



Ad-Hoc Query on manipulation of fingertips by asylum seekers

Requested by DE EMN NCP on 19 October 2010

Compilation produced on 13 January 2011

Responses from Austria, Belgium, Bulgaria, Cyprus, Finland, Germany, Ireland, Italy, Latvia, Netherlands, Malta, Slovak Republic, Slovenia, Sweden, United Kingdom (15 in Total)

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.



1. Background Information

The number of Somali asylum applicants in Germany has sharply risen in the past months. In an increasing number of cases it can be ascertained that many of these asylum applicants manipulate their fingertips by abrasion or cauterisation so that the identification work does not produce any exploitable results. There are many reasons to believe that by disguising their identity the asylum applicants try to complicate the process of being transferred according to the Dublin Regulation or – following the recognition by another Member State – to be returned to the corresponding states in accordance with the Geneva Refugee Convention.

Your answers to the following questions are kindly requested by 10 November 2010.

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.







2. Responses¹

		Wider Dissemination? ²	<ol style="list-style-type: none"> 1. Have other Member States also registered an increase in the number of asylum applicants from Somalia or other countries of origin who manipulate their fingertips in order to disguise their identity? 2. Has this behaviour of the asylum seekers an impact on the implementation of the asylum procedure? 3. If yes, which ones? <ol style="list-style-type: none"> a) Is there, in particular, any possibility to respond to the behaviour of the applicants by alterations in the handling of the asylum procedures (e.g. by considering it a secondary application, implementation of an accelerated procedure, termination of the procedure)? b) Have applicants been taken into custody with the objective of being able to correctly take fingerprints? If yes, which outcomes did this produce? 4. Are there any regulations in national law on basis of which the manipulation of fingertips during asylum procedures can be penalized? 5. If any, which ones?
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Belgium	Yes	<ol style="list-style-type: none"> 1. Yes, also in Belgium there is an increase of asylum applicants manipulating their fingertips, mostly by putting glue on their fingertips. Generally it concerns nationals from Somalia, Ethiopia or Eritrea. However the total number of asylum seekers who does this fingertip manipulation is still relatively small. 2. Yes. 3. As a consequence the fingerprints are not reliable and the Dublin II regulations can not be applied. <ol style="list-style-type: none"> a) Yes, The law anticipates that somebody who is preventing the fingerprint check can be send to a detention facility (in stead of an open reception centre). The asylum procedure in a detention facility is automatically an accelerated procedure. b) Yes, see supra. During the detention fingerprints are being taken which often gives better results regarding the fact that it is harder to manipulate the fingertips in a detention centre (no glue). Once fingerprints can be taken, there is quite often a Eurodac hit (frequently Netherlands or Italy). 4. Only detention during the asylum procedure. If Dublin II is not applicable due to the manipulation of the fingertips and so the asylum application has to be treated by Belgium; the fact that the person tried to mislead the Belgian authorities can have negative consequences on his decision by the Commissioner General for Refugees and Stateless Persons who decides on the asylum application. 5. Yes, see above.




¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."



