To be, or not to be - Harmonised

Country of Origin Information Agencies as Part of the European Union's Quest for a Common European Asylum System

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Contents

Abbreviations

COI: Country of Origin Information

DIS: Danish Immigration Service

ECS Database: European Country of Origin Sponsorship Project

EU: European Union

FFM: Fact-Finding Mission

GDISC: General Directors of Immigration Services Conference Network

IAB: Norwegian Immigrations Appeals Board

NAVTIP: Nigerian National Agency for the Prohibition of Trafficking in Persons and Other Matters

NDI: Norwegian Directorate of Immigration

NPM: New Public Management

RAB: Danish Refugee Appeals Board

UNHCR: United Nations High Commissioner for Refugees

CHAPTER 1. INTRODUCTION

1.1 The Country of Origin Information Agencies in Norway and Denmark

As this study is taking place, the European Union is striving for a complete harmonisation of asylum policies for its member states and the remaining Schengen countries. The goal is to establish a 'Common European Asylum System' by the year 2010, as was expressed at the meeting in Tampere in October 1999, and again in the Hague Programme of November 2004.[1]

Taking part in this harmonisation process are the national Country of Origin Information agencies. These are public agencies under the national asylum and immigration authorities in each EU member and Schengen state. Country of Origin Information (hereafter referred to as COI) is information concerning the humanitarian and security situation in a country that produces asylum seekers, where the EU member and Schengen states find themselves at the receiving end.

The COI offices provide this expertise to the processors of asylum applications with the aim for the latter to have the best possible information at their disposal when deciding upon the outcome of an application. The information generally consists of the security situation for different groups in the country in need of protection, be it political activists, religious or ethnic minorities, women and children, people in need of medical treatment, or other persons facing persecution or life-threatening situations in their country of origin. As this information is crucial to the processing of asylum applications, this

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[1]European Council, 15-16.10.1999. *Presidency Conclusions* <www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/00200-r1.en9.htm> [24.10.08]; European Council, 13.12.2004, *The Hague Programme: Strengthening Freedom, Security and Justice in the European Union*: <http://ec.europa.eu/justice_home/doc_centre/doc/hague_programme_en.pdf> p. 8 [24.10.08]

component in asylum policy is also subjected to European harmonisation as part of the general Common European Asylum System.[2]

In this master thesis, the EU's harmonisation process of COI will be studied by looking more closely at two institutions, the Norwegian and Danish COI agencies, to see how they relate to this process. The offices are named "Landinfo" in Norway and "The Documentation and Project Department of the Danish Immigration Service", respectively. These two institutions provide information mainly to two 'users'. The first are the asylum departments of the immigration authorities who process asylum applications (the Norwegian Directorate of Immigration and the Danish Immigration Service). The second are the national appeals boards (the Norwegian Immigration Appeals Board and the Danish Refugee Appeals Board), where asylum seekers receive a retrial if their application has been rejected.

The main products that these two offices produce have long been Fact Finding Mission reports. The two offices travel on Fact-Finding Missions (hereafter referred to as FFM) to countries of origin where they collect information from their sources. Upon return, the reports are written with the required updated information. A quote from Kim U. Kjær in the article "The Abolition of the Danish de facto Concept" illustrates just how great a role FFM reports can have in the processing of asylum applications:

> *"On 19 June 2002, the Danish Immigration Service published the long awaited fact-finding report on the situation in Afghanistan following the fall of the Taliban regime. The contents of the report more than indicate that the processing of these cases, which has now been resumed, will result in a far greater number of refusals than previously – a view officially shared by the Danish authorities."*
>
> Kjær (2003: 269)[3]

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[2]European Commission, 17.2.2006. *New Structures, New Approaches: Improving the Quality of Decision Making in the Common European Asylum System* <http://eurlex.europa.eu/LexUriServ/site/en/com/2006/com2006_0067en01.pdf> p. 5 [15.11.08]
[3] Kjær refers to a reply of 5 July 2002 of the Ministry of Integration to question Nr. S 2251 of 24 June 2002 from the Parliamentary Integration Committee.

