



# **The Use, Misuse and Non-use of Country of Origin Information in the Swedish Asylum Process**

**Project report  
by  
Helge Flärd, project leader  
September 2007**



**Project funded by the  
European Refugee Fund**



**Project owner: The Swedish Refugee  
Advice Centre**

## **What is the Swedish Refugee Advice Centre?**

**The Centre is a non-governmental organization and aims to provide refugees and asylum seekers with professional legal assistance. The Centre is supported by a number of NGOs. Current members are Amnesty International (the Swedish section), Caritas, The Swedish Trade Union Confederation, Save the Children, The Swedish Free Church Council and the Church of Sweden.**

### **The activities of the Centre**

- **Providing legal counselling in all matters concerning asylum, family reunification, Swedish citizenship and other matters referring to the Swedish Aliens' Act.**
- **Legal assistance to asylum seekers in Sweden**
- **Collecting and supplying country of origin information, legal documents and general information on migration issues**
- **Analyzing and studying the implementation of national and international law relating to refugees**
- **Assisting member organizations in campaigning on issues of concern**
- **Organizing and/or participating in seminars and conferences in relation to refugee law**

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## **Introduction: A Project to Assess and Improve the Use of COI in Sweden**

Processing a request for asylum involves a number of assessments that require in-depth country of origin knowledge on behalf of the decision-making body: Is the story of persecution told by the asylum seeker plausible in light of existing documentation on the specific country? Are the grounds of persecution such that they correspond to those criteria laid down by national and international conventions on refugees and asylum? Is there any reason to believe that returning the applicant to the home country may result in he or she being exposed to torture, persecution or any other type of inhumane treatment?

The body that has to decide in a request for asylum is in this sense in a difficult position – how can one be sure that the story told is exaggerated and not credible, that recent positive developments in the country of origin will prevail, or that the risk of persecution upon return is negligible? To be sure, one can never be absolutely certain of these things, and it is therefore of uttermost necessity that a proper investigation is made into the request and of the potential consequences of a negative decision. Country of origin information must in this sense be a crucial ingredient in that investigation, and different sources of information and competing views of the situation must be heard in order to minimise the potential risks that a negative decision may bring about.

Because country of origin information (COI), as any other information assessment, is a tentative business – and because the risks associated with getting it wrong may be detrimental to the individual – efforts at improving the quality of COI are important for the legal security and the well-being of asylum seekers. The nature of information and knowledge about social events and developments is such that the objective truth is unlikely to be discovered. However, good calls may still be made, provided investigations are well-undertaken, and there will always be room for improvement in the process.

### **Background and objectives of the project**

The project on which this study rests was planned and outlined at a time when the Swedish asylum process went through some significant changes. Not only did the legal framework change, but more important to the issue of COI was the procedural change implemented from 31 March 2006. This meant that appeals made with reference to asylum decisions would be brought to regular administrative courts, rather than to the now abandoned Aliens Appeals Board. The new court process was expected to raise the requirements on using up-to-date COI materials with proper references. With these higher requirements as well as the improved transparency of the new system, Swedish NGOs with interests in migration policy expected that the demand for high-quality COI from legal representatives of asylum seeker would expand dramatically.

With this background, NGOs and churches in Sweden felt that their knowledge and expertise of the social, political and humanitarian situation in a number of asylum seekers' home countries may be added to the body of information that the Swedish migration Board uses as its basis for decision. Their objective with this project is thus to enhance the quality and widen

the scope of COI in the asylum process by sharing the expertise that has grown out of decades of presence in problematic areas, of relief work and humanitarian assistance. While the importance of COI in ensuring a high-quality asylum process, which in its extent serves to guarantee the legal security of asylum seekers, thus forms the basis of this study, its main concern is how the knowledge and expertise of NGOs may serve to further solidify this base.

The question then is how such contributions can be made in practice: In what way can NGO knowledge of COI be most effectively and efficiently shared with the actors in the asylum process? Where are these contributions most needed, and who will demand them? By examining existing systems for COI and their use, this project serves to find ways of complementing and/or offer alternatives to such systems. Furthermore, recognising that COI is a crucial instrument for well-founded asylum decisions, and in effect enhanced legal security of asylum seekers and a more effective process, these provide the wider purposes served by the project.

## **Outline of the report**

To answer the questions outlined above, the study contains three main sections: the first – covered by chapters 1-3 – examines the main features of the Swedish asylum process, the Swedish COI system, and COI users' approach to it. Chapter 1 explains how the recent changes to Swedish migration laws and procedures have impacted on the use of COI; Chapter 2 gives an outline of Lifos, the main system for COI in Sweden; and Chapter 3 looks at how Migration Board staff, legal representatives of asylum seekers and the Migration Courts use COI.

The second section, comprising Chapter 4, reflects on the findings in Chapters 1-3. It identifies the key questions at hand and the critical areas to consider further. It asks about the real role and status of COI in Sweden, the way it is used, and what type of information it comprises. Chapter 4 is an important chapter as it reveals how some of the assumptions guiding the project had been unfounded: In practice, the role of COI in the Swedish asylum process seems to be marginal (at least in relation to the centrality assumed by the authors of the project plan), and its use limited and misguided. As a result, and in recognition of the important links between well-made use of COI and improved legal security of asylum seekers, the most important objective for NGO action in this field must be the improvement of the role, status and use of COI in the Swedish asylum process.

To this end, Chapter 5 proposes a number of activities for NGOs to consider. Because the overarching objective of raising COI's status in the asylum process goes further than the original objective as set out in the project description (i.e. to offer alternatives and improvements to the existing COI system), NGOs need to draw from other resources than purely their specialised country of origin knowledge. At least as important will be NGOs experience and expertise in advocacy: NGOs must take the lead in evoking a wide debate on the use, misuse and non-use of COI in asylum cases. They should also work with legal representatives of asylum seekers to increase their use of COI materials and assisting them in drawing from alternative COI sources. Doing this will put pressure on the Migration Board's use of COI as well as widen the basis for court rulings. In order to do this, it will be necessary to establish tailored COI resource catering to lawyers that may serve as a knowledge sharing mechanism for COI as well as a source of information.

## Chapter 1: COI, Legal Security and the New Aliens Act

The 1951 United Nations Convention Relating to the Status of Refugees stipulates the conditions for asylum. With this as a base, internationally agreed principles have established that it is the asylum seeker who has the burden of evidence in demonstrating that he or she satisfies the condition laid down by the Convention. This burden should be seen as an obligation to inform the deciding authorities in the country of asylum about such evidence. The applicant shall present his or her story in a coherent way and the story shall not conflict with recognized facts.

While the burden of evidence rests with the applicant, the decision-making body needs advanced knowledge of the country of origin in order to assess the eligibility for asylum in accordance with the Convention. In this sense, and when accurate, the information on country of origin provides one of the most reliable tools in assessing the applicant's claim<sup>1</sup>. Because it is particularly important that negative decisions are based on correct information - an incorrectly made rejection can have lethal consequences - COI is also a crucial instrument for assessing the risk associated with a negative decision.

In practice, therefore, COI can be said to have three main functions in the asylum process: to check that the applicant's story is credible, coherent and in accordance with known facts about the country of origin; to check that the applicant's experience makes him or her eligible for asylum according to the 1951 convention and national asylum legislation; and to assess the risks associated with a rejection of the application.

### The Swedish asylum process

The asylum process under the old Swedish Aliens Act was frequently criticized for suffering from deficiencies in legal security of the applicant<sup>2</sup>. According to a number of practitioners and scholars, these deficiencies were mainly associated with poorly motivated asylum decisions, especially pertaining to the assessments of the situation in the asylum seekers' countries of origin.

The way in which decisions are motivated has a great importance for legal security. A well-motivated decision makes the outcome more foreseeable as the individual knows what legal rule is applicable or with what strength a certain legal fact must be proven in order for him or her to obtain the wanted outcome. A well-motivated decision is also important for the possibility to appeal, e.g. with reference to misuse of COI. In this sense, a poorly motivated decision makes it more difficult to argue for a different ruling.

In light of such concerns, a new Aliens Act was implemented from 31 March 2006. One of its main features is the possibility of appealing asylum decisions to certain County Administrative Courts, and finally to the National Administrative Appeals Court. Under the

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<sup>1</sup> Guy Coffey, *Evidence at the Refugee Review Tribunal*, p. 377-418, International journal of refugee law, Volume 15 no. 3 2003

<sup>2</sup> Legal security is a concept with various meanings, but it normally refers to three main factors: legality, effectiveness and foreseeable outcomes.

Old Act, appeals were made to an Aliens Appeals Board, a government agency with court-like attributes. The procedural change was expected to improve the legal security of asylum seekers. The new Aliens Act also meant that the Migration Board opened up its COI system (Lifos) to the public. A database of COI, Lifos had existed since 1998, but had under the Old Act only been available to Migration Board officials.

To understand why the new Aliens Act is expected to result in better motivations of decisions in light of COI – and hence to the improvement of legal security – it is necessary to take a closer look at guidelines for motivating decisions and rulings under Swedish legislation. The now abandoned Aliens Appeal Board was an administrative authority, for which the Administrative Act applies. The rules for motivating a decision was hence set in that Act's 20th paragraph and stipulates that a decision "must contain those reasons that have decided the outcome". Interestingly, the same sentence is found in the 30th paragraph of Procedural Administrative Act that governs the Administrative Courts. Thus, the legal guidelines for the motivation of a decision or a ruling remains the same with the New Act as for its predecessor. It is therefore worth asking why the new procedure was expected to lead to improvements in the motivation of decisions.

The problem when the Aliens Appeal Board assessed country of origin information was that the information was to be made up of so called *notorious facts*<sup>3</sup>. Paragraph 20 of the Administrative Act quoted above is related to the rule set forth in the 17th paragraph of the same law. It stipulates that an errand may not be decided without informing the applicant of information that has been allocated to the case by someone else. The Aliens Appeals board was however not only a deciding authority, but also an investigating authority, and it had a body of staff responsible for collecting COI. The information collected and used was thus not seen as allocated to the specific case, and the authority could refer to information as "knowledge of the Board" rather than to the specific source.

The new Aliens Act, on the other hand, implies a two-party procedure (7 § of the Procedural Administrative Act). This means that the Migration Board is the applicant's counterpart. The Migration Board is the investigating part and must present facts before the court. The court's duty is to reach an outcome based on the information laid down before it. This means that if the Migration Board thinks that the applicant shall not be granted asylum, the position must be defended before a neutral court. The court will then not be able to make rulings with reference to its acquired knowledge (as did the previous Appeals Board), but must only consider the evidence laid before it by the parties. This means that the court's ruling is likely to be better motivated and based on well-referenced COI. The case study below provides examples from the New and Old Acts to demonstrate how this works in practice.

## **Case Study: Examples of how decisions are motivated**

### **Old Act: Turkmenistan**

A Turkmen family applied for asylum in Sweden because the woman in the family stated she was suspected by Turkmen authorities to collaborate with the opposition. She had been arrested and subjected to torture. Furthermore, the family asserted that they had left the country illegally, and if returned they would be exposed to abuse by Turkmen authorities in violation of Article 3 of the European Convention.

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<sup>3</sup> This is a kind of information that does not need to be presented or proved in the specific case

The Aliens Appeal Board stated that, according to what was known to the Board, a Turkmen that had left the country illegally did not risk to be imprisoned or to be subjected to any ill-treatment. At the same time the Board acknowledged that it also had information suggesting that a request for asylum was seen by the authorities of Turkmenistan as a hostile action against the state, which could potentially prompt abuse upon return. However, such abuse would only happen if Turkmen authorities were aware that a person had requested asylum. In this specific case, the Appeals Board argued, the asylum request had not come to the authorities' knowledge.

From the applicant's point of view, this is a problematic decision as the Appeals Board did not publish its sources. The family does therefore not know from where the information comes, and if it is reliable. It also means that they are unable to refute it. In other words, the legal security of the applicants is limited.

### **New Act: Ethiopia**

A young man originating from Ethiopia seeks asylum in Sweden. He says he has been deported to Eritrea because Ethiopian authorities consider him to be Eritrean due to his mother's Eritrean citizenship. In Eritrea he had been forced to join the army and had been subjected to torture and other forms of ill-treatment. He claimed that if he was returned to Ethiopia, he faced a risk of being deported to Eritrea once again, and once more be subjected to treatment contrary to Article 3 of the European Convention.

In its decision, the Migration Court referred to a specific report from the Swedish Ministry for Foreign Affairs, which clearly stated that Ethiopia did no longer deport persons to Eritrea. Since he had not declared that he risked persecution or ill-treatment in Ethiopia, his request for asylum was denied.

Because this ruling was based on a specific COI report, proving that the applicant did not risk the treatment he feared, the decision is more likely to have been acceptable to the applicant. Furthermore, if the applicant did not accept the decision, he would understand on what basis the Court had made its ruling. With that information he would also know what would be required from him in the event of an appeal: he would need documentation to prove that the situation has changed since the Swedish report had been published, or another document that would challenge the Court's ruling. As such, the motivation offered in this case is to a much greater extent in tune with guidelines for legal security.

## Chapter 2: Lifos – Structure and features

As mentioned in the previous chapter, part of the reform of the Swedish asylum process was the making public of the Board's COI resource, Lifos. Lifos is the central feature of the formal Swedish COI system in the sense that it is the main source – and aspires to be the only source – of COI for users within the Migration Board. In addition, and because it is to a very large extent a transparent system, it is also an important (although not the only) source of COI to external users, including legal representatives and the Migration Courts.

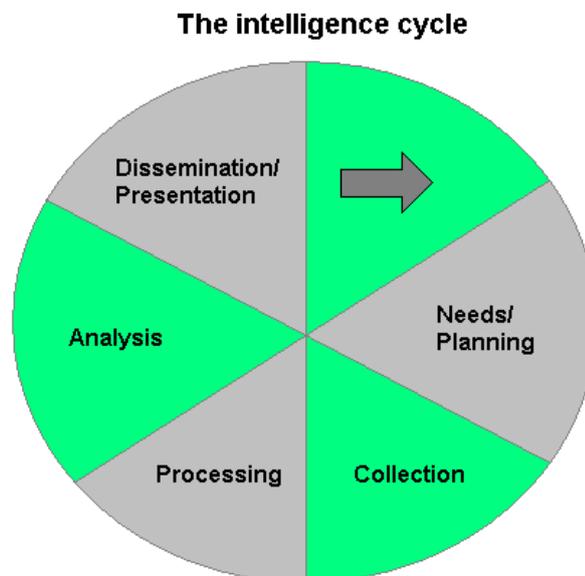
Lifos is a database of COI, containing links to documents and reports produced by various government agencies (Swedish and foreign), international organisations and NGOs. While some of these documents and reports are produced for the specific purpose of facilitating decision-making in the asylum process, the majority are broader in scope and objective. They are testimonies and analyses of the state of affairs in various countries from which decision-makers in the Migration Board have to draw their own conclusions.

