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Road affected by a small landslide. Rwanda. © IOM 2017.

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Practices in establishing the identity and screening on national security and exclusion aspects in Syrian asylum cases in five European countries

Maarten Bolhuis and Joris van Wijk¹

Introduction

The armed conflict in the Syrian Arab Republic that erupted in 2011 has produced a vast number of forced migrants and is considered one of the driving factors behind the high influx of asylum seekers in Europe since 2014. The sudden and dramatic increase in the number of asylum applications – which affected different European countries in different degrees – led to exceptional challenges with regard to the identification and screening of asylum seekers from the Syrian Arab Republic.² A first complicating factor was that fake Syrian passports were relatively easily available on the black market and that the Islamic State in Iraq and the Levant had obtained blank passports, as well as passport printing machines. This meant that European authorities could no longer rely on identity documents to definitely establish someone was actually Syrian. Secondly, Syrian asylum applicants came from an active armed conflict where anti-Western terrorist groups were active, which means that European immigration authorities also had an interest in thoroughly assessing whether they posed a threat to national security,³ or whether they should be excluded from international protection.⁴

This article discusses how, during the high influx, five European countries (Belgium, Germany, Norway, the Netherlands and Sweden) tried to properly assess the identity and engage in thorough 1F exclusion and security screening in Syrian asylum cases. A selection of noteworthy practices⁵ that can be used by actors involved in the immigration process to further develop or redevelop existing approaches and strategies is presented.

The results are based on interviews with 43 representatives of immigration authorities, aliens police agencies, intelligence and security services and the European Asylum Support Office (EASO), as well as a review of available academic literature, relevant rules and regulations and available formal and informal policy documents. An extensive underpinning of the applied methodology and more elaborate references and descriptions of the presented noteworthy practices can be found in the recently published report, “Case management, identity controls and screening on national security and 1F exclusion: A comparative study on Syrian asylum seekers in five European countries”, commissioned by the Norwegian Directorate of Immigration (UDI).⁶

Establishing identity

In addition to the investigation of identity documents and taking fingerprints, the five focus countries increasingly use different and new methods to establish and/or verify an applicant’s identity. The nature and scale of the influx from 2014 – in addition to technological innovations – are some of the driving factors behind these developments. Noteworthy practices that could possibly be implemented to improve the establishment and verification of the identity of Syrian asylum seekers or other nationals with similar characteristics are the following.

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² In the period 2011–2017, Syrian asylum applications represented about 20 per cent of the total number of asylum applications in the European Union, making it the largest group. Figures are retrieved from the Eurostat database, “Asylum and first-time asylum applicants by citizenship” (migr_asyappctza), available from <http://ec.europa.eu/eurostat/data/database>

³ What exactly is defined as a threat to “national security”, or to the “security of the State”, differs from country to country, but is often based on the alleged involvement in serious (most notably terrorist) crimes. See European Commission, 2016.

⁴ Article 1F of the Refugee Convention, and its equivalents in Articles 12 and 17 Qualification Directive 2011/95/EU, oblige (European) States to exclude a person from refugee and subsidiary protection where there are serious reasons for considering that he/she has committed serious crimes prior to arrival in the host country.

⁵ The authors refer to “noteworthy practices” rather than “best practices”, as the effectiveness and efficiency of applied practices or new routines have hardly been evaluated, and because it is not always feasible or possible to implement practices that are used in one country also in another country.

⁶ Bolhuis and van Wijk, 2018.

Social media screening and extraction of data carriers

Countries increasingly use social media research as a method to establish identity, origin and travel route, as well as for screening on national security and 1F exclusion. Respondents had different views on the value of social media analysis. Some highlighted its (potential) value by referring to anecdotal “successes”; others questioned the value by indicating that applicants have by now become well aware that the authorities will perform such checks. In addition to social media screening, the confiscation and extraction of information from data carriers, such as smartphones and laptops, with the aim of establishing the identity is also increasingly used. It is currently a standard practice in the Netherlands (which is even aiming to perform 100 per cent extraction of data carriers in the future), optional in Norway and Germany, while it is not used in Belgium and Sweden. Similar to social media analysis, some respondents indicated data carrier extraction to be useful, while others expressed their doubts.

Special software for social media research

The Netherlands uses a special software that enables staff of the immigration authorities to perform social media research in a safe way. Those performing social media research have stand-alone computers at their disposal, with special accounts, developed by the Dutch National Police in collaboration with a commercial cybersecurity company. In this way, search activities of immigration authorities are not traceable for the government in a country of origin (for instance, should this government monitor an applicant’s social media), while staff conducting social media research are not required to search by means of using one’s own personal/private profile or setting up a “fake” profile (as has happened in other countries). The development of such a system requires an investment, and staff need to be trained to work with such a system.