Disclaimer: *The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.*

	Bulgaria	Yes	In Republic of Bulgaria don't have such cases of third-country nationals who manipulate their fingertips to disguise their identity.
	Cyprus	Yes	Cyprus does not have such cases.
	Finland	Yes	<p>1. No. Some cases occur from time to time regarding asylum seekers from Somalia, Russia and from former Soviet Union countries.</p> <p>2. Generally no. Fingerprints may be taken at any stage of the process (prior the decision). Usually there are other indicators upon which Finnish Immigration Service may inquire, whether the person is recognised by another Member State. If the asylum seeker refuses to co-operate/contribute to handling of his or her asylum application, this is taken into account while deciding upon the application. Nevertheless, failure to contribute to one's decision does not solely result as a rejected application.</p> <p>3. N/A</p> <p>4. No.</p> <p>5. N/A</p>
	Germany	Yes	<p>1. For some months a considerable increase in the number of asylum applicants who manipulate their fingertips, in particular from Somalia, has been registered.</p> <p>2. and 3. If an asylum applicant refuses to provide the required information on his or her identity, this can be considered an infringement of his or her obligation to co-operate and contribute to the decision on his or her asylum application. As a result, the procedure can be terminated or the application may be refused as manifestly unfounded. Moreover it will be examined if the lodging of a secondary application is justified in such cases.</p> <p>4. There are no provisions of criminal law regarding the manipulation of fingertips.</p> <p>5. Not applicable.</p>
	Ireland	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Italy	Yes	<p>1. Italy has known of this type of manipulation and has been recording it since mid – 2004 by the Italian Juridical Police. In 2008, one encounter was witnessed; in the Lampedusa Reception Centre a group of asylum seekers (mostly from Somalia and Eritrea) entering from sea, were found with fingerprints severely interfered with.</p> <p>2. The identification process is made complicated and delayed. As a result the asylum procedure is frustrated. Also, this behavior of an AS may go toward the excluding the applicant from Subsidiary Protection according to National Legislative Decree No. 251 of 2007 at Art. 16</p> <p>3. a) The applicant may be held in a centre, thus (s)he will enter into a priority procedure (explained below). b) According to National Legislative Degree No. 25 of 2008 Art 20 (1, b), in order to verify or determine the nationality or identity of an applicant, this applicant will be held in a centre for a period of not more than 35 days. At the expiry of such time, the applicant may leave the centre and (s)he will be issued a temporary permit to remain on the territory valid for 3 months. This permit may be renewed at a positive issuance of a decision of asylum from the competent authority.</p> <p>4./5. In 2008, legal modifications introduced to the Criminal Code and the Criminal Procedure Code. Criminal Code: Legislative Decree No. 125 , Art 1 now imposes the following: <i>Art.1 s. 495 (Fraudulent alteration to prevent identification or verification processes on the quality of personal particularities). – whoever, with the intention of preventing the disclosure of his/her actual identify or the identify of others, alternates parts of his/her body or the body of others in order to frustrate the</i></p>



Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>identification process, will be punished with one to six years of imprisonment. This fact is aggravated if committed by a member of the health profession.</p> <p>Modification to the Criminal Procedure Code relates to Art 2 S. 381, Para. 2: <i>M-quarter fraudulent alteration to prevent identification or verification processes on the quality of personal particularities, provided by Art. 1 S. 495 of the Penal Code</i> [see above]</p>
	Latvia	Yes	<ol style="list-style-type: none"> 1. No, there is no increase in the number of asylum applicants who manipulate their fingertips. In total only in few cases asylum applicants disclaimed their obligation to fingerprint. 2. According to the provisions of Asylum Law an asylum seeker has obligation to co-operate with the State Border Guard so that it could take his or her fingerprints, photograph and identify him or her. It does not make direct impact on asylum procedure, for example, that behaviour does not cause the ground for application of accelerated procedure. 3. -. 4. There are no provisions in national legislation where the manipulation of fingertips during asylum procedures can be penalized. 5. Not applicable.
	Malta	Yes	<ol style="list-style-type: none"> 1. MT has experience with incoming migrants who place various substances on their fingertips in order for the prints not to be readable. Obviously this leads to the consequence that no fingerprints can be taken. Yet, since MT has a detention policy, the migrants' fingerprints will be taken at a later stage when the substance would have eventually worn off. 2. N/A 3. Since MT has a detention policy this question does not apply. 4. N/A 5. N/A
	Netherlands	Yes	<ol style="list-style-type: none"> 1. In the last months of 2008 and the first months of 2009, the Netherlands registered an increase in the number of asylum applicants from Somalia with manipulated fingertips. In a letter to Dutch parliament, dated April 3rd 2009, the former State Secretary wrote that the Alien Police (responsible for taking fingerprints of asylum seekers) established that in about 20% of the Somalian asylum applications it was not possible to take fingerprints. 2. Yes 3. It became very difficult to identify these asylum seekers and to register them into the Eurodac-system. Therefore it became difficult to establish whether Somalian asylum seekers had applied for asylum before (in the Netherlands or in one of the other European countries) and to apply the Dublin-regulation correctly. <p>a) & b) As a response to the increasing number of Somalian asylum seekers manipulating their fingerprints, the State Secretary took the following measures:</p> <ul style="list-style-type: none"> - in the cases where fingerprints could not be taken because of manipulation of the fingerprints, Somalian asylum seekers who had not signed their asylum application were not yet allowed to enter the asylum procedure. A maximum period was established in which it was tried - more than once - to take fingerprints from the asylum seeker before starting the asylum procedure. - in the cases where it wasn't possible to take fingerprints (even when it was tried more than once) and the Aliens Police had established