1.2. The Research Question

The initial question of this student was whether the harmonisation process for COI is actually having its desired effect of making COI reports more harmonised throughout the EU/Schengen area. The result would be that, ultimately, processors would have access to the same COI, thereby assuring the same processing, regardless of which COI agency is consulted. To answer this, one would have to compare reports. Another question was whether it would be possible to predict the likely development of the harmonisation process that will take place in the years to come. The logic of this study is to firstly compare COI reports in order to illustrate the differences that currently exist between reports of COI agencies, so as to, secondly, identify which factors could play a role in shaping the harmonisation process of COI in the EU in future. For reasons of limited resources and restricted access to information, the two above-mentioned COI agencies will be studied together with three sets of FFM reports. The main research questions thereby follow:

1. *What are the differences in FFM reports between the Norwegian and Danish COI agencies?*

2. *What do these differences imply in the context of the EU's harmonisation process of COI?*

3. *How are the two COI agencies likely to further cooperate in the EU's harmonisation process of COI?*

In order to answer the third part of the research question, it will be of central importance to identify what factors may intervene in the likelihood of how the two COI agencies will cooperate in the harmonisation process in future. Therefore, the following questions will be answered:

3.a.   How are the agencies organised and which procedures are involved in each national COI office to produce the FFM reports?

3.b.   What characterises the bureaucratic context and culture to which the national COI offices belong?

3.c.   How do the two agencies currently relate to the different components of the EU's harmonisation process of COI?

3.d.   Are there differences between the two agencies in regards to the three questions above?

1.3. Social and Scientific Justification

According to Keohane, King, and Verba, a research question should strive to contribute to collective academic research as well as to answer an important substantial question (1994: 15). This thesis will attempt to contribute to both the scientific and social arenas. The study has social value because the way the COI offices describe the situations in the countries of origin influences the procedures of processing asylum applications. Norway and Denmark received 6528 and 2225 applications for asylum respectively in 2007, while the combined total for all European member and Schengen states was 222635 applications in the same year.[4] Conducting research into how the immigration and asylum authorities in European countries currently function as well as providing further information on what new tendencies are likely to occur in this field, can help clarify the impacts these policies have for individuals such as asylum seekers, for the societies of origin, and for the receiving ones in Europe.

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[4]Eurostat, *Asylum Applications.*
<http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&language=en&pcode=tps00021&plugin=1; NDI, *Asylum Applications According to Citizenship 2000-2008*.
<http://udi.no/templates/Statistikk.aspx?id=9831> [5.10.09]

This study will make use of new institutional theory. As no comparative research between the two COI agencies in question has yet been done,[5] the scientific value of the study could be seen as a small contribution to the vast field of research in this line of theory. Perhaps where the thesis could contribute is within the field of current European studies, as it looks at the meeting point where EU policy touches domestic state policy at the meso-level of public bureaucratic agencies. A broad pool of scientific research uses various forms of new institutional theory to study how national civil servants in public administrations relate to policies and cooperation on a supranational level such as the EU (Aus 2007; Egeberg and Trondal 2007; Gornitzka and Sverdrup 2008). However, Egeberg claims that there is a great need for more research and empirical findings in this field, because studies conducted on the subject point to contradictory results (1999: 457). It is towards this expressed need for further research in European studies that this thesis attempts to contribute.

1.4. Defining Harmonisation

In the study that will follow, the harmonisation process of COI has been defined as a handful of forms of cooperation that have been initiated by the EU and that now exist among the COI agencies in the EU member and Schengen states. A more elaborate presentation of the harmonisation process and its components will follow in chapter four. For now, the five main components will be briefly introduced.

The first form of cooperation that was established in 2002 is the Eurasil expert group network. This is a forum where COI experts from all EU member and Schengen states, accompanied by the UNHCR and other specialist organisations, meet to exchange information on countries of origin.

Another form of cooperation that had its first attempts in 2003 is that of national COI agencies travelling on joint FFMs. This implies delegations from two or more national

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[5]The interviews with the civil servants in the two offices confirmed this statement.

COI agencies travelling together to a country of origin where they jointly meet with information sources and write a FFM report thereafter.

A third type of cooperation is the creation of the ECS Database. It was established in April 2007 as a means of collecting information from COI agencies in the EU/Schengen area so as to improve accessibility of information between experts.

