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Challenges and practices for establishing migrants' identity in the migratory process

French Contact Point for the European Migration Network

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List of Acronyms

- AGDREF : National central database
- B.F.D.: Office of Documentary Fraud
- BLTIFI: Office for the Fight against Illegal Work and Identity Fraud
- CESEDA: Code on Entry and Residence of Foreign Nationals and Right of Asylum
- CNDA: National Court for Right of Asylum
- CNIL: National Commission for Information Technology and Civil Liberties
- DCPAF: Central Directorate of the Border Police
- DGEF: General Directorate for Foreign Nationals in France
- DIMM: Directorate for Immigration
- EURODAC: European database
- OFII: French Office for Immigration and Integration
- OFPRA: French Office for the Protection of Refugees and Stateless Persons
- SBNA : National biometric system
- SIEF: Information System for Foreign Nationals in France
- SIS: Schengen Information System
- VIS: Visa Information System
- VISABIO: National visa database

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EMN FOCUSSED STUDY 2017

Challenges and practices for establishing migrants' identity in the migratory process

SECTION 1. THE NATIONAL FRAMEWORK

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

Q1. Is the issue of establishing identity considered an issue/challenge within the framework of the procedure for:

- a) Considering the need for international protection?; **Yes**
- b) Preparing for the forced return of a rejected applicant for international protection to their (presumed) country of origin?; **Yes**

and

c) Verifying applications for the following categories:

- Visitors visa?; **Yes**

Residence permits issued for:

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

If Yes, please briefly outline for any or all the cases above the main issues, challenges and difficulties within your (Member) State (e.g. no identification documents, false documents, multiple identities, applicants from certain third countries)

Considering the need for international protection: Identification is a key step in ascertaining the facts that could justify international protection. Determining identity is, however, a delicate stage in the asylum procedure. Few asylum seekers have credible documents or identity papers. Moreover, they sometimes hide or falsify their identity. Such phenomena actually limit the competent authorities' ability to assess the legitimacy of the asylum application.

In most cases, the applicants have had no time to gather their documents or fail to reveal them for fear of being connected in some way or other with their country of origin. In some cases, they may hide or falsify their identity because they think that having documents (even fake ones) will facilitate the process. Finally, some applicants go by several aliases. Such phenomena actually limit the competent authorities' capacity to assess the legitimacy of the asylum application.

However, the asylum seeker cannot be sanctioned because he/she is not in possession of identity papers. In practice, the Prefecture registers the person under the identity that he or she has claimed. For applications to the French Office for the Protection of Refugees and Stateless Persons (OFPRA), applicants must include in their file a

certificate from the Prefecture and an OFPRA form. As a general rule, the same identity is noted on each of the two documents. The person is thus registered with the name and nationality mentioned on these two documents.

The OFPRA's work is performed on the basis of information which has been provided by the applicant at the Prefecture and which has already been verified. The Prefecture issues a certificate attesting to the person's status as an asylum applicant with a registered identity. The applicant's name and surname are not really called into question. However, depending on the country at issue, the issue of nationality may be of greater or lesser importance. The person's nationality is therefore investigated because if the nationality fails to justify the alleged risk faced in the country concerned, the application is rejected.

Procedure for the (forced) return of rejected asylum seekers: Rejected asylum seekers¹ should theoretically return to their country of origin. However, the inability to establish a person's identity with sufficient certainty may again prove an obstacle when it comes to implementing the **(forced) return procedure**² to the presumed country of origin. Indeed, the authorities in rejected asylum seekers' countries of origin often refuse readmittance on the grounds that their identity has not been firmly established. Moreover, the lack of identity papers makes it impossible to prove their nationality to the supposed country of origin. The problem is therefore the issuance of documents by third countries.

Procedure for legal migration: In the procedure for legal migration in France, the mechanism for establishing the applicants' identity does not vary depending on the type of residence permit or visa requested.

For residence permit applications, France uses one standard applicant identity verification procedure, regardless of the person's grounds for requesting a permit. Moreover, it should be clarified that the verification work undertaken by the administrative authorities amounts more to checking the identity claimed by the person as shown on their papers than to actually establishing the person's identity. To this end, the most useful papers furnished by applicants are passports and official civil registry documents. The administrative authorities are, nonetheless, at times confronted with a few challenges.

Firstly, the administrative authorities often find themselves dealing with a complete lack of probative documents or documents that are fake, falsified or usurped. In such cases, one of the main challenges for the authorities tasked with verifying applicant identity is to check other countries' civil registry records. When there are shortcomings – such as the absence of functioning formal systems or civil registry record security – it often proves difficult to detect fraudulent material. In parallel to this, identity fraud is based on increasingly complex manoeuvres such as the fraudulent recognition of filial relationships in order to obtain a "parent of a French child" residence permit. Efforts to counter these fraudulent practices are often stymied by difficulties cross-checking the applicant's records with the foreign authorities, security issues with these documents, as well as complications in proving identity usurpation.

When it comes to visa applications, the main identification challenges for consulates stem more from the applicants' nationality than from the types of visa requested. Indeed, documentary fraud is very widespread in sub-Saharan Africa, Madagascar, the Caribbean (chiefly in Haiti) and in southern Asia (Pakistan, India and Bangladesh). Many of the civil registry documents furnished in these countries are fake, falsified or usurped. Furthermore, the local civil registry systems are often faulty in these same countries, which makes identity justification difficult, even for *bona fide* applicants.³

For residence permit applications made at the Prefecture, problems concerning the type of document presented in support of the application also arise. French authorities generally regard the passport, when deemed authentic, to be the safest kind of document for verifying an applicant's identity.

Yet the Code on Entry and Residence of Foreign Nationals and Right of Asylum (CESEDA) merely stipulates that foreign nationals are to provide documents attesting to civil status and nationality⁴ in support of their applications. This means that applicants are within their rights presenting any document enabling justification of their civil

¹ A rejected asylum seeker is an asylum seeker whose application for international protection has been rejected.

² It is worth noting that the mechanism in France for implementing the forced return of rejected asylum seekers is the same as that for sending back foreign nationals whose immigration status is irregular. The return procedure described in this report therefore applies to all foreign nationals whose immigration status is irregular (be they rejected asylum seekers or not).

³ Interview with representatives of the Sub-directorate for visas within the Ministry of the Interior, May 2017.

⁴ Article R. 311-2-2 of the CESEDA.

status (such as a birth certificate, for example), even though the Prefectures deem these documents more susceptible to falsification, notably because they do not feature identifying photographs.

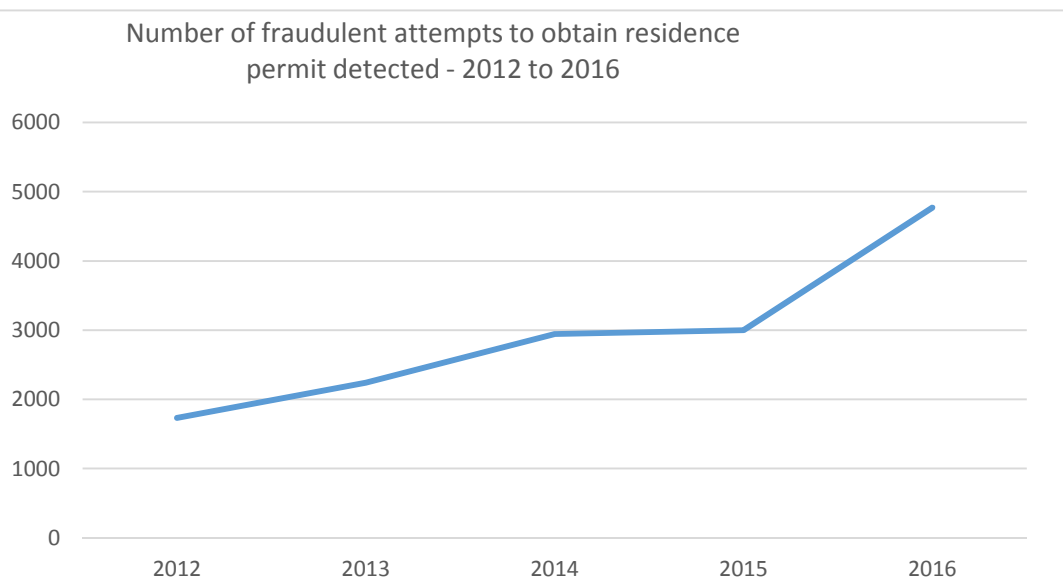
In the face of these challenges, the double verification process in the consulate and the Prefecture helps reduce uncertainty surrounding identity. Indeed, for foreign nationals entering the country legally, the first identity check occurs when the visa – which consular services affix to the passport – is issued. Against this backdrop, consular authorities are quite justified in demanding the presentation of a passport (for example, from visitors or students).

Finally, authorities are at times confronted with cases where applicant cooperation is troublesome. They also encounter problems caused by language barriers or the refusal by some applicants to provide information regarding their identity (for example, a refusal to be fingerprinted at the Prefecture).

Q2a. Please also indicate which factors have contributed to the issues identified in Q1 (e.g. the volume of cases where no credible documentation is available has increased, the measures used to substantiate the applicants' identity are considered ineffective, there is no enough funding or qualified staff etc.).

Procedure for legal migration: The authorities concerned have reported an increase in applications for which the supporting documentation is fraudulent. Following a period of relative stability in 2015, there was again a significant jump in 2016 in the number of detected attempts to obtain unwarranted residence permits.

The graph below shows that 4,773 fraudulent residence permit applications were detected in 2016, which represents an increase (+59%) compared with 2015 (2,999 fraudulent applications) and, more generally, with previous years.



In 2016, as in previous years, **attempts to obtain unwarranted "parent of a French child" residence permits made up the largest category, with 1,555 cases** (a major increase, with 663 cases in 2015 and 617 cases in 2014), which represent 32.6 % of all fraudulent residence permit applications detected.

Furthermore, the main factors leading to difficulties establishing identity are:

- Shortcomings in the civil registry systems in the regions mentioned in Q1, often due to a lack of resources and trained staff. The authorities must deal with ill-kempt registers in some third countries (for example, registers not finalised on 31 December, which opens the door to unlawful additional entries; unbound loose-leaf formats; records damaged due to unsuitable storage facilities, etc.).
- The destruction of records, owing to bad weather or war.

- Long distances to registry offices in some third countries, which hinders the registration of births within the statutory time frame.

- Lack of cooperation with local authorities, who at times contribute to procedural abuses by issuing false certificates, failing to respond to authentication requests, or denying consulates access to their records, for reasons of sovereignty.

Taken as a whole, these factors often lead applicants to request, many years after their actual birth and for the sole purpose of obtaining a visa, replacement birth certificates, which are issued on the basis of statements alone. Some of these applicants are acting in good faith, since their birth was never registered (or they are unable to access their birth certificate), while others resort to replacement birth certificates in order to conceal their true identity.

Q2b. In relation to Q2a above, has your (Member) State experienced a change in the number of received applications for international protection and irregular migrants in recent years? **Yes**

If Yes, was this change an important reason for the above-mentioned challenges and difficulties?

If Yes, please further elaborate on how this factor has contributed to the identified challenges and difficulties.