This chapter will examine the structure and features of Lifos. It will do so by first mapping the system according to a theoretical model of the so called *intelligence cycle*, in which the processes of collecting, processing, analysing and disseminating information will be discussed. The subsequent section will then describe the administration of the system, and a final section will provide a brief comparison with other countries' COI systems.

### Mapping the system

A useful way of mapping Lifos is to describe it with reference to a theoretical model known as the intelligence cycle<sup>4</sup>. This model is traditionally used in studies of military intelligence, but is applicable to most systems concerned with information gathering and –evaluation. Various versions of the intelligence cycle exist, but most of these contain the following elements: information collection; information processing; analysis; dissemination and presentation; and needs assessment and planning. These elements follow from each other – collected material is first processed, then analysed and disseminated – and

a cycle is formed in the sense that the end product identifies new needs, which in turn directs the collection process. The intelligence cycle may be displayed graphically as in Picture x.x.



<sup>4</sup> This is sometimes also referred to as the *intelligence process* (see for example Agrell *Konsten att gissa rätt – underrättelsevetenskapens grunder*, Studentlitteratur Lund 1998, p 26)

## **Needs and planning**

Although Lifos is global in scope, some parts of the world naturally receive greater attention than others. Staff at the COI unit within the Migration Board explains that the focus of Lifos is primarily determined by the number of asylum seekers a country of origin generates for the Swedish asylum process. As such, an open search on Iraq, the main country of origin in Sweden, returns 94 documents whereas a similar search on the United States returns only 4 documents.

There may also be other factors for directing the focus and priorities of Lifos, such as the level of complexity associated with specific countries of origin and the availability of information. These will be further discussed under “Completing the cycle” below.

## **Collection of information**

With the priorities set, staff at the Board’s COI unit starts the collection process. Because Lifos is to a great extent an open system, most of the material contained in it is collected from open sources. The collection procedure, however, may vary according to source. Since Lifos by and large is made up of standard sources, such as annual human rights reports from various governments and organisations, part of the collection process is automatic in the sense that it is a matter of simply feeding the system with the latest versions of such reports once they are released. For the non-standard documents, however, the collection methods are different.

The COI unit subscribes to a number of information sources and is placed on various send list for COI, from international actors and from other Swedish authorities. Notes and reports from Swedish embassies throughout the world find their way to the COI Unit, as do news reports and briefings from international governmental and non-governmental organisations. The COI Unit’s attention may also be brought to specific documents by individuals inside and outside the Migration Board, who have come across documents they think should be inserted to the system<sup>5</sup>.

Staff at the COI Unit also makes their own searches (often initiated by requests from users) in databases and on the Internet for new information that they feel is lacking in the system. Another way in which the COI Unit is proactive in finding information is through fact-finding missions to asylum seekers’ countries of origin. This is a new practice, and until now only one such trip has been made (to Belarus in January 2007 and together with other Scandinavian migration authorities). That trip lasted one week, and included interviews with representatives from the Belarus government and civil society in Minsk. The main report from the mission will not be made public, although a summary will later appear in Lifos’ open section. The COI Unit anticipates that further such missions will be undertaken in the future.

## **Processing information**

The COI Unit finds and receives far more information than it can use. As such, it is necessary to process the information collected such that only documents and reports that are deemed useful in the Swedish asylum process are inserted to Lifos. This process of selection is based on a number of factors and criteria, including relevance, reliability and uniqueness.

The guiding principle for the COI Unit is that all materials inserted in Lifos should be suitable for decision-making in migration cases. As such, documents must be relevant for issues

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<sup>5</sup> In a staff survey at the Migration Board, ca ¼ of respondents reported that they had submitted documents to the COI Unit for publication in Lifos (see Annex A for more details)

relating to asylum and return in order to be considered. This principle also means that news materials and journalistic documents tend to be rejected. While the COI Unit does subscribe to a number of news resources, and there are constant news updates on the Board's intranet, the temporary nature of such documents are not considered useful for decision-making, and such pieces are therefore usually rejected.

Having rejected those documents that are not considered suitable for insertion to Lifos on the grounds of relevancy, the COI Unit is still left with far more pieces of information than it can use. Thus begins a selection process, which has both quantitative and qualitative elements. Quantitatively, the COI Unit needs to reject a number of documents that may indeed be relevant, but whose publication would overload the system. As a principle, if a document is received that does not add anything to already existing information contained in Lifos, it is likely to be rejected. A country expert at the COU Unit explains that documents often arrive in "waves", such that when something extraordinary happens in a specific country a large number of reports are immediately written, saying more or less the same thing and using the same primary sources. Lifos would be flooded with documents if relevance were the only yardstick for acceptance or rejection.

The qualitative selection method implies that documents that do not reach up to a certain standard of quality will be rejected. This qualitative consideration concerns the reliability of the source of a document, rather than the document's content. For the standard sources in Lifos, i.e. governments and certain organisations, this means that in effect no quality assessment is made on the content of these documents. Instead, a UK Home Office or US State Department stamp on a document works as a guarantor for credibility.

The qualitative assessment is, however, different for non-standard sources such as smaller organisations and irregular reports. For these, the COI Unit has developed certain guidelines for assessing the quality and reliability. Again, it is the source rather than the information as such which is under assessment. The general criteria used by the COI Unit to identify unreliable electronic sources are summarised as follows<sup>6</sup>:

- It is unclear who is behind a web page/document
- The organisation behind a document is unknown to the COI Unit or has a poor reputation
- The URL does not contain the organisation's name
- The URL ends with .com
- Contact information is missing
- Contains links to pages that no longer exist
- Content is seldom updated
- Date for last update is missing
- Information is partial and subjective
- The web page appears to be more focused on advertisements than on information
- Information contains factual errors
- References to sources are missing

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<sup>6</sup> Paper disseminated by Head of COI Unit at meeting with project group 22 Nov 2006

## Analysis

In its current shape, Lifos does not have an analytical element. This means that the COI Unit does not produce any analyses of its own and that the analysis is left to the individual decision-maker at the Migration Board. Lifos operates in this sense as a tool for collecting relevant documents rather than providing direct guidance for how a decision should be made<sup>7</sup>.

The situation may change in the near future as the COI Unit is considering producing brief analyses to assist decision-makers. Rather than focusing on whole countries, these analyses are likely to treat a specific aspect within a country that is frequently referred to by asylum seekers. The extent to which such analyses will be produced is a matter of resources, and the production of extensive analyses is unlikely with the current level of funds.

## Dissemination and presentation

Lifos is accessible through the Migration Board's web page. As explained above, it is a database of links to documents and reports written by government agencies and international organisations. It has a geographical as well as thematic structure, which means that searches are possible to make on countries, keywords and free text words and phrases. For example, a search on Eritrea at the time of writing returns a list of 39 documents produced by various sources. These include the Swedish Ministry for Foreign Affairs, Human Rights Watch, UK Home Office, UNHCR, US State Department, Internal Displacement Monitoring Centre (IDMC), Swiss Refugee Council, Crisis Group, Amnesty International, Library of Congress, UN CEDAW and World Organisation Against Torture. In addition, the result list also includes decisions and rulings from previous asylum applications, both positive and negative.

Table 2.1	Horn of Africa (Ethiopia, Eritrea and Somalia)	Iraq	Middle East other (Palestinian territories, Lebanon and Syria)	Balkans (Serbia, Montenegro, Macedonia, Albania and Bosnia and Hercegovina)
January 2006	4	1	1	2
February 2006	5	2	6	21
March 2006	6	1	2	15
April 2006	3	0	0	25
May 2006	8	9	1	9
June 2006	8	5	4	5
July 2006	3	2	1	33
August 2006	7	6	5	10
September 2006	1	6	18	11
October 2006	4	10	11	25
November 2006	2	10	10	12
December 2006	3	3	7	14
Average number of reports added monthly	4,5	4,58	5,50	15,17
Total of reports added over past 12 months	54	55	66	182
Total of new reports from this period	28	38	33	111
Average number of new reports added monthly	2,33	3,17	2,75	9,25

<sup>7</sup> Staff at the COI Unit stress that they have no role in the making of an asylum decision and that they do not seek to direct asylum officers to any analysis of the provided COI materials. It is thus entirely up to the asylum officers how the presented COI materials should be used and interpreted.

Table 2.1 shows the information flows in Lifos for the most frequent countries of origin in the Swedish asylum process last year. The figures in the columns represent the number of reports and documents added each month. It shows that 2006 saw 54 COI documents added to Lifos concerning the Horn of Africa, 55 for Iraq, 66 for other Middle East countries and 182 for the Balkans region.

However, because Lifos is in its current shape a new database, a number of the documents added over the past years have been “old” documents, with publication dates that go many years back. Indeed, a significant task of the COI team has been to go over documents contained in earlier versions of Lifos and select those with a continued relevance for publication in the new system. If one looks only at “new” documents, i.e. reports produced over the past year, the figure is therefore lower: 28 for Horn of Africa, 38 for Iraq, 33 for Middle East and 111 for Balkans.

Last year’s rate of insertion to Lifos thus varies from around five documents per month each for the first three columns to nearly 15 for the Balkans. However, if one looks only at newly produced documents, the rate of insertion is somewhat lower. For the Horn of Africa the average monthly insertion rate is 2,33; for Iraq it is 3,17; for the Middle East 2,75; and 9,25 for the Balkans.

The table above refers to open documents accessible through the Lifos website. However, and while Lifos is by and large an open system, it also contains sections that are not accessible to users outside of the Migration Board. This content is made up of documents that for reasons of secrecy, copyright, and other legal aspects may not be distributed to the general public. It also contains documents that are considered irrelevant to outsiders, such as notes on identification documents from different countries. The titles of all these restricted documents are, however, visible to the public, and in some cases an open version of similar content is also available. In addition, external users may request to see specific undisclosed reports. In such cases the requests are administered on a case-by case basis, and may result in the display of the document to the individual. Table 2.2 shows the number of new undisclosed documents inserted to Lifos during 2006 for the same countries and regions discussed above.

Table 2.2	Horn of Africa (Ethiopia, Eritrea and Somalia)	Iraq	Middle East other (Palestinian territories, Lebanon and Syria)	Balkans (Serbia, Montenegro, Macedonia, Albania and Bosnia and Hercegovina)
Number of undisclosed documents produced in 2006	5	13	5	14

**Completing the intelligence cycle**

According to the intelligence cycle model, the end product is meant to restart the process as new needs are identified. A system that produces an analysis will often identify information gaps or reach a conclusion suggesting new priorities for the future collection of information. Lifos, however, does not have a formal system for completing the circle in this sense. Instead, the priorities for collecting information is set, as noted above, by the number of applicants each country of origin produces.

While true that the number of applicants may formally guide the priorities of Lifos, table 2.3 hints that there may be other factors also directing the focus. Table 2.3 combines statistics on

the flow of documents in Lifos with immigration trends to Sweden. It shows that there is a disproportionately large amount of documents on the Balkans compared to the other countries. Interestingly, Iraq has the lowest proportion of new documents in relation to the number of asylum seekers despite it being the most significant country of origin in the Swedish asylum process<sup>8</sup>.

There are two ways of explaining this special attention given to the Balkans as opposed to Iraq. When questioned about it, the COI Unit notes that the attention in Lifos may also be directed by the demand of users within the Migration Board. In this sense, if the COI Unit gets a number of questions regarding a particular issue or country, it will pay special attention to this<sup>9</sup>.

As a result, it may thus be added that the demand of users is an additional factor for guiding the focus of Lifos. This process is however not

formalised in the way that the COI Unit conducts user surveys to map demand. On the other hand, interviews with staff at the COI Unit reveal that plans exist for a more formalised feedback system through which reference persons from other parts of the Migration Board will update the COI Unit on what information is in demand.

Another way of explaining the many documents on the Balkans may be that there is simply much more information available on this region than on others. The proximity to Western Europe and the engagement of European and American actors in the Balkans region means that a lot of information is available on this part of the world. In comparison, relatively few Western actors have a large presence in Somalia and Eritrea. In this sense it may be argued that the availability of documents is also an important determinant of Lifos' focus.

## The administration of Lifos

<sup>8</sup> The figure remains high for the Balkans when broken down by the individual states. For Serbia and Montenegro, the state(s) with the largest number of asylum seekers, the ratio of new documents per 100 asylum seekers was 3,8 in 2006.

<sup>9</sup> For example, Kosovo raises a number of questions regarding ethnic and religious minorities as well as on the state of the health care system. In this way, the complexity of Kosovo may be one explanation for the high figure. In contrast, there have existed some general guidelines for Iraq, which has limited the need for COI in the decision-making process.

Table 2.3	Horn of Africa (Ethiopia, Eritrea and Somalia)	Iraq	Middle East other (Palestinian territories, Lebanon and Syria)	Balkans (Serbia and Montenegro, Macedonia, Albania and Bosnia and Hercegovina)
Number of asylum seekers 2006	1757	8951	1927	2552
Ratio of total number of asylum seekers 2006	7,2%	36,8%	7,9%	10,5%
Number of new documents added to Lifos 2006	28	38	33	111
Ratio of total number of all new documents in Lifos 2006	3,4%	4,6%	4,0%	13,4%
Number of new documents per 100 asylum seekers	1,6	0,4	1,7	4,3

The COI Unit is charged with the administration of Lifos. It was formed in 2006 as a result of the decision to make the COI system publicly available through the Migration Board's website. This implied that the earlier version of Lifos had to be checked such that outdated documents were removed and relevant reports were examined according to the possibility of public dissemination. In addition, of course, the COI Unit has also ensured the feeding of Lifos with new documents as they have been produced. The roles of the COI Unit may be summarised as follows<sup>10</sup>:

- Be the recipient of COI within the Migration Board
- Search for external information
- Process and compile available COI
- Evaluate and decide what information should be inserted in Lifos
- Insert and index information in Lifos
- Administer Lifos and ensure that the information therein is up to date and quality checked
- Keep links and references up to date
- Collect opinions and advice from internal and external users
- Respond to questions from internal and external users
- Represent the migration Board in national and international partner groups in the field of COI
- Participate in international aid projects
- Be responsible for internal education in the use of Lifos
- Participate in the development of the system

### **The COI Unit**

11 persons make up the COI Unit, including one Head of unit, four Country Experts, four Documentalists, one System Administrator and one Administrative Assistant. The Country Experts are responsible for one each of the following geographic regions: Europe and CIS; Middle East and Turkey; Asia and Americas; and Africa. Their task is to collect and process information concerning their respective regions by receiving and searching for information. One Documentalist is also attached to each region. Their role is to provide expertise in the searching and documenting of COI materials.