A fourth form of cooperation is the project of creating common guidelines for all the EU and Schengen COI offices. This project has so far resulted in a written document from April 2008, entitled "The Common EU Guidelines for Processing COI".

Finally, a Joint Support Office is scheduled for 2010 to be responsible for the overall supervision and functioning of COI and other forms of cooperation on asylum in the EU/Schengen area.

1.5. The Outline of the Thesis

Following this introduction, the methodological choices of strategies used to carry out this study are presented and justified in chapter two. In chapter three, four new institutional theories are presented as alternative approaches to predict the possible likelihood of further cooperation and harmonisation of the two agencies. Chapter four aims to place the two cases in their current European and domestic context. The main empirical findings will be presented in chapter five. Firstly, three sets of FFM reports are compared. Main differences between them will be brought to light, and secondly, what these differences imply in the context of the current COI harmonisation process. Finally, main tendencies are sketched and compared from the results of the interviews with COI experts. Chapter six analyses the data by applying the theoretical propositions from the four new institutional perspectives presented in chapter three, and aims to answer the four underlying questions of the third part of the research question. Finally, conclusions are drawn in chapter seven from the key findings of this thesis.

CHAPTER 2. METHODS

2.1. Defining Research Design and Method

Grounded in the thesis' qualitative and analytical research question (Grønmo 1996: 80), the study takes the form of a comparative N=2 research design. This implies the need for applying a comparative method as described by Lijphart (1971: 683). Lijphart opposes the comparative method to the experimental, the statistical, and the single N=1 case study methods, and champions the view that where the other methods show disadvantages, the power of causal inference in the comparative small-N method can be both significant and the best option most researchers have in a situation of scarce resources (ibid: 685; Aus 2005: 4-5).

The particular problem this method faces, however, is the situation of having "many variables, small number of cases" (Lijphart 1971: 985). In this study, there are only two cases: the Norwegian and Danish COI agencies. However, a solution to this dilemma that would be suitable for the circumstances of this study would be to choose "comparable cases" (ibid: 687). Further developments of this technique have, amongst others, been that of the 'most similar' and 'most different design', or a combination of the two (Collier 1993: 112). In the context of this study, a 'most similar design' will be used, where one chooses cases that are as similar as possible, which in turn allows for isolation of factors among them that could be responsible for differences of outcome on the dependent variable (Martens 2005: 6).

One reason for the choice of the two cases was that of all the European COI offices, only the Danish, Norwegian, Swedish and British offices were willing to share their COI reports.[6] Of these four offices, the Norwegian and Danish agencies were chosen as appropriate because they are fundamentally similar in many respects. On an institutional level, the two agencies have both been known in the European COI context for their FFMs and FFM reports for almost two decades. On a state level, Norway and Denmark are of approximately the same size in population, are parliamentary democracies with established public administrations that have sprung from the centralised-legal state, but have later experienced decentralisation and NPM reforms (ibid: 5). On a cultural level, they are an example of Lijphart's claim that cases in the same geographical region most often also show signs of similar socio-cultural traits (1971: 689). They are typically characterised as homogenous and welfare state orientated (Christensen 2003: 173-4; Jørgensen 2007: 377).

Meanwhile, differences remain. Denmark is an old EU member state whereas Norway is linked to the EU through the Schengen *aquis* and the European Economic Area agreement. Differences in legislation and public administrative organisation will also prove to be relevant during the comparison of the two cases. Following the 'most similar' comparative design, attention will be paid to whether these differences could have an effect on the likelihood of future cooperation of the two agencies in the COI harmonisation process. Further similarities and differences between the two cases will be elaborated on in chapter four.