Procedure for international protection: The figures from 2015 and 2016 show a smaller increase, the number of applications having risen by 7.1%, with 85,726 requests submitted to the OFPRA⁵. In 2016 first-time applications rose by 7.8% while applications from unaccompanied minors dropped by 4.6%.

Procedure for the (forced) return of rejected asylum seekers: What is hampering the return of people whose immigration status is irregular are the numbers and the fact that they have nationalities from countries falling outside France's traditional consular cooperation network, which means that finding new identification mechanisms is vital (especially through identification missions).

Q3. Has your (Member) State faced challenges in considering asylum applications/implementing the return of third-country nationals as a result of their identity not being acknowledged by the (presumed) country of origin? **Yes**

If Yes, please provide the list of countries of (claimed) origin for which establishing identity was considered to be particularly difficult as of 31st December 2016, (i) when considering asylum applications; (ii) for implementing return.

Of the nationalities represented among illegal immigrants in France, as with migratory flows observed in the central Mediterranean, identification problems persist for those from the countries in West Africa, East Africa and South-East Asia, owing as much to a lack of identity papers as to a lack of cooperation from the foreigners and their corresponding consular authorities.

⁵ These figures do not include those persons covered by the Dublin procedure, handled by the Prefectures, as long as they are ineligible to apply for asylum in France.

1.2. STATISTICAL INFORMATION

Q4. See annex 1.

1.3. RELEVANT EU AND NATIONAL LEGISLATION

National legislation

Q5. Has the legislative basis for the procedures used to determine identity within the procedure for international protection and/or return been changed since the 2013 EMN Study on 'Establishing identity'?

If Yes, please describe the reasons for this change (*e.g. whether this is due to a change in the number of asylum applications and irregular migrants in your (Member) State as of 2014*).

Regulatory changes with the introduction of the national biometric system (SBNA: *système biométrique national*), as part of the French central database for foreigners' residence permits (AGDREF: *application de gestion des dossiers des ressortissants étrangers en France*) – which is to be launched by the end of the year. See Q33b.

Q6. Is the process used when verifying the identity of third-country applicants for visitors' visas, work and study permits and family reunification permits, laid down in national legislation? **Yes**

If Yes, briefly specify which legislative documents regulate the process of identity determination in relation to these procedures.

The CESEDA lays down the provisions that govern the identity verification method used as well as the documents required by the administration for residence permit applications. As a general rule, third-country nationals must, in order to enter France, submit a visa application pursuant to Articles L. 211-1 *et seq* of the CESEDA. Once on the French territory, they may apply for a residence permit, in accordance with the following regulations:

- The issue or renewal of a residence permit for a foreign national requires the collection, at the time of application, of identity-related data to be noted on the residence permit, as well as a digital photograph and, except in cases of physical impossibility, a full set of fingerprints, so as to enable registration in the AGDREF database for automated processing.⁶
- Foreign nationals lodging applications for the issue or renewal of residence permits are to furnish documents attesting to their civil status and nationality and, where appropriate, the civil status and nationality of their spouse, children and relatives in the ascending line.⁷
- Foreign nationals applying for a first residence card are also to provide the following in support of their applications: documents attesting to legal entry into France⁸, a visa permitting a length of stay longer than three months (if applicable), a medical certificate (unless exempt under CESEDA), three ID photographs and proof of address.⁹

⁶ Article R. 311-2-1 of the CESEDA.

⁷ Article R. 311-2-2 of the CESEDA.

⁸ Article R. 211-1 of the CESEDA.

⁹ Article R. 313-1 of the CESEDA.

1.4. THE INSTITUTIONAL FRAMEWORK AT THE NATIONAL LEVEL

Q7. Have there been any changes concerning which national authorities have the responsibility for establishing the identity of applicants for international protection and return following the 2013 EMN Study on 'Establishing identity'?

Yes

If Yes, please describe those changes and specify whether they are a consequence of a surge/decrease in asylum applications and irregular immigration in recent years.

Procedure for international protection: Law N° 2015-925 of 29 July 2015 on the reform to the right to asylum¹⁰ has streamlined the registration of asylum applications by using a one-stop-shop approach, clustering together all of the personnel handling registration of first-time asylum seekers (Asylum Service staff in the Prefectures), on the one hand, and those dealing with orientation and support (French Office for Immigration and Integration officers), on the other hand. This one-stop-shop system enables not only the registration of the asylum application and selection of the applicable procedure, but also assessment of the applicant's vulnerability, arrangement of support services and, where appropriate, application for the asylum seeker's allowance and orientation in order to find accommodation.

The OFPRA has continued to increase its staff in response to the upsurge in workload (because there are more asylum applications) and to the political impetus for reduce processing time.

Procedure for the (forced) return of rejected asylum seekers: There have been no changes regarding the national authorities in charge of establishing identity in return procedures.

Q8. Which national authorities have the responsibility for verifying the identity of third-country applicants for visitors' visas and permits for the purposes of study, family reunification and remunerated activities? Please describe which authorities take part in which procedures in your (Member) State and specify the name of the relevant authorities below.

[See also the summary table provided in Annex 2]

There are four different levels of identity verification, involving different national authorities:

- An identity check at the consulate as part of a visa application;
- An identity document check at the border performed by police, with the possibility of being sent to a waiting area;
- An identity check at the Prefecture as part of a residence permit application;
- An identity document check at the French Office for Immigration and Integration (OFII), notably for the validation of a long-stay visa equivalent to a residence permit, as part of the medical examination or the Republican Integration Contract¹¹ as the case may be. With regard to ill third-country nationals (applying for residence permit on the grounds of health), applicants are required to provide the Office's medical service with documents proving identity.¹²

Prefectures are responsible for processing residence permit applications. It is thus at the Prefecture that the "biometric" identity of a residence permit applicant is established, through fingerprints and photographs, as well as the alphanumeric identity, using the person's civil status data.

In order to register third-country nationals applying for a residence permit in the national record of foreigners through the AGDREF computer application and to permit case processing, the Prefectures need to "set" the "civil"

¹⁰ Law N° 2015-925 of 29 July 2015 on the reform to the right to asylum, <https://www.legifrance.gouv.fr/eli/loi/2015/7/29/INTX1412525L/jo> (in French)

¹¹ In force since 1 July 2016.

¹² Article R. 313-23 of the CESEDA.

identity of asylum seekers based on the documents produced and information provided, in accordance with the CESEDA. Very often, this "fixed" identity is based solely on the indications given by the applicants.

In parallel, there are several services belonging to different ministries working every day on identification issues regarding residence permit applicants: the Ministry of the Interior's Directorate for Modernisation and Territorial Action, the Central Directorate of Border Police, the General Directorate of the National Gendarmerie, the Directorate for Road Safety and Traffic, the Directorate for Civil Liberties and Legal Affairs, the Ministry of Justice, the Ministry for Europe and Foreign Affairs and the National Anti-Fraud Delegation.

Q9. For each of the migration procedures considered (applications for international protection, returnees, visa and residence permit applicants), please briefly describe the different steps followed to establish the identity of third-country nationals, including:

- Parts of the process which have been automated;
- Biometric technologies used, if any;
- Identification/identity verification tasks carried out by a decision-maker or specialised officer;
- Centralised or decentralised identification function(s).

[See Annex 3]

Q10. Does your (Member) State have in place specific procedures to establish the identity of third-country nationals within the context of exceptional migratory flows (e.g. under the EU 'Hotspot' approach)? **No**

Q11. Does your (Member) State have a central competence centre or similar entity for issues related to identification/identity verification? **No**

If Yes, is that centre responsible for?

- Issues relating to the determination of identity in respect of the procedure for granting international protection OR in respect of the procedure for executing the return of rejected asylum seekers) OR in respect of third-country applicants for visa and residence permit, OR in respect of several (if so, specify which) or all of these procedures
- Issues relating to the verification of documents in respect of the procedure for some or all of the abovementioned immigration categories.

Procedure for international protection: Competence is decentralised; this procedure falls under the remit of the Prefectures.

Procedure for legal migration: Determining identity in the course of legal migration procedures (residence permit or visa applications) is not centralised. For visa applications, each consulate has the authority to process the application and therefore duly establish the applicant's identity. For residence permit applications, the Prefect with territorial jurisdiction is responsible for establishing the applicant's identity.

With regard to document checking techniques, the officials working at the Prefectures and consulates receive training about document authenticity verification.

If Yes:

- Has such a Centre developed its own database / reference base for:
 - Genuine documents?

- False documents?
- Does such a Centre make use of the database iFADO (iPRADO) for checking false ID documents?
- Does such a Centre make use of the EDISON system?
- Does such a Centre provide:
 - Advisory services?
 - Assistance through the development of identity management methods?
 - Training of frontline officers?
 - Support with difficult cases?
- Does such Centre have a forensic document unit?

If your (Member) State **does not** have a central competence centre, what other institutions/systems are available to provide advisory services/other forms of support to officials responsible for establishing the identity of applicants for international protection or third-country nationals applying for visitors visas and permits for the purposes of study, family reunification and remunerated activities?

Procedure for international protection: Competence is decentralised; this procedure falls under the remit of the Prefectures. If the OFPRA has reason to suspect that documents may not be genuine, it proceeds to assess their authenticity using documentary fraud references. The checks are undertaken by specially trained anti-fraud officers. This measure was introduced in 2013.

Procedure for legal migration: As part of the implementation of its national plan for combatting identity fraud committed by foreign nationals, France has established various mechanisms to assist the Prefectures in determining the identity of residence permit applicants.

As of 2013¹³, the fight against documentary fraud and identity fraud committed by foreign nationals is a task handled by the Directorate for Immigration (DIMM) of the General Directorate for Foreign Nationals in France (DGEF), within the Ministry of the Interior. The DIMM is tasked with drafting regulations concerning documentary fraud involving foreign nationals. The DIMM, and in particular the Office for the Fight against Illegal Work and Identity Fraud (BLTIFI), perform several functions designed to support the authorities in charge of establishing the identity of third-country nationals.

Furthermore, the Office of Documentary Fraud (B.F.D.) within the Central Directorate of the Border Police (DCPAF), is centralising information on documentary fraud carried out on the national territory and abroad. After processing the information, the Office provides the operational services and its international partners with alerts and briefs. The expert service of the Office answers to administrative and judicial requests on the examination of French or foreign administrative documents. On this basis the Office participates as a technical expert in the drafting of French and European secure documents. The central administration steering the network of Prefectures and the Ministry of the Interior's BLTIFI can play an advisory role as required, and offer assistance in managing the more complex cases.

With a view to tackling documentary fraud more effectively, the Prefectures have been endowed, for the last few years, with anti-fraud specialists. The DIMM thus runs a network, along with the Secure Permit Issuance Unit and the Directorate for Modernisation and Territorial Action, of anti-fraud officers, who are present in the Prefectures and whose role is to fight documentary fraud and identity fraud.¹⁴ The DIMM offers support in various ways, such as: creating useful documents for the prefectural services concerned, above all the residence permit issuance

¹³ Decree N° 2013-728, dated 12 August 2013, on the organisation of the central administration of the Ministry of the Interior and the Ministry of Overseas in France.