The academic and professional backgrounds of the country experts are varied. Most have considerable experience of working with asylum cases within the Migration Board. Two are jurists, one has a background in political science and another in the humanities. The documentalists are generally educated in archiving and library sciences.

The COI Unit has an annual budget of SEK 7 million (≈USD 1 million). Most of this covers staff salaries, but other costs include subscriptions to information resources and costs for fact-finding missions.

### **The Swedish COI system in international comparison**

A recent study commissioned by International Centre for Migrations Policy Development has made a comparison between different COI systems in Europe. Although that study is

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<sup>10</sup> Paper disseminated by Head of COI Unit at meeting with project group 22 Nov 2006

problematic in the sense that its section on Sweden contains a number of factual errors, its methodology for comparison is useful to consider in this section in the way that it provides useful categories for comparison<sup>11</sup>. As such, the Swedish system for COI may be compared to other COI system according to the following criteria:

- Ownership of the system
- Resources available to the system
- Products of the system
- Public access to end product
- Languages
- Coverage

The countries chosen for comparison in this section are Norway and United Kingdom. They have been chosen because their products are frequently used in the Swedish asylum process, and because their respective systems carry both similarities and differences to Lifos. A summary of the comparison is displayed in table 2.4.

Table 2.4		Sweden	Norway	United Kingdom
Criteria for comparison				
Institutional setup/ownership of COI system		Migration Board/COI Unit	Government agency, but separated from decision-making body	Home Office/COI Unit
Resources				
	COI Unit budget	SEK 7 million	SEK11.5 million	Unknown <sup>12</sup>
	Number of staff in COI Unit	11	17,5	27
	Number of country experts/researchers	4	11	22
Product		Database	Analyses and database	Analyses
Public access		On-line public access	Analyses available to public on-line, database restricted access	On-line access to public users
Coverage		Global	36 most frequent countries	59 countries <sup>13</sup>
Special features		Thematic searches	Fact-finding missions	Fact-finding missions, independent expert review

<sup>11</sup> International Centre for Migration Policy Development, *Comparative Study on Country of Origin Information Systems*, Vienna 2006 (<http://www.acvz.com/publicaties/VS-ComparativeStudyonCOISystems.pdf>)

<sup>12</sup> There is no specific budget for the UK's COI Unit, which is part of the Research, Development and Statistics Directorate within the Home Office. Funds for COI research is drawn from the latter's overall research budget.

<sup>13</sup> Type of COI product may vary between countries. The most extensive analysis document - the "COI Report" – exist for 20-30 of these countries.

Among the many differences between these systems, there appears to be two of considerable importance; the format of the COI products and systems, and the size of the resource allocated to COI. These are discussed below.

### **The format of COI products**

The Swedish COI product has been described above. It is a database of documents that contain information about asylum seekers' countries of origin, but it has no analytical function attached to it. It is, in this sense, the complete opposite of the British system, which only produces analyses and no compilation of external documents. The Norwegian system seems to be a combination of the two, producing both analyses and maintains a database of key documents (although the database is only for internal use within the migration authorities).

### **The resource for COI**

The table above displays some significant differences with respect to the resource allocated to COI in the respective countries. Sweden has by far the smallest resource for COI; measured in expert staff numbers, Norway has nearly three times as many as Sweden, and the UK has 4.8 times the Swedish resource. Although the significant difference between Sweden and the UK could be explained by the latter being a much larger country, it should be recalled that Sweden receives nearly as many applications for asylum as do the UK. As for Norway, it is a smaller country than Sweden and receives only 1/5 of Sweden's number of applications for asylum. These figures are shown in Table 2.5, which also brings two other European countries into the comparison. As demonstrated, Sweden is far behind even when the number of countries surveyed increases.

Table 2.5	Size of population (million inhabitants)	Number of applications for asylum 2006	Budget of COI Unit (million SEK)	Number of Country Experts in COI Unit	Number of employees in COI Unit	Country Expert/Asylum seeker ratio in comparison to Sweden	SEK spent on COI per asylum seeker
<b>Belgium</b>	10,4	11,587	n/a	30	48	15,6 times larger resource	n/a
<b>Norway</b>	4,6	5,320	11,5	11	17	12,5 times larger resource	2161
<b>UK</b>	60,6	27,849	n/a	22	27	4,8 times larger resource	n/a
<b>Sweden</b>	9,1	24,322	7	4	10		288
<b>Germany</b>	82,4	21,049	n/a	30	100	8,6 times larger resource	n/a

## **Conclusion**

This chapter has described the main features of COI in the Swedish asylum system. The central Swedish COI resource, Lifos, has been shown to be a database collection externally produced COI documents. It is governed by the Migration Board, has a global scope, but

lacks an analytical function. In international comparison Lifos seems to be a significantly small COI resource. This latter point raises some questions about the status of COI in the Swedish asylum process, which will be discussed in Chapter 4.

## **Chapter 3: Users of COI in Sweden**

An important feature of this project has been the mapping of COI use in the Swedish asylum process, and hence the views and opinions of COI users. To this end, the project has issued two main surveys of COI use among staff at the Migration Board and among legal representatives. These have then been followed by in-depth interviews with these groups. Such interviews have also been conducted with the Migration Courts in Stockholm and Malmö. This chapter provides a summary of these surveys and interviews. More results from the questionnaires can be found in Annex A at the end of this paper.

### **COI users in the Migration Board**

A significant number of the Migration Board's 3000 staff uses COI frequently. With assistance from the Board's management, a list of all such staff involved in the asylum process was retrieved. It included the names of 420 persons comprising six different staff categories:

- Case Officers Asylum (Handläggare asyl)
- Decision Making Officers Asylum (Beslutsfattare asyl)
- Case Officers Returns (Handläggare återvändande)
- Decision Making Officers Return (Beslutsfattare återvändande)
- Case Officers Administrative Process (Handläggare förvaltningsprocess)
- Process Managers (Processförare)

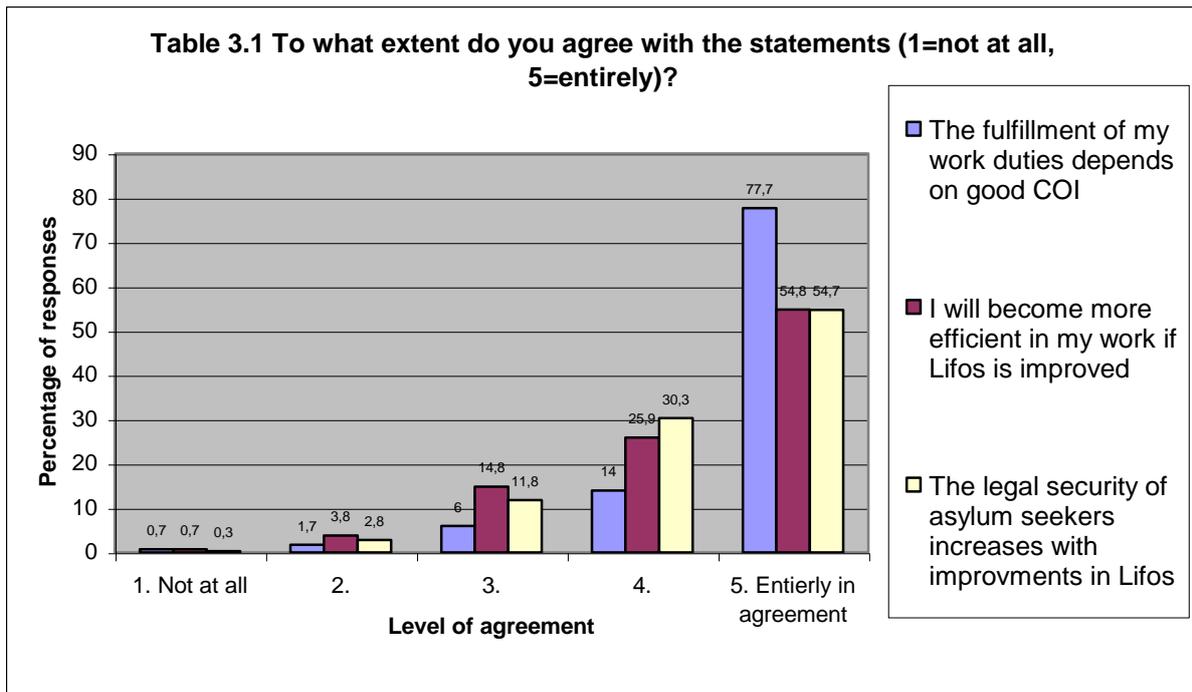
A questionnaire was submitted to all staff in these categories, with questions pertaining to their use of, and approach to, COI. When the results of the questionnaires had been compiled, a sample of these was selected for in-depth interviews.

### **Results from the questionnaire**

Of the 420 staff that received the questionnaire 303 chose to respond, giving a response frequency of approximately 73%. This not only gives a good basis for drawing conclusions about staff opinions about COI, but also demonstrates a great interest on behalf of the respondents for the issue of COI. This interest and engagement is also demonstrated by the fact that nearly one hundred respondents made use of the option to fill in an open-ended "additional-remarks-question" at the end of the survey.

### **Issues of agreement**

The questionnaire touched on a number of features relating to COI and COI use. Although respondents disagreed over some issues, opinions on other issues were near unanimous. Diagram 3.1 shows that over 90% of staff believe that COI is very important in their work, 80% are convinced that an improved COI system leads to greater work efficiency, and that 85% see a strong link between legal security and improvements in Lifos.

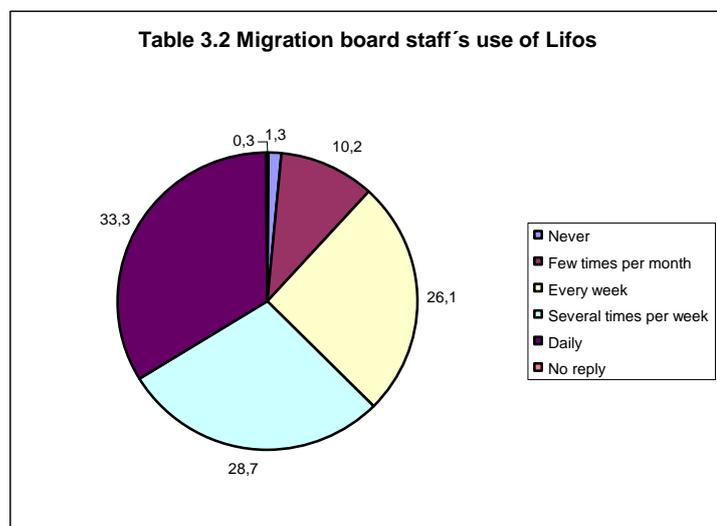


The central issues with which the mapping of COI use has been concerned are the importance of COI, the extent to which COI is used, critical approach to COI sources, the benefits of a centrally-made analysis, and problems with the current system for COI. The questionnaire touched on all of these issues, and demonstrated that the majority value COI highly in their work.

### COI use

Moving then to the nature of COI use, the questionnaire asked questions about the frequency of use and of alternative sources to Lifos. The results show that nearly 90% of staff use Lifos at least once every week, that over 60% use it several times per week, and that a third of all surveyed staff uses it daily (see diagram 3.2). The most frequent users are to be found among Process Managers and Case and Decision Making Officers for asylum.

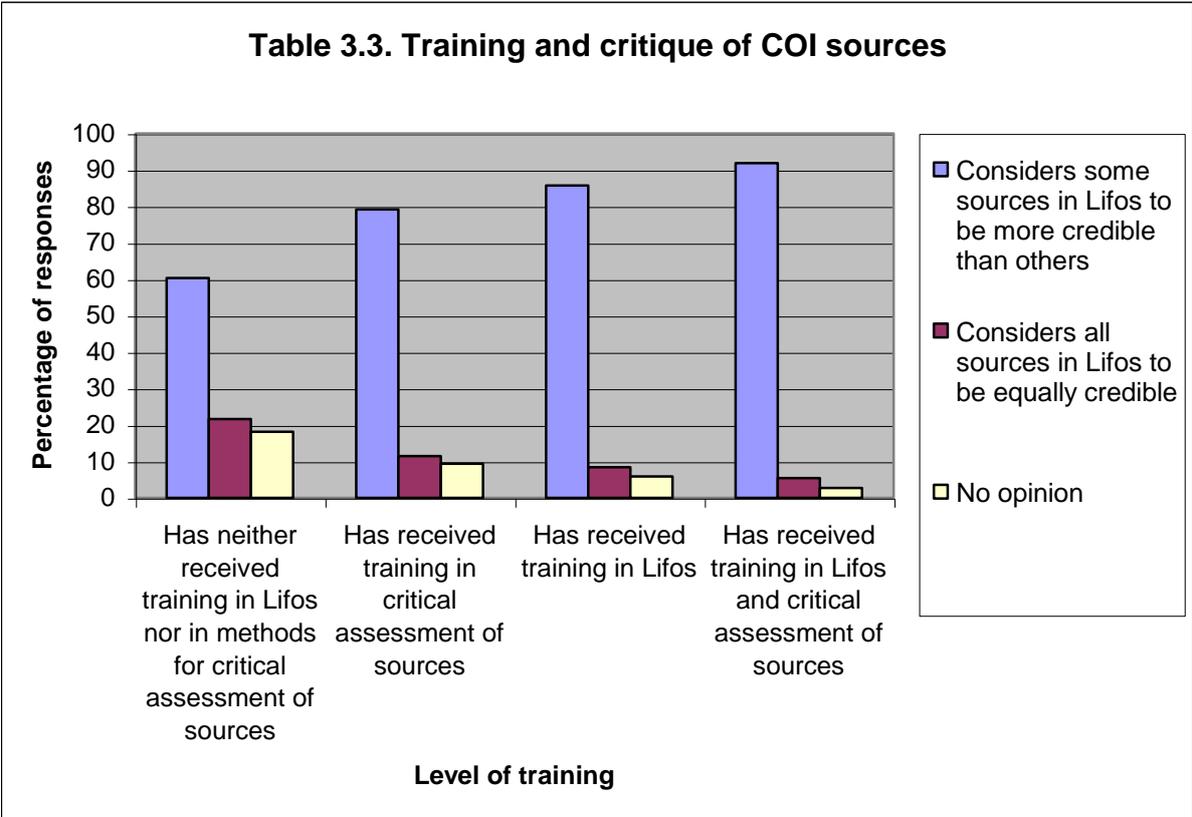
Lifos is by no means the only source of COI available to the parties of the Swedish asylum process. If they cannot find the information they need in Lifos, the COI Unit will offer assistance to Migration Board staff. In addition, staff may also make their own searches in external databases, or adopt other means for finding relevant information. When asked what they do if they cannot find what they are looking for in Lifos, only a third reported that they sometimes consult the COI Unit.



