by the Foreign Service Missions in this project, we registered 83 cases where the age of the applicant was **between 36 -59 years**; 39 applicants were granted visas (47%). Among the 154 decisions made by UDI in this project, we registered 83

cases where the age of the applicant was between 36 -59 years; 48 applicants were granted visas (58%)

- Among the 177 decisions made by the Foreign Service Missions in this project, we registered 26 cases where the age of the applicant was **between 19-35 years**, 8 applicants were granted visas (31%). Among 154 decisions made by UDI in this project, we registered 28 cases where the age of the applicant was between 19-35 years; 8 applicants were granted visas (29%)
- Among the 177 decisions made by the Foreign Service Missions in this project, we registered 8 cases where the age of the applicant was **18 years or younger**; 0 applicants were granted visas (0%). Among the 154 decisions made by UDI in this project, we registered 12 cases where the age of the applicant was below 18 years; 2 applicants were granted visas (17%).

The Foreign Service Missions and UDI tend to grant visas at the same rate in cases where "60 years of age or older", "between 36-59 years" and "between 19-35 years" are registered as criteria.

The cases where the applicants are "below 18 years" are few in number. Comparisons between the Foreign Service Missions and UDI are therefore difficult.

4.4.1 A preliminary comparison between Foreign Service Missions and UDI

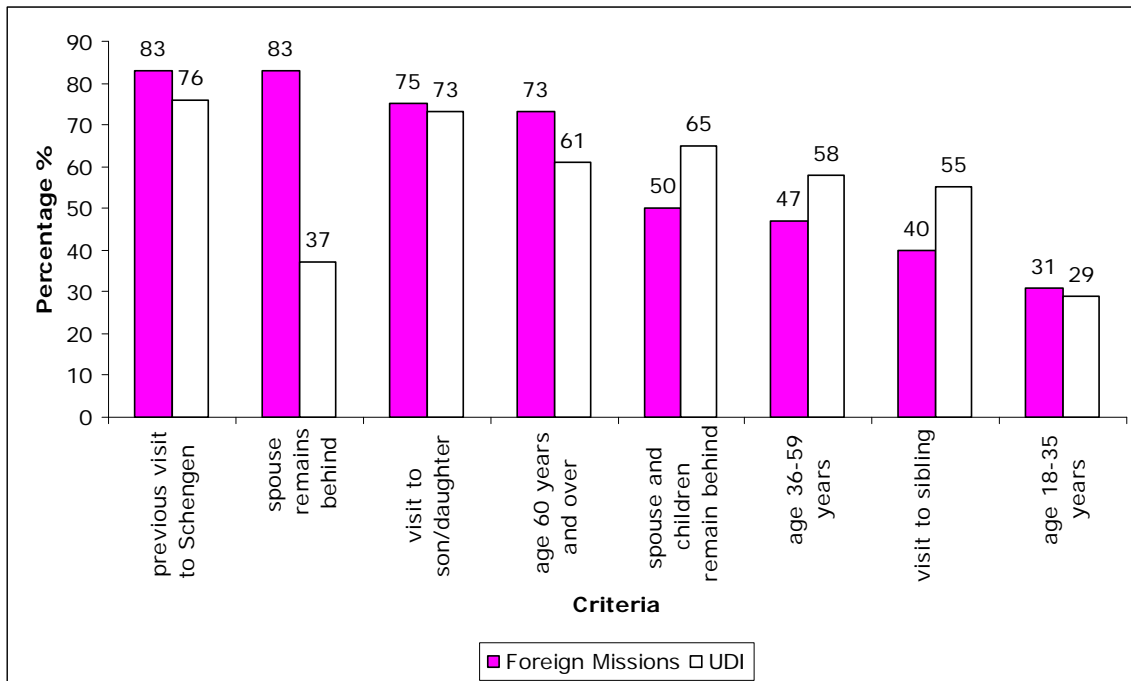
A preliminary comparison between the Foreign Service Missions and UDI reveals similar tendencies regarding its main elements. It confirms that elements like "previous visits to Schengen" and "visits to son/daughter in Norway" tend to be viewed positively in visa applications. However, the above observations do not apply to visa practice regarding visits to siblings in Norway.

It also shows that the age group "60 years and above" is the most positively viewed among all the age groups. Conversely, the age groups "between 35- 19 years" and "18 years or younger" are not considered as likely to return as applicants in other categories.

The criterion "birth, christening, confirmation or wedding" tends to be viewed more positively than the criterion "serious illness or funeral". However, it must be noted that cases here were relatively few.

Figure 14

Foreign Service Missions and UDI. Criteria which were registered most often in visas granted. Percentages.



In the table above we have excluded the criteria where too few cases are registered.

From the above it seems possible to conclude that UDI and Foreign Service Missions have a consistent family visa practice regarding the following three criteria:

- *previous visit to Schengen*
- *visit to son/daughter*
- *age 60 years and over*³⁷.

4.4.2 Correlations between some criteria: first instance cases

When looking at the relationship between outcome and different criteria in this sample, it is important to keep in mind that, in our sample, neither the outcome nor the distribution of rejections/approvals by decision-making units are random. Rather, it is predetermined and thus, our sample is biased³⁸.

However, it is nevertheless possible to say something about how different criteria appear in four different categories of the total number of cases.

“Visits to children” are statistically significant in cases processed by Foreign Service Missions

³⁷ Note that appeal decisions are included here. There is, in other words, that the bias in the total sample could affect this conclusion.

³⁸ See 1.3.8 Bias in sample.

Table 7
Foreign Service Missions

Visit to...	Rejected	Approved	Total
Visit to other family members	66 %	34 %	100 %
Visit to children	25 %	75 %	100 %
Total	49 %	51 %	100 %

There is a clear difference and statistical significance here, chi-square 28.138, sig 0.01.

Table 8
UDI

Visit to...	Rejected	Approved	Total
Visit to other family members	61%	39%	100 %
Visit to children	44%	56%	100 %
Total	55%	45%	100 %

There is a difference, but it is not large enough to be of statistical significance, chi-square 1.935, sig 0.10.

“Happy event-related” visits are statistically significant in cases processed by Foreign Service Missions.

There is a difference, for instance in the occurrence of “happy event-related”, “unhappy event-related” and “non-event-related visits”.

In first instance cases where the decision is made in UDI, there is no pattern of significance regarding this variable, but in the decisions made by Foreign Service Missions, there is a significant³⁹ pattern in that cases related to happy events have a high approval rate of 79 per cent, whereas cases related to unhappy events have a low approval rate of 19 per cent. Cases where no particular event is registered have an approval rate similar to that of all cases. This could be in part because more “complex” cases are often handled by UDI while more routine cases are handled by the Foreign Service Missions.

“Age over 60 years” is statistically significant in cases processed by Foreign Service Missions.

Looking at another important variable, age, there is the tendency, observed above, that those over 60 years of age have a higher approval rate; 65 per cent in the first instance. This, however, is only present at a statistically significant level in the Foreign Service Missions.

“Previous visits to Schengen” are statistically significant in cases processed by Foreign Service Missions.

Regarding the criterion “previous visits to Schengen”, there are proportionally fewer cases sent to UDI to be processed in the first instance than those which are processed by

³⁹ Chi square for observed distribution is 14.198 (Significant at the 0.01 level).

the Foreign Service Missions when the applicant has made a previous visit to Schengen. Where UDI is the first instance, in 18 per cent of the cases, the applicant has visited the Schengen area before. However, where the Foreign Service Mission is the first instance, in 32 per cent of the cases, the applicant has previously visited Schengen.

Having visited Schengen previously has no statistically significant relation to whether or not a visa is granted by UDI. However, in visa decisions made by Foreign Service Missions, this is not the case. In the Foreign Service Mission decisions, the approval rate is 77 per cent for those who have a previous Schengen visa, compared to 40 for those who have not. The same figures for decisions in UDI are 62 per cent and 42 per cent: these figures are not significant, and we must conclude that a previous visit has no impact on decisions in UDI. Again, this is probably in part because more “complex” cases are often handled by UDI while “more routine cases are handled by the Foreign Service Missions.”⁴⁰

“Leaving spouse and/or child behind” in country of origin is statistically significant in cases processed by Foreign Service Missions.