¹⁴ Under the national action plan for combatting identity fraud committed by foreign nationals, the Interministerial Committee on Immigration Control instituted specialised anti-fraud officers in 2006, and subsequently extended their mandate in 2012. They are currently in charge of preventing and halting documentary fraud committed in connection with all official papers (passports, national ID cards, driving licences and residence permits).

services, (e.g. drafting response sheets and briefing notes providing guidance in case of suspected fraud); jointly arranging training for the services that deal with fraud; and responding to any questions that the Prefectures may have regarding fraud or individual cases.

Q12. Are the officials responsible for determining the identity of the abovementioned immigration categories authorised to access EU databases holding identity information about third-country nationals (e.g. EURODAC, SIS II, VIS, etc.)? **Yes**

If Yes, please specify the authorities given access to each of the various EU databases (e.g. asylum authorities have access to EURODAC and VIS).

If No, are the officials responsible for determining the identity of these applicants authorised to liaise directly with the authorities who do have access to these databases?

If Yes, please specify how such interactions take place.

Procedure for international protection: The prefectural staff dealing with asylum seekers have access to EURODAC¹⁵. Indeed, asylum applicants have their fingerprints taken at the Prefecture so as to ascertain that responsibility for processing the case does not in reality lie with another Member State under the Dublin procedure. To perform the fingerprinting, the Prefectures each have an electronic terminal. The fingerprints are then automatically transmitted to the European database, EURODAC. It should be noted that the fingerprints are not associated with a given "identity" in this procedure. Rather, they are linked only to an anonymous EURODAC number; the aim is simply to trace the asylum applicant's trajectory.

Consulates do not have access to EURODAC.

The OFPRA does not have direct access to EURODAC, nor to the VIS¹⁶ (Visa Information System).

Procedure for the (forced) return of rejected asylum seekers: The national authorities responsible for establishing identity during expulsion procedures have access to EURODAC, the national file of the Schengen Information System (SIS) and the VISABIO¹⁷ national visa application.

Procedure for legal migration: With regard to SIS II: the authorities processing visa applications and issuing residence permits have access to this database. Such authorities thus include consulates, Ministry of the Interior officials and prefectural officers. In the interests of maintaining public order and identifying persons who may have been involved in crime, prefectural officers consult the SIS II when registering a foreign national in the AGDREF national database, as part of the residence permit application process. Consulates, on the other hand, consult this European database before issuing a visa, when uploading applicant data into the VISABIO national database.

As regards the VIS: In France, consulates and the central administration (Sub-directorate for Visas) have access to the VIS in the course of visa application processing. Officers at the Prefecture also have access thereto, when processing visa extensions or residence permit applications, so as to verify that a visa has indeed been duly issued to the applicant applying for a residence permit. The European VIS system is accessed through a VISABIO national application interface.

¹⁵ The European database EURODAC is a system enabling the transmission and comparison of fingerprints of asylum seekers and foreigners whose immigration status is irregular.

¹⁶ Instituted by Council decision 2004/512/CE, 8 June 2004, the VIS is a system for data exchange among EU member countries.

¹⁷ The national system VISABIO is the French segment of the European system VIS. It stores alphanumeric data of the visa applicants' civil status and biometric data including fingerprints of the 10 fingers and photographs.

SECTION 2. METHODS FOR ESTABLISHING IDENTITY OF THIRD COUNTRY NATIONALS

2.1. DEFINITION AND DOCUMENTS REQUIRED FOR ESTABLISHING IDENTITY

Q13. What legal and/or operational definitions (if any) of identity is/are used with regard to (a) applicants for international protection and (b) the return process and (c) applications for short-stay and long-stay visas and permits for the purposes of study, family reunification and remunerated activities?

The notion of identity is not formally defined in French law regarding foreign nationals. The notion can, however, at least be defined by the coexistence of two elements: a natural person (characterised by a unique set of biometric data) and the person's status (to which legal effects are bound by law, constituting the legal personality of a natural person).

This is why the CESEDA does not expressly focus on the notion of identity, with the exception of rare mentions, as in, for example, its Article R. 317-1, sub-paragraph 1, concerning identity papers and travel documents.

An **asylum application** must include the applicant's civil status data, photograph and signature. In particular, the civil status information required by the authorities includes the following elements: name, surname, date of birth, nationality, filiation and family composition.

The CESEDA sets forth a **residence permit applicant's** obligation to furnish documents attesting to civil status and nationality¹⁸ for both first-time applications and renewals. This provision was introduced by the law dated 7 March 2016, which added more weight to the requirement for civil status justification.¹⁹

It is thus incumbent on the foreign national to demonstrate the claimed civil status via official registry certificates or other sufficiently probative documents featuring the information normally found in civil registry entries.²⁰

As part of the on-going effort to combat identity fraud, the preferred supporting documents are civil registry certificates, passports and national ID cards. From an operational perspective, consulates hold that identity papers furnished in support of a visa application must include elements relating to civil status (name, surname, date and place of birth) as well as a photograph of the bearer.

Q14. What types of documents and other information do the authorities in your (Member) State accept as (contributing to) establishing the identity for the abovementioned immigration categories? For example:

- Official travel documents: Passports, ID cards;
- Other documents: birth certificates, driving licences, divorce certificates, marriage licences, qualification certificates, family record books, etc.;

Please indicate if your (Member) State takes informal (residence) documents into consideration in the identification process, such as UNHCR registration documents. **Yes**

¹⁸ Article R. 311-2-2 of the CESEDA.

¹⁹ Formerly, Article R. 311-1 of the CESEDA stipulated a less specific obligation regarding relevant documents provided by foreign nationals in support of residence permit applications.

²⁰ Administrative Court of Appeal of Lyon, 30 June 2010, N° 10LY00753.

Table 1: Documents accepted as (contributing to) establishing identity

Type of document	(a) applicants for international protection	(b) for the return process	(c) third-country applicants for visitors visas and permits for the purposes of study, family reunification and remunerated activities
	Yes/No If 'yes' please specify which document(s)	Yes/No If 'yes' please specify which document(s)	Yes/No If 'yes' please specify which document(s)
Official travel documents: Passports, ID cards	Yes	Yes	Yes Passports, ID cards
Other documents: birth certificates, driving licence, divorce certificates, marriage licences, qualification certificates, family record books, etc.	The OFPRA does not accept any other documents. The one-stop-shop services at the Prefectures (cf. Q7) also accept birth certificates, marriage licences and driving licences; some Prefectures also accept the other documents mentioned.	<i>Prima facie</i> evidence unless otherwise specified in agreements or protocols with the country of origin ²¹	Yes Birth certificates, marriage licences, family record books
Informal (residence) documents, such as UNHCR registration documents	No	<i>Prima facie</i> evidence unless covered by an exemption	Yes UNHCR documents are accepted by consular services so as to assist in establishing identity during visa applications.

Q15a. To the extent possible, please indicate whether copies are accepted by the relevant authority(ies) and which types of documents are considered by the national authorities as core or supporting documents.

As a general rule, the authorities refuse copies of documents used as proof of identity. This is because copies are easily falsified. Copies are therefore only deemed suitable as *prima facie* evidence when identifying a third-country national. It is nonetheless possible that consular services, as a last resort, may agree to accept copies so as to establish the identity of a visa applicant.

Applications for international protection: The OFPRA accepts copies if the declarations are clear. If not, the OFPRA notes that the documents provided are mere photocopies. The one-stop-shop services also accept copies. An

²¹ The documentary value differs. Passports and ID cards are deemed more reliable for establishing the identity of a third-country national. The other documents are merely *prima facie* evidence. Exceptionally, for certain countries, other types of document may be considered as evidence of nationality. This depends on the agreements or protocols signed with the country of origin.

asylum application is a declaratory procedure. Any documents that applicants furnish, therefore, are merely complementary in nature. On the basis of these documents the authorities may detect a case of fraud.

Return procedure: Copies are generally deemed *prima facie* evidence, except for readmission procedures agreed upon with the presumed third country of origin. However, the French authorities are intensifying efforts in discussions with third countries in order to have a copy of a passport in the VIS recognised as evidence. The national authorities responsible for establishing identity in return procedures are increasingly resorting to copies of passports in the European visa system as proof of nationality. This enables progress in the identification process. Such data are considered relatively reliable given that they indicate that the person appeared legally on the territory of some member State with this information.

Q15b. Which are the major issues faced by your (Member) State concerning determining the authenticity (or genuineness) of documents?

The main problems encountered are documentary fraud (which includes both the provision of false documents and identity usurpation) and shortcomings in the local civil registry system of certain third countries which, coupled with unanswered requests for authentication, encourages fraud.²² Some one-stop-shop services indicate that asylum seekers at times claim a completely different identity to the one that appears in the VISABIO records. Such applicants maintain that they used a borrowed passport to apply for a Schengen visa through the Portuguese consular authorities. Generally, fraud (fake documents, false declarations, multiple applications in the one-stop-shops under different identities) is also the main problem encountered by the one-stop-shop services and consulates.²³

Q15c. Have any of these issues changed compared to those described in your contribution to the 2013 EMN Study on 'Establishing identity'? **No**

If Yes, please indicate the reasons why this has been the case, e.g. *the (Member) State has receiving high numbers of immigrants and asylum seekers in recent years and this has increased the workload of the authorities responsible for verifying documents.*

The issues remain unchanged but have been exacerbated by the increased number of asylum seekers since late 2012.

Q16. In your Member State, are there any national guidelines for the control by the relevant authorities of identity of person and identity documents in the various migration procedures? **Yes**

If Yes, please give reference to the relevant guidelines if possible and the procedure under which framework they apply.

The Ministry of the Interior publishes instruction sheets for use by the services in Prefectures and consulates. These practical sheets are designed as a guide for the services tasked with identification when it comes to verifying the authenticity of civil registry papers from abroad and to detecting forged documents. The instruction sheets also explain what to do in cases of suspected fraud.

In parallel, training courses on the detection of false documentation are organised by the border police or gendarmerie. These courses are aimed not only at newly-recruited Prefecture and sub-Prefecture staff, but also at existing staff, as update training. Border police also provide technical assistance to the services in charge of

²² Interview with representatives of the Sub-directorate for visas within the Ministry of the Interior, May 2017.

²³ Questionnaire completed by Prefectures of Moselle and Rhône.

identification. By way of example, the border police representatives visit the Rhône Prefecture once per week to address issues relating to documentary fraud.

In cases where fraud is detected, the prefectural services apply Article 40 of the Code of Criminal Procedure, whereby any public officers who, in the performance of their duties, gain knowledge of a felony or misdemeanour are obliged to notify forthwith the district prosecutor and to submit any relevant information, official reports or documents.

Finally, Prefectures can use the Wanted Persons File in order to identify any individuals currently being sought and they receive alerts concerning individuals or networks of fake documents.

With regard to asylum applications, the Prefectures are in constant contact with the Police and Customs Cooperation Centres (PCCC) in Germany, Italy, Belgium, Luxembourg, Switzerland and Spain, so as to obtain information on asylum seekers who claim to have come from those member States.

Q17. In which situations, and by which authorities, are forged documents most commonly detected in connection with applications for visas and residence permits (*e.g. in border control, by immigration authorities or other state agencies*)?