The most popular option was to ask a colleague (82,2%), closely followed by the option of making their own external searches (78,5%).

**Critical approach to COI**

The extent to which staff has a critical approach to COI sources is somewhat difficult to measure in a questionnaire. To get an idea of whether staff looks at sources in Lifos with a critical eye, a question was put forth which asked whether respondents believe that all sources in Lifos carry the same credibility. Nearly three quarters said they do not believe all sources are equally credible, thus suggesting credibility is an issue when browsing the COI database. It also turned out that those who had received training in the use of Lifos and in source criticism were more prone to agreeing that not all sources carry the same level of credibility. This is demonstrated in Diagram 3.3.

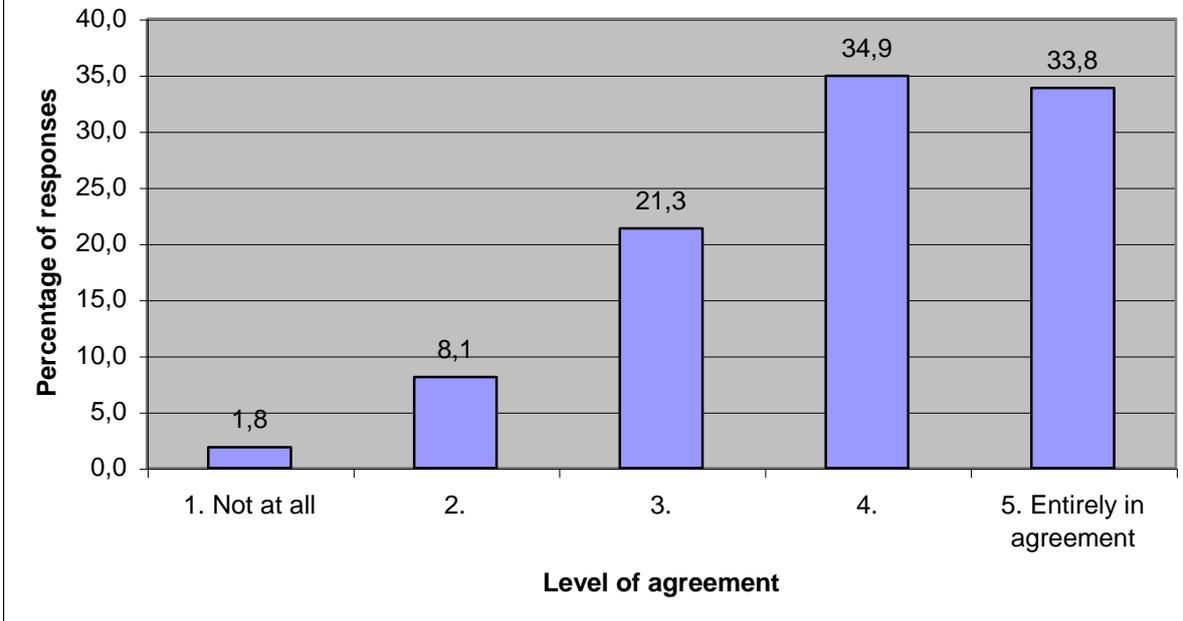


Although the above suggests that staff is generally aware of the difficulties associated with credibility and COI, the confidence in Lifos is at the same time high. When asked to grade the sources in Lifos according to their credibility, most sources received an average grade of between 4 and 4,5 (where 5 was the highest level of credibility). When asked if they agreed that Lifos is a compilation of correct facts, only 17% of respondents were in disagreement.

**Analysis of COI**

As mentioned in the previous chapter, the Swedish Migration Board makes no COI analysis of its own. Case Officers and Decision Makers therefore have to make their own assessment based on the COI documents that they can find. The questionnaire asked staff at the Migration Board if they felt that a centrally-made analysis would be useful. Diagram 3.4 shows that the vast majority would like to see such an analysis of the information in Lifos.

**Table 3.4 To what extent do you agree with this statement: "Lifos is a source for information, but I miss an analysis of the material" (1=not at all, 5=entirely)?**

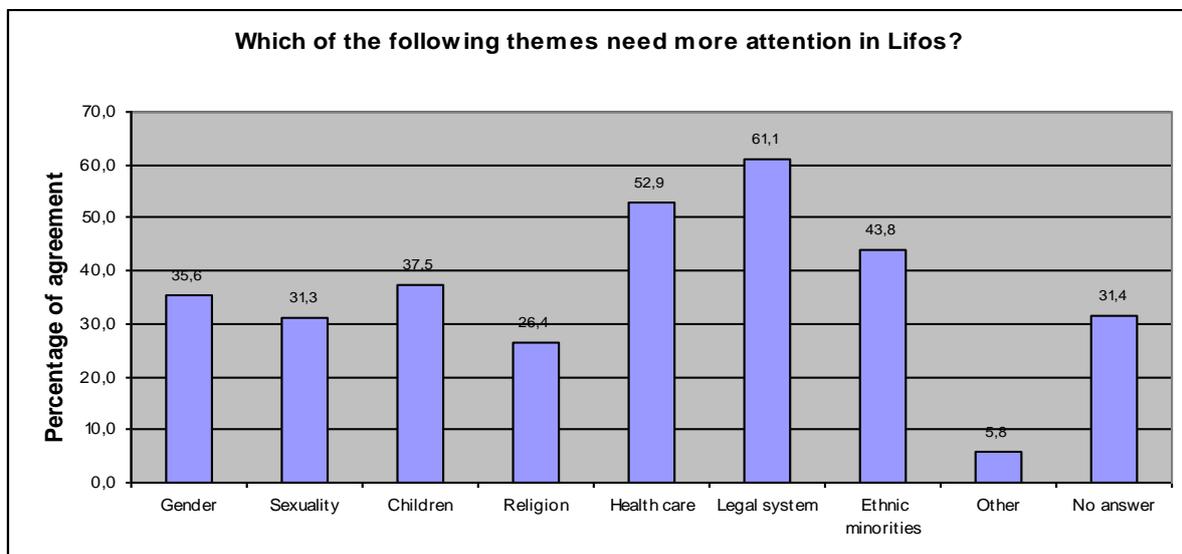


### Problems with Lifos

A number of the respondents opted to use the comments box at the end of the survey to express their criticism of Lifos. This ranged from user-friendliness to scope of its content, and also included critique of the structure and organisation of COI within the Migration Board more broadly. Problems were also of a more general nature, relating to the issue of not having enough time to go through all information that a case requires.

Of the respondents, 70% felt that the country-specific information in Lifos needs improvement, 56% asked for better thematic information (such as specialised information on issues of gender, political rights, child issues and similar), and a third expressed concerns with the user-friendliness of Lifos. Diagram 3.5 shows what specific themes need more attention in Lifos according to the respondents.

Table 3.5



Only 22% of the respondents felt that the information in Lifos was sufficient for their needs, and less than 20% gave positive answers when asked if they generally find what they are looking for in Lifos. The majority of the respondents did not think they have enough time to consider all the information that a case requires, and only 17% feel encouraged by their superiors to search for COI in external sources.

## Results from interviews

With the results from the questionnaire as a base, the in-depth interviews with Migration Board staff offered the possibility to explore these further. Interviews focused on methods for using and searching for COI, approaches to verify the credibility of COI sources, and interviewees' demand for a central analysis.

Interviews were held with interviewees individually, and each interview lasted 45-60 minutes. The structure of the interviews differed from interview to interview, but all covered the above-mentioned issues.

### **Use of COI**

Although staff have developed their own methods for searching and using COI, some general trends seem to exist with respect to how COI is approached when Case Officers and Decision Making Officers receive a new asylum case. Most of the time, the routine and experience from previous cases mean that officers already have extensive knowledge of the countries and issues that new cases concern. If, however, an application comes from a country that the officer has not dealt with before, the first task is to formulate the "crunch question" of the case. For example, the applicant claims to be a member of a specific political party in country X, which has led to persecution from the authorities.

With the issue at stake formulated, the officer turns to COI resources for verification of the applicant's story and credibility, and then for assessing whether the given situation makes the applicant eligible for asylum.

Many interviewees report that in the initial situation, if they have no prior experience of the country of origin, Lifos is not necessarily the source of COI. Instead, officers say that they need to get a more general overview of the country in question and need "quick facts", perhaps from a dictionary (many mention the web-based Wikipedia) or from other similar resources (e.g. CIA Factbook, or the Swedish Institute of International Affairs' country information resource). Another common way to begin is by studying maps of the country in question, and of the region from which the applicant originates. This is also a way of picturing the flight route that the applicant may have mentioned.

With the general overview of the country, the officers that work with assessing eligibility for asylum (Case Officers and Decision Making Officers for asylum) then turn to Lifos. Some report that they first turn to colleagues who they know have more experience of cases from the specific country, others do this only after they have first browsed Lifos. While in Lifos, most interviewees say they begin by reading the more general documents, such as the human rights report by the Swedish Ministry of Foreign Affairs or the US State Department equivalents.

Some of the interviewees who are Case Officers in the Administrative Process or Process Managers report that they go straight to the issue at stake without too much time spent on the general overview. This is because when they get the case on their table, an investigation has already been made by an asylum officer, and the introduction to the country therefore already exists in the case portfolio.

In searching for answers to the specific issues at stake, the thematic and free text search options in Lifos are useful entry points. Also, the COI reports produced by UK's Home Office seem very popular. They contain information and analyses about the most frequently made statements by asylum seekers and guidance for how to assess them.

If the desired answers cannot be found in Lifos, other colleagues seem to be the best bet for assistance. Interviewees report that they find this method much better than sending questions to the COI Unit because getting a response from the latter may take a long time. Most officers say that because the Migration Board was earlier structured geographically everyone knows who is the expert on which country, and this tends to be the person to turn to. Others say that they turn to the Operative Support Division within the Board (e.g. for issues relating to returns and verification of identity papers) or directly to Swedish embassies abroad. The majority also uses internet search engines such as Google in hopes that they may come across relevant information. The exception was one officer who said it was the task of the COI Unit to make external searches and that if something could not be found in Lifos it was an indication that it could not be found at all.

Although most interviewees give similar descriptions of how they approach COI, they differ on the issue of when to stop searching. There seems to be two categories of responses here; one category is those who find it difficult to know when they have enough information to make the right decision. They are aware that if the search for COI materials is continued, they may find a piece of document that will contradict the decision that the existing evidence point to. Without clear guidelines from the Board's management and with the abolishment of the Legal Practice Division, they fear making the wrong decision. The other category comprises those who stop their search as soon as they have found an answer to the specific question. Some even report that they generally have an idea of what the decision should be immediately when they get the case, and then stop their information search as soon as they have evidence to confirm this idea. Others are less rigid, but will only search until an answer is discovered, which it tends to be in Home Office COI reports.

### **Approaches to verifying credibility of sources**

The paragraph above connects directly to the issue of credibility of sources; it seems reasonable to suggest that those who are unsure of when to stop their search are more concerned with the possibility that the documents they have in hand may be wrong than those who end the search as soon as they come across a satisfactory answer. The interviews did not go into depth with attempts to verify such a link, but the general discussions on source credibility that was held with interviewees point to the existence of a relationship.

Thus, different views were given on how one knows if a document can be trusted. On the one hand there were those who thought that the information given in a document should be supported by other documents to be trusted, and on the other hand were those who said that the fact that a document was found in Lifos was enough to verify credibility. Some even suggested that the issue was of minor importance because if the wrong decision was made it would be corrected by the court anyway.

### **The need for good COI**

The presentation of the questionnaire results above demonstrated that there seems to be significant agreement among Migration Board staff of the importance and centrality of COI in the asylum process. In the interviews, however, it was frequently mentioned that far from all asylum cases depend on COI. Instead, the most important part of the process as expressed by the majority of interviewees was the credibility assessment. As mentioned above, officers tend to first look at the credibility of the story and then go on to assess whether the reasons given by the applicant do in fact provide grounds for asylum. As it happens, a great number – the majority – of stories will not pass the credibility criteria, and the grounds for asylum will therefore not be given that much attention.

It may be inflicted here that COI can and should be used also in the process of assessing credibility and verifying stories, and some officers said they use basic country facts to do this (e.g. asking about political party ideologies, area telephone codes, orientation in major cities and so forth). On the other hand, a number of people said that oftentimes it is not necessary to use COI to realise that a story is not credible. Most of the time lies are exposed by inconsistencies in stories, or because other lies are exposed in conjunction with the interviews. Therefore, the centrality of COI for the asylum process that was expressed in the questionnaire should be seen in this light.

### **The need for a central analysis**

The need for an analysis of the material in Lifos found great support in the questionnaire, and when first questioned about it interviewees were generally positive. They explained that the legal security of asylum seekers would increase with a central analysis as it would remove the possibility of different officers analysing the same piece of information differently. It would also make their work more efficient, and limit the doubts held by certain officers of when to end the searches for COI.

However, a number of officers changed their minds, or became less convinced, about the benefits of analyses as the interview progressed. When asked if there was a risk that a central analysis means that asylum applications will be evaluated on general rather than on specific grounds, many agreed. Furthermore, a number of interviewees agreed that it would be problematic if they came across additional COI materials that spoke against the conclusions of the central analysis. As a result, the strong support for an analysis that was expressed in the questionnaire should be treated with some caution.

### **Other problems**

As in the questionnaires, the interviews brought up a number of other problems associated with Lifos. Many argued that Lifos was not sufficient, but covered only the basic needs of asylum determination. The discussions also brought up a new dimension to the issue of credibility; because they found the results from searches in Lifos to be somewhat arbitrary they could never be certain that specific information did not exist in the system just by going through the hits on the result list.

In sum, and while the questionnaires point to a great interest in, and importance of, COI, the interviews revealed that in practice the use of COI is more limited, and dependent on the credibility of the applicant. Interviews also provided some adjustments to the agreement observed in the questionnaires on the issue of a central analysis: when confronted with the negative aspects of such analyses, many were less convinced that it would be all good.

## **Legal representatives of asylum seekers and COI**

Legal representatives of asylum seekers were approached in a similar way as staff at the Migration Board – through questionnaires and interviews – and for the same purposes. However, the interest of representatives to participate in the survey was considerably lower, and this section is therefore much shorter than the previous one. This is unfortunate considering the recommendations that are presented in Chapter 5 are in many ways directed at these legal representatives. As a result, it should be kept in mind that conclusions drawn here risk becoming speculative since they are difficult to verify.

### **Results from the questionnaire and interviews**

A list of all public counsels registered with the Migration Board to represent asylum seekers was used to identify legal representatives to be included in the survey. The list, however, contained more than 1400 entries, and no email addresses. As the respondents therefore had to be contacted by regular mail, and because legal representatives were expected to be less prone to participate in the survey such that the cost per answer would risk becoming very high, a sample of 50 names was randomly selected from the list. To these, a questionnaire was sent by mail, including a stamped return envelope.