2.2. The Benefits of Theory

Another quality to this study is that it is also a theory-interpreting comparative study as opposed to an a-theoretical one because it aims to predict an empirical phenomenon by using established theory (Andersen 1997: 68). This is another solution to the dilemma of

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[6]Other than the above-mentioned offices, the researcher contacted the COI agencies of Belgium, France, Netherlands, Germany, Austria and Switzerland, where the reply was that all COI reports were classified. This fact is highly relevant to the subject of legislation on freedom of information concerning COI, which will be discussed in later chapters.

many variables, small N. Lijphart suggests to " […] focus the comparative analysis on the 'key' variables" (1972: 690). Following this reasoning, Yin proposes the use of two 'general analytical strategies' (1994: 103). The latter suggests this technique for both single- and multiple-case studies (ibid: 14). He explains that in order for the researcher to collect analysable data, there must first be a clear idea of and the possibility to rely on the theoretical propositions that he/she sees as relevant to the study (ibid: 104). This is the first analytical strategy. Yin explains that in this way, the study will use theory as a guideline in order to keep the focus on the research question and give priority to the evidence that best illustrates the case. The dangers of theoretical assumptions, however, is clearly expressed by Allison: "What each analyst sees and judges to be important is not a function of the evidence about what has happened, but also of the 'conceptual lenses' through which he looks at the evidence" (1969: 689). In fact, relying on theoretical propositions goes against the ideal of trying to acquire unbiased, objective data to test if our theories correspond with social reality. As a counter to this critique, Yin argues that not only does one need to follow theoretical propositions, but the researcher must also consider "thinking of rival explanations", which is his second strategy (1994: 108). By according importance to rival explanations before data collection, the researcher can search for evidence that points to alternative conclusions. As Checkel points out in his research on EU socialisation: "given our concern for better integrating diverse analytic traditions, we are thus open to the possible role played by each form of rationality, including the instrumental one (2005: 65).

Following this logic, four theoretical approaches within new institutional theory will be presented in the following chapter, each with a theoretical proposition that is meant to guide the researcher in identifying the essential variables to look for while collecting the data. This, in turn, should make the material analysable in the sense of matching the pattern of the data with that of the propositions (Yin 1994: 106). In applying the method of the two analytical strategies, a separation will be made between the 'cultural' new institutional theories that are treated as key theoretical propositions, and the rational-choice perspective that will be considered as the main rival explanation. This separation will be described in detail in the following chapter. The aim is for this theoretical

diversity to help empirically capture the complex relations that could be at the root of how the COI agencies may participate in the harmonisation process in future.

2.3. Data Collection and the Goals of Reliability and Validity

Several types of data have been used for the purpose of responding to the research question, whereof the most important contributions have been the FFM reports from the two agencies and the qualitative interviews. Other essential data include secondary sources that are in electronic form. The nature of this study is such that it deals with current events, and therefore much of the information is only available from websites. Though one must question the reliability of electronically based sources, the sources that have been used here have been carefully selected following the criteria of authority, accuracy, objectivity, coverage and currency.[7] To insure this, all consulted websites that are referred to in this paper come from official sites of national public administrations, including that of government, parliament, ministries and directorates; national official information sites for legislation and public insight; the official information sites of the EU, the Council of Europe and the UNHCR; and press sites from established newspapers that keep an open archive. The type of consulted electronic documents have been organisational charts, statistics, legal treaties, official communications, research articles, and official documents from the EU that are dated and signed. The student has chosen to place the references to the electronically based sources as footnotes so that the reader may directly consult the links during the course of the thesis. Some primary sources have come from direct communication per telephone or e-mail. These have been with official civil servants, where their names, titles, and departments, as well as the date of the correspondence have been noted. These criteria have been followed in order to insure reliability in the sense that another researcher would find the same results if consulting the same primary and secondary sources.

The first research question requires a comparison of FFM reports between the Norwegian and Danish COI agencies. Three pairs of reports were chosen out of their suitability for

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[7]Susan E. Beck, 27.04.2009. *Evaluation Criteria*. <http://lib.nmsu.edu/instruction/evalcrit.html> [09.07.08]

the purpose of comparison: they are FFM reports; they focus on the same country of origin; and are written in the same year after a delegation travelled on a FFM. Out of all the products of the two agencies, these were the only reports that fulfilled these three criteria. The three sets of reports were written on the countries of origin Somalia, Iraq and Nigeria. Although the reports on Iraq were written in 2003 before many of the steps of the COI harmonisation process were in place, it is argued that this comparison also contributes to the study by allowing the researcher to see whether there have been any observable changes in resent years. According to Krippendorf, searching for differences between documents can take the form of "identifying patterns that have a high degree of communality within genres, regardless of particular contents" (2004: 50), but also that "analysts may examine differences in the message content generated by two kinds of communicators" (ibid: 51). A combination of the two methods was applied: identifying patterns and structure without looking at content; and looking at content independently of pattern. Thus, a comparison of each set of reports consisted of identifying similarities and differences on two main points: the number and type of references consulted (primary and secondary sources); and the main structure and content of the reports.