Repeating the pattern above, we also observe that leaving a spouse and/(or a child/children behind in country of origin is statistically significant – though weakly, compared to the other criteria mentioned above – in cases processed by Foreign Service Missions. The approval rate is 59 per cent for this group compared to 41 per cent for the applicants who do not leave a spouse and/or a child/children behind.

The figures for UDI are 53 per cent and 31 per cent respectively; they are not statistically significant.

⁴⁰ See 4.3. and results of correlations between some criteria.

4.4.3 What conclusions can we draw from this analysis?

The preliminary comparison of UDI and the Foreign Service Missions showed that there seems to be a consistent visa practice regarding three criteria:

- previous visits to Schengen
- visits to son/daughter
- age 60 years and above.

Based on the preliminary comparison of UDI and the Foreign Service Missions, a more detailed correlation between selected criteria was performed regarding applications in the first instance. In general, we observe that while certain criteria seem to have significant effects on the results for family visitors' visa applications when these are processed by the Foreign Service Missions, we do not see a similar pattern in the applications processed by UDI. The possible reasons for this will be discussed further on.

For instance, in the applications processed by the Foreign Service Missions, we observe that five criteria:

- visits to son/daughter
- "happy-event related" visits,
- age 60 years and above
- previous visits to Schengen
- leaving spouse and/or child behind

are significantly represented in visa applications approved. Many of the persons who are visiting children are over 60 years old and have had previous visits to Schengen. This indicates that these three criteria may apply to the same group.

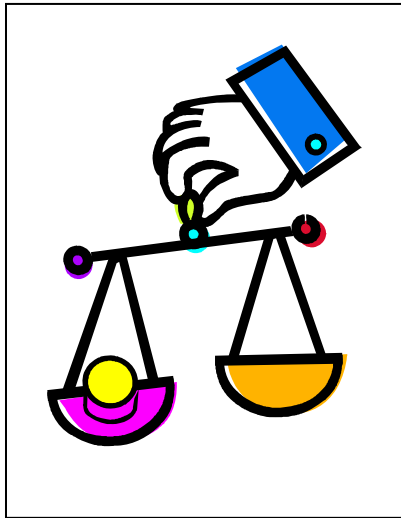
However, there are no criteria which are statistically significant in the applications processed by UDI.

This suggests that there is a greater tendency in the Foreign Service Missions to employ selected criteria as standardized, codified criteria in the processing of family visitors' visas.

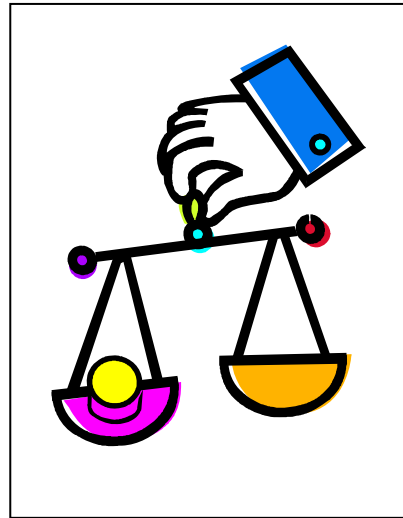
This also suggests that compared to the Foreign Service Missions, UDI seems to employ discretionary assessments to a greater scale. This difference can be explained by the fact that "difficult" or "doubtful" cases are forwarded to UDI. The cases which are forwarded to UDI may be the cases of former overstayers, or there may be other issues in the cases rendering them "difficult" even though a visa has been issued to the same person before. This is reflected in the finding that having visited Schengen previously has no statistically significant relation to whether a visa is granted or not by the UDI. The same applies for criteria like "visits to children", "happy event-related visits" or "age over 60 years".

4.5 Some other observations

4.5.1 Parallel assessments



Likelihood of return



Welfare grounds

Visa decisions are the result of *parallel* discretionary assessments of likelihood of return, on one hand, and welfare grounds, on the other. It is not possible to separate assessments of likelihood of return from assessments of welfare grounds in visa decisions made.

It is therefore more accurate to say that this study is about criteria which influence visa decisions to grant or to reject family visitors' visas, rather than a study of the concept "Likelihood of Return" in family visitors' visas.

4.5.2 Applicants from Afghanistan

It was not possible to draw any conclusions regarding the practice between the Foreign Service Missions by focusing on applications from citizens of Afghanistan. Many of the cases had comparatively few documents and almost all were rejected.

4.5.3 Financial assets

It is not easy to draw conclusions from the empirical data from 245 cases regarding financial assets (property, bank account etc). Many applicants attach translations of legal documents regarding their assets and of their bank accounts. Many applications also include attachments regarding the financial situation of the reference person in Norway (income tax returns, monthly pay slips etc). The lack of financial assets is a reason to reject a visa application for family visits. However, having abundant financial assets does not alone represent a reason for granting a visa.

4.5.4 Guarantee form

Furthermore, while a guarantee form sent by the reference person is a requirement, this does not "guarantee" the granting of a visa either. From the appeals in the case material, where many applications were rejected because the guarantee form was not included, this seems to be one area where there is potential for better communication with applicants and for the Immigration Authorities to improve the quality and efficiency of their visa practice.

4.5.5 Length of residence of reference persons

The empirical data also revealed that the majority of the reference persons have been living in Norway for more than ten years. Some have lived in the country for twenty years.

4.5.6 Welfare grounds

While welfare grounds like births and serious illness are the reason for a relatively small number of the family visitors' visa applications, it is easy to understand that the outcome of these applications has a significant effect on the families concerned. Many of the appeals are found in this category. In a larger perspective, it is also easy to see a connection to the integration trajectories of the reference persons in Norway.

4.5.7 Information to parents visiting

In several cases from Pakistan where applicants were granted visas to visit Norway, a signed declaration with the following text was enclosed.

NN is granted a visa to Norway for visit-tourist purpose⁴¹ for a period ofI understand that this visa does not give me a right to stay in Norway for a longer period of time than mentioned in the visa, and that the visa will not be extended. Furthermore, I understand that I cannot apply for a residence permit after arrival in Norway".

The project did not observe similar declarations in the application files from Sri Lanka or Iran.

It should be noted that parents are allowed to apply for a limited residence permit (9 months) after arrival in Norway on a family visitor's visa. When parents who are granted visas are also asked to sign the above declaration by the Foreign Service Mission in Pakistan, this can give rise to a misunderstanding about their rights. It can also be argued that this runs counter to the administrative duty to extend information and counselling to applicants.

⁴¹ All the cases in this project are visa applications concerning family visits. However, the declarations refer to tourist visas. The project assumes this is because the same declaration is used regardless of the purpose of visit.

5. More detailed analysis

5.1 Decisions by Foreign Service Missions which are *reversed* by UDI

Category 1 (43 cases)	Decisions by Foreign Service Missions which were <i>reversed</i> by UDI following an appeal by the visa applicant.
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In 15 cases, new information was the reason for reversing the decision made by the Foreign Service Mission.

In 16 of the cases in this category i.e. reversals, the appeals were made through a lawyer.

In other cases, decisions made by the Foreign Service Missions were reversed by UDI not because of new information but because UDI evaluated central elements in the case differently from the Foreign Service Missions in its evaluation of central elements in the case.

For example, a Foreign Service Mission might reject an application because the applicant has no income, no family ties in her country of origin and has not travelled to Schengen before. Furthermore, her wish to visit her son is not viewed as “strong enough welfare grounds”. However, when UDI reverses the case, the Directorate states that “substantial importance has been attached to the fact that the appellant wishes to visit her son in Norway. Furthermore, the appellant has close family in her country of origin: her mother and six brothers”. The fact that the applicant has not travelled to Schengen before is not mentioned in UDI’s decision. The fact that the applicant wishes to visit her son in Norway and that her mother and six brothers live in her country of origin remain unchanged from the time she filed her visa application but is obviously weighted differently by UDI.

From this example we see that Foreign Service Missions might point to some elements of an application as the main reasons for a rejection while UDI might point to the same or different elements of an application, including the same one(s) highlighted by Foreign Service Missions as grounds for rejection, as the main reason for actually granting a visa.

Bearing in mind that Foreign Service Missions often forward appeals to UDI without specifying the reasons, it is difficult to grasp the communication between the Foreign Service Missions and UDI regarding the finer points of visa evaluation.