The answer frequency for the questionnaire was very poor, and after two weeks only a few responses had been returned. The rest were then contacted by telephone and, where possible, by email. In certain cases, respondents were also contacted by fax. In the end, 23 persons chose to participate in the questionnaire, i.e. 46% of the sample. This figure should be kept in mind when considering the results presented below.

In order to correct for the poor return of questionnaire, a number of representatives were asked to participate in interviews. However, it proved equally difficult to attract interest from representatives in this way, and the number of interviewed representatives is therefore also much lower than the number of interviewees from the Migration Board.

### **Use of COI**

A number of persons in the sample group declined to participate because they felt that they did not have any opinion on COI. Some said they have only a few asylum cases per year as they are really focused on other type of legal representation, which meant they had not considered the issue of COI. This is interesting as such, because it means that there are several public counsels representing asylum seekers in virtual neglect of COI.

Of those who chose to participate, views on COI and Lifos were mixed. Although many acknowledged Lifos as a source for COI, 17% said they never use it. To 13% of the respondents, Lifos is the main source of COI, whereas to the remaining 70% it is one source among many others.

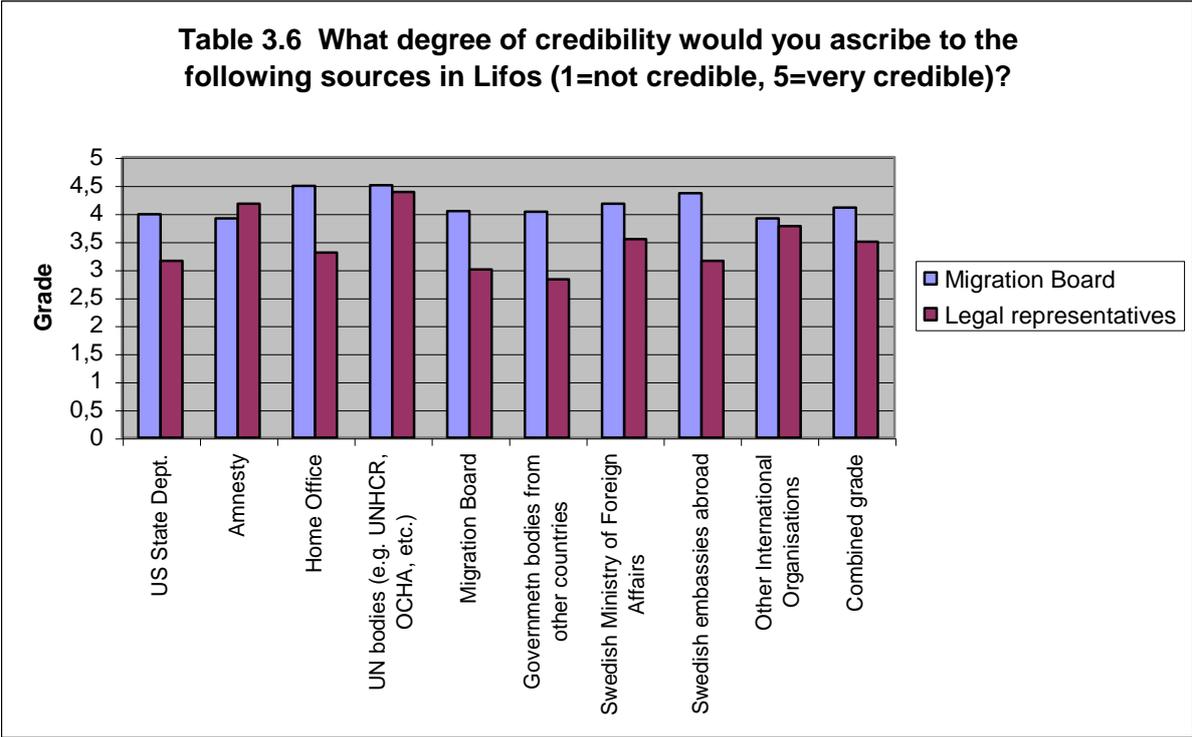
### **Critical approach to Lifos**

It seems that legal representatives consider the issue of credibility differently than do staff in the Migration Board. This may be because officers in the Board are required to look at all aspects of an asylum application – grounds for acceptance as well as grounds for rejection. As legal representative, the task is instead to support the story of the applicant. As one

representative put it: “I am not interested in whether a document represents the truth or not, I am only interested in the documents that support my client’s story”.

On the other hand, legal representatives need to adopt a critical approach when it comes to meeting the grounds for rejection put forward by the Migration Board. The same question given to the Migration Board on whether all sources in Lifos are equally credible shows both the indifferent approach explained above (over a third abstained from answering the question), and the scepticism towards the Board’s information that one may expect to be characteristic for the lawyer: Of those who responded to the question, 87% said not all sources were equally credible. Also, legal representatives were less confident than staff in the Migration Board that the content in Lifos was made up of correct facts. The combined credibility grade for all sources in Lifos according to legal representatives was 3,49, whereas for staff in the board it was 4,10 (where 5 is the maximum grade).

While generally valuing the sources in Lifos lower than did staff at the Migration Board, legal representatives also seemed to value information from governments lower than information from international and non-governmental organisations. Diagram 3.6 shows the average credibility grade for each source in Lifos given by representatives and Migration board staff. The only source that attracts higher credibility from representatives than from staff of the Board is Amnesty International.

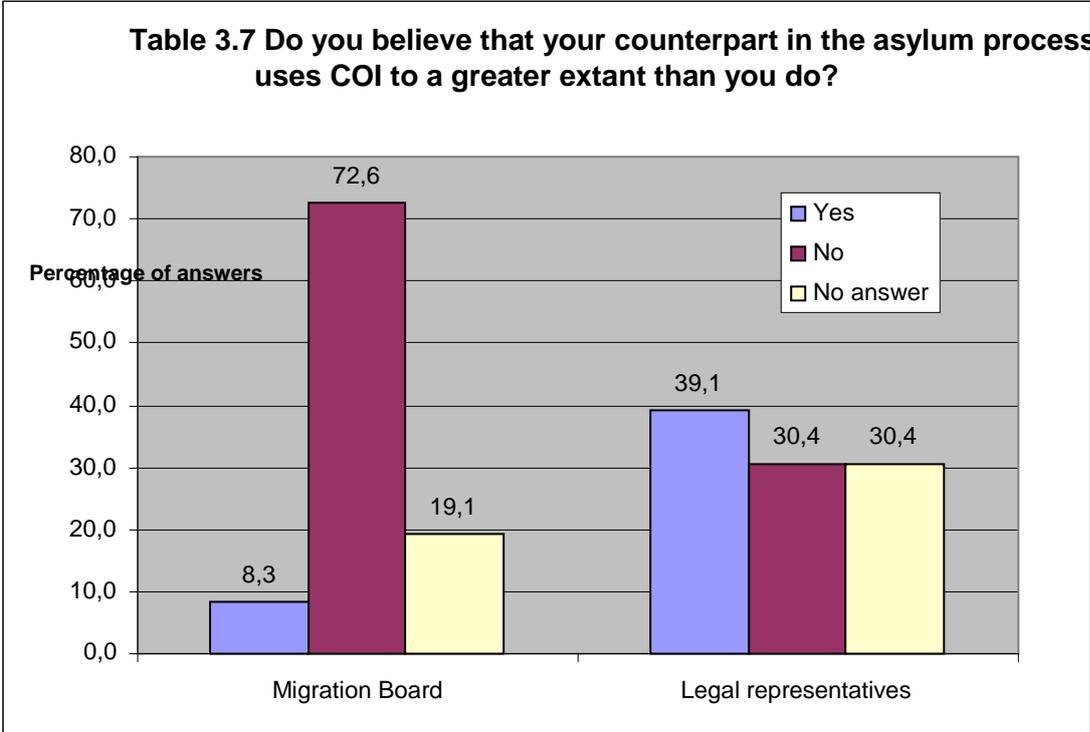


**The role of COI**

The great majority of respondents indicate that COI is an important feature of their work. Like staff in the Migration Board, although with slightly less conviction, legal representatives also see a positive link between the legal security of the applicant and better systems for COI. This indicates that legal representatives do see an important role for COI in the asylum process.

However, this importance given to COI in the questionnaire does not necessarily reflect the reality of the situation. On the contrary, the lack of interest for the survey and the reasons given for not participating indicates that representatives do not necessarily see an important role for COI. This view was supported both in the interviews and in the brief telephone conversations held with representatives when trying to get them to fill in the questionnaire. Those interviewed claimed to be very interested in COI themselves, which is why they chose to participate in the interviews in the first place, but said that they knew that interest among many other representatives is low.

Furthermore, it was suggested by various interviewees that representatives' work with COI is *reactive* in nature, i.e. the Migration board is responsible for the COI investigation and the lawyer responds to it by finding elements in it that speak in support of the client. This view finds support in Diagram 3.7, which shows that both staff at the Migration Board and legal representatives believe that the former use COI to a greater extent than the latter.



Others said, along similar lines, that the task of the lawyer is to rid the applicants' story of incoherencies and to bring clarity to aspects challenged by the Migration Board. While COI may be part of this, most of the time it is not. Note that this view echoes the opinions of asylum officers who claimed that the real issue in a case is credibility, and that COI is only of marginal significance in that process.

**Analysis, ownership and financial remuneration**

Views on the need for a centrally-made analysis by the Migration Board were mixed among representatives. Opinions were fairly evenly split between being for and against, but the interviewees expressed a general caution that such an analysis would risk becoming too rigid and too difficult to argue against (because the Migration Board would become less prone to changing its mind if alternative information came to the surface).

The issue of Lifos' ownership was also a question where respondents' views differed. Of those who responded to the question, one third did not think that their confidence in Lifos would increase if administered by someone other than the Migration Board, just over 40% said it would become more credible and the rest remained neutral. Some of the interviewees claimed that ownership was insignificant as Lifos was only one source among many others and because most documents in it were produced externally anyway. Others argued that it was problematic that the most important source for COI belongs to one of the parties in the process.

It had been expected before the questionnaire was distributed that a reason for legal representatives' lack of interest in COI might be that they are not properly remunerated for the time they spend searching for relevant documents. However, the answers to the question of whether they would spend more time on COI if adequately remunerated did not result in the expected unanimity. Although 50% said they would spend more time on COI if paid, almost one third said they would not.

## **The Migration Courts**

In mapping the use of COI in the asylum process, it was also considered relevant to hear the opinions of the Migration Courts. Although not targeted with questionnaires, the County Administrative Courts in Malmö and Stockholm were approached for interviews. It was, however, only the court in Malmö that chose to participate, and this should be kept in mind when considering the results presented here. In addition, informal conversations have been held with representatives from the National Administrative Appeals Court.

A survey of court rulings in asylum cases over the past year reveals that only scant references are made to COI materials, and that when this is actually done, the documents referred to tend to be of the general kind (such as the annual human rights reports commissioned by the Swedish Ministry of Foreign Affairs or the US State Department). Interviews with the court in Malmö support this view, and court officials say that COI is seldom the central issue at stake in the cases brought before the court. The main issues for the court to consider are instead disagreements over legal and procedural technicalities and the credibility of applicants.

The court in Malmö furthermore said it had no expert function for COI, and that it did not desire one. On the contrary, it was felt that the non-specialisation in COI of judges is an important factor for ensuring objectivity in the court's rulings. Where training in COI had occurred, it was very basic and general in nature, serving to ensure awareness of so called *notorious facts*.

The court in Malmö thus displayed only a marginal interest in COI, although individual official's engagement may be greater. One view expressed in the interviews was that COI first and foremost is the business of the parties to the process and that the Migration Board, which has the greatest resource, needs to take the main responsibility for COI. While true that it is the task of the court to assess whether the evidence presented by the parties is enough to make a ruling, the instances when the court actually refers a case back to the Board for further investigation seldom have anything to do with COI.

It has been suggested by interviewees in the Migration Board and by legal representatives that the interest in COI may vary between the different courts, and that the Migration Court in

Stockholm puts greater emphasis on COI than the one in Malmö. Process Managers at the Board in Stockholm for example testify that the court in Stockholm frequently asks questions to the Board regarding COI<sup>14</sup>, and the court has been known to make its own suggestions to the parties of what COI materials may be of interest in the specific case. The court in Stockholm is also organised geographically such that cases from different parts of the world are treated by different departments within the court, which further suggests a country specialisation among its staff.

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<sup>14</sup> This may be because the Migration Board is considered an "expert authority" on issues of migration and COI, meaning that other institutions may refer questions within this field to the board. On the other hand, the Board is also a party to the asylum process, and it may be problematic if the court treats one of the parties as an expert witness.

## **Chapter 4: Key issues and critical aspects**

This chapter seeks to analyse the findings of previous chapters so as to shed light on the critical issues relating to COI in the Swedish asylum process. The analysis will then form the basis for the recommendations outlined in the next chapter.

### **The role and function of COI in the Swedish asylum process**

A fundamental assumption behind the existence of this project was that COI is a central feature of the asylum process. Chapter 1 has explained why COI is important, and with the changed asylum procedure it was expected that the demand for high quality COI would expand significantly among all parties to the process. Organisations such as the Swedish Refugee Advice Centre and Amnesty had expected the number of questions pertaining to COI posed by legal representatives would increase dramatically. Similarly, persons in the Migration Board management anticipated that the making public of Lifos would produce a public reaction concerning the information contained, and not contained, therein. Neither happened; the number of COI questions to the organisations remain constant, and the debate around Lifos has been very quiet or non-existent. A number of findings in this study suggest that a plausible explanation for this may be found in the seemingly marginal status of COI in the Swedish asylum process.

#### **Does COI matter?**

There are numerous indicators pointing to the conclusion that the role of COI in the Swedish asylum process is limited (i.e. compared to the centrality of COI suggested in Chapter 1). The disinterest in COI among legal representatives is an important such indicator, and the relatively small resource for COI in Sweden is another. The fact that the Migration Court in Stockholm has been known to make its own suggestions for COI documents to the parties may also be a sign that the courts find the grounds for making decisions to be insufficient.

The problem with disinterested lawyers has to some extent been confirmed by interviews with legal representatives. While it should not be forgotten that a number of representatives work with great commitment and spend a lot of time reading up on COI – many have come to specialise on one or a few countries – there seems to be an issue of neglect of COI among those who take very few asylum cases. Part of the problem, it has been suggested, is that lawyers who specialise in other fields take asylum cases irregularly and only when they have no cases within their usual field of specialisation.