Most forged documents are detected in the Prefectures and consulates when processing visa and residence permit applications, notably by officers specially trained in documentary fraud detection, and by border police when external borders are crossed.

The main forgeries from abroad include fake foreign driving licences and falsified foreign civil registry documents, in addition to passports and visas. These documents are revealed as fakes largely thanks to the use of the VISABIO application at the Prefecture, enabling the immediate detection of false Schengen visas and long-stay visas issued in France and making the usurpation of identity more difficult.

In parallel, the national application AGDREF contains a 'phoneticisation module' enabling prefectural officers to bring up several identities that all share certain elements (letters, similar place or date of birth, etc.). This makes it possible to recognise cases where a single person is claiming more than one identity, by making slight changes to elements in two declarations. This tool has been proven most effective in combatting the kind of fraud where persons present themselves under two identities.

Q18. Are there any exemptions to the obligation to present an official travel document for third-country applicants for visas and residence permits? **Yes**

If Yes, for which groups and/or major nationalities are there exemptions, and are these exemptions stated in national legislation and/or guidelines?

With visa applications, the presentation of an official travel document is obligatory under Article L. 211-1 of the CESEDA. However, if the applicant fails to provide an official travel document, the consular services may, after consultation with the central administration, issue the person with a "consular pass" for foreign nationals.

For residence permit applications, exemptions to the mandatory presentation of an official travel document are provided for under Article R. 313-2 of the CESEDA. Pursuant to this Article, the obligation to furnish a valid travel document, justifying legal entry into France, is waived for:

- Applicants seeking a temporary residence permit under the categories "visitor", "student", "research", "artistic and cultural profession", "professional activity" who hold a long-term EU resident's card;

- Applicants seeking a temporary residence permit for reasons connected with family and private life, who are aged at least 18 years and having resided in France since the age of thirteen, aged 18 years and in the care of the youth welfare office, parents of a French child, born in France, persons with pensions, stateless persons, spouses and children of stateless persons or ill third-country nationals;

- Spouses and children of holders of long-term EU resident cards, spouses and children of persons under subsidiary protection as well as foreign nationals permitted to stay on an exceptional basis and those who have been victims of human trafficking.

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

Q19a. In your (Member) State, do national authorities make use (or plan to make use) of the methods identified below to establish the identity of third-country nationals subject to asylum/return procedures?

Please indicate, per method used, who executes the method (i.e. all-round decision makers, in-house specialists or external parties). Please also indicate whether the method is **obligatory** (i.e. enshrined in law), whether it is part of **standard practice** (i.e. used in most cases but not enshrined in law) or whether it is **optional** (i.e. not enshrined in law and used in some cases only).

Table 2: Methods **used** for establishing identity in the asylum/ return procedure (I)

Method	Applicants for international protection	Return of rejected applicants for international protection
	<p>Yes: obligatory, part of standard practice or optional</p> <p>No</p>	<p>Yes: obligatory, part of standard practice or optional</p> <p>No</p>
<p>Language analysis to determine probable country and/or region of origin</p>	<p>No</p> <p>Language analysis, as it may be employed in other Member States, is not used in France. However, the OFPRA protection officers processing asylum applications may bring their linguistic expertise to bear in determining the identity of the applicant. It is an optional technique used on an ad-hoc basis.</p> <p>It needs to be borne in mind that the interpreter's role – if an interpreter is present at the interview – is not to perform a language analysis. Indeed, beyond their duty to transmit information, interpreters are not to intercede in the asylum application process and therefore have no influence on the outcome.</p> <p>Nor is language analysis performed at the Prefectures' one-stop-shop services when asylum applications are lodged.</p>	<p>Language analysis, which is not obligatory, comes under the remit of consular authorities in the country of origin, during interviews with third-country nationals.</p>

<p>Age assessment to determine probable age</p>	<p>An unaccompanied foreign minor in France has a right of residence. However, he/she does not obtain a residence permit. If there are doubts regarding the stated age of the foreign national, an 'assessment of age and family isolation' is conducted. This assessment starts with a social evaluation. If necessary, additional investigations may be carried out (civil status documents, medical expertise in case of absence of valid identity documents and implausibility of the claimed age).</p> <p>This assessment is, in theory, conducted within five days of arriving at the shelter. If the assessment is positive, the unaccompanied minor will be placed under state guardianship by a judge and the departmental council's youth welfare services will lodge an asylum application.</p> <p>This evaluation is not undertaken by the OFPRA which is only responsible for examining the asylum application.</p> <p>Under the law dating 14 March 2016 on child protection²⁴ this technique could only be used if there was a lack of valid documents and the age claimed appeared unlikely²⁵. This is what was already advocated in the Circular of 31 May 2013.²⁶ The law of 14 March 2016 prohibited the use of examinations of pubertal status.</p>	<p>Yes, persons claiming to be minors and unaccompanied enjoy anti-return protection and are to enter the care of the departmental council's youth welfare services. when the assessment has confirmed the person's status as minor and unaccompanied.</p> <p>The claim that the person is a minor must, however, be backed up, especially in cases where foreign nationals are apprehended for verification of their right of free movement and residence on the French territory.</p> <p>This claim is in itself insufficient to establish a <u>presumption of minority</u> when the opposite presumption is strong.</p>
<p>Interviews to determine probable country and/or region of origin (or other elements of identity, such as faith and ethnicity)²⁷</p>	<p>Yes, obligatory. The one-stop-shop services systematically conduct interviews for asylum applications.</p> <p>The format of the OFPRA interviews is based on Article L. 723-6 of the CESEDA. The decree of 21 September 2015²⁸ provides the relevant implementation guidance.</p>	<p>When possible, a decision to return rejected asylum seekers, at the end of the asylum procedure, will be made, based on information relating to identity provided in the asylum application, unless a residence permit application is lodged.</p> <p>Failing this, if rejected asylum seekers are apprehended and unable to demonstrate their entitlement to stay or move freely on</p>

²⁴ Law N° 2016-297 of 14 March 2016 on child protection, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032205234&categorieLien=id> (in French)

²⁵ Article 388 of the French Civil Code provides that: "Bone x-rays for the purpose of determining age, in the absence of credible identity documents and when the age claimed is implausible, may only be carried out on the orders of the judicial authorities and with the agreement of the person concerned".

²⁶ Circular of 31 May 2013 on the modalities of care for unaccompanied minors: national system for shelter, assessment and orientation, NOR N°: JUSF1314192C, <http://circulaire.legifrance.gouv.fr/index.php?action=afficherCirculaire&hit=1&r=37174> (in French)

²⁷ This would depend on the elements included in the French definition of "identity" used within the procedures covered by this Study. See Section 2.1.

²⁸ Decree N° 2015-1166 of 21 September 2015, implementing Law N° 2015-925 of 29 July 2015 on the reform of the right to asylum, <https://www.legifrance.gouv.fr/eli/decret/2015/9/21/INTV1519182D/jo/texte> (in French)

	<p>The interviews are a compulsory step in the procedure, exempt only in certain cases. Indeed, Article L. 723-6 of the CESEDA provides that the OFPRA is to summon the applicant for an interview except in the following cases:</p> <ul style="list-style-type: none"> - The Office is prepared to take a decision based on elements in its possession; - An interview is impossible on medical grounds. <p>These interviews have become practically systematic in the asylum procedure. The idea is, first of all, to gather information regarding the applicant's civil status. Secondly, the applicant is questioned about all of the various reasons underlying the asylum application.</p>	<p>the French territory as part of a detention procedure for verification of the person's right to stay or circulate in the country (CESEDA, L. 611-1-1), they are to provide, during an interview with judicial police officers, information as to their identity. A record of this hearing is then submitted to the prefectural authorities with a view to securing a decision to remove.</p>
<p>Identity related paper and e-transactions with the authorities (e.g. tax, social benefits)</p>	<p>As with all of these elements, this is part of a whole that may corroborate the applicant's statements.</p> <p>It is nonetheless important to be wary of potential administrative errors concerning the applicant's identity.</p>	No
<p>Identity related paper and e-transactions with the private sector (e.g. bank)</p>	<p>As with all of these elements, this is part of a whole that may corroborate the applicant's statements.</p>	No
<p>Identity related e-transactions in connection with social media</p>	<p>As with all of these elements, this is part of a whole that may corroborate the applicant's statements.</p>	No
<p>Smartphones and other digital devices: May your law enforcement/ immigration authorities confiscate (temporarily or permanently) such devices and access their content in their efforts to establish or verify an identity?</p>	No	No
<p>Other</p>	<p>In addition, the OFPRA regularly conducts fact-finding missions in the countries of origin. These missions afford the Office</p>	

	<p>the opportunity to gather information for subsequent comparison with accounts given by asylum applicants. In particular, they reveal certain societal issues (forced marriages, excision, etc.) and information concerning the political and security situation or civil registry management in some countries. Such observations can later help establish the identity of an asylum seeker, notably by checking aspects connected with the nationality claimed.</p>	
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Table 3: Methods **used** for establishing identity in the asylum/return procedure (II)

Method	Applicants for international protection		Return of rejected applicants for international protection	
	National database	European database	National database	European database
	<i>If Yes: obligatory, part of standard practice or optional</i> <i>No</i>	<i>If Yes: obligatory, part of standard practice or optional</i> <i>No</i>	<i>If Yes: obligatory, part of standard practice or optional</i> <i>No</i>	<i>If Yes: obligatory, part of standard practice or optional</i> <i>No</i>
Fingerprints for comparison with National and European databases	<p>OFPRA: No</p> <p>Prefectures: Yes – VISABIO/EURODAC</p>	<p>Yes</p> <p>Fingerprinting for access to the asylum procedure is a mandatory step, stemming from the “EURODAC” Regulation, directly applicable in France.</p> <p>It should be noted that fingerprinting is not primarily for establishing the asylum seeker’s identity, but rather to determine which member State is responsible for processing the application. Indeed, it is above all a tool for registering asylum applicants in the</p>	<p>As the identity and the route of the rejected asylum seekers are known, comparisons with VISABIO (and so VIS) can be carried out. Provided that personal data protection conditions are satisfied, the identity of a rejected asylum seeker facing a removal order may also be established by transmitting, to the presumed country of origin, the master copy of the fingerprints, in a useable format, and an ID photograph.</p>	<p>Yes: consultation of EURODAC in order to verify if there is a matching of fingerprints.</p>

		EU. It does however permit the establishment of the person's "biometric" identity.		
Photograph for comparison with National and European databases	According to Article R. 723-1 of CESEDA, a photograph is an obligatory step in the asylum application procedure for preparing the file ²⁹ . Since there is no facial recognition system in France, this data may not be used for the purpose of comparison with national or European databases.		VISABIO contains passport photos of registered persons. With time AGDREF will also contain photographs.	The use of photographs for comparison with national and European databases is normal practice. The authorities do not search the person with help of these photographs in the database but the photograph in the European databases (VIS) simply enables to verify manually if the identity is matching. EURODAC, which enables the consultation of fingerprints of rejected asylum seekers, does not contain photographs.
Iris scans for comparison with National databases	Not available	<i>Not available</i>	No	<i>Not available</i>
DNA analysis	No	<i>Not available</i>	No	<i>Not available</i>
Other (please describe e.g. type of co-operation with or contacts in third countries, such as diplomatic missions)	The OFPRA never contacts the authorities in the country of origin over a specific applicant's case. The OFPRA only ever contacts the authorities in cases of statelessness, to verify that the person is not recognised by the		Identification missions undertaken by national experts may be arranged in order to conduct hearings with persons facing removal orders.	