Disclaimer: *The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.*

			<p>that the asylum seeker himself was responsible for manipulating his fingerprints, this fact was taken into account in the decision on the asylum application. In these cases the fact that the identity of the asylum seeker could not be established (article 31, 2f, Aliens Act) and the fact that the asylum seeker was withholding information and therefore was frustrating a thorough investigation of the asylum application, led to a rejection of the application.</p> <p>The Aliens Police in the Netherlands is considered as an authority in the field of taking fingerprints on the basis of their experience. Their authority in this field is also accepted by Dutch judges who have dealt with appeal-procedures of Somalian asylum seekers whose application was rejected on the grounds mentioned above.</p> <p>- Somalian asylum seekers who kept manipulating their fingerprints were taken into aliens-detention after the intention to reject the asylum application was made known to the asylumseeker. In many of these cases it was possible, after a while, to take good fingerprints (because in detention they did not have any possibilities to manipulate their fingerprints, so their fingerprints recovered after a few weeks) and it became clear that these asylumseekers had manipulated their fingerprints to hide the fact that they were registered in Eurodac.</p> <p>All these measures lead to a fast decrease of numbers of Somalian asylum seekers with manipulated fingerprints.</p> <p>These measures also apply in cases where asylum seekers with another nationality manipulate their fingerprints. In the case of the Somalian asylum seekers, this was done within the framework of a project because of the large numbers of manipulated fingerprints amongst this particular group. Asylum seekers from other nationalities with manipulated fingerprints were also dealt with within this project.</p> <p>4. No.</p>
	Slovak Republic	Yes	The Slovak Republic did not register any case of asylum applicant from Somalia who would manipulate his/her fingerprints. Cases of fingerprints manipulation in general are very rare. The Slovak legislation does not contain any provisions on penalisations in such cases.
	Slovenia	Yes	<p>1. No. In 2010 nobody from Somalia lodged an application for international protection (IP) in Slovenia. Once in a while there is a case of unsuccessful dactiloscropy, owing to the damaging fingertips. In the recent time, such cases had been the older woman from Croatia and the man from Bosnia, both stating a hard manual work had been the cause of that. The woman's fingerprints were successfully taken after a week accommodation in the Asylum Home and those of the man as late as in the fifth attempt (1-3 weeks break between them). In the last few years there were no indications of deliberately damaged fingertips, but some occurred more than 5 years ago.</p> <p>2. Yes. The applicant's movement can be restricted and his/her application for IP rejected in the accelerated procedure.</p> <p>3. a)The International Protection Act – <u>IPA</u> (Official Gazette of the Republic of Slovenia, No. 111/2007, 111/2008 - judicial decision of the Constitutional Court of the Republic of Slovenia, and 58/2009) provides for rejection of the IP application in the accelerated procedure as manifestly unfounded if, inter alia, "the applicant refuses the dactiloscropy and does not want his photography to be taken" (Article 55, indent 7). IPA also provides, that "The applicant's movement can be temporarily restricted if this is necessary for the following reasons: - due to a suspect of deception or abuse of the procedure, particularly for the reasons from the ... seventh ... sub-paragraph of Article 55 of this Act." (Article 51, paragraph 2, indent/sub-paragraph 2).</p> <p>b) None of the decisions mentioned above have ever been made, up to the present.</p> <p>4. No.</p>

Disclaimer: *The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.*

			5. Please, see the previous answer.
	Sweden	Yes	<p>1. Sweden has seen a converse development when it comes to the number of asylum applicants who manipulate their fingertips. This could be a result of the fact that a new system was introduced in July 2010, using a deep scanning method for analyzing fingerprints. We can see that the number of errors has decreased and the number who manipulates their fingers has decreased during these months. We have also seen a decrease in the number of asylum applicants from Somalia, where during the first three months of 2010 the number of applicants was on an average of 659 per month. During the period April to June the number decreased to an average of 490 per month and July to September 398 per month. The relation between these two facts has not been analyzed yet.</p> <p>Approximately 400 cases with longer stay time within the asylum system (more than 100 days) have been subject to using the deep scanning method. Out of these 400 cases, about 50% have shown hits in the Eurodac.</p> <p>2. Yes and no, see below. 3. a) This behaviour does not have an impact on the asylum procedure itself, but for an asylum seeker who does not cooperate in clarifying his/her identity the daily allowances can be reduced. This system has shown to have little effect so far on the asylum seekers decision to manipulate fingertips which was the reason for developing the method with deep scanning. b) No. 4. No. 5. N/A</p>
	United Kingdom	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