Whether a consequence or a cause, the limited interest in COI among lawyers is also visible in the Migration Courts. Going through court rulings, one finds only scant references to in-depth COI materials, and to the extent that COI is used at all it tends to be in the shape of very general human rights reports. The Migration Court in Malmö, as reported above, admits that the issue at stake seldom involves COI, but that the concern in court has more to do with procedural and legal technicalities.

On the other hand, conversations with representatives from the National Administrative Appeals Court make clear that COI is, and should be, an important aspect of asylum determination. One of its rulings, for example, clarifies that decisions must be made on high-quality and up-to-date COI<sup>15</sup>. The National Administrative Appeals Court has also ruled that the Migration Courts have a responsibility to ensure that there is sufficient knowledge and evidence to make a ruling; if not, the court has to make its own investigation or ask the Migration Board to investigate further<sup>16</sup>. However, there seems to be a gap between policy and practice here, and some of the courts, and a number of judges, have deliberately refrained from specialising in country of origin knowledge. While the reason may be noble – to ensure that rulings are purely made on the evidence submitted by the parties and not on the subjective views of the judge – it is also problematic; how will the judge know when there are sufficient grounds for a ruling if he or she lacks extensive country knowledge?

One issue here is that the insistence on non-specialisation by courts and judges seem to stem from what may be described as a “factual approach” to COI, i.e. a view that COI documents consist of facts and that sufficient knowledge of the law is enough to understand which facts are relevant and which facts are not (this will be discussed further under *The nature of Swedish COI* below). However, this may be misguided and over-simplified; the nature of COI is seldom factual. Instead, COI reports reflect the subjective understanding of their authors, the political ambitions of the organisations behind them, and the cultural contexts in which they are written. COI is complex, and rulings that concern COI require an interested and knowledgeable court as well as high-quality COI documents. A factual COI approach in court combined with a disinterested legal representative, does not provide a healthy environment for advanced country analyses.

In comparison to some of the courts and lawyers, staff within the Migration Board seems generally more interested in the issue of COI, and the questionnaires displayed a shared belief in the importance of such information. On the other hand, many staff also testify that the real issue at stake is credibility and that COI seldom is a crucial ingredient in that process. Possibly, and as discussed above, there may be a discrepancy between staffs’ personal interest in international affairs, and their professional duties such that the real use of COI is fairly limited. Furthermore, the engagement of staff for COI is not necessarily in tune with the Migration Board management; considering that the resource allocated to COI is remarkably low in Sweden, it is difficult to come to any other conclusion than that the directorate see its role as marginal.

When asked about the limited COI resource within the Board, some figures in the management section suggest that this is counter-weighted by the efficiency of the Swedish system. Others admit that COI is indeed of lesser importance now than before, but that this is because the “court system ensures the legal security of applicants”. While it is unclear what this means precisely, an interpretation given by a Board official is that, in the Board’s mind, responsibility for legal security has been transferred to the courts and has diminished the need for COI on behalf of the Board<sup>17</sup>.

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<sup>15</sup> Migrationsöverdomstolens dom UM230-06

<sup>16</sup> National Administrative Appeals Court ruling UM122-06, Lifos 15828

<sup>17</sup> The idea that responsibility for applicants’ legal security has in some respects been transferred from the Board to the courts is of course very serious. Nevertheless, a number of interviewees have mentioned improved legal security as a consequence of the court system in their explanations for the limited COI resource in the Swedish asylum system.

This feeling of a transferred responsibility is not only problematic in the sense that the Board must always consider the legal security of applicants, but also because interviews with the Migration Court reveals that the courts see the responsibility for using high-quality COI to be with the parties (an especially with the Board). The effect may be that responsibility is partly lost, as each actor believes it is the duty of someone else. The problem is exacerbated by the reactive approach to COI taken by a number of lawyers, which also works as a transfer of responsibility to the Board.

A further reason for the Migration Board's small COI resource, suggested by people within the organisation, is that the Swedish system is "generous" in the granting of asylum and resident permits. This idea is supported by various comments from interviews and general conversations with senior figures of the Board. When asked to speculate, one interviewee suggested that the reason for the lack of debate and the limited COI resource is because "the topic (of COI) might be sensitive for both politicians and for the Board's leadership". This, in the interviewee's opinion, is because asylum is the only legal way of entering Sweden, and a number of people who seek a better life than they can get in their country of origin therefore make up false stories to boost their chances of obtaining a resident permit. A greater resource on COI will serve to expose more false stories, thus contributing to a more restrictive migration policy. This is what makes the issue so sensitive.

Interviews with various figures within the Migration Board thus bring up an interesting aspect to the issue of COI. Country of origin information in these conversations seem to be considered as a tool for exposing lies, and consequently for rejecting asylum applications. Positive decisions, they seem to argue, are less a function of COI than negative ones. Therefore, more resources on COI will be to the disadvantage of the asylum seeker.

That conclusion does not fit well with the underlying assumptions of this project. This may, of course, be because those assumptions are misguided and wrong. Another explanation, however, may be found in the way that COI tends to be used, when it is used (and when it is not), and what type of information is considered to make up the COI body in the Swedish context. These issues will be the concerns of the following sections.

## How COI is used

Through interviews with asylum officers in the Migration Board, the use of COI in the Swedish asylum process has been mapped. This was described briefly in Chapter 3, but to better illustrate the process it is useful to consider an example. Box 4.1 therefore outlines a mock case of an asylum application from Albania.

In this example, the applicant is considered to be credible. Asylum officers of the Migration Board have interviewed the applicant and found no incoherencies in the story. They have asked him about his life, his time in prison and the threat against him.

### **Box 4.1: Mock example from Albania**

An Albanian man seeks asylum in Sweden. He has been found guilty of man-slaughter in Albania, and has served his time in prison. Because of the traditional *canun*-laws that still shape many people's lives in northern Albania (although not endorsed by Albanian law), the family of the victim of the manslaughter are entitled to blood revenge. Once out of prison, the man is therefore again prisoner, but this time in his home (where the *canun* tradition forbids the family of the diseased to carry out their revenge). He knows that if he goes out of his home, he will be instantly killed. He cannot see that Albanian authorities will help him, and therefore flees the country to seek asylum in

He has explained the *canun* laws and his fear of blood feud.

Because the man tells a story of persecution, and because he claims that there is no assistance to be given from Albanian authorities, there may be grounds for a positive decision in the applicants' plea for permission to stay in Sweden. In order to find out, it is then time for the asylum officer to focus the investigation on COI. The officer thus turns to Lifos to find grounds for making a decision.

The example demonstrates the need for COI; asylum officers have to verify that *canun* laws are in operation in Albania, and in the region from where the applicant originates. They will check what the Albanian legal system has to say about these practices; are they in line with Albanian law? Do the authorities accept them? If not, what are the possibilities for protection inside Albania? Are there any previous decisions by the Board or the Migration Courts that can provide guidance? Lifos may contain the answers to these questions, and if it does not officers may turn to the COI Unit, to experienced colleagues, or make external searches themselves.

Following from the interviews with Migration Board staff, the above seems to be a typical example of how COI is used in a Swedish asylum case. However, and once again recalling what came up in the interviews, the majority of cases do not get this far. Instead, and before COI actually becomes an issue, other factors are more important: perhaps the Albanian man in the example lacks acceptable documents to prove his identity; maybe he has no copy of the verdict against him regarding the manslaughter case; when asked who it is precisely in the family of the diseased that threatens him, he says in the first interview that it is the brother, but in a second interview he claims that it is an uncle and a cousin; he claims to have been imprisoned between 1998-2004, but cannot give a good account for how he managed to survive without going out of the house during 2005, before he escaped to Sweden; and when asked how he managed to actually get out of the house when he escaped, his story is contradictory on a number of points.

Such incoherencies are most of the time not country-specific; they represent logical inconsistencies that combine to reduce the applicant's credibility. COI is used marginally in this credibility verification process, and only in order to test the applicant's local knowledge. The asylum officer may ask of the name of the mayor in the city from where the applicant claims to originate, or of the area telephone code of the home region. The "real" use of COI (in this case the consulting of Lifos on legal protection possibilities, the nature of blood feuds and the possibilities for internal protection) enters the process much later, and only if the applicant is found to be credible: there is no need to try his case against COI if in fact he has not experienced the story he is telling<sup>18</sup>.

### When COI is not used

This brings up the issue of when COI is not used. As exemplified above, COI seems to enter the Swedish asylum process only when the logical and consistency criteria for credibility have been achieved, and when the reasons given by the applicant may be considered to make him or her eligible for asylum. COI may play a role in the credibility assessment phase, but that

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<sup>18</sup> It should be added that the asylum officers have a duty to try an applicant's case against existing knowledge of the home country to check whether any conditions for asylum exist. This investigative duty is of course particularly important if the decision at hand is a negative one. In practice, however, this study has revealed that such investigations may be (at least partially) neglected if the applicant is considered not to be credible.

role tends to be marginal. To the extent that it is used, it is in order to check that the person is who he or she claims to be (by testing local knowledge) or to expose lies (e.g. “You say that you were in prison X during 2004, but that prison has been closed since 2002”). Most of the time, however, it seems that such incoherencies are identified by logical inconsistencies that are not country-specific.

In effect, the existence of incoherencies may prevent the investigation to look at COI at all, at least in any thorough sense. A typical example of this is found in a real case with a female applicant from India. In its decision, the Migration Board admitted that conditions might be difficult for women in India (she was a victim of rape by policemen, widowed and alone with four children), but suggested that the fact that her parents had helped her get to Sweden proved that she had someone to look after her at home. In other words, the investigation did not go into any detail on COI, other than acknowledging that it is a difficult situation, because when she mentioned that her parents assisted her flight to Sweden it was taken as a sign that she did not need protection.

This is a typical example of when COI is *not* used, i.e. when a piece of information is identified that allegedly makes a further COI investigation unnecessary. In this case, the Migration Board mentioned with a single sentence that that the general situation for women in India is difficult, but not enough to grant asylum. The fact that the woman’s flight had been facilitated by her parents was taken as a reason for not looking any further into the specific situation of the woman in question, i.e. for not furthering the COI investigation. The conclusion of the Migration Board was that the woman’s parents therefore care for her, and her story of being shunned by society thus seemed incoherent and possibly exaggerated.

However, more extensive use of COI may have put that piece of information in a different light. A daughter in the particular Indian region tends to be married into her husband’s family, and is no longer the responsibility of her parents. This woman had lost her husband, and her parents-in-law were dead. She had been raped, which is considered disgraceful, and she might as such be considered a liability to her family (which is also likely to have paid a dowry to get her married). The action that Swedish authorities interpreted as care, may in fact have been a serious attempt to get rid of her. However, without adequate knowledge about Indian society, the behaviour of people in certain socio-cultural contexts, and the specific situation of women, such a conclusion is very difficult to reach. In this case, the possibility was not even considered because of a circumstance whose meaning seemed clear to the asylum officers. This is not to suggest that the decision in the end would have been any different, but rather to exemplify that circumstances that seem to have little to do with COI may in fact have everything to do with COI.

Another part of this problem relates to the so-called *notorious facts*. These are the facts that are common knowledge and that everyone is expected to know. In the courts, for example, this would be facts that you do not need to prove because they are common knowledge. Such notorious facts are different from society to society, such that a notorious fact in India may be very different from a notorious fact in Sweden. This may result in an asylum seeker finding it difficult to account for certain aspects of his or her story, neglects to mention other important parts, and provides a story which makes little chronological sense. An understanding of the socio-cultural context of the applicant, and of the notorious facts in the country of origin, may bring clarity to a seemingly incoherent account. Failure to understand this, on the other hand,

may make an applicant's story seem contradictory and illogical, and thus impact on overall credibility of the applicant<sup>19</sup>.

## The nature of Swedish COI

The limited role of COI in Sweden also affects the nature of the information used, and may provide an explanation of why it seems to enter the asylum process at a fairly late stage (and why it is often not used at all). The approach to, and nature of, COI in Sweden is *factual*. The Head of the Legal Division of the Board, and the highest responsible for COI, has explained that Lifos is a compilation of "facts"<sup>20</sup>. The idea is that there are a number of observable facts about countries and societies that can be captured and structured in a database. The underlying logic seems to be that anyone with adequate knowledge of asylum laws and procedures can use these facts to get to the right (and thus the same) conclusion.

The opposite to a *factual* approach would be an *understanding*, or perhaps *relativistic*, approach, whereby COI is about understanding the "facts" in the context of the asylum seeker and his country of origin. The issue of *understanding* in the Swedish asylum process, however, seems to apply only to the law; when disagreement arises, it is because people interpret *the law* – not COI – differently. That is the issue which the court exists to settle. The factual approach can therefore also be described as a *legalistic* approach<sup>21</sup>, because it is the level of legal understanding which constitute the dependent variable in the equation behind the outcome of a decision.

This is not to suggest that staff within the Migration Board, the courts, and legal representatives is unaware of the issue of source critique or relativity with respect to knowledge. It may be that all parties in the process could hypothetically agree that, on the philosophical level, we do not really know anything. Such an insight is problematic, however, and especially when it is one's job to examine information and evidence; for practical purposes we have to accept certain issues as "true", even if they are not so in the most objective sense. The problem at hand, then, is where we draw the line between the types of documents in which we may expect to find acceptable truths, and those that we consider speculative and vague. This is where the factual approach comes into play, for judging from the scope of information contained Lifos, and from what seems to be the custom for COI in Sweden, this line is fairly harshly drawn.

It seems that Lifos, and the sections of Lifos most frequently referred to, is concerned with what may be described as *geographic information*. In other words, it concerns the physical and quantifiable attributes of societies, their demographic and ethnic make-up, the existence

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<sup>19</sup> This is not to suggest that the investigative duty of the Board implies that it should assess other grounds for asylum than those stated by the asylum seeker – the fear of persecution must be subjectively felt – but to demonstrate that what may be taken as a reason for rejection on grounds of low credibility may be the result of the cultural bias and lack of COI awareness on behalf of the asylum officer. Furthermore, the failure of the applicant to understand that his or her story is also a product of particular culturally determined behaviour and beliefs may result in failure to present the grounds for asylum in a way that the court in Sweden finds to be coherent and credible.

<sup>20</sup> Interview with Henrik Winman in *Aktuellt*, 10 Nov 2006

<sup>21</sup> As a researcher in peace and conflict studies, I was curious about the Board's view of the situation in Iraq. "How do you get the conclusion that there is no armed conflict", I asked a Country Expert in the COI Unit. He explained that my question was a typical reaction of someone who did not understand the asylum law properly. In other words, the issue was never about understanding the dynamics of armed conflict, but about understanding the construct of Swedish asylum procedures.

of political parties, the regional spread of religious practices, and the existence or non-existence of armed conflict. The information is treated as absolute: there either is or is not an armed conflict, and with the instruments at hand the Board and courts will be able to give a definite answer.