The personal interviews were conducted with four country expert consultants in the Norwegian COI agency. The four consultants were responsible for Somalia, Iraq or Nigeria respectively, and one was responsible for the ECS Database cooperation. In the Danish COI agency, three interviews were conducted: two with country expert consultants whereof one was responsible for both Somalia and Nigeria and the second for Iraq, and the third interview was with the head of the agency. All the interviews were conducted during September 2008. The interviews were in-depth (Rubin and Rubin 2005: 13) and lasted from one to two hours. The interviewees have been made anonymous for the purpose of this study. An interview guide with main and follow-up questions[8] was used in order to assist the student in staying on track (ibid: 147). The questions were open-ended, and probing was used for the purpose of letting the informants elaborate on their arguments and acquiring as extensive information as possible within the timeframe (ibid: 158; 164). The interviews were either recorded or noted down, depending on the

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[8]See Annex A

request of the interviewee. For the purpose of reliability, all seven interviews were transcribed to create a database (Yin 1994: 95).

It is a goal in scientific research to choose the best method for assuring validity when measuring to what extent a research question can be considered explained by a theoretical concept. Adcock and Collier argue that: "measurement is valid when the scores, derived from a given indicator, can meaningfully be interpreted in terms of the systematized concept that the indicator seeks to operationalise" (2001: 531). Applying the terms of these authors to this qualitative research study, the indicators, which operationalise the four theoretical concepts of new institutional theory that will be presented in the following chapter, were the questions in the interviews. How the interviewees responded to these questions provided the study with the 'scores'. The interview guide also proved useful in structuring the questions according to the separate theories. The questions were formulated with the aim of collecting as diverse a range of observable theoretical implications as possible for each theory, thereby improving the scientific quality of the research (Keohane, King, Verba 1994: 12).

The empirical findings that resulted from applying the methods sketched above will be presented in chapter five. First, however, chapter three will provide the theoretical propositions and rival explanations that will guide data collection.

CHAPTER 3. THEORETICAL APPROACH

3.1 New Institutionalism and the Three Roles of the Harmonisation Process

This study seeks to understand the causal complexities that take place at the point of intersection where the supranational governance of the EU touches domestic policy. At this point one finds the domestic civil servants, who carry out national tasks of their public administration, are faced with supranational processes of change, in this case the EU's harmonisation process of COI. Many scholars have applied new institutional theory in order to identify what takes place within an institution at this point of contact and to predict likely future tendencies from such findings (Johnston 2001; Martens 2005). Therefore, this line of theories seems fitting also to this study. New institutionalism as an overall theoretical concept will be presented along with its classification into four sub-categories that each represents a new institutionalist theory. Separately, it will be justified how each theory applies to the subject of this study.

When looking at how the theories predict a most likely tendency for future cooperation of the two agencies in the harmonisation process of COI, a distinction will be made in order to highlight three separate roles that the harmonisation process can be perceived to have. Sjursen uses three categories to distinguish between three ways of how the EU defines itself when studying the EU's problem of identity in the setting of EU enlargement. These are: a "pragmatic problem-solving entity, a rights-based post national union, and a value-based community" (Sjursen 2008: 2). She shows that the EU has used all three of these profiles when justifying the enlargement process. These three categories will also be used in this study to describe how the theories predict cooperation in regards to these three different aspects of the harmonisation process of COI. Applied to this study, if the civil servants perceive the harmonisation process as a practical tool to help them in their work, then one could interpret this as the agencies understanding the harmonisation process as a potentially problem-solving process. The harmonisation of COI, being a

component of the Common European Asylum System, can also be understood as having an aspect of promoting rights that transcend national boarders because it concerns the universal right to seek asylum and "is based on the full and inclusive application of the Geneva Convention.[9] Finally, because it can be seen as a joint cooperation between the member states within its borders while defining who of those which are outside its borders are allowed entry and membership, the harmonisation process of COI may be perceived as a component in strengthening the image of the EU as a social community in which its members share a sense of belonging, solidarity, and mutual responsibility. This aspect is emphasised by the European Council, which expressed that the Common European Asylum System: "should be based on solidarity and fair sharing of responsibility including its financial implications and closer cooperation between the member states."[10] The European Commission states that: "Tackling the management of asylum together as a Community is the *raison d'être* of the Common European Asylum System."[11]