²⁹ An asylum application must include two recent ID photographs.

	country in question.			
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Table 4: Methods national authorities **plan to use** for establishing identity in the asylum/return procedure (I)

Method	Applicants for international protection	Return of rejected applicants for international protection
	<i>If Yes: obligatory, part of standard practice or optional</i> <i>No</i>	<i>If Yes: obligatory, part of standard practice or optional</i> <i>No</i>
Language analysis to determine probable country and/or region of origin?	n/a	No
Age assessment to determine probable age	n/a	n/a
Interviews to determine probable country and or region of origin (or other elements of identity, such as faith and ethnicity)³⁰	n/a	n/a
Identity related paper and e-transactions with the authorities (e.g. tax, social benefits)	n/a	No
Identity related paper and e-transactions with the private sector (e.g. bank)	n/a	No
Identity related e-transactions in connection with social media	n/a	No
Smartphones and other digital devices: May your law enforcement/immigration authorities confiscate (temporarily or permanently) such devices and access their	n/a	No

³⁰ This would depend on the elements included in your national definition of "identity" used within the procedures covered by this Study. See Section 2.1.

content in their efforts to establish or verify an identity?		
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Table 5: Methods national authorities **plan to use** for establishing identity in the asylum/return procedure (II)

	National database	European database	National database	European database
	<i>If Yes: obligatory, part of standard practice or optional</i> No	<i>If Yes: obligatory, part of standard practice or optional</i> No	<i>If Yes: obligatory, part of standard practice or optional</i> No	<i>If Yes: obligatory, part of standard practice or optional</i> No
Fingerprints for comparison with National and European databases	n/a	n/a	n/a	n/a
Photograph for comparison with National and European databases	n/a	n/a	n/a	n/a
Iris scans for comparison with National databases	No	<i>Not available</i>	No	<i>Not available</i>
DNA analysis	No	<i>Not available</i>	No	<i>Not available</i>

Q19b. Is the (biometric) identity information given by an asylum seeker matched against identity information available in VIS?

Yes, for all asylum seekers

- Please specify since when these checks have been carried out: _____
- Do you produce statistics on the number of matching attempts and the results?.
- What proportion of matchings produce a positive 'hit' (approximately): _____

Yes, for some asylum seekers (who?) _____

- Please specify since when these checks have been carried out: _____
- Do you produce statistics on the number of matching attempts and the results?
- What proportion of matchings produce a positive 'hit' (approximately): _____

No, for:

- Technical reasons
- Legal reasons
- Other reasons (please specify)

Q19c. Has your Member State introduced any changes in the method(s) used to establish the identity of applicants in the asylum/return procedure since 2013? **Yes**

If Yes, please outline briefly the rationale behind any changes, explaining e.g. why new methods have been introduced, whether there is a different hierarchy or order in the methods used. If possible, please mention also any new research conducted providing evidence of the reliability of the method(s) used.

Procedure for international protection: For the OFPRA there have been no changes in the methods used. There has, however, been an escalation in the fight against documentary fraud and declarations concerning status as minors. Moreover, after several years of experimentation, the use of VISABIO has been instituted since May 2015. Furthermore, a new computer system called SBNA will be set up by the end of 2017. It will enable to store biometric data of the applicants of permits (residence and travel) and it will have security features to protect against fraud (see question 33b).

Procedure for the (forced) return of rejected asylum seekers: France has sought to enhance the formalisation of minority assessments. There have been some changes made to the provisions covering age assessment, with Law N° 2016-297 of 14 March 2016 on child protection³¹ and its implementation decrees. In parallel, the national authorities in charge of establishing identity during return procedures have made use of identification missions, undertaken by national experts – able to confirm or disprove the identity of a third-country national – with certain third countries, on an experimental basis, since 2015.

Q19d. If there has been an increase in the number of applicants for international protection and irregular immigration in your (Member) State in recent years, has this had any effect on the methods used (e.g. certain methods have been prioritised to deal with specific nationalities, the capacity to use certain methods has been under strain due to lack of sufficient staff resources, etc.)?

If Yes, please specify.

Procedure for international protection: No, this is not the case for the OFPRA. With regard to the one-stop-shop services, the procedures have remained identical for all asylum applicants, regardless of country of origin. Asylum seekers holding a valid biometric passport (as is the case for the Western Balkans, for example) are exempted from the requirement to use the VIS terminal.

Procedure for the (forced) return of rejected asylum seekers: Yes, the increased presence of foreigners whose nationality is not easily identifiable has led the French authorities to resort to experimental identification missions for a limited number of countries.

Q20. Has your (Member) State issued any guidelines and/or best practices on the use of different methods? **No**

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

Q21. Does an applicant for an authorisation to stay or residence permit have to present an official travel document?
Yes

Are there exceptions to this rule? If Yes, please specify:

A passport helps confirm the civil status, required for residence permit applications. While it is always useful to have the applicant's foreign passport, it is not always systematically requested. A distinction is thus made between

³¹ Law N° 2016-297 of 14 March 2016 on child protection, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032205234&categorieLien=id> (in French)

cases in which presenting a passport will be obligatory and those in which its presentation will be requested merely as a supporting document attesting to the person's civil status and nationality.³²

Pursuant to Article R. 313-1 of the CESEDA, first-time applicants for residence permits are required to furnish, in support of their application, an official travel document attesting to their legal entry into France.

For residence permit applications, exemptions to the mandatory presentation of an official travel document are provided for under Article R. 313-2 of the CESEDA. Pursuant to this Article, the obligation to furnish a valid travel document justifying legal entry into France is waived for:

- Applicants seeking a temporary residence permit under the categories "visitor", "student", "research", "artistic and cultural profession", "professional activity" who hold a long-tem EU resident's card;
- Applicants seeking a temporary residence permit for reasons connected with family and private life, who are aged at least 18 years and having resided in France since the age of 13, aged 18 years and in the care of the youth welfare office, parents of a French child, born in France, persons with pensions, stateless persons, spouses and children of stateless persons or ill third-country nationals;
- Spouses and children of holders of long-tem EU resident cards, spouses and children of persons under subsidiary protection as well as foreign nationals permitted to stay on an exceptional basis and those who have been victims of human trafficking.

Q22. Do national authorities make use (or plan to make use) of the methods identified below to establish the identity of third-country nationals within the framework of procedures concerning applications for short-stay visas and residence permits for family and study-related reasons or for the purpose of remunerated activities? **Yes**

Please specify by filling in the table below:

Table 6: Methods **used** for establishing identity

Short-stay visas		
Method	National database	European database
Fingerprints for comparison with National and European databases	Yes: obligatory	Yes: obligatory
Photograph for comparison with National and European databases	Yes, but not obligatory. The photo provided by the applicant can be compared with those of previous applications if existing.	Yes, but not obligatory. The photo provided by the applicant can be compared with those of previous applications if existing.
Long-stay visas ³³		
Method	National database	European database
Fingerprints for comparison with	Yes: obligatory	Yes: obligatory

³² Article R. 311-2-2 of the CESEDA.

³³ As concerns applications for residence permits, France has set up one single process for the establishment of the applicant's identity, irrespective of the reason for the application.

National and European databases		
Photograph for comparison with National and European databases	Yes, but not obligatory. The photo provided by the applicant can be compared with those of previous applications if existing.	Yes, but not obligatory. The photo provided by the applicant can be compared with those of previous applications if existing.

Table 7: Methods national authorities **plan to use** for establishing identity

Short-stay visas		
Method	National database	European database
Fingerprints for comparison with National and European databases	n/a	n/a
Photograph for comparison with National and European databases	n/a	n/a
Other		Facial recognition at the borders is planned for the next version of the VIS which should be established in 2020.
Long-stay visas/residence permits for study reasons		
Method	National database	European database
Fingerprints for comparison with National and European databases	n/a	n/a
Photograph for comparison with National and European databases	n/a	n/a
Other		Facial recognition at the borders is planned for the next version of the VIS which should be established in 2020.
Long-stay visas/residence permits for the purposes of remunerated activities		
Method	National database	European database
Fingerprints for comparison with	n/a	n/a

National and European databases		
Photograph for comparison with National and European databases	n/a	n/a
Other		Facial recognition at the borders is planned for the next version of the VIS which should be established in 2020.
Long-stay visas/residence permits for family reasons		
Method	National database	European database
Fingerprints for comparison with National and European databases	n/a	n/a
Photograph for comparison with National and European databases	n/a	n/a
DNA analysis	No	No
Other		Facial recognition at the borders is planned for the next version of the VIS which should be established in 2020.

SECTION 3. DECISION-MAKING PROCESS

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

Q23. On the basis of the information gathered by the methods outlined in Section 2, how is a decision on the establishment of identity made?

- - Are some methods given more weight than others? **Yes**

If Yes, please indicate which methods and why they are considered more reliable, and whether this is laid down in legislation, policy or practice guidelines.

Procedure for international protection: The one-stop-shop services make their decision regarding the appropriate procedure for processing an asylum application on the basis of the applicant's statements, the documents presented, the results of EURODAC and VISABIO fingerprint checks and SIS alerts, as well as, potentially, the Wanted Persons File. Using tools other than the applicant's statement alone clearly renders the process of establishing identity more reliable.³⁴

The OFPRA makes decisions on asylum applications but not on identity. Nationality is, however, obviously of major importance in asylum applications. The statements made by asylum seekers during their interviews with the OFPRA provide the key information, which helps authorities determine whether or not to grant protection. These statements are then compared with any documentation contained in the files and examined with regard to the data available concerning the corresponding countries of origin.

According to Article L. 723-2, II of the CESEDA, the OFPRA may opt, on its own initiative, to handle the asylum seeker's case via accelerated procedure in the following cases:

- the applicant has presented false identity papers or travel documents, given false information or attempted to mislead the authorities by concealing information or documents;
- the applicant has lodged several asylum applications under different identities;
- in support of the application, the applicant has failed to raise issues of any relevance to the stated grounds for the request (reasons that do not qualify as grounds for asylum);
- the applicant's statements are manifestly inconsistent and contradictory, manifestly false or barely plausible and which run counter to verified information regarding the country of origin.

Procedure for the (forced) return of rejected asylum seekers: Regardless of the methods used, the personal identification procedures must fall within a framework of procedures agreed upon with the third countries, and the services depend on the consular authorities of the presumed country of origin, who will need to issue a consular pass with a view to return, and who decide which methods are to be given priority when establishing the identity of a rejected asylum seeker.

Data stemming from fingerprints in the visa file are being increasingly used as a means of identification. They are of no use, however, in cases where entry into European territory was not legal in the first place. Furthermore, the identification methods may differ from country to country depending on the specific readmission agreements and arrangements in place. The occasional organisation of identification missions – while these are no substitute for close consular cooperation – can offer new solutions when it comes to identification.

Procedure for legal migration: The consular and prefectural services take a holistic approach based on the supporting documentation provided by the applicant.