In this factual approach to COI, “non-factual” information is discarded. This includes sociological studies of specific societies, observations made by anthropologists or conclusions drawn by political scientists. In fact, there is no academic material whatsoever in Lifos. Arguably, this is because such information would make the process too complex – ten political scientists may describe the situation in a country in ten different ways, and all descriptions are necessarily the subjective product of those political scientists’ own convictions and beliefs. On the other hand, it is this sort of information that will facilitate understanding of when COI should be used. Going back to the case of the Indian woman, the knowledge required to understand that COI may actually have been an issue is unlikely to be discovered in the geographical facts outlined in Lifos. It requires deeper sociological and anthropological studies of the society in question. The effect of neglecting such information, as the case with the Indian woman demonstrated, is that COI is not used when it could have made a real difference

The rejection of academic material also contributes to the misperception that the COI contained in Lifos in some way has been “distilled” from subjective manipulation. This is problematic because the “facts” premised by the factual approach are of course not facts in the objective and truthful sense. They too are products of the worldviews of COI producers, and are subject to falsification. The Albanian case in the example above proves the point. If one consults Lifos with the question of whether the Albanian man may be able to get protection from Albanian authorities, the answers are contradictory. In the Home Office report, the asylum officer will find that:

*There is no evidence to indicate that individual Albanians fearing the actions of those seeking to carry out a blood feud cannot access protection from the Albanian police and pursue these through the legal mechanisms that have been set up to deal with blood feuds<sup>22</sup>*

On the other hand, and if the asylum officer is not of the sort that stops the search as soon as an answer has been discovered, a further read in the fact-finding mission report of the Norwegian authority for COI (Landinfo) will give this answer:

*The people spoken to were all in agreement on the issue that high-risk targets of human trafficking and victims of blood feud cannot be given protection in Albania<sup>23</sup>*

Quite obviously, at least one of the reports has got the issue wrong, and referring to Lifos as a compilation of “facts” must be misperceived. The problem, of course, is that it is extremely difficult to tell the fact from the lie. Objectively, this may be an impossible task, and we cannot expect the Migration Board or the courts to make perfect decisions. On the other hand, the insight that what is at hand is not necessarily a piece of fact – in other words a healthier approach to the content in Lifos – may be an important step in the right direction. Similarly,

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<sup>22</sup> Lifos ref. 16461

<sup>23</sup> Lifos ref. 15017

seeing these accounts in light of academic research may provide useful indicators of how one should interpret them.

## **An unaccountable system: The absence of analysis**

The previous chapter discussed users' views of Lifos. One question that found an almost unanimous response among Migration Board staff was whether a central COI analysis should exist; most respondents thought this was an excellent idea. Many argued in the subsequent interviews that a central analysis would improve the legal security of applicants because all decisions would be backed by a similar analysis, and the impact of individual bias would be limited. Furthermore, the existence of such an analysis would also facilitate the work of staff and remove the insecurity that some officers feel with regards to making the correct decisions.

Analyses are not all good, however. Studies on other countries' COI analyses and their use have shown that they limit the individual officers' propensity to consider information that speaks against the central analysis; it may even reduce the propensity to seek alternative information altogether<sup>24</sup>. These issues are serious, and a number of Migration Board staff, when confronted with such arguments, were less convinced that a central analysis is only a good thing.

The non-existence of analysis is, however, potentially even more serious. The problem is that its absence reduces the level of accountability in the system. Lifos is today a smorgasbord of COI from which the asylum officer may pick and choose, and none of its content is the responsibility of the Board. Even if it is not deliberate, the effect is that responsibility for an analysis is removed from the Migration Board to some other actor (e.g. UK Home Office or US State Department). As a result, when the court rules against a decision made by the Board, the faulty analysis is not entirely the Board's fault – the mistake has been made in London or in Washington. The problem is that this will not impact on the content of the COI document considered to be faulty: it will remain in Lifos, it might be used over again in other cases, and its errors are not likely to be brought to the attention of its foreign producer<sup>25</sup>.

If, on the other hand, a Board decision ruled against by the court was based on an analysis produced by the Board itself, this is likely to have generated some consequences: the analysis would have had to be changed. The possibility of holding the Migration Board accountable for its use of COI will therefore increase significantly if it starts producing its own central analyses. Furthermore, the existence of a central analysis will have effects on the legal security of asylum seekers, as they will know the Board's position on a certain issue beforehand. In the Albanian example, the Board could not pick and choose between the Norwegian or British report, but would have to make a statement on its own.

## **Inequality in the system**

There is a significant element of inequality in the Swedish asylum process with respect to COI: The asylum seeker has the burden of evidence, but the Board has the COI resource;

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<sup>24</sup> Home Office, *Country of Origin information: A user and content evaluation*, Home Office Research 271, 2003

<sup>25</sup> Similarly, if a court rules against a Home Office analysis, there is no mechanism for ensuring that its erroneous parts are removed from Lifos to prevent them from being used in future decisions.

Legal representatives of applicants are not remunerated for time spent on searching and reading up on COI, but it is part of the asylum officer's job description; documents in Lifos provide guidance for how applicants' stories should be met, but has no information on how such documents themselves have previously been challenged and perhaps disproved in other countries.

This element of inequality is problematic, for even if the Board is expected to provide neutral and objective investigation into cases, it is also a party in the legal process. The inequality in access to COI is not just a question of economic resources. The questionnaires and interviews showed quite clearly that if the individual officer cannot find what he searches for in Lifos, he has a number of possibilities at hand. The most popular one is asking colleagues, and they may also turn directly to the country experts in the COI Unit for assistance. The lawyer, on the other hand, will at best have one or two colleagues in the bureau or, in many cases, nobody to turn to. There is as such an inequality with respect to knowledge sharing and COI infrastructure that exacerbates the unequal economic resource. This is of course even more problematic if the picture of the disinterested lawyer painted above is true.

## **Lifos' ownership**

Attached to the issue of inequality is the issue of Lifos' ownership. The effect of its belonging to the Migration Board is that asylum seekers, in order to fulfil the duty of providing evidence for their claims, have to turn to the counterpart in the process for assistance. Even if the system was truly objective, its credibility in the eyes of the applicant may still be an issue. As a result, it may very well be relevant to consider if it is desirable to break away Lifos from the Board and place it under the administration of another institution or agency.

On the other hand, to most lawyers Lifos is simply one COI source among others, and many lawyers report that they use Lifos as a way of accessing all the standard sources from the same portal. The documents contained therein are produced by external actors. It is not unreasonable to suggest that an authority like the Migration Board, which is tasked with the investigation of asylum cases, has its own resource for making such investigations. To suggest that there should be an independent COI resource from which both parties to the process should collect their evidence would go against the nature of information searches and the policy of free evidence in the court. An independent resource to replace Lifos would therefore not be the only source of COI for neither of the parties, and would possibly serve to remove much of the transparency of COI use within the Board that Lifos has actually achieved. This relates back to the issue of accountability explained above: removing Lifos from the Board's administration may further limit the possibilities of holding the Board accountable for the way it uses COI.

There are, as such, both positive and negative aspects of removing Lifos from the Board's regime. This study will not make any suggestions for either scenario, although it is recognised that the issue of Lifos' ownership must not be neglected in the discussion.

## **Further points and problems**

Chapter 2 outlined the intelligence cycle. Any information processing organisation is likely to encounter certain problems in all phases of the process. Lifos may for example be better at

updating information, include more varied sources and documents, improve its methods for critical assessment, and better connect to the demands and needs of its users.

These points are all aspects with which the COI Unit must constantly be concerned, but the latter two are particularly urgent. First, the current system for credibility verification of Lifos content is problematic. Most of all, the problem stems from the approach to only consider the credibility of a source, and not of the information as such. This is especially problematic when Lifos has no analytical function, and hence no instruction for how information contained therein should be valued. The motive of Lifos is that all its content should be of such standard an correctness that it may be used as ground for a decision, but the absence of credibility verifications of its content can result in such contradictions as the Albanian case demonstrated. While both British and Norwegian authorities may be considered credible sources, the information provided by one of them in that case obviously was not. Furthermore, it may be that one of these reports has been challenged and criticised by courts or experts in the country of production, but that type of information is never included in Lifos<sup>26</sup>.

The second issue of criticism in light of the intelligence cycle is how well Lifos connects to its users' needs and demands. Many surveyed staff report that they have no contact with the COI Unit and that they do not find what they are looking for in their searches. This indicates that there is a gap between users and producers of COI, which must be bridged. While there is today no formal system for giving feedback to Lifos, the COI Unit reports that such a mechanism is in the pipeline. This is an important issue that must not be neglected, and it may also be useful to consider the removal or updating of documents once a court ruling has challenged them.

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<sup>26</sup> UK Home Office reports are for example scrutinised by an independent reference group, the Advisory Panel on Country information (APCI). They report on errors and provide differing views on a number of issues, and their comments are visible in their versions of the documents. These are, however, never included in Lifos. See also [www.apci.gov.uk](http://www.apci.gov.uk)

## Chapter 5: Recommendations

Against the background of the previous chapter's conclusions, this chapter will outline recommendations for coming to terms with the problems associated with COI in the Swedish asylum process. First, the objectives of the recommendations will be outlined, then the specific capacities of NGOs and churches will be considered, and finally the recommendations to the organisations will be provided. There will also be some recommendations for the Migration Board, although not as detailed.

### Overall objective of recommendations

The main problem with COI in Sweden is its role in the asylum process. This role is limited and in many ways marginalized. This has effects on how COI is used, when it is used, and what the COI system comprises. As a result, the overall objective of the recommendations emerging from this study may be summarised in the following way:

#### **Higher status and better use of COI in the Swedish asylum process**

- Increased use of COI materials
  - More references and supporting documents in the cases
  - Use COI in more areas and earlier on in the credibility process
- Expand the limits of COI
  - Break the factual approach to COI
  - Wider use of COI to raise the understanding of social, cultural and political dynamics in the country of origin

### Other objectives

While higher status and better use constitute the main objective, its achievement does not necessarily solve all the problems. Satisfying that aim will also raise the requirements of the COI system as a whole. The problem of an unaccountable system, the access problems and the inequality issue may thus be inflated. With reference to the identified key issues in Chapter 4, the following objectives may therefore be added to the overall objective above:

- A COI system characterised by accountability and responsibility
  - Facilitation of the possibility of holding the Board accountable for misuse of COI
- Better access to useful and high-quality COI documents for all parties to the process
  - Improved COI resources
- Equality in the system

- A COI resource catering to the needs of legal representatives

## The special capacity of NGOs and churches

NGOs and churches are well-equipped to assist in the satisfaction of the above-mentioned objectives. Although different, the organisations all possess important capacities in the fields of knowledge, networking and advocacy. All of these fields are important with reference to COI in the asylum process. Through their knowledge of other countries and societies, accumulated through decades of humanitarian assistance programmes and similar activities, these organisations are in a good position to improve the quality and scope of COI in Sweden. If they do not possess that knowledge themselves, their national, regional and global network of partner organisations can provide the infrastructures necessary to obtain it. Finally, and not least important, the advocacy capacity will be a crucial ingredient in generating a debate on COI and for increasing its status in the asylum process.

## Recommendations to NGOs and churches

### Improve the status of COI in the Swedish asylum process

This is the most important recommendation emerging from this project. Contrary to initial expectations, it is not necessarily the specialised country knowledge and expertise of NGOs that will be their most important asset. Instead it is their capacity for advocacy and lobbying that is crucial. The study has shown that there is an element of disinterest, and even neglect, with respect to COI among all parties to the Swedish asylum process, and it is important that NGOs work to influence these actors.

The crucial entry-point in this work, however, must be the legal representatives of asylum seekers<sup>27</sup>. Working to raise awareness of the benefits and necessity of high-quality COI among representatives may potentially generate spin-offs at the Migration Board as well as among the courts. Better and more extensive use of COI materials among lawyers will put pressure on the Board to do likewise and as such broaden the grounds on which the Board makes its decisions. More advanced COI documents as well as in-depth academic accounts of the social dynamics of applicants' countries of origin will also raise the requirement of COI specialisation within the courts, thus preventing future decisions to be made on weak COI grounds. It will also serve to a move beyond the factual and legalistic approach to COI which currently dominates the asylum process.

Achieving such objectives will not prove an easy task. It will take a great effort to change the ways in which representatives work, as well as in producing the desired reactions from the Board and courts. A significant obstacle is likely to be found among the group of lawyers that take very few migration cases and that do not concern itself with COI. It may therefore be necessary to consider measures to minimise the role that this group plays, for example by

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<sup>27</sup> This view has been supported by some senior figures in the Migration Board, who have suggested that lawyers' lack of interest in COI is a problem for the asylum process as a whole. One person commented that under the old system, the problematic lawyer was the one who always challenged the country-specific grounds for the Board's decisions. Today, it is the disinterested lawyer who is the problem, because his or her failure to feed the process with COI materials hampers the possibility of making good decisions.

imposing quality checks on the public counsels on the Board's list (where understanding and recognition of the importance of COI should be a factor for inclusion on the list). NGOs may also consider ways of helping asylum seekers to bring their lawyers' attention to useful COI materials.

It may be that the problem of disinterested legal representatives is part of a much greater problem relating to the status of migration law as a field of legal practice. It could be that the fact that a number of lawyers only take very few asylum cases, and seemingly only at times when they are not busy within their other fields of specialisation, is a sign that migration law is a field of low priority among lawyers. The present study has not considered this issue in any greater detail, but if this is really the case then there will be an even greater role for NGOs to raise the status of asylum law more broadly.

Another way in which NGOs may be of assistance here is by facilitating lawyers' use of COI materials, especially the more advanced and academic sources. This may include putting lawyers in contact with each other, with other experts, and by facilitating cooperation in ways of countering Migration Board decisions. These aspects will be discussed in more detail under *Better Access to COI* below.

NGOs may thus operate in various ways to improve the status of COI and to intensify and broaden its use. The specific tasks with which an individual organisation will operate are likely to differ between different NGOs, and will need further investigation. While quality checks on, and advice to, legal representatives have already been suggested, it may be useful to raise awareness by organising events, seminars and workshops with COI on the agenda. The specific tasks will also depend on the target group, such that lawyers with little understanding of COI need to be approached differently than those with a strong engagement.

Common for all organisations, however, is that they need to start this work internally by considering the specific resources and capacities of the respective organisations. It is likely that even those organisations that focus a lot of their work on assisting asylum seekers devote a relatively small resource to COI (which means that the marginal role of COI is visible also among NGOs). This needs to be changed such that COI is prioritised more in this assistance and mainstreamed into all general asylum activities undertaken by such organisations. COI must be made central in NGO activities in the asylum field if it ever to become a central feature of the asylum process more broadly.