In the above example, it is not easy to understand *if* there is an underlying message UDI is trying to communicate to the

Examples. Category 1. Decisions by Foreign Service Missions which were reversed by UDI following an appeal by the visa applicant.

Applicant 1

Personal details	Foreign Service Mission	Appeal	UDI
<p>Iran. Female. 68 years. Housewife. Married. 6 children (1 in Norway, 1 in another country abroad). Wish to visit son. Previous visit to Norway in 1990s. Applying together with daughter.</p>	<p>Financial situation not documented. Lacks means to cover return journey and to finance stay. Guarantee not furnished. Has not travelled since 1992. Lacks necessary ties to her country of origin. Visit to son not considered sufficiently strong welfare grounds to justify granting of visa.</p>	<p>By reference person in Norway. Attached documentation: guarantee form, letter from applicant's bank in Iran showing credit balance, reference person's income tax returns, and invoices sent by reference person's private company.</p>	<p>Importance attached to the fact that the appellant wishes to visit her son. Her husband and four other children are living in Iran. UDI considers her ties to her country of origin to be sufficient.</p>
<p>Comment</p> <p>Documentation regarding the applicant's and the reference person's financial situation was provided in the appeal. However, in reversing the case, UDI attached importance to the fact that the applicant wished to visit her son and that her husband and four children would be remaining in Iran.</p> <p>It is not clear if UDI also reversed the case as a result of the new documentation provided because this was not mentioned. Therefore, it seems as if UDI evaluated the central elements in the case differently from the Foreign Service Mission in Teheran.</p>			

Applicant 2

Personal details	Foreign Service Mission	Appeal	UDI
<p>Pakistan. Male. 31 years. Married, no children. Wishes to accompany wife to visit parents-in-law in Norway. Has job as deputy manager.</p>	<p>Wishes to travel together with wife who is a Norwegian citizen. According to applicant, wife is residing in Pakistan but according to the National Register, she is residing in Norway - hence the Embassy doubts the purpose of the visit. Applicant is young and his monthly income is low. No guarantee form presented. Lacks the necessary ties to his country of origin.</p>	<p>Appeal sent by applicant's wife (in Norwegian). Complained about the service from the Norwegian Embassy. Guarantee form attached. Letter from employer with attached pay slips. Letter from business school in Sweden which the applicant attended in 2005.</p>	<p>Substantial importance has been attached to the fact that the appellant has been living in Sweden and returned before expiry of the visa.</p>
<p>Comment</p> <p>New documentation is attached to the appeal. From UDI's decision, it appears that the applicant's previous travel to and study in Sweden was the key reason to grant him a visa. UDI did not mention any of the points brought up in the rejection by the Foreign Service Mission.</p>			

5.2 Decisions by Foreign Service Missions which were upheld by UDI

<p>Category 2 (43 cases)</p>	<p>Decisions by Foreign Service Missions which were upheld by UDI following an appeal by the visa applicant.</p>
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In almost all the cases, UDI points out that the circumstances of the cases remain essentially the same and agrees therefore with the evaluations of the Foreign Service Missions.

In three of the cases, however, UDI does not mention the same elements which the Foreign Service Missions put weight on in their rejections; nevertheless, this does not necessarily mean that UDI disagrees with the Foreign Service Missions. In these examples, therefore, it is not easy to understand if there is a deeper, underlying message UDI is trying to communicate to the relevant Foreign Service Mission.

In several of these cases (6 cases), the applicant is a child (under 12 years), travelling with its mother.

An important reason for rejecting these applications is the fact that there is “no close family relationship” between the applicant and the reference person in Norway. “Close family relations” are defined by the Norwegian authorities to be “children, parents or siblings”. When the child’s mother wishes to visit, for example her brother in Norway, the reference person is the child applicant’s uncle, and therefore, not considered “close family” to the applicant. It appears, therefore, that children, including infants, are treated as independent applicants by Norwegian authorities.

Put differently, Norwegian authorities tend not to view applicants who wish to travel together as a “travelling party”. The appeals of the applicants in this category show that the visit to Norway is not feasible if they cannot travel together. Most of these cases concern, for example a nursing infant or an elderly parent.

Rejections in this category also show that elements like “previous visits to Schengen”, “visits to children in Norway” and the age group “60 years and above” – which generally tend to be viewed positively – do not “guarantee” a visa.

This suggests that in the Norwegian visa practice, several elements in a case are weighed “for” and “against” the granting of a visa.

In 2 of the cases in this category, the appeals were made through a lawyer.

Examples. Category 2. Decisions by Foreign Service Missions which were upheld by UDI following an appeal by the visa applicant.

Applicant 3

Personal details	Foreign Service Mission	Appeal	UDI
<p>Iran. Male. 6 years. Wishes to visit uncle in Norway. Applied together with mother and grandmother. Guarantee form attached.</p>	<p>Applicant is a young pupil. No previous stays in Schengen. His mother and grandmother have been granted visas, thus weakening his ties to the country of origin. Wishes to visit uncle in Norway. This is not considered to be sufficiently strong welfare grounds to justify granting of visa.</p>	<p>By reference person. Refugee in Norway. Applicant's father will stay in Iran. He is working and cannot take care of the child (applicant). Mother and sister have previously visited Norway and returned. Would like his child to get to know his cousin (applicant), whom he has never met.</p>	<p>Circumstances substantially the same. Appellant is a six-year old child who has applied together with his mother. Mother has been granted visa. His bonds to his country of origin are therefore weakened. Appellant is not going to visit close family in Norway. Only parents, children, sisters or brothers are considered close family.</p>
<p>Comment</p> <p>The reference person is a refugee in Norway. When "close family" is defined only to include parents, children or siblings, this applicant will not be able to visit his uncle or his cousins in Norway. Furthermore, when a child is considered an independent applicant and not considered part of a travelling party, a visa rejection may also have consequences for the rest of the travelling party, in this case, his mother and grandmother.</p>			

Applicant 4

Personal details	Foreign Service Mission	Appeal	UDI
<p>Pakistan. Female. 59 years. Teacher. Letter from school. Has savings account and a plot of land. Wishes to visit sister. Spouse and children staying behind. Guarantee form attached.</p>	<p>Five of six siblings living abroad. Even though spouse and children are staying behind, her ties to her country of origin are not considered sufficiently strong. Wishes to visit sister. Not considered sufficiently strong welfare grounds.</p>	<p>Spouse and children staying behind. Her parents and younger sister have previously visited Norway and returned. Reference person also sends her pay slips and income tax returns for her husband and son. Reference person's daughter is giving birth and there will be a celebration. Letter from doctor attached.</p>	<p>Circumstances substantially the same. Applicant has not documented her husband's income. Some of siblings left just a few years ago. Wishes to visit sister but UDI does not consider this to be a satisfactory welfare reason to overrule the fact that UDI finds the appellant to lack the necessary ties to her country of origin.</p>
<p>Comment</p> <p>Applicant applied in March, 2006. The Directive from the Ministry of Employment and Inclusion published 30.11.2007⁴² would probably lead to the Immigration Authorities granting a visa in a similar case today.</p>			

⁴² Allowing for more siblings from Pakistan to be granted family visitors' visas.

5.3 First instance cases which have been *rejected* by UDI

Category 3 (36 cases)	First instance cases which were <i>rejected</i> by UDI.
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Sixteen cases in this category were appealed to UNE; eight decisions were upheld and eight reversed.

In all of the cases that were reversed by UNE, new information is not the reason for reversing the decision made by UDI; the main reason is that UNE had a different evaluation of the central elements in the case from UDI.

For example, UDI rejected an application because several persons in the applicant's family had emigrated. Even though the applicant was married and her husband and two children were staying behind, UDI did not consider this to sufficiently strengthen her ties to the country of origin. Furthermore, the applicant was not engaged in regular employment and did not have property or financial commitments in her country of origin. The applicant wished to visit her brother in Norway who was getting married.

When UNE reversed the case, UNE stated there were sufficient ties to the country of origin as the applicant was married and had two daughters who were still in school. The applicant's spouse was employed in the Ministry of Agriculture and had visited Schengen on several occasions previously. He had returned before his visa had expired on all occasions. UNE did not mention the brother's wedding in its evaluation of the case.