Language biometrics software

German authorities have developed a language biometrics software to analyse voice recordings. On the basis of a short statement by the applicant, the software can provide an analysis of the language that the applicant speaks, which is reported to the interviewer. The software can decrease the dependence on interpreters to evaluate the origin

of the language that someone speaks, which can be an indication that can verify or debunk a claimed identity. However, concerns relating to the accuracy of the software have been raised in Germany. It has been questioned whether the software can accurately analyse regional, familial or social language variants within dialects or match them to a nationality. As is currently the case in Germany, the system should therefore be used exclusively for the purpose of assisting the decision makers, rather than providing a definitive conclusion about an applicant’s nationality.

Automated name transliteration

Problems with uniform spelling of names of asylum seekers across different government institutions may occur, especially when proper documents are lacking and names are not originally written with roman letters. German authorities are currently testing automated name transliteration of Arabic names into the Latin alphabet. Such a tool ensures already in an early phase that the spelling of the name is uniform and unequivocal throughout the process. Furthermore, an analysis of the name may help give hints of the origin of the applicant, and the transliterated name can be matched to a database, and in that way, provide an indication of the country of origin. As it is, name transliteration is mainly a tool to keep the quality in the immigration authority’s own systems. If the tool would be made pan-European, it would be easier to identify a person who has lived or already applied for asylum in another European State in the past under the same name, if fingerprints are unavailable.

Coercive measures for the reassessment of identity

Using the coercive measures that it has at its disposal as a police body, the Norwegian aliens police can give applicants who have not presented any documents at the time of their registration a “surprise visit” at their residence, months after they first applied for asylum. During such a visit, the police searches for indications that can verify or debunk the claimed identity. Information that is not available during the registration and identification process that sheds a different light on an applicant’s origin may be easier to obtain when an applicant is approached “off-guard”. The use of such coercive measures infringes on applicants’ fundamental rights, such as the right to a private life, and can lead to uncertainty about the value of an obtained status. For this reason, the legal basis for the use of coercive measures should be clear (for instance, what level of suspicion is needed) and

a court authorization (as is required in Norway) could offer the necessary safeguards. This method can only be used in countries where the police are actively involved in identity checks.

Screening on national security and 1F exclusion

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

In the process of identifying national security or exclusion cases, relevant actors were confronted with a number of challenges, including the following: (a) determining the right threshold for reporting potential national security cases; (b) providing feedback to caseworkers; and (c) the generally more limited value of information collected through interviews. Respondents indicated that information from social media and data carriers can be very valuable in the context of assessing national security or exclusion aspects, but also that such information is often very difficult to interpret and/or to use as evidence.

Noteworthy practices that could possibly be implemented to improve the screening of (Syrian) asylum seekers in relation to national security and 1F exclusion are the following.

Screening

The Dutch immigration service has introduced a separate “screening” procedure that is carried out in all asylum and family reunification cases, an upfront examination of different aspects including national security and exclusion after the identification and registration phase. Specially designated “screeners” can liaise with “enforcement coordinators” about results from the screening, who can decide whether

a certain case should be referred to the immigration service’s specialized units, again possibly after consultation with specialists at these units. The screening is not only limited to national security and exclusion, but also focuses on other enforcement aspects, including indications of identity fraud or human smuggling. This upfront screening makes it possible to take cases that need special attention apart in an early phase. Furthermore, by making the screening a separate procedural step, carried out by designated screeners, the screeners can fully focus on possible indications, rather than having to pay attention to such aspects in addition to other tasks. By training the screeners, they can develop a good sense of how to look for relevant indications, and how to deal with these. The possible disadvantage is that such a system of screening requires capacity that may be unavailable during times of high influx, and it may be too costly to sustain when the influx is of such a nature that enforcement aspects are less of an issue. In the Netherlands, this has been solved by making the deployment of screeners flexible. The screeners do not conduct the screening full time, but also work as part-time decision makers.

Referral format

The Dutch immigration authorities make use of an elaborate referral format to report indications in relation to national security to liaison officers for the intelligence and security services. While the format also contains an open text box, the format forces caseworkers to answer a number of very specific questions, challenging the caseworker to specify the report and think through and interpret what they see more carefully. The format makes reports more uniform and complete and can prevent unnecessary reports. Something to take into account is that if such a format is used to report to intelligence and security services, it should be clear that immigration authorities are actually allowed to share that kind of detailed information from an asylum file.