3.1.1 Several New Institutionalist Approaches

As a response to the theoretical trends of behaviouralism and pure rational choice that governed the subject of political science in the 1950s and 1960s, March and Olsen termed the new theoretical movement that was emerging in the 1970s 'new institutionalism' (1984: 738). Their main argument can be said to have been that "collective action should be the dominant approach to understanding political life" (Peters 1999: 17), thereby criticizing the behaviouralist view that politics are merely the aggregate of individuals instead of collective behaviour, motivated solely on the grounds of maximizing self-interest. They claimed that the latter's perception was reductionist and utilitarianist as well as too contextual, functionalist, and instrumentalist (1984: 735-738).

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[9]European Council, 13.12.2004. *The Hague Programme: Strengthening Freedom, Security and Justice in the European Union* <http://ec.europa.eu/justice_home/doc_centre/doc/hague_programme_en.pdf> p. 8 [12.10.08]

[10] ibid

[11] European Commission, 17.2.2006. *New Structures, New Approaches: Improving the Quality of Decision Making in the Common European Asylum System* <http://eurlex.europa.eu/LexUriServ/site/en/com/2006/com2006_0067en01.pdf> p. 2 [15.11.08]

A number of different approaches to institutions have emerged in the last decades since March and Olsen assembled and developed the new institutionalist theoretical perspective in the 1980s, some deviating more from March and Olsen than others. All classifications and categorisations of theories are necessarily artificial to some degree. Therefore, although there is a general understanding that new institutionalist approaches diverge, there seems to be a certain disagreement as to how to separate them. Scott separates the new institutionalists into three pillars based on which part of the institution they accord most weight (1995: 35). He calls these pillars the normative, cognitive, and the regulative pillars. The normative pillar seems to correspond to Peters' (1999) normative and historical new institutionalism, where norms and values are at the centre of the analysis. Peters argues that historical institutionalism could be treated simply as an under-category of normative institutionalism, with a special interest in history (1999: 75). However, here the approach, along with its main characteristics, will be presented on its own, as both Peters (1999: 63) and Hall and Taylor (1996: 937) do. Scott's cognitive pillar emphasizes culture as a shared social reality. This is in line with Peters' sociological institutionalism. Hall and Taylor, on the other hand, make a somewhat different distinction. Indeed, Peters argues that: "Hall and Taylor, in fact, refer somewhat incorrectly to the March and Olsen version of institutionalism as sociological institutionalism" (1999: 98). When it comes to the regulative pillar, however, there seems to be more agreement as to this being the most moderate of the new institutional approaches, represented by the rational choice version of new institutionalism (Peters 1999; Hall and Taylor 1996).

A distinction influenced by these three contributions of scholars will be made to present the four theoretical approaches that follow. First, the new rational choice institutionalist approach will be presented, which is said to build upon the basic assumptions of the pedigree rational choice model. Then follows the three approaches that seem more closely related: the normative, sociological, and historical new institutionalist perspectives.

3.2. Rational Choice New Institutionalism

Peters suggests that the term 'rational choice institutionalism' may seem contradictory (1999: 43). Given that conventional rational choice theorists analysed politics from a basis in individualistic behaviour, they did not accord importance to the institutions in political life. The new rational choice institutionalists, although sharing this basic individualistic perception, acknowledge that institutions matter and that most behaviour takes place within an institutional context.

These scholars look at formal and informal rules, contracts, enforcement, and sanctions, which constitute the institutional context that constrains behaviour. They tend to study actors in a competitive situation, such as the marked where interests are conflicting, and where rules are necessary to regulate and control behaviour (Scott 1995: 36). A way to obtain control is through coercion and laws, executed from a third party. Here is where rational choice institutionalists see the need and the role of the state and of governance (ibid).