From this example we see that UDI did not consider the fact that the applicant was married and that her husband and children were staying behind as sufficient reason to grant a visa. However, UNE highlights this point and considers that the applicant had sufficient ties to the country of origin precisely because of it.

Of the sixteen cases which were appealed to UNE, two of the appeals which were reversed were made through a lawyer. None of the appeals to UNE that were upheld were made through a lawyer.

The three elements "visit to children", "applicant wishes to travel together with others" and "age 36-59 years" are the most common elements in this category.

Examples. Category 3. First instance cases that were *rejected* by UDI and subsequently appealed to UNE

Applicant 5

Personal Details	UDI	Appeal	UNE
<p>Sri Lanka. 65 years. Male. Farmer. Wishes to visit daughter. Guarantee. Income tax returns for reference person. Though not mentioned at the time of application, it later became clear that the applicant’s wife was also applying for a visa and that they wished to travel together.</p>	<p>Applicant is old. Married. Not engaged in regular employment. Claims to have property but not documented. No other financial commitments. Several family members who have migrated. Two children live in Norway.</p>	<p>Appeal for applicant and his wife sent by lawyer. Puberty ceremony has been postponed (documented). Letter from Norwegian authorities⁴³ vouching that the priest who is performing the ceremony is bona fide. Letter from priest explaining the puberty ceremony and its importance. Wife has previously visited Norway and returned to Sri Lanka. Wife has property in Sri Lanka. Son-in-law in Norway has previously been visited by his father, who has returned to Sri Lanka.</p>	<p>UNE partly upholds UDI’s decision. Conditions for a common visit by the couple are not met. The couple did not apply together and they did not say that the purpose for the visit was anything other than a normal family visit. It was only in the appeal that the matter of the puberty ceremony was mentioned. The husband said that they have three children and the wife said that they have four children. This can be a misunderstanding but it creates doubt regarding the purpose of the visit.</p> <p>The couple can be granted successive visas to Norway.</p>
<p>Comment In general, the appeals processed by UNE tend to elaborate more regarding the evaluation process – the points “for” and “against” granting visas are clearer.</p>			

43 Fylkesmannen .

Applicant 6

Personal Details	UDI	Appeal	UNE
Iran. Female. 61 years. Divorced. Two grown-up children including one daughter in Iran. Guarantee form. Pay slip from son-in-law in Norway. Bank account in Iran. Divorce bill.	Applicant's daughter applied for visa eight years ago. Granted. She immediately applied for residence permit. Applicant applied for visa five years ago. Rejected. Applicant is divorced and not engaged in regular employment.	Applicant has not seen her daughter in Norway for seven years. Owns two houses in Iran and has a good income. Has one daughter in Iran whom she is guardian for. Letter from daughter in Norway explaining why she applied for residence permit before her visa expired (husband's life was in danger.)	UNE upholds UDI's decision. Appellant is divorced and not in regular employment. She says that she has a good pension but this is not documented. She has not produced sufficient documentation regarding her economic situation. Her daughter is an adult and is not a dependent.
<p>Comment</p> <p>Do UNE's comments mean that the applicant can be granted a visa if she manages to convince the Immigration Authorities that her economic situation is good enough? The question is: what does UDI perceive as the message from UNE and how does UDI handle what it perceives as UNE's message here?</p>			

5.4 First instance cases that have been *granted* visas by UDI

Category 4 (32 cases)	First instance cases that have been <i>granted</i> visas by UDI.
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In 27 (84%) of these cases, the applicant had never previously travelled to Schengen.

In 7 of these cases (22%), the applicant applied together with other family members. It is possible that in some of these cases, visa applications had been rejected for the family members; this information is, however, not easily accessible.

As mentioned earlier, no reasons are given to the applicant when a visa is granted by UDI and there are no written records of how UDI has reached the conclusion to grant a visa; evaluations of elements "for" and "against" granting a visa are not easily accessible.

Furthermore, in several of the cases, one can guess why the Foreign Service Missions have forwarded the case to be processed by UDI but our guesses cannot be confirmed because the Foreign Service Missions usually do not specify the reason why they have forwarded the case to UDI.

The three elements: "visit to children in Norway", "spouse and children remaining behind" and "age 36-59 years", are the most common elements in this category.

Examples. Category 4.

First instance cases that were granted visas by UDI

Applicant 7

Personal details	Notes
<p>Sri Lanka. 24 years. Male. Kitchen helper. Single. Wishes to visit Norwegian girl friend with whom he has a child. Lives with his parents and six siblings. Guarantee form. Paternity papers. Bank account.</p>	<p>No reason was given by Foreign Service Mission why the case was forwarded to UDI.</p> <p>The applicant applied for 9 months residence permit upon arrival. Granted.</p>

Applicant 8

Personal details	Notes
<p>Iran. 59 years. Female. Housewife. Widow. Three children in Norway. Mother, 1 brother and 3 sisters in Iran. Has been to Norway 6 times before. Applied for residence permit last time she was in Norway. Daughter in Norway going to have an operation. Letter from doctor. Guarantee form.</p>	<p>Case sent to UDI because applicant applied for residence permit last time she came to Norway on a visitor's visa.</p> <p>Applied for 9 months residence permit upon arrival. Granted.</p>

5.5 First instance cases that were *granted* visas by Foreign Service Missions

Category 5 (91 cases)	First instance cases that were <i>granted</i> visas by Foreign Service Missions.
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There are 91 cases in this category.

In 56 of the cases, the applicant was going to visit a child in Norway.

In 43 of the cases, the applicant had previously travelled to Schengen.

In 9 of these cases (10%), the applicant had applied together with other family members. It is possible that in some of these cases, visa applications had been rejected for the family members; this information is not easily accessible.

Again, we can only guess why the applicants have been granted visas because specific reasons are not given.

However, the three elements like “visit to children in Norway”, “previous travel to Schengen” and “age 60 years and above” are the most common elements in this category.

Examples. Category 5. First instance cases that were *granted* visas by Foreign Service Missions

Applicant 9

Personal details	Notes
Sri Lanka. Male. 60 years. Wishes to visit child. Visited Norway in 2002. Returned before visa expired. Pensioner. Four children in Sri Lanka. Applying together with spouse.	Spouse also granted visa. The couple was, however, not allowed to travel together ⁴⁴ .

Applicant 10

Personal details	Notes
Iran. Female. 78 years. Has visited Norway twice before. Wishes to visit two daughters in Norway. One son in Iran. Pensioner. Applying together with spouse.	Spouse was also granted visa. The couple travelled together. Not easy to understand why Applicant 9 was not allowed to travel together with spouse but Applicant 10 was.

⁴⁴ Sometimes, the Immigration Authorities grant “successive visas” to a travelling party i.e. a visa is issued only when the first traveler returns to the country of origin. The travelling party can therefore not travel together.

5.6 Applications from citizens of Afghanistan via Islamabad and Teheran

Category 6 (13 cases)	Applications from citizens of AFGHANISTAN that were processed by two Foreign Service Missions (Islamabad and Teheran).
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A more detailed analysis of the visa application statistics for Afghan citizens worldwide, reveals that family visitors' visas were granted only in very exceptional cases. Compared to other Foreign Service Missions, the ones in Islamabad and Teheran – which receive the bulk of applications from Afghan citizens – are the strictest.

There are 13 cases in this category; 6 applications from Afghan citizens via Iran and 7 via Islamabad. All the cases, except for two, were rejected. The two applicants who were granted visas were the parent and sibling of high-ranking Afghanistan embassy personnel in Norway.

It is difficult to draw conclusions by studying the cases in this category. In comparison with the other cases in this project, case documentation is “more slender” in the Afghan cases. Furthermore, since hardly any applicants were granted visas, the empirical basis is limited to definitions of “weak” likelihood of return.

The situation would probably not have been better if we had selected Iraqi applications instead of Afghan applications; the rejection rate for Iraqi applications is even higher than that for Afghan applications.

In retrospect, we see that it is difficult to compare how two Foreign Service Missions practice the concept “Likelihood of Return” with regard to citizens of one country as we have done in this project. Since the rate of rejection is so high, we would have had to study a very high number of cases so that a representative selection of the cases which have been granted visas are also included. This is, unfortunately, beyond the framework of this project.

5.7 On practice adjustment through visa decisions

According to traditional principles in Norwegian administrative practice and common understanding in the Immigration Authorities, when UNE supports a decision made by UDI in a case where there is no new information or documentation, this sends a “signal” to UDI that UNE agrees with the way UDI has evaluated the “Likelihood of Return” in the visa case. Likewise, when UNE reverses a decision made by UDI in a case where there is no new information or documentation, this sends a “signal” to UDI that UNE disagrees with the way UDI has defined “Likelihood of Return” in the visa case⁴⁵.

Likewise, when UDI supports a decision made by a Foreign Service Mission in a case where there is no new information or documentation, this sends a “signal” to the Foreign Service Mission that UDI agrees with the way the Foreign Service Mission has evaluated the “Likelihood of Return” in the visa case. Likewise, when UDI reverses a decision made by the Foreign Service Mission in a case where there is no new information or documentation, this sends a “signal” to the Foreign Service Mission that UDI disagrees with the way the Foreign Service Mission has defined “Likelihood of Return” in the visa case.

⁴⁵ UNE sends their visa decisions to the Foreign Service Missions.

This is how senior officials describe visa practice adjustment.

The questions then arising are, firstly *what* UDI perceives to be UNE's main message in any single case and, secondly, which *system* UDI is using to evaluate consequences for future visa practice. In short, how does UDI evaluate and systematize UNE's visa decisions and make its views known to the rest of the Immigration Authorities?

According to UDI's quality goals and to interviews with officers in this study, UDI only adjusts visa practice if UNE makes a similar decision for, not one, but several similar cases. From interviews with UDI, it appears that UDI has internal discussions regarding UNE's decisions on appeals, including decisions to reverse UDI's decisions.

However, this study has not been able to identify any examples regarding how UDI has adjusted its visa practice following UNE reversals of UDI's decisions. Visa officials interviewed had neither historical nor recent examples to illustrate any particular principle being followed.

In short, it is difficult to trace practice adjustment "signals" from a higher administrative level to a lower one (UNE to UDI, UDI to Foreign Service Missions) through visa decisions in the empirical material.

The problem which also arises here is the fact that a "signal" is not a legal concept.

A visa decision is a concrete evaluation of *one* particular case. However, when UNE makes a practice report regarding visas, UNE makes its opinion regarding broader themes in visa processing public⁴⁶. This can be viewed as a clear "signal" - beyond single decisions - from UNE. UDI does not prepare a similarly concise⁴⁷ analysis regarding visa practice to make its opinion known to Foreign Service Missions.

It is beyond the framework of this report to examine how the principle of sending "signals" through single decisions, or through a broader analysis like UNE's practice report regarding visas, exists in practice. The question of how visa practice adjustment actually takes place remains, therefore, open; it was not possible for the project to gather data on this process.

However, the lack of examples in the empirical material and in the memory of senior officials raises the question of "communication" between appeal and first instance processing and how visa practice adjustments actually occur – if they occur at all.

A conclusion that can be drawn here is that "signals" from a higher administrative level to a lower administrative level via single visa decisions is implicit – too implicit for a researcher or for Immigration Authorities themselves to trace practice adjustments. As a principle for contributing to practice adjustment, it is vague; the respective responsibilities of the sender of the signal and of the receiver of the signal are unclear.

46 <http://une.no/Praksis2/Notater/Visumpraksis-i-medhold-av-utlendingsloven--25-og-utlendingsforskriften--106/>

47 UDI has a general practice memo for visas.

5.8 Results of crosschecking with UDI's database

The project also crosschecked all 245 cases with UDI's database.

The aim of this exercise was to see if it were possible to obtain more information about what happened after the Norwegian authorities granted a visa. We hoped to find answers to questions such as:

- Were the visas actually issued?
- In the cases where the applicant was part of a travelling party – were visas issued to the rest of the party?
- Did the applicant apply for a new visa/residence permit during the visit to Norway?
- Did the applicant leave Norway when the visa expired?

The exercise provided us with some answers, but also raised new questions.

5.8.1 Were the visas actually issued?

When a visa is issued by the Foreign Service Mission, the visa number is registered in UDI's database by the officer working on the case.

For 14 (8%) of the cases⁴⁸ crosschecked (out of 174 applications granted⁴⁹), it was not possible to find such registrations⁵⁰. This could mean that:

- the Foreign Service Missions had not been informed by UDI that a visa had been granted, or
- the Foreign Service Missions had been informed by UDI that a visa had been granted but they had not informed the applicant, or
- the Foreign Service Missions had informed the applicant, but the applicant – for several reasons⁵¹ - was now not interested in travelling to Norway.

The database has no information regarding information given to reference persons.

48 8 from Pakistan, 5 from Iran and 1 from Sri Lanka.

49 The number of applications granted visas in the case material.

50 In two cases, compensation was given to cover lawyer's fees when the decision made by Foreign Service Missions was reversed by UDI. However, it was not possible to find visa numbers for these cases.

51 For example, because of the time it had taken to process the visa application or because other persons whom the applicant wished to travel together with had been denied a visa to Norway.

5.8.2 Were visas issued to the rest of the travelling party?

In some cases, the applicant did not travel to Norway when the rest of the travelling party were denied visas; in other cases, the applicant travelled alone when the rest of the travelling party were denied visas. It was not possible to get a comprehensive picture here because the database does not always register the rest of the travelling party or the results of their applications.

5.8.3 Did the applicant apply for new visas or residence permits?

Most of the applicants who were granted visas did not reapply for new visas or residence permits; of the 254 cases in the project, 233 (92%) did not reapply for new visas etc.

Most of the cases where the applicant filed a new application during their visit to Norway were parents visiting their children in Norway⁵². Two of the applicants applied for long term permits like work/residence permits or family reunification.

Parents have the right to stay in Norway for a period of up to nine months when visiting their children. The Norwegian authorities prefer that they apply for the extended visa right from the start if this is their intention in the first place⁵³. However, some applicants do not do this; they apply for a standard family visitor's visa first and then apply for an extended stay upon their arrival in Norway. Officials interviewed think this is because the processing time for a standard family visitor's visa is shorter than the processing time for an extended stay for parents.

In some of the cases, the applicants had come to Norway, returned to their country of origin and applied again for a family visitor's visa to Norway. In these cases, the Foreign Service Missions had routinely granted them visas – probably because they had demonstrated that they fulfilled "Likelihood of Return" by returning from Norway.

5.8.4 Did the applicant overstay or leave Norway before the visa expired?

It was not possible to get this information from the database. In several cases from Pakistan, the applicant was asked to report back to the Foreign Service Mission after his/her return. At present there is no possibility in the database to register such information when it is available⁵⁴.

⁵² Ten applicants in total (out of 254 cases) applied for a limited residence permit for parents (9 months).

⁵³ This could be the reason why the newer cases from Pakistan included a signed declaration from parents that they would not apply for an extension of their visa upon arrival to Norway.

⁵⁴ The project had access to the DUF system but such information was not accessible. The Foreign Service Missions use the NORVIS system where it is possible to register such data.

CHALLENGES

1. Relatively high number of cases where visas were (finally) granted but where visas were not issued. Unsure of the reason.
2. Number of lawyer- filed appeals is higher among successful than unsuccessful appeals.
3. The Immigration Authorities have no statistics on how many visitors have actually left the realm. One way of knowing where the visitors are is to look at new applications. Our analysis revealed that very few applied for new visas or residence permits.

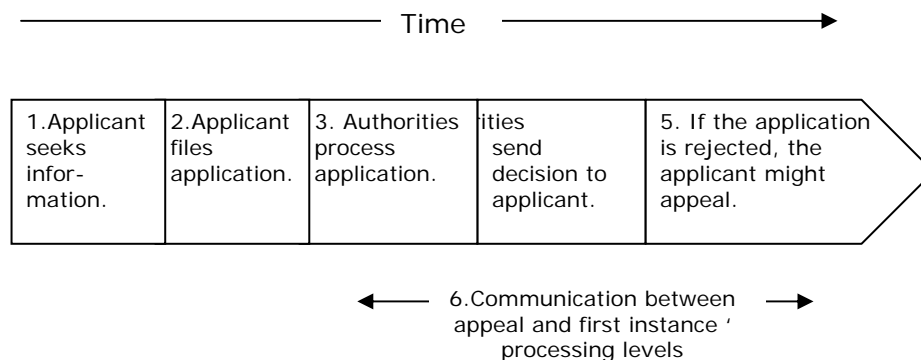
6. Moving forward: challenges and recommendations

UDI is interested in increasing the quality and efficiency of its decision-making regarding family visitors' visas. Unlike many Schengen countries, Norwegian authorities are legally bound to give each rejected visa applicant a *specific reason*. According to the Parliamentary Ombudsman, every case must be evaluated on its own merits.

Though UDI does not mention it, there is another reason why it is important that the Norwegian Immigration Authorities need to focus on family visitors' visas. Most of the reference persons in the case material have lived in Norway for a long time. Some of them are refugees and cannot travel back to their country of origin. Therefore, it is important for Norway to increase quality and efficiency regarding family visitors' visa practice also from an integration perspective. The right to a family life is a fundamental human right and the manner in which the Immigration Authorities facilitate this right - within the limits of the Immigration Act – is therefore important⁵⁵.

6.1 The main phases in the visa application process

Figure 15



1. The applicant or reference person seeks information regarding the visa process.
2. The applicant contacts the Immigration Authorities, normally a Foreign Service Mission, and files an application.
3. The Immigration Authorities process the application. The authorities check to see if there is enough information in the case to grant a visa. If not, the authorities might ask, for example, for more documentation.
4. The Immigration Authorities send a decision to the applicant.
5. If rejected, the applicant might decide to file an appeal. This is processed and the authorities send a decision with the results to the applicant. The decision following appeal processing is final.

⁵⁵ A visa rejection is not a denial of human rights (EMK art 8 nr 1, jf nr. 2). The point made here is that Immigration Authorities have the power and means to facilitate the right to family life.

6. After appeal processing, the decision of the appeal instance (UNE/UDI) might be discussed at the level of first instance processing (UDI/Foreign Service Missions).

6.2 The applicant seeks information and files application

As mentioned earlier, the Parliamentary Ombudsman has encouraged UDI to look more closely at information given to visa applicants.

We have seen that the Immigration Authorities tend to put more weight on some criteria e.g. previous visits to Schengen and visits to children, than others. This means that documentation to substantiate such criteria is very important in a visa application.

Key concepts in information to the public are more user-friendly advice in the application process and better expectation management of visa applicants. Obviously, there is a balance between the two above concepts that UDI needs to strive for.

User-focused advice means helping the applicants to help themselves. In the end, this can also lead to the applicants helping UDI. For example, if applicants were aware of how much weight the Immigration Authorities put on previous visits to Schengen and what documentation was considered to substantiate this point (old visa stickers etc), this can also cut down the time needed to process visas – a bonus to both the applicant and to UDI.

In 35%⁵⁶ of the cases in Category 1 in this project, new information – often not completely new information but documentation to substantiate claims already made in an application – was the reason for UDI's reversal of rejections by Foreign Service Missions. It is obvious that there is an efficiency potential in guiding the applicants better in terms of how they can substantiate their applications regarding, to give some examples, the relationship to the reference person, the purpose of the trip, the likelihood that they will return to their country of origin when the visa expires, and, if applicable, welfare considerations.

In short, transparency regarding the evaluation process and good information to applicants can also increase UDI's efficiency, in addition to improving the interface between the Immigration Authorities and the public.

An objection might be raised here by critics regarding the danger that better information will be used as "recipes" for getting a visa. E.g. in countries where forged documents are widespread, better information might lead to the "production" of better forgeries to substantiate claims in applications. On the other hand, the possible danger of forgeries cannot be a reason for UDI not to improve the transparency of visa processing or information to and interface with the public, especially when such measures can lead to internal efficiencies and quality improvement. Verification of documents is an on-going issue for UDI.

Expectation management means that UDI should not give applicants "false hopes" regarding the outcome of a visa application process or the time needed. In this case, applicants must be made to understand, for example, that though previous visits to Schengen might count towards the granting of a visa, it is by no means a guarantee of one. Applicants need to understand that a comprehensive evaluation is made in all cases and that every case is evaluated on its own merits.

⁵⁶ 15 out of 43 cases in Category 1.

UDI could extrapolate some of the results of this project in creating better information for potential applicants. UDI could say that X% of all applicants who had previously travelled to Schengen were granted visas. Similarly, the results for other criteria examined here could be shared. In this way, UDI could provide more information about the chances of being granted a visa – without promising one in advance. At the same time, this might motivate applicants to substantiate their cases better.

RECOMMENDATION:

1. UDI should study how information to the public – written and oral - regarding the family visitors' visa application process can balance more user-friendly, transparent and respectful information on the one hand, and better expectation management of the applicants on the other.

6.3 The authorities process application

The authorities check to see if there is information in the case to grant a visa. Questions raised are, for example, what is the quality of the attached documents? How credible is the applicant? How likely is it that the applicant will return from Norway before a visa expires? These are discretionary assessments of, often, objective criteria.

For the Immigration Authorities, this is probably the most critical and time-consuming part of the visa application process.

One challenge that has been observed is the lack of written records, especially regarding how decisions to grant visas are made.

A checklist of the most important criteria in visa processing – all of which have been analysed in this report – might be useful for the record, regardless of the decision to grant or to reject an application. In this way, the discretionary assessments made will be more visible and less “in the heads” of the officials concerned.

The results from this project can also be used to create “profiles” of applications, which could lead to more efficient practice. If “profiles” are used for cutting down a tall pile of applications into smaller piles e.g. “applicants aged 60 years or older” combined with “visits to children” and “previous visits to Schengen”, it might be possible to reduce the visa processing time for some applicant profiles. The following recommendation has the largest potential for increased efficiency and quality in family visitors' visa practice.

RECOMMENDATION:

2. UDI should create a checklist of the most important criteria in visa processing and include this in all casefiles for the record, regardless of the visa decision.

3. UDI should create “profiles” of applications to try out in a pilot where applications are sorted out according to selected criteria to gain practical data regarding more efficient practice. The pilot could also monitor changes in the quality of visa practice. The pilot should concentrate on applications from a few selected countries.

6.4 The authorities send decision to applicant

What would a “dream” visa rejection look like from the point of view of the Parliamentary Ombudsman?

It is possible that a combination of a checklist regarding objective criteria and a written summary regarding discretionary assessments could combine the needs of both the Parliamentary Ombudsman, whose principle is that every case must be evaluated on its own merits, not on general experience with particular nationalities and UDI who find themselves challenged by an increasing volume of applications. Obviously, formal requirements such as having a valid passport or other approved travel document or having valid travel insurance are objective criteria which should be included in such a checklist. Country specific circumstances like war, high volume of asylum seekers, large emigration potential, return agreement⁵⁷ etc can also be included in the checklist. These are also objective criteria that are subjected to discretionary assessments.

This project has shown that some criteria are more central in definitions of “strong” likelihood of return and others are more central in definitions of “weak” likelihood of return. Examples of the latter are weak family ties and poor economic circumstances. These are criteria that can potentially be included in the checklist.

There is no “guarantee” of a visa being granted even if an applicant has previously visited Schengen and was planning to visit children in Norway. How the Immigration Authorities reached their conclusion concerning an application can therefore be explained in a written summary after the checklist⁵⁸.

There are probably no “dream” rejection decisions from the viewpoint of an applicant/reference person. However, it is possible to speak of “better” rejection decisions. All applicants who have been rejected want to know *why* they have been rejected and *how* they can be granted a visa later.

Though the Immigration Authorities have no “recipes” to share, obviously information concerning the likelihood or the unlikelihood of various criteria in leading to a visa granted might answer some of the questions which applicants have at this point.

The language used in the rejection decisions should be plain and correct English. There are indications in our research that there is potential for improvement in this area: the language used is often difficult to understand even for someone fluent in English, and there are frequent grammatical mistakes.

In a comparative perspective, the Swedish authorities write all their visa decisions in Swedish, including negative decisions. The Danish authorities, on the other hand, have a short section in English regarding the main conclusion and the right to appeal followed by a more substantial decision in Danish including the legal basis for the decision. The Finnish authorities have standard rejection decisions in the major languages.

A “dream” reply from the view of research would be a new standard decision for both visas granted or rejected. It could potentially include two sections; one with a checklist of

⁵⁷ A return agreement allows Norway to return asylum seekers whose applications for asylum have been rejected. The key argument Norwegian authorities present when negotiating for a return agreement is making countries aware of the fact that having a return agreement in place allows Norway to be less strict in e.g. visitors' visa applications. Return agreements and how they (can) influence visa decisions is an area which UDI might want to study closer.

⁵⁸ It is important not to focus only on the rejection decision/decision granting a visa, but in the whole interface (information on the internet, telephone calls, advice regarding how to apply etc). See Phases 1 and 2.

criteria fulfilled/insufficiently demonstrated, and another section where the Immigration Authorities briefly conclude how they have evaluated the relevant criteria. The legal basis for the visa decision can for example be included as an appendix. From a user perspective, the legal basis for the decision made is usually not of high interest.

The desirability of more user-friendly communication with visa applicants would suggest that Norwegian Immigration Authorities continue to write in English.

Alternatively, the legal section could be written in Norwegian thus increasing both the quality and efficiency of visa processing.

RECOMMENDATION:

4. UDI should draft a new version of the standard decision.

A new standard decision in reply to a visa application (for both visas granted or rejected) with two sections; one with a checklist of criteria fulfilled/insufficiently demonstrated, and another section where the Immigration Authorities briefly conclude how it has evaluated the relevant criteria. The legal basis for the visa decision can for example be included as an appendix.

The language used in a new version of the standard decision should continue to be English. However, the Immigration Authorities might consider using Norwegian for the legal basis if this can improve efficiency and quality and if this becomes a separate section in the appendix.

6.5 If the application is rejected, the applicant might file an appeal.

The project observes that the number of *lawyers represented among successful appeals* is much higher than those represented in unsuccessful appeals. The reason for this situation is uncertain.

RECOMMENDATION:

5. UDI should look more closely into the issue of the role of lawyers and appeals, successful and unsuccessful.

6.6 Communication between appeal and first instance processing levels

While the dialogue between the relevant Ministry and UDI regarding visa practice *changes* is formal and clear, the project observes that it is unclear how Norwegian visa practice is developed or *adjusted* through appeal processing. This applies to a system in UDI to evaluate and systematize visa appeal decisions by UNE, and to a system in the Foreign Service Missions to evaluate and systematize visa appeal decisions by UDI. It was not possible to find any examples of adjustments to visa practice in the case material⁵⁹.

The project also observes that when Foreign Service Missions forward visa applications to UDI to be processed, not as appeals but as the first instance, the documents are not always accompanied by a letter expressing the reasons for being forwarded.

⁵⁹ Examples of *changes* to visa practice, on the other hand, are easy to find because they are a result of instruction from the Ministry of Employment and Inclusion.

RECOMMENDATION:

Communication between the different levels of visa processing via decisions in visa processing should be clearer:

6. Foreign Service Missions should be explicit about why they forward a case to UDI to be processed as first instance.

7. UDI should say why they have evaluated the case as they have done and be explicit, when they reverse a visa decision, if they want the Foreign Service Missions to adjust their visa practice accordingly for similar cases.

8. UDI should consider preparing an analysis of the appeals that have been reversed or upheld on a regular basis; any visa practice adjustments can then be put into a larger picture. This analysis should be sent to the Foreign Service Missions. UNE's visa practice report⁶⁰ is an example of what an (annual) analysis from UDI could look like.

60 Praksisrapport om visum, 2007 (UNE). <http://une.no/Praksis2/Rapporter/Praksisrapporter-2007/Visum/>

6.7 Other issues of concern

6.7.1 Granted visas, but not issued

The project observed that there was a relatively high number of cases where visas were (finally) granted but where *visas were not issued*. The reason for this situation is unclear.

RECOMMENDATION

9. UDI should check to see if there are in fact an unacceptably high number of cases where visas are finally granted but not issued.

10. UDI should consider including reference persons routinely in the information “loop”. This could be one way of ensuring that all applicants are informed about decisions made in their cases⁶¹.

6.7.2 Statistics regarding leaving the realm

The project observed that statistics showing how many who actually left the country is still a matter of guesswork. By double-checking the case material with UDI’s database, we found that 92% did not *reapply for new visas or residence permits* either while they were in Norway or upon their return.

RECOMMENDATION

11. UDI should double-check a much larger case sample to obtain better statistics regarding the issue of how many reapply for new visas or residence permits.

6.7.3 The function of the “guarantee form”

The current “guarantee” system is an extra burden on reference persons and applicants and is in practice still a formal requirement⁶²; applications that lack the guarantee form are rejected. Some officials interviewed saw the guarantee form from the reference person as an alternative to financial assets from the applicant. However, the case material (especially the appeals) seem to suggest that guarantee forms are formally required regardless of the financial situation of the applicant.

There is an additional pedagogical challenge here which the Immigration Authorities should address as the word “guarantee” might give the impression that attaching a “guarantee form” might “guarantee” a visa.

RECOMMENDATION

12. UDI should re-examine the need, form and function of the “guarantee form”.

⁶¹ Today each applicant must consent to their reference persons being informed about their case. The project is uncertain whether all applicants understand that they have a choice here or the consequences of their choice.

⁶² The Norwegian authorities have recently started a project to claim travel expenses for visa overstayers who are sent back to their country of origin.

6.7.4 Information to parents

As long as parents are allowed to apply for the limited residence permit for parents for a period totaling 9 months, they should be made aware of this possibility explicitly.

The project has observed that the Foreign Service Mission in Islamabad has introduced a form whereby many parents waive their right to apply for such an extension. The project is uncertain about the background for this introduction and raises questions about whether this should be part of the Norwegian visa practice.

RECOMMENDATION

13. UDI should include special information about the rights of parents in the event of improving information to the general public regarding family visitors' visas.

14. UDI should look into the background for the introduction of the waiver form, which many parents seem to be asked to sign as a matter of routine by the Foreign Service Mission in Islamabad.

6.7.5 Travelling party

The project observed that there were several cases concerning children travelling with their parents (mainly mothers) who were rejected family visitors' visas because the children's kinship to the reference person in Norway was not considered to be "close family".

RECOMMENDATION

15. UDI should consider if the concept of a travelling party is compatible with the Immigration Act and if all applicants, regardless of their age and dependency on another applicant, can be viewed as independent visitors.

6.7.6 Return agreements

The question of return agreements and how they might influence visa practice was brought up during discussions within the reference group. This is an issue beyond the limits of this project. However, it is a relevant topic which UDI might wish to explore further.

RECOMMENDATION

16. UDI should consider finding out if there is a relationship between return agreements and family visitor's visa practice.

OPPSUMMERING

1. Sivilombudsmannen mottar mange klager på vedtak gjort av utlendingsmyndighetene. Sivilombudsmannen mener at det ikke er tilstrekkelig å vise til generelle erfaringer med enkelte nasjonaliteter når f.eks. avslag på søknad om familiebesøksvisum blir vurdert. Utlendingsmyndighetene må vise at hver søknad behandles individuelt.
2. I praksis viser det seg at skjønnsmessige vurderinger rundt begrepet "returforutsetninger" ofte blir lagt til grunn for avslag.
3. Formålet med denne studien er å undersøke operasjonaliseringen av begrepet "returforutsetninger" i familiebesøksvisum. Det er ønskelig å finne ut, så langt det er mulig, om det er en enhetlig praksis i utlendingsforvaltningen, i hovedsak i UDI og ved utenriksstasjonene. Resultatet er viktig for UDI for beslutningen om man skal utvikle standardiserte kriterier for fastlegging av returforutsetninger. Utlendingsmyndighetene opplever at antall søknader om familiebesøksvisum er økende.
4. Prosjektet vil forsøke å finne de mest sentrale kriteriene som sammen utgjør begrepet "returforutsetninger" i visumpraksis, og hvordan utlendingsmyndighetene vektet disse kriteriene mot hverandre. Kort sagt, hvordan "sterke" og "svake" returforutsetninger defineres og praktiseres.
5. Prosjektets empiriske data er i hovedsak visumvedtak fattet i tilsammen 245 saker fra Pakistan, Iran og Sri Lanka. Noen av disse søknadene ble innvilget visum mens andre ble avslått. (245 visumvedtak ble tatt i førsteinstans. 102 visumvedtak som ble avslått ble klaget i klageinstans). Prosjektets empiriske data inneholder, med andre ord, 245 visumvedtak fattet i førsteinstans og 102 visumvedtak fattet i klageinstans⁶³.
6. Prosjektet er utfordrende fordi:
 - Skjønn er sentralt ved vurderingen av visumsøknader, men prosjektet kan ikke gå "inn i hodene" til saksbehandlerne.
 - Når et visum innvilges, får søkeren et brev om dette. Ingen begrunnelser gis. Med mindre det finnes skriftlige påtegninger i sakspapirene om hvordan saksbehandleren kom frem til beslutningen, er det vanskelig for prosjektet å analysere hvordan utlendingsmyndighetene kom frem til vedtaket, eller definerer begrepet "returforutsetninger".
 - Utenriksstasjonene videregir ofte visumsøknader for førsteinstansbehandling eller klagebehandling i UDI uten merknad om hvorfor de gjør det. Dette gjør det vanskeligere for prosjektet å sette seg inn i grunnlaget for beslutningen om å videregir saken eller, i forlengelse av dette, hvordan utenriksstasjonene tolker og vektlegger begrepet "returforutsetninger".
 - Ifølge UDIs retningslinjer for kvalitet i saksbehandling kan flere nemndvedtak fra UNE som trekker i samme retning, gi uttrykk for

63 86 visumvedtak tatt i UDI og 16 visumvedtak tatt i UNE, til sammen 102 visumvedtak i klageinstans.

nemndas praksis. Denne kan legge føringer for direktoratet; med andre ord, dette kan medføre justering av praksis i UDI. Dette bekreftes i intervjuene. Men når prosjektet ser nærmere på klagesakene, er det vanskelig å finne en systematisk gjennomgang av klagevedtakene, især omgjørrelser. Dette gjør det vanskelig for prosjektet og for myndighetene selv å følge justering av praksis for visumbehandling mht definisjon av "returforutsetninger". Visumpolitiske endringer som følge av instruks fra departementet, derimot, er det lett å følge bakover i tid.

7. For å håndtere slike utfordringer bruker prosjektet en sjekkliste til å registrere hvilke kriterier som gjør seg gjeldende i hver enkelt sak, for eksempel, tidligere besøk til Schengen. I tillegg har prosjektet kryssjekket alle sakene mot UDIs database for å se om det fantes mer relevante data.
8. Bruk av en sjekkliste betyr at det nærmeste denne studien kan komme i å klargjøre begrepet "returforutsetninger", er å observere *generelle* trender mht evaluering av *enkeltkriterier* i visumsøknader. Med andre ord, en sjekkliste vil ikke kunne vise hvordan utlendingsmyndighetene veier flere tildels motstridende og tildels positivt korrelerte faktorer i en helhetsvurdering. Prosjektet brukte derfor også andre kvantitative teknikker for å undersøke forholdene mellom utvalgte kriterier.
9. Mer avanserte statistiske metoder og en mye større empirisk base av visumsøknader – utover prosjektets rammer – er nødvendige hvis UDI ønsker å få tak i en enda dypere forståelse for hvordan utlendingsmyndighetene veier kriterier "for" og "imot" innvilgelse av besøksvisum i en helhetlig saksbehandling. Siden denne studien også er viktig for UDI i en beslutning om å utvikle standardiserte kriterier for fastlegging av returforutsetninger, kan resultater fra den foreslåtte metoden her være bedre egnet ved utviklingen av standardiserte kriterier.
10. Prosjektet sammenlignet visumpraksis hos utenriksstasjonene og UDI. Prosjektet så nærmere på tre sett kriterier:
 - Velferds-kriterier (besøk til barn, besøk til søsken, hendelser som fødsel, dåp, konfirmasjon, bryllup, alvorlig sykdom, begravelser etc.)
 - Alder (60 år eller eldre, 36-59 år, 19-35 år, 18 år eller yngre).
 - Diverse kriterier (tidligere besøk til Schengen; ektefeller blir igjen i hjemlandet; ektefeller og barn blir igjen i hjemlandet)
11. Studien av generelle trender angående enkelte kriterier viser at utlendingsmyndighetene har en generell enhetlig praksis med hensyn til familiebesøksvisum. De enkeltkriterier som er registrert oftest ved innvilgelse av visum er: "tidligere besøk til Schengen", "besøk til barn" og "alder 60 år eller eldre".
12. Men da kvantitative teknikker ble brukt til å undersøke utvalgte kriterier, fant prosjektet ut at følgende kriterier var signifikante i visumpraksis i utestasjonene:
 - Besøk til barn
 - "lykkelige" velferdsbesøk (eks. fødsler, bryllup etc)
 - Alder 60 år eller eldre

- Tidligere besøk til Schengen
- Ektefelle og/eller barn blir igjen i hjemlandet.

Dette er ikke tilfelle for visumsakene behandlet av UDI.

Dette kan bety at det er større sannsynlighet at utestasjonene bruker enkeltkriterier som standardisert, kodifiserte kriterier i behandlingen av familiebesøksvisum. Dette kan også bety at UDI, i større grad enn utestasjonene, bruker skjønnsmessige vurdering i behandlingen av familiebesøksvisum.

13. Prosjektet fant imidlertid flere områder hvor det er mulig å hente gevinster med hensyn til effektivitet og kvalitet i visumbehandlingen. Prosjektet foreslår blant annet:

- Bedre informasjon og veiledning – skriftlig og muntlig – og hvordan denne bør bli mer brukervennlig, transparent og oppleves som respektfull på den ene siden, og hvordan man håndterer forventninger fra publikum bedre, på den andre.
- En sjekklister av de viktigste kriterier i en helhetlig visumvurdering som vedlegges alle sakene, uansett utfallet av vedtaket, for å øke sporbarheten.
- Profiler av søkere/søknader med utvalgte kriterier som kan brukes i et pilotprosjekt hvor visumsøknader kan deles i mindre bunker gjennom bruk av standardiserte kriterier. Dette er antakelig det ene enkelttiltak med størst potensial for økt effektivitet og kvalitet i visumbehandling. Pilotprosjektet bør begrenses til visumsøknader fra noen land. Pilotprosjektet kan også vurdere behovet for å kjøre mer avanserte statistiske metoder med en større empirisk base av visumsøknader.
- Mer eksplisitt kommunikasjon mellom de ulike administrative nivåer i utlendingsforvaltningen. Dette inkluderer tiltak som en årlig analyse av klagebehandlingen i UDI, både omgjørelser og opprettholdelser. Eventuelt forslag til justering av praksis for visumbehandling kan da også settes inn i et større bilde. Analysen bør sendes til utenriksstasjonene.
- Ny vedtaksmal for behandling av visumsøknadene (både innvilgelser og avslag). Økt brukervennlighet kan tilsi at vedtaket deles i to deler; en med en sjekklister av kriterier oppfylt/utilstrekkelig oppfylt, og en annen hvor utlendingsmyndighetene oppsummerer hva en etter en helhetlig vurdering har lagt vekt på i vedtaket. Lovhjemlene som gjør beslutningen legitim kan komme bak i et vedlegg.
- Språket som brukes i ny vedtaksmal bør være engelsk. Men utlendingsmyndighetene bør vurdere om den juridiske bakgrunnen kan skrives på norsk hvis dette kan øke effektivitet og kvalitet i visumbehandlingen.

14. Visumvedtak er et resultat av parallelle skjønnsvurderinger av, på den ene siden, returforutsetninger og, på den andre siden, velferdshensyn. Det er ikke mulig å skille de to parallelle vurderinger. Det er derfor ikke mulig å være mer spesifikk med hensyn til "sterke" eller "svake" definisjoner av returforutsetninger. Men dette prosjektet har gjort seg noen observasjoner

av hvilke kriterier som ser ut til å påvirke visumvedtak og hvilke kombinasjoner av kriterier som oftest er til stede i vedtak når visum innvilges.