Oral presentations of potential national security cases

The Swedish immigration authorities have set up a system with contact points for the intelligence and security services in each regional unit. The contact point and the Swedish Security Service counterpart meet at least once a month. Before every meeting, the contact point, who is specialized in national security and exclusion, will explore in the regional unit if there

are cases that might be of relevance to the Security Service. If a caseworker has a case in which he or she believes there is an indication of a national security threat, the contact point and caseworker will meet with the Swedish Security Service representative, where the caseworker presents the case face-to-face. An advantage of this approach is that the caseworker receives direct one-on-one feedback on whether the signal is relevant. The caseworker also receives advice on how to approach a case. Possible disadvantages of this approach are that having caseworkers join in on the contact point meetings requires capacity and may be difficult to sustain in high-influx situations, especially when there are many potential national security cases. Furthermore, if the caseworker receives feedback, it does not necessarily reach the broader organization. In Sweden, the latter disadvantage is dealt with by having the immigration service contact point who is present at the meetings and spread the feedback throughout the organization (through seminars and trainings).

Multilateral information exchange forums

Belgium and the Netherlands have established multilateral forums where multiple actors (such as immigration services, reception organizations, police, intelligence services) can – under specific conditions – share information on cases that potentially affect national security, both on the level of individual cases and on a more strategic level. Such a multilateral forum establishes permanent contacts and the possibility to strategically discuss whether the information exchange takes place in a good fashion. It can make information exchange between the actors more coordinated and structured, which can improve the cooperation between, and commitment of, the different actors. Furthermore, the involvement of a broad range of actors makes it less likely that relevant developments, trends or cases are overlooked, and strengthens the learning capacity of these actors. Signals can be “stacked” and jointly interpreted. It should be taken into account that creating the legal preconditions for exchanging information multilaterally may be challenging. Besides, a multilateral forum is especially useful in countries where a large number of different government-controlled actors are involved.

Specialized unit for social media research

The Swedish and Belgian immigration authorities have specialized teams for social media screening that focus on or assist in potential national security and/or

exclusion cases. Doing social media research in a safe manner requires technical skills, and also language skills (speaking Arabic or Russian, for instance). By concentrating those skills in a specialized unit that assists caseworkers, caseworkers can focus on other tasks that may improve social media screening quality and be more efficient. The safety of caseworkers and the confidentiality of the asylum procedure may be more easily safeguarded if specialists carry out social media research by means of specialized software (see above). A specialized team can arguably also do more advanced research.

Substantiation exclusion decisions on basis of social media

In the Netherlands, the increasing reliance on information from social media and data carriers has led to a different approach as to how exclusion decisions are substantiated. Instead of using information to substantiate that an applicant was a member of a certain organization, the reasoning is turned around: if there is no plausible explanation for information from social media or data carriers (for instance, when an applicant is depicted in a picture in a uniform with a Kalashnikov in his hands, and he has demonstrably lied about this in the interview), that could be enough to substantiate that there are serious reasons for considering someone is guilty of crimes that fall under the exclusion clause of Article 1F of the Refugee Convention. Information from social media and data carriers presents weak evidence; this approach may solve that. However, as of yet, it is unclear whether this way of reasoning is accepted by courts.⁷

Concluding reflections

This study demonstrated that the use of new methods, such as data carrier extraction and social media analysis has increased substantially in the past years, although some countries are hesitant to adopt these methods. It seems that in most countries, sound evaluations with proper cost-benefit analyses of these new methods are not – or at least not publicly – available. This impairs a fact-based and normative debate on whether or not, and to what extent, the implementation of such methods is recommendable.

⁷ Considering the far-fetching consequences of exclusion, commentators have stressed that exclusion decisions should be substantiated with information that clearly indicates the role and responsibility of an individual in alleged crimes.

Apart from questions relating to effectiveness and cost-efficiency, the application of these methods also leads to all sorts of legal, normative and ethical questions that are currently hardly (publicly) discussed. This, too, is a reason to properly evaluate such new methods.

Secondly, different countries have, over the course of the past years, initiated different projects to improve case management and screening. Digital tools developed for that purpose, such as the transliteration tool discussed above, may also prove interesting for immigration authorities in other countries. Rather than developing or acquiring these tools independently from each other, such tools could be co-founded and possibly co-developed in-house or in public–private partnerships. It may, in this regard, be fruitful for European immigration authorities to team up, possibly with the assistance of EASO.

Finally, there is a need for international guidance on national security issues. Participants to the study believed that it would be useful to have an international forum to exchange practices and experiences not only on matters of exclusion,⁸ but also on national security. While more contact has been established internationally on this topic in recent years, a forum is still lacking. Although matters of national security – unless they also relate to exclusion – are not part of the asylum procedure, EASO is considered the most suitable actor to coordinate such a forum. ■

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During the high influx, a major challenge with regard to screening was that the opportunities to assess national security and exclusion aspects were limited due to the high recognition rate.

⁸ In 2017, EASO launched the EASO Exclusion Network; see www.easo.europa.eu/easo-exclusion-network-0