Rational choice institutionalists believe that the individual is rational, but that this rationality is 'bounded' in the sense that institutions constrain the possible alternatives of individual choices. Still, this is the new institutional theory in which "individuals are the central actors in the political process" (Peters 1999: 46). Preferences are seen to be exogenous to the institution and are taken as given, natural, universal, and utilitarian because all individuals seek to maximise self-interest, such as power, status and economic benefit. The theory sees the individual as calculating, so that while taking a decision, one evaluates the multiple alternatives and their consequences in a cost versus benefit logic. This is why March and Olsen name this perspective 'the logic of consequentiality' (Christensen and Røvik 1999: 160). Yet it is acknowledged that individuals, in certain situations, may benefit from an institutional framework. This is because their competitors are also constrained. Institutions therefore serve instrumentally as 'tools' for individuals to reach their private goals. They provide stability and 'the rules of the game' that can diminish transaction costs for all participants. Therefore, actors may

have an incentive to join an institution, interacting strategically so that the institution can serve the actor's individual interests.

Through this logic, rational choice institutionalists show how rational individual action can lead to collective rationality (Peters 1999: 45). The 'game theorists' of this approach call this a state of 'equilibrium', where the players, by following the rules, reach their best possible outcome. Institutions are perceived to be consciously designed to produce favourable outcomes for the actors. Furthermore, these designs can be easily altered to fit changes in the environment, in information, and in their desired goals. According to this perspective, the past history of the institution is of little importance. The designs are in fact perceived to be "formed on a tabula rasa" (ibid: 47). This stands in sharp contrast to the historical institutionalist perspective, which is presented later in this chapter.

3.2.1 Rational Choice Applied to this Case.

When using this theory to study how the two COI offices relate to the EU's initiative to harmonise COI, one could suggest that the civil servants will prove to apply a strategic calculation approach to EU cooperation, depending also on the degree of freedom of decision-making they enjoy within the institutional framework of formal organisation and procedures. In this sense, rational choice theory suggests that the civil servants perceive the role of the EU as a problem-solver (Sjursen 2008: 2). This could explain two trends. On the one hand, their COI reports could become more harmonised according to EU standards because it seems in fact beneficial for the actors to cooperate at the EU supranational level. On the other hand, if adaptation to EU standards seems unbeneficial, the bureaucrats may choose not to focus on cooperation. Rational choice theory suggests that the process of changing the design of the institution according to changes of the incentives from the environment is likely and poses no considerable problems to the designers. Therefore, the first theoretical proposition is the following:

The Norwegian and Danish COI institutions will be in favour of the harmonisation process if the civil servants are of the opinion that it is beneficial for them to cooperate. This alteration can take place rapidly and easily. If they feel that it is not beneficial, they will be reluctant to further cooperation.

3.3. Normative New Institutionalism

March and Olsen were the fathers of this approach (Peters 1999: 25). They stressed the importance of norms and values in institutions, and that these institutions shape individual behaviour. Scott defines values as that which is desired, and norms as the means of how to achieve these preferred goals by specifying what should be done and how (1995: 37). Yet March and Olsen (1984) were not the first ones to claim the importance of values in an institution. Amongst others, March and Olsen were highly influenced by sociologists such as Selznick, who in 1957 argued that an organisation becomes an institution when it is completely infused by values (Selznick 1997: 41). It evolves from being a mere technical tool to becoming, through the process of institutionalisation, a place of social integration and patterned behaviour (ibid). Thus, normative institutionalists believe that individuals, far from being atomistic, are 'embedded' in collective relationships with each other. March and Olsen claimed that individuals act in the manner of a 'logic of appropriateness' (Christensen and Røvik 1999: 159). In this logic, they explain that identities are created when individuals follow rules and standard operating procedures that they feel are appropriate to the situations they face. They 'match' the appropriate action to a situation in the way that is expected of them. In this sense, the actor's preferences are said to be endogenous to the institution as a result of socialisation into the latter (ibid: 161). Krasner refers to how individuals' identities are shaped by the institution as 'vertical depth' and claims that these norms leave individuals with a limited number of social values and roles from which they can choose (1988: 73). Similarly, March and Olsen stress that individuals are not puppets to socialisation, but that they "pick and choose" from rules and