³⁴ Questionnaire completed by the Prefecture of Rhône.

While it is a general rule that all residence permit applicants are to present papers attesting to civil status and nationality³⁵, official civil registry documents, passports or national ID cards should be prioritised, in the context of efforts to stop identity fraud.

The administration basically establishes applicant identity through fingerprinting and documents attesting to the person's identity. To this end, the document deemed most reliable from the administration's perspective is the passport.

SIS alerts and the national Wanted Persons File database are also factored into the decision-making process on establishing identity.

- - Does there need to be consistency between the results obtained from the various methods used? **Yes**

If Yes, please specify:

The consular and prefectural services make a decision with regard to all the various elements in their possession, including the applicant's statement, the papers furnished, and fingerprints and photographs taken. There needs to be consistency among all of these elements for the applicant's identity to be deemed established.

Q24. Is a 'grading' structure or spectrum used to denote the degree of identity determination (e.g. from "undocumented," over "sufficiently substantiated" or "has the benefit of doubt" to "fully documented and verified")?

No

If Yes, please briefly describe it and clarify whether any distinction applies between international protection, return and other migration-related procedures in this respect.

In France, to date, there is no formal classification structure for designating the degree of identity determination.

Q25. Are there any future measures being considered with regard to setting up or further elaborating a 'grading' structure? **No**

If Yes, please briefly describe it and clarify whether any distinction applies between international protection, return and other migration-related procedures in this respect.

No new measures are currently being envisaged for setting up such a classification structure in the future.

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

Application for international protection

Q26a. Does the outcome of the procedure to establish the identity of the applicant for international protection influence a recommendation to 'grant international protection,' 'refuse international protection' or 'defer decision'?

Please describe any changes introduced with respect to what was described in your national contribution to the 2013 EMN study on 'Establishing identity'.

³⁵ Article R. 311-2-2 of the CESEDA.

There can be no doubt that the outcome of the identity establishment process influences decision-making in the procedure for international protection, especially as concerns the nationality of the asylum seeker. The OFPRA does not defer decisions: protection is either granted or refused.

Q26b. If there has been an increase in the number of asylum applicants/irregular migrants in your (Member) State in recent years, what has been the impact of such increase in the decision-making process? For example:

- Has the decision-making process become more difficult for national authorities? **No**
- Have the authorities stopped using certain methods for identity determination? **No**
- Has the quality of the methods used decreased? **No, it has increased**

If the answer to any of the above is Yes, please elaborate (with reference to any reports/studies if available).

The process of decision-making has not become more difficult for the OFPRA. Processing time frames have been shortened over the last few years in order to accommodate the growing number of applications.

Return

Q27a. Does the outcome of identity establishment influence a recommendation to 'defer return'?

Please describe any changes introduced with respect to what was described in your national contribution to the 2013 EMN Study on 'Establishing identity'.

As previously highlighted, the forced return of a rejected asylum seeker cannot be undertaken without recognition from the presumed country of origin that the person in question is indeed a national from that country; this is in most cases conditional on the successful establishment of the person's identity. If the person cannot be identified, the French authorities cannot proceed with removal, but the fact that the measure cannot be carried out is not grounds for its suspension.

Q27b. Are the results of the work to establish identity during the international protection process available to the authorities preparing forced return?

Please describe the supplementary steps (if any) that may be needed with respect to identity establishment for the authorities in the receiving country to be prepared to accept the return.

The services preparing forced returns may search for an asylum application and negative decision handed down by the OFPRA/the National Court for Right of Asylum (CNDA: *Cour Nationale du Droit d'Asile*) via the "TelemOfpra" application; they can then **request a copy of the decision rejecting the application from the OFPRA and/or the CNDA and ascertain whether or not the person in question had submitted identity papers or documents duly enabling identification.**

Moreover, elements contained in the body of the decision rejecting the application could contribute to the person's identification (village of origin, family information, etc.). It is not, however, possible to access to the substance of the asylum application.

Procedure for third-country applicants for visas and residence permits

Q28a. Does the outcome of identity establishment influence a recommendation to "grant residence permit" "refuse residence permit," "defer decision"? **Yes**

In order to lodge an application for a residence permit or visa, an applicant needs to satisfy the criteria set forth in Articles L. 211-1 and R. 311-2-2 of the CESEDA, which stipulate the obligation to furnish an official travel document for a visa and documents attesting to civil status and nationality for a residence permit, respectively. If the conditions laid down in these Articles are not met and, consequently, the person's identity can not be duly established, the file will be considered incomplete. The application's merits will therefore not be addressed.

Q28b. How important is the establishment of identity compared to other factors considered in making an overall decision? For example, if identity cannot be established, does this *de facto* lead to a negative decision? Are other factors such as family ties, health problems or/and other humanitarian reasons, given more weight than identity determination in some cases? **Yes**

If Yes, please specify:

The applicant's identity is a key factor. If the identity cannot be established, the decision regarding the residence permit or visa application cannot be immediately made.

In the case of residence permits, when the prefectural services are confronted with a humanitarian issue or a complex personal situation, the Prefect can decide to grant the applicant a residence permit. By way of example, Prefectures may issue third-country nationals with receipt of residence permit, thereby enabling them to obtain a passport through the authorities in their country of origin, or issue a temporary authorisation to stay. The final decision is always made by the Prefect, who will take into consideration all of the various elements at hand. The Prefect will bear in mind the probative value of the documents presented by applicant, as well the family situation and any health problems.

For visa applications, if the applicant fails to present an official travel document, the consular services may, after consulting the central administration and in light of the elements furnished, issue a consular laissez-passer for foreign nationals.

SECTION 4. DATABASES AND DATA PROCEDURES

4.1. LEGAL FRAMEWORK

Q29a. Do(es) the identity determination/verification authority(ies) in your (Member) State have Memoranda of Understanding (MoUs) and/or other agreements for the sharing of personal data in place with?

- Other agencies/departments. **No**
- Carriers. **No**
- Authorities in one or more other countries. **No**
- International organisations. **No**
- Private entities. **No**
- Others. **Yes**

If Yes, please specify the other agency, carrier, country or organisation/entity, if possible:

The Law of 7 March 2016 on the rights of foreign nationals in France establishes the Prefects' right to greater disclosure related to their residence permit issuance work.³⁶ This measure enables the Prefect and the prefectural services to obtain documents or information from other administrations and from individuals, as required for examining applicants' right to stay in France or verifying the on-going validity of such rights.

Q29b. Please identify any agreements below and if possible share them through attachments. If it is not possible to share the documents, please provide a brief overview of the information they contain.

N/A

4.2. DATA PROCEDURES AND DATABASES

Q30. Which personal data of individuals is collected in national databases within the framework of the various migration procedures, i.e. biographic (e.g. name, nationality, birthplace, ID-documents) and biometric (e.g. fingerprints, photographs, DNA)? Please describe which data is collected for each of the relevant migration procedures and give the name of the relevant databases.

Procedure for international protection: The one-stop-shop services collect biographical information (name, surname, date and place of birth, nationality, filiation) in the AGDREF database and biometric data (fingerprints) in EURODAC and VISABIO.

The OFPRA gathers civil status, fingerprints and photographs in EURODAC. These elements are located in several databases. The OFPRA has its own database called "INEREC", which is not public.

Procedure for the (forced) return of rejected asylum seekers: The AGDREF file, via its SBNA module, will soon include biometric data (digital photographs and full sets of fingerprints) of foreign nationals whose migratory status is irregular and who are subject to removal orders. The only records currently contained are alphanumeric data (civil status, nationality, height, eye colour, references of the identity papers, travel documents and visas issued for entry, family situation and residence), as well as the removal order and its state of progression.

³⁶ Article L. 611-12 of the CESEDA.

Procedure for legal migration: For long-stay visa applications, the applicant's personal data are collected in the national VISABIO database. For short-stay visas, it is the VIS database that is used. Consular posts collect alphanumeric civil status information (given names, surname, gender, date and place of birth, nationality, full name of father and mother, profession, residence) as well as biometric data (digitised images of visa applicants' photographs and fingerprints of all ten fingers).

When residence permit applications are filed at the Prefecture, the applicants' personal data is recorded in the national AGDREF database. The Prefectures gather applicants' alphanumeric data (civil status, nationality, height, eye colour for those with travel documents, references of the identity papers and travel documents in their possession and entry visas issued, family situation, residence, e-mail address, signature of residence permit holders and those with travel documents) and biometric data (digitised images of visa applicants' photographs and full sets of fingerprints).

4.3. USE OF DATABASES IN THE SCREENING PROCESS

Q31. Which identity-related databases are managed by the different national authorities involved in migration processes? (e.g. the national population register is managed by the police; the national entry/exit system is managed by the border guard authority; the EURODAC National Access Point is managed by the asylum authority).

The national **VISABIO** database, containing visa applicants' information, is jointly administered by the Ministry for Europe and Foreign Affairs and the General Directorate for Foreign Nationals in France within the Ministry of the Interior. The **AGDREF** database, which collects information relating to residence permit applicants, is administered by the Ministry of the Interior's General Directorate for Foreign Nationals in France.

The **SIS** is administered by the Central Directorate of the Judicial Police, while the Wanted Persons File is administered by the Central Criminal Documentation Department (SCDC); these two national directorates come under the authority of the National Police Board, within the Ministry of the Interior.

The civil registry is administered by the Ministry of Justice.

Q32a. Which regional, national and international databases, watch lists or reference tools are used for identification purposes, when a third-country national applies for international protection, a visa or residence permit? Please indicate which databases are used for specific procedures through the table below:

Table 8: Databases, watch lists and reference tools used for identity determination in migration-related procedures.

	VIS	SIS	EURODAC	National databases and watch lists
International protection	Yes	Yes	Yes	Yes: AGDREF/Wanted Persons File
Return	Yes, but only through the national application. The authorities are not able to view the measures or visas issued by other Member States	Yes, but only through the national application. The authorities are not able to view the measures or visas issued by other Member States	Yes	Yes: AGDREF (currently alphanumeric data only), Wanted Persons File
Short-stay visas	Yes	Yes	No	Yes: Wanted Persons File
Long stay visas and residence permits for study reasons	Yes	Yes	No	Yes: Wanted Persons File, VISABIO, AGDREF
Long stay visas and residence permits for family reasons	Yes	Yes	No	Yes: Wanted Persons File, VISABIO, AGDREF
Long stay visas and residence permits for the purposes of remunerated activities	Yes	Yes	No	Yes: Wanted Persons File, VISABIO, AGDREF

Q32b. Are there any data elements that the authorities would consider useful, but are not yet collected or stored?
If Yes, please specify. **No**

4.4. RECENT AND PLANNED DEVELOPMENTS

Q33a. Please outline recent major changes in relation to the processing of personal data within the framework of migration-related procedures and databases (national/regional levels), including the following, if applicable:

- Inclusion of new identity elements on individuals in existing systems (i.e. biographic or biometric data)
- New databases, centralisation of databases or inter-connectivity systems.

One of the major developments has been the inclusion of new identity-related elements in the existing computer systems for visa applications (biometric and biographical data), in accordance with Article 9 of (EC) Regulation N° 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation)³⁷.