Although the main effort should be directed at legal representatives, NGOs are also influential as public agenda-setters. They may as such influence policy-makers and other key actors, including the public, by evoking the debate on COI and COI use. Arranging seminars and discussions will be important tools, but also producing articles for the news media on the topic. It will also be important to make sure that there is a constant discussion between NGOs and policy-makers on asylum issues, into which COI needs to be mainstreamed. If COI does not have a central position in such discussions and debates, it is unlikely to get it in the asylum process as such.

## An accountable COI system

The issue of Lifos' accountability is to a large extent the responsibility of the Migration Board, as it is the administrator of the system. As such, most recommendations under this headline would be directed at the Board rather than at NGOs. The most important one, as

discussed in the previous chapter, is the production of central analyses which will serve to make the system more predictable and will force the Board to take responsibility for the content of the analyses.

There are ways, however, in which NGOs may work, directly and indirectly, to contribute to a more accountable system. One such way is to operate as watch-dogs of the system. This implies highlighting deficiencies and contradictions in Lifos, such as in the Albanian example used above. It also involves networking with NGOs in other countries and keeping track of the debates around COI abroad. It may well be that a document that is used without challenge in Sweden has been refuted by experts or courts in other countries. Keeping track of such debates will force Lifos to take responsibility for the materials contained in the system, and may potentially equip legal representatives with an important resource for countering arguments put forward by the Board. Such a watch-dog function may form part of a wider COI resource to be discussed in the next section.

### Better access to COI and a balanced asylum process

Far from all legal representatives use COI marginally. A number of engaged lawyers work extensively with COI, and have in the course of their work gained significant knowledge of particular countries and regions. Still, there is a tremendous flow of information and finding the most relevant documents is not an easy task. Considering that information searches and processing is a tedious occupation, and that no financial reimbursement is offered for such tasks, even the most engaged lawyer will find it difficult to use COI to the extent that a case may require. Finding a way to make this process more effective will therefore be a crucial way of enhancing the use that can be made of COI. It is recommended therefore that a function is created to this end.

The layout of a COI function for legal representatives may be open to debate. Still, the study has singled out a number of aspects that are necessary to consider when making suggestions for such a function. The proposal below has been outlined while keeping in mind that the direction and focus of the system should be determined by its users, that lawyers are constrained in time by their use of COI, and that resources are likely to be limited.

Having spoken to a number of determined and interested lawyers, activists and representatives of NGOs, it is clear that the combined knowledge and experience of all these people is tremendous. A significant first step to construct a COI function is thus to find ways of managing and sharing this information. As discussed in the previous chapter, there is not only a significant inequality between the parties to the asylum process in terms of financial resources for COI, the inequality is also visible in terms of information infrastructure: the most common way of getting access to COI in the Board is via experienced colleagues (and there are hundreds of them). There is no real equivalent on the lawyer side, and it would therefore be highly desirable to find ways to organise legal representatives in a manner that could balance this inequality. One way of doing this is by setting up a network of interested parties, including legal representatives and NGOs (and potentially other expert actors).

While sharing and managing existing country knowledge in a network is thus a fundamental step for improving the access to COI, such a network may also share other resources. Most important of these will be connections with experts outside the network: if no person in the network knows the answer to a specific COI question, many may well know where such an answer might be discovered. NGOs will have partner organisations throughout the world and

access to information within their specialised fields of interest (e.g. Save the Children may be equipped in guiding lawyers towards information on child issues in various countries, and the Red Cross might be able to do so in the health field). It may also be that lawyers themselves have used expert resources before (e.g. expert witnesses in court or specialised databases) to which they can guide others in the network.

Furthermore, there will also be an important knowledge resource in this network concerning the asylum system as a whole, including various Migration Board policies and decisions, rulings by the courts and possibly debates in other countries. When one lawyer has been successful or unsuccessful in his or her argumentation against the Board, it may be of interest for others to know. In this way, legal representatives will be able to better balance the Migration Board advantage of having central capacities for analysing legislation and formulating decisions.

There are various ways of organising such a network, and the specific construct will require further research. One way of doing it, however, may be as a web forum where thoughts and opinions may be shared, questions posed, and answers suggested. The benefit of such a forum is directly dependent on its members' inputs, and NGOs will need to play a significant role keeping the discussions going (there will always be a risk that members take out much more from the system than they put in, and organisations will therefore need to take the role of suppliers to the system).

While a network and forum will allow legal representatives and NGOs to share information and advice, and thus in various ways balance the information infrastructure advantage of the Migration Board, it will also risk becoming difficult to manage as it grows larger. Questions and answers will risk "drowning" among each other, and users will spend a lot of time searching the forum instead of, for example, searching Lifos. Recognising that time is a significant constraint to legal representatives, it will also be necessary to consider ways of structuring the shared knowledge in a manageable way. To this end, it is advisable to construct a coordinator function to serve legal representatives.

A coordinator may have as its task to compile and process COI information collected from Lifos and other sources as well as from the information shared in the network in an accessible manner. Country "bundles" of statements, quotes and references can be constructed according to specific issue areas. A specific example of how this may be constructed is discussed below.

### **A central COI resource for legal representatives of asylum seekers**

A coordinator, or COI advisor, will be tasked with compiling information about the most frequent, and most complex, countries of origin. The compilation will follow a set format comprising rubrics of general situation, political developments and socio-cultural context. It will include specific section pertaining to the most frequent reasons given by asylum seekers in their applications (similar to the format of UK Home Office COI reports) as well as the most common grounds for rejections on behalf of the Migration Board. The categories and sections will be under constant review and open to alteration following the demands of representatives and NGOs.

The product is a document on each country – a country report. Rather than simply containing links to other documents, it will also include quoted excerpts of these, such that under each issue area one may easily read the views of different governments and organisations, as well as previous decisions by the Board and courts. The referenced sources will include documents

from Lifos and similar COI databases, additional information and documents from NGOs, news media and journalistic materials, academic journals, and reports from lectures, seminars and interviews. To the extent possible, it may also contain results from fact-finding missions.

In this sense, it is up to the coordinator to read all documents encountered and to extract the relevant parts for pasting into the finished product. There is no explicit analytical part to this; the country report is instead a patchwork of citations and references from external sources. The analysis may, however, be implicit in the sense that the coordinator selects the parts he or she finds to be relevant.

In order to minimise the subjective bias of the coordinator, the product will be an “open” document. This means that the country report will be constantly updated, and that readers’ comments and opinions will be clearly indicated. Some of the comments may lead to changes in the content of the country report and to the highlighting of new aspects of an issue, but also those comments that do not result in a change will be clearly visible to readers. A reference group comprising representatives of NGOs and other institutions will review the country reports on a regular basis. In this group’s meeting, its members may draw the coordinators’ attention to alternative sources and new views on each topic, or make remarks on issues that they think have been neglected or misunderstood by the coordinator.

The country reports are published on a web page, and are attached to a discussion forum belonging to the network of lawyers and NGOs. Through the forum, users may also ask specific COI questions to the coordinator. The coordinator will provide answers to the extent possible (e.g. in form of links to, and excerpts from, relevant COI documents), or make suggestions of where answers may be found. The coordinator may also refer the question to the wider network and contact external experts for their opinions. The discovered answers will be published on the web page and accessible to all users. To the extent that it is relevant, such answers will also be included in the country reports.

The web page will also make it possible to conduct frequent user surveys in order to check what sort of information is currently in demand. The coordinator will also be tasked with following rulings from the migration courts in order to be updated on how they argue and of new Migration Board policy. The coordinator should also be aware of successful argumentation on behalf of lawyers with respect to COI, so as to be able to advice other representatives on COI argumentation.

It may also be desirable that the coordinator makes regular visits to regions and countries of origin. This is not only to raise the coordinator’s level of understanding of local contexts, but also to get contact with local actors and organisations. This will prove helpful for finding answers to specific questions in the future, and also for getting first-hand opinions about the current state of affairs on the ground. It may also provide opportunities for asking local decision-makers about their opinions on rejected asylum seekers and their possibilities for returning to the country of origin<sup>28</sup>. Not least important, such visits may also imply meeting with refugees and IDPs on place, and get provisional insight into their situation and first-hand accounts of their stories.

While the findings of such field visits will be included in the country reports, it may also be useful to present them in seminar form. As such, a field visit to for example the Balkans

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<sup>28</sup> These activities are similar to those undertaken by the British organisation Oxford House on Somalia ([www.oxfordhouse.org.uk](http://www.oxfordhouse.org.uk)).

region may be presented in a Balkan seminar, to which other Balkan experts, legal representatives and Migration Board staff will be invited. This will provide an opportunity to discuss the central issues of a particular country, and to debate different views outside the court. It is also a way to keep the COI debate alive and for the actors involved to get in contact with each other and with experts.

The coordinator will also be in contact with COI actors and, possibly, lawyers in other countries. It will be of interest to see how specific COI reports have been received and challenged abroad. Because the current state of affairs is such that reports in Lifos are up to use by the Board disregarding the critique it may have generated in the country where it was produced, it will be useful for the coordinator to be aware of this. It may also be that NGOs in other countries are doing similar tasks as the coordinator in Sweden, in which case cooperation will be beneficial and resource efficient.

### **Summarised features of proposed COI resource:**

- Web forum for network of lawyers and NGOs to share and manage COI
  - o This will make the knowledge and expertise possessed by one actor easily available to another, and will allow the members to give advice on a number of related issues.
- Country reports comprising the views of governments, NGOs, international organisations, academics and other experts
  - o Even for Lifos alone, the individual lawyer will find it difficult to read up on every document relating to a particular country. The country report will give summaries and provide excerpts from every such document, and many more, on the most relevant issues pertaining to that country.
  - o The report is an open document, which means that any user who has additional information, conflicting opinions or alternative views may provide these in a comment box for everyone else to read.
  - o The content of the reports are checked by a reference group, which may also give advice and make suggestions for future focus.
  - o The content of the document is thus governed by the coordinator's discovery of new information, and by the advice of users and the reference group. This makes it driven by users' needs, which will to some extent remove irrelevant sections and expand topics of greater demand.
- Questions and advice
  - o With its extensive network of national and international contacts, the coordinator will be able to get expert responses to specific COI questions, or advice on where answers may be discovered
  - o The coordinator may also give general advice on COI use and argumentation, and provide names of potential expert witnesses that may be used in court
- COI seminars
  - o The coordinator will be able to present the results of fact-finding missions, while other experts will be invited to give speeches on particular countries. Other than lawyers and NGOs, guests will also include Migration Board Staff.

### **The role of NGOs in the expert function**

- Contribute with financial resources, including salary and office space for coordinator, information equipment, subscriptions to information resources and financing fact-finding missions

- Technical support for web resource
- Access to information
  - Documents and reports
  - Education and courses for the coordinator
  - Active participation in the web forum
  - Participation in the reference group
- Contacts
  - Putting the coordinator in contact with domestic and international partners
- Fact-finding missions
  - Participating in visits
  - Provide contacts with local partners, and advice on actors to meet
- Seminars
  - Event management

### **Resource needs**

The proposed coordinator function is an ambitious project that requires a lot of resources. It may be unrealistic to think that one coordinator alone will be able to be responsible for more than one country, which means that more than one person needs to be employed. NGOs may find it difficult to finance such a project in its entirety, and it may therefore be necessary to cut off one or more of its functions.

On the other hand, if COI is to be made a central issue of the asylum process, NGOs (like the Migration Board) need to allocate a greater resource for its purpose. NGOs that are currently involved in assistance to asylum seekers, or in other ways participate in the process, are not necessarily committing any resources to COI. This needs to be changed, for it seems that one way of truly assisting asylum seekers in providing the legal security that cannot be taken for granted, is to contribute to a better COI system and more COI use.

Furthermore, it may well be argued that it is not NGOs alone who should bear the financial burden of a COI function for legal representatives (and, in effect, for asylum seekers). In terms of legal security, its guaranteeing is in fact not the responsibility of civil society, but of the state. As such, the state, rather than only financing a COI system for the Migration Board, should also finance asylum seekers' opportunity of accessing for them relevant information. This is of particular concern since the applicant has the burden of evidence, and because the Board (which has the evidence resource) is a counterpart as the case is brought to court.

## Conclusion

The project behind this report rests on the belief that in-depth knowledge and understanding of asylum seekers' home countries is a crucial and central factor for making good decisions in asylum cases. Such knowledge allows the lawyer and the decision-maker to assess the credibility of the applicant and his or her story, to determine whether the applicant is eligible for protection, and to make good analyses about the potential risks associated with returning the applicant to the country of origin.

Considering that the new Swedish asylum process has arguably raised the requirements of the parties to provide well-referenced COI documents in support of their respective views, and because this system is considerably more transparent than the previous process, certain NGOs expected a sharp rise in demand for high quality COI on behalf of asylum seekers' legal representatives.

These same NGOs felt that their experiences from many years of activities in asylum seekers' home countries had provided them with knowledge and expertise that could be used to meet this expanding demand. The objective of this project was therefore to find ways of managing this information in such a way that it could complement or serve as an alternative to the existing COI system in Sweden.

However, extensive surveys of users and producers of COI in Sweden revealed that the interest for COI among all parties is limited, as is its use in the asylum process. As a result – and because the underlying assumption of the necessity of thorough use of high quality COI in asylum cases remains a conviction among the project group – the objective of the project had to be changed during its course: The main became concerned with raising the status and role of COI in the Swedish asylum process.

In order to achieve the new objective, a number of activities have been suggested for NGOs operating in the asylum field. The objectives, challenges and activities were discussed in Chapter 5, and demonstrated that it is not only the expertise in country of origin knowledge that will prove an important asset of NGOs in this work. On the contrary, efforts at opinion making and advocacy will become at least as important.

The conclusions of this report and the recommended activities for NGOs are deliberately vague. The main concern of the project has been to set out directions for future activities, but the specifics of these need further research. NGOs must themselves consider what they can and want to contribute. With that background, this project may be extended so as to go into greater depth regarding detailed actions and objectives.

**A number of NGOs and churches in Sweden felt that their knowledge and expertise of the social, political and humanitarian situation in a number of asylum seekers' home countries could be added to the body of information that the Swedish migration Board uses as its basis for decision.**

**Thus they joined up together in a project with the objective to enhance the quality and widen the scope of COI in the asylum process by sharing the expertise that has grown out of decades of presence in problematic areas, of relief work and humanitarian assistance.**

**Hereby we present the final report from that project.**

**Caritas, Sweden**

**Christian Council of Sweden**

**Göteborgs-Initiativet**

**Individuell Människohjälp**

**Save the Children, Sweden**

**Swedish Network of Asylum and  
Refugee Support Groups (FARR)**

**The Church of Sweden**

**The Social Mission**

**The Swedish Red Cross**

**and**

**The Swedish Refugee Advice Centre**

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