A further change has been the creation of the SIEF (Information System for Foreign Nationals in France) with the possibility of including digital photos via webcam and the establishment of a system interconnecting SIEF, AGDREF, INEREC (an OFPRA database) and DN@ (DNA: *dispositif national d'accueil* / national reception facilities) which is an OFII software aiming at reception and housing conditions for asylum seekers, and the new computer system SBNA (see Q33b).³⁸

Q33b. Please outline recent/planned pilots in the field of identity management architecture and data sharing.

SBNA: The new computer system SBNA, which should be operational by the end of 2017, will change the existing mechanisms for collecting biometric data. Indeed, with SBNA it will be possible to keep full sets of fingerprints for all foreign nationals that present themselves (including rejected asylum seekers and persons with irregular immigration status who have been apprehended). The SBNA system will furthermore enable biometric checks when residence permits are issued (verification of fingerprints upon residence permit issuance at the Prefecture, to confirm that the person physically collecting the permit is indeed the applicant). It will also be possible to perform "one-to-many" searches by biometrics using the SBNA database. This new system has been tested at the sub-Prefecture of Torcy for residence permit applications in French Guiana, where the Prefecture has been registering asylum seekers' fingerprints in SBNA since November 2016.

In the long term, SBNA is intended as the main reference point for all visas and residence permits (electronic convergence between the long-stay visa database and that relating to residence permits). The aim is also to make SBNA the reference database for all foreign nationals with irregular migratory status.

France-Visas: France-Visas is an upgrade project for the information system covering visas, which is to open a portal offering information and on-line services. This new portal is designed not only for those planning personal and professional visits (short-stay visas), but also for those intending to settle in France (long-stay visas). The initial roll-out, expected as of September 2017, is designed to streamline applicants' formalities, as part of an on-going shift toward paperless visa applications. Ultimately, visa application processing will be performed on the basis of electronic files, potentially remote from the place where the application was lodged.

³⁷ Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation), <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:32008R0767>

³⁸ Questionnaire completed by the Prefecture of Rhône.

Convergence between the visa database (VISABIO) and that of residence permits (AGDREF) is also envisaged. However, no date has yet been set for the launch of this project.

Finally, with regard to consular posts issuing visas, the use of VIS Mail II for consulting Member States is planned as part of the implementation of Article 22 of the EU Visa Code. Similarly, the use of the VIS Mail communication network is envisaged for data exchange among Member States.

SECTION 5. DEBATE AND EVALUATION

Q34. Are the (actual or planned) measures described above currently being debated in your Member State? **No**

If Yes, please describe the key issues under discussion and the actors involved in the debate. Sources of national debate to include may be national media reports, parliamentary debates, and statements of Non-Governmental Organisations/Civil Society Organisations or International Organisations.

Q35. Have (national) data protection authorities or similar entities and/or legal experts assessed any of the measures described above? **Yes**

If Yes, please specify the relevant authorities/experts, describe what conclusions they have drawn and indicate whether (and if so, how) such conclusions have been taken into account when devising new measures or reviewing existing ones.

France's data protection authority (the National Commission for Information Technology and Civil Liberties, or CNIL) has assessed the measures establishing the national databases VISABIO (for visa applications) and AGDREF (for residence permit applications). The resultant decisions from the CNIL are outlined below:

With regard to the AGDREF national database: In its Ruling N° 2011-036 of 10 February 2011, the CNIL recalled that the processing of foreign nationals' biometric data was expressly authorised by the legislator. Such processing needs to be covered by strict personal data protection guarantees. The CNIL recalled that any biometric comparison potentially entails false acceptances and false rejections, and that these need to be taken into consideration when identifying individuals. The CNIL underscored that, given the specificity of fingerprints, it is important to carefully consider the proportionality of resorting to biometric measures with regard to the stated objectives. It also called for: the adoption of failsafe guarantees, so as to prevent any undue access to these biometrics; explicit alternative solutions in case collection of these elements is impossible; and a precise reliability assessment of the identifying elements stored. The CNIL furthermore observed that the legislative provisions did not describe the exact processes to be followed regarding the data capture and storage for biometrics. Finally, the CNIL specified that processing – through an automated, centralised repository – of data such as fingerprints, is only permitted if necessitated by very strong public order or security requirements.

With regard to the VISABIO national database: In its Ruling N° 2012-293 of 13 September 2012, the CNIL recalled that VISABIO processing aims to streamline visa issuance and combat fraud. The CNIL considers that facilitating identification is in alignment with the objectives of processing and that the new purpose designated to VISABIO processing is clearly defined, explicit and legitimate, pursuant to the provisions of the Law of 6 January 1978, as amended. The CNIL nevertheless specified that unless other Member States of the European Union systematically establish a mechanism for recording the entry and exit dates of visa-holders, the treatment of these data seems of little relevance. It emphasised that it is futile to meanwhile record such information while awaiting the establishment of a coherent European system for registering the entries and exits of visa-holders. Finally, the CNIL observed that the persons whose data was to be subject to such processing were given insufficient information relating thereto.

SECTION 6. CONCLUSIONS DRAWN FROM THE NATIONAL CONTRIBUTION

Q36. With regard to the aims of this Focussed Study, what conclusions would you draw from the findings reached in elaborating your National Contribution? What is the relevance of your findings to (national and/or EU level) policy-makers? *Please make any distinction between international protection, the forced return process and other (legal) migration channels.*

The issue of identification is central to migration procedures; it is still dependent on the quality of consular cooperation with the countries of origin. This study confirms its crucial role and brings to the fore France's renewed efforts to improve the identification process.

ANNEX 1. STATISTICAL INFORMATION

Q4. Please provide, to the extent possible, the following statistics (with their source) along with, if necessary, an explanatory note to interpret them if, for example, the statistics provided are partial, had to be estimated (e.g. on the basis of available statistics that differ from the ones requested below, or of first-hand research) or if they reflect any particular trends (e.g. a change in policy, improved methods of establishing identity, a change in the country of origin of applicants for international protection or of rejected asylum seekers, etc.) If statistics are not available, please try to indicate an order of magnitude. Statistics already available through Eurostat have not been requested in order to facilitate the task of filling in the Common Template.

Table 9: Statistical information on international protection and return procedures

	2012	2013	2014	2015	2016	Additional Information (e.g. sources, caveats, reasons for trends, top five nationalities, with numbers for total applicants) If statistics cannot be provided, please indicate the reasons why, <ul style="list-style-type: none"> > The necessary registrations are not made; Yes/No > The registered information cannot easily be extracted for reporting and statistics; Yes/No > The statistics are only produced for internal use, and are not available to the public. Yes/No > Other reasons, please describe:
Number of applicants for international protection for whom identity was not documented at the time when the application for international protection was lodged						Variable not selected
Number of applicants for international protection for whom identity was wholly or partially established during the asylum procedure thereby allowing the relevant authorities to reach a particular decision on the						Variable not selected

				Variable not selected
				Variable not selected
				Variable not selected
				Variable not selected

Total number of (Forced) ³⁹ Returns undertaken of all rejected applicants for international protection						Not available
Total number of (Forced) ⁴⁰ Returns of rejected applicants for international protection whose identity was established at the time of return						Not available
Total number of (Forced) ⁴¹ Returns of rejected applicants for international protection whose return could not be executed due to the authorities of the (presumed) country of origin refusing to recognise their nationals or considering their identity as not sufficiently ⁴² established						Not available

³⁹ While the scope of this Focussed Study (with respect to Returns) includes only the forced return of rejected applicants for international protection, it is acknowledged that distinguishing between forced and voluntary returns in official statistics may not be possible. Where possible, do make this distinction.

⁴⁰ Idem.

⁴¹ Idem.

⁴² For example if the authorities were unable to formally identify the third-country national by nationality, surname, first name and date of birth and support such identification with the documents required by the third country.

Table 10: Statistical information on other migration-related **procedures**

	2012	2013	2014	2015	2016	Additional Information (e.g. sources, caveats, reasons for trends, top five nationalities, with numbers for total applicants) <i>If statistics cannot be provided, please indicate the reasons why,</i> <ul style="list-style-type: none"> > <i>The necessary registrations are not made; Yes/No</i> > <i>The registered information cannot easily be extracted for reporting and statistics; Yes/No</i> > <i>The statistics are only produced for internal use, and are not available to the public. Yes/No</i> > <i>Other reasons, please describe:</i>
Total number of visas applied for in consulates in third countries ⁴³						Data submitted by Eurostat.
Total number of visas refused in consulates in third countries ⁴⁴						Data submitted by Eurostat.
Total number of visas refused in consulates in third countries due to the applicant having presented a travel document which was false, counterfeit or forged						Data not comparable due to the full completion of the deployment of the VIS in the consular posts in February 2016 what has modified the information regarding the grounds of visa refusals.
Total number of residence permits for remunerated activities refused due to the identity of the applicant not being considered sufficiently established						Not available (the only variable available is the one relating to false travel documents).
Total number of residence permits for study purposes refused due to the identity of the applicant not being considered sufficiently established						Not available

⁴³ If your Member State is part of the Schengen area these statistics are collected at EU level and need not be repeated.

⁴⁴ Idem.

Total number of residence permits for family reasons refused due to the identity of the applicant/the family relationship not being considered sufficiently established						Not available
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Table 11: Statistical information on methods used to establish identity

	2012	2013	2014	2015	2016	Additional Information (e.g. sources, caveats, reasons for trends, top five nationalities, with numbers for total applicants) <i>If statistics cannot be provided, please indicate the reasons why,</i> <ul style="list-style-type: none"> > <i>The necessary registrations are not made; Yes/No</i> > <i>The registered information cannot easily be extracted for reporting and statistics; Yes/No</i> > <i>The statistics are only produced for internal use, and are not available to the public. Yes/No</i> > <i>Other reasons, please describe:</i>
Total number of cases in which language analysis was performed to establish the identity of the third-country national						Not available
Total number of cases in which an age assessment was performed to determine whether the third-country national was a minor						The “unaccompanied minors” mission within the Ministry of Justice does not have data regarding the number of assessments conducted by departmental councils.
Total number of cases in which a DNA analysis was used to establish the family relationship in family reunification cases						Not available

Total number of cases in which interviews were used to determine probable country and/or region of origin						Not available
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ANNEX 2. NATIONAL AUTHORITIES/INSTITUTIONS INVOLVED

With reference to **Q8**, please fill the following table by indicating with an "X" the national authorities/institutions primarily involved in identity establishment procedures for each of the procedures considered.

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

	International protection	Return	Short-stay visas	Long stay visas/permits for family reasons	Long stay visas/permits for study reasons	Long stay visas/permits for the purpose of remunerated activities
Consulates/Embassies		X (of third countries)	X	X	X	X
Immigration authorities	X	X		X	X	X
Asylum authorities	X					
Police		X				
Border guard		X				
Security services						
Identification centre						
Other (please add rows to specify)		Homeland security attaché and network of immigration liaison officers in the embassies				

ANNEX 3. PROCEDURAL STEPS TAKEN TO ESTABLISH IDENTITY

With reference to **Q9**, please provide a brief explanation of how the identity establishment procedure is organised. For each of the procedures considered, please fill the table below with general information on the different identification steps, including:

- Parts of the process which have been automated;⁴⁵
- Biometric technologies used, if any;
- Identification/identity verification tasks carried out by decision maker or specialised officer;
- Centralised or decentralised identification function(s).

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

Migration procedure	Steps in the procedure to establish identity
International protection	<p>Article L. 741-1 of the CESEDA requires that when an asylum application is lodged, it must be registered within three working days with an initial orientation structure (known as a Reception Platform for Asylum Seekers),⁴⁶ which registers the administrative information and makes an appointment with the one-stop-shop services in the appropriate district. The one-stop-shop staff include representatives of OFII and the Prefecture. These services will register the asylum application and take fingerprints in order to check for matches in EURODAC. The Prefecture is to provide the applicant with a brochure explaining why fingerprints are taken (“I have asked for asylum in the EU – which country will handle my claim?”). The Prefecture then asks the applicant questions about his or her itinerary, examines the passport and other documents to see whether the asylum seeker has come via another EU country. The authorities can only identify applicants on the basis of their claims and the documentation that they present. If the Prefecture finds no trace of passage through another Member State, the asylum seeker will be granted a certificate confirming the asylum application, which is valid for one month. Within this one-month period, the applicant has 21 days to send or submit to the OFPRA the asylum application.</p> <p>The OFPRA works on the basis of the applicant’s statements at the Prefecture, which have already been verified. The Prefecture’s asylum claim certification then already bears a written identity. The applicant’s name and surname are not called into question. Depending on the country, however, the issue of nationality may be of greater or lesser significance. Some investigation is thus required in order to fully substantiate the asserted nationality, because if the person’s nationality fails to justify the risk claimed in the country at issue, the application will be rejected. If the OFPRA has doubts regarding the documents provided, it verifies their authenticity through documentary fraud references. These checks are carried out by specially-trained anti-fraud officers. This measure was established in 2013.</p>

⁴⁵ Automation is defined as ‘The use or introduction of automatic equipment in a manufacturing or other process or facility’ (see Oxford Dictionary <https://en.oxforddictionaries.com/definition/automation>, last accessed on 24th March 2017). For example, the use of a document reader would be understood as partially automating the task of performing document checks.

⁴⁶ A Reception Platform for Asylum Seekers is a one-stop resource centre offering information and legal, administrative and social support that persons seeking protection require in order to benefit from orientation and counselling, and to access the social security system. Its mission is to meet the needs of newly-arrived asylum seekers by offering useful services, either directly – through specialised in-house professionals – or by pointing them toward the appropriate competent entities.

	<p>One task that is unique to the OFPRA is the establishment of civil status for persons admitted, on the basis of the information collected once the request has been granted. So the OFPRA, in the case of an admission, issues administrative certificates to stand as equivalents to civil registry documents (family record book, marriage licence, birth certificate, etc.). The aim is to reconstruct the person's civil status as accurately as is possible.</p> <p>Prior to setting the successful applicant's civil status, the OFPRA sends the applicant a family information form, to be filled in with the relevant personal and family information. The OFPRA then compares this information with the data previously gathered during the protection request procedure. In the event of any problems, the protection services can re-contact the person to try to clarify issues regarding the information supplied.</p> <p>Should the admitted applicant's civil status be incorrectly set by the OFPRA, the applicant needs to obtain rectification through the district court.</p> <p>Admitted applicants can also address the authorities in their country of origin for the reconstruction of their civil status, as long as the risks faced in that country are not directly from the State (as may be the case when the threat stems, rather, from non-State entities in the country, such as in vendettas, for example).</p>
<p>Forced return</p>	<p>As part of the implementation process for removal orders, the police or prefectural services must request a consular laissez-passer whenever a foreign national subject to a removal order has no valid travel document. Prior to approaching the consular authorities of the country to which the person might be legally returned, it is best to have already gathered as many elements of identification as possible.</p> <p>To this end, the services in question may take several different routes in the attempt to send as complete an identification file as possible to the consular authority:</p> <ol style="list-style-type: none"> 1. Searching for alternative identities already used by the foreign national for applications lodged at the national and European level; 2. Checking the person's visits and telephone communications while in detention (prison) and recipients of any money orders sent, with due respect for legislative and regulatory provisions, with a view to identifying family members and/or obtaining their telephone numbers; 3. Utilising the person's statements as recorded in police reports; 4. Searching for the existence of lapsed asylum applications; 5. Searching, where applicable, for the identity of parents and siblings; 6. Searching for visa applications or issuances in VISABIO or InfoVISA; 7. Using internet searches when they indicate a connection to the country of origin; 8. Contacting the homeland security attaché to request that enquiries be made <i>in situ</i> and that the attaché perform a search of files that he or she can access, either directly or indirectly through the country of origin's central authorities; 9. Resorting to an information form (to be completed by the person held).
<p>Procedure for legal migration⁴⁷</p>	<p>A third-country national wishing to apply for a residence permit must first obtain a visa through the competent consulate before entering France. The person's</p>

⁴⁷ In France, in legal migration procedures, the mechanisms for establishing applicant identity do not vary depending on the type of residence permit or visa requested.

identity will thus firstly be verified by the consulate. The consulate does this by gathering the visa applicant's alphanumeric civil status data after examination of the person's civil registry documents, identity papers and travel documents. Consular officers and, in particular, anti-fraud officers, examine passports under ultra-violet lights so as to detect any that are false. Next, the consulate collects data relating to the applicant's visa sticker and biometrics (photograph and full set of fingerprints). Finally, the consulate issues the applicant's visa but does not transmit the identity information to the Prefectures.

Once third-country nationals arrive on the French territory, they are to present themselves to the Prefecture with territorial jurisdiction in order to apply for a residence permit. At this stage, the Prefecture may consult the national "VISABIO" database, which contains records of all long-stay visas issued, and the European VIS database, concerning Schengen visas, so as to check that the applicant has indeed been issued a visa. In some Prefectures, this visa issue confirmation is performed by cross-checking the biometrics – fingerprints – of the person appearing at the counter with the ones stored in the national VISABIO database.

At the time of the application, the Prefecture registers the applicant's civil status (alphanumeric information) in the national application, "AGDREF". With each application, a search on the Wanted Persons File and the SIS is carried out automatically. At the end of this step, the person is given a unique identifying number for foreigners (an AGDREF number), which remains unchanged throughout the entire procedure.

If the applicant's request for a residence permit is successful, the Prefecture then takes a full set of fingerprints and a digital photograph. Currently, the chip on the residence permits issued contains two fingerprints and the bearer's photograph. This arrangement was established in order to comply with Council Regulation (EC) No 380/2008 of 18 April 2008 amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals. The current system thus does not provide for fingerprinting of applicants who have not obtained a residence permit. In such cases, only the alphanumeric information is stored in the AGDREF application.

The new SBNA computer system – which should be in place by the end of 2017 – modifies the existing arrangement regarding residence permit applications. Indeed, with SBNA it will be possible to store full sets of fingerprints of all foreign nationals presenting themselves to the administration (including rejected asylum seekers and persons apprehended with irregular migratory status). The SBNA system will enable biometric checks when issuing residence permits (verification of fingerprints when issuing the permit at the Prefecture to confirm that the individual collecting it in person is indeed the applicant). The SBNA database will also make it possible to perform "one-to-many" searches by biometric data. This new system has been tested for residence permit applications at the Torcy sub-Prefecture and in French Guiana where asylum seekers' fingerprints have been registered in the SBNA since November 2016.

The long-term goal is for SBNA to serve as the reference point for all visas and residence permits (electronic convergence between the long-stay visa database and the residence permit database). This does, however, raise certain technical and financial issues.

ANNEX 4. LIST OF INTERVIEWS CARRIED OUT OR PEOPLE WHO HAVE CONTRIBUTED TO THE STUDY

The interviews and questionnaires were carried out between May and December 2017 by Christelle Caporali-Petit (coordinator for the FR EMN NCP), Tamara Buschek-Chauvel, Anne-Cécile Jarasse (policy officers for the FR EMN NCP) and Tommy Calmels (intern for the FR EMN NCP).

List of interviews carried out:

Ministry of the Interior, General Directorate for Foreign Nationals in France

Sub-directorate for residence and employment - SDST / Directorate for Immigration

- Christophe MAROT, Subdirector

Sub-directorate for the fight against illegal immigration – SDLII/ Directorate for Immigration

- Vincent NATUREL, Head of the Office of Prospective and Support in charge of readmission agreements
- Lucie BOULANGER, Deputy Head of the Office of Prospective and Support in charge of readmission agreements
- Mady TRAORE, Editor, Office to Combat Illegal Employment and Identity Fraud

Sub-directorate for visas - SDV / Directorate for Immigration

- Nathalie BERTHY, Head of Office of Regulations
- Cécile DOUSSET, Editor, Office of Regulations
- Léa SERRERO, Office of Regulations

Department for Statistics, Studies and Documentation - DSED

- Thierry PATRON, Head of the Division for the Valorisation of Administrative Sources

Cabinet of the General Director of Foreign Nationals in France, mission AGDREF

- Philippe PIRAUX, Policy Officer for the General Director, Director of the project SBNA
- Abdénour ABDOUN, Director of Implementation AGDREF

French Office for the Protection of Refugees and Stateless Persons, OFPRA

- Rachel MORIN, Mission of European and International Affairs

List of questionnaires completed

Prefecture of Rhône

- Ludivine HENNARD, Head of Office of asylum and accommodation and of the one-stop shop Lyon

Prefecture of Moselle

- Julien CLASQUIN, Head of Office of return and asylum

Prefecture of Val d'Oise

- Andrée BEILLEAU, Head of Office, DMI – Office of integration and naturalization

ANNEX 5. BIBLIOGRAPHY

1. European Legislation

- Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation), <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:32008R0767>
- Council Regulation (EC) No 380/2008 of 18 April 2008 amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals, <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32008R0380&from=FR>

2. French Legislation

• Laws

- Law N° 2015-925 of 29 July 2015 on the reform to the right to asylum, <https://www.legifrance.gouv.fr/eli/loi/2015/7/29/INTX1412525L/jo>
- Law no. 2016-274 of 7 March 2016 on the rights of foreign nationals in France, Official Journal of 8 March 2016, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032164264&categorieLien=id>
- Law N° 2016-297 of 14 March 2016 on child protection, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032205234&categorieLien=id>

• Codes

- Code on Entry and Residence of Foreign Nationals and Right of Asylum, <http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070158>
- Civil Code, <https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070721>

• Decrees, rulings, circulars

- Circular of 31 May 2013 on the modalities of care for unaccompanied minors: national system for shelter, assessment and orientation, NOR N°: JUSF1314192C, <http://circulaire.legifrance.gouv.fr/index.php?action=afficherCirculaire&hit=1&r=37174>
- Decree N° 2013-728, dated 12 August 2013, on the organisation of the central administration of the Ministry of the Interior and the Ministry of Overseas in France

- Decree N° 2015-1166 of 21 September 2015, implementing Law N° 2015-925 of 29 July 2015 on the reform of the right to asylum,
<https://www.legifrance.gouv.fr/eli/decret/2015/9/21/INTV1519182D/jo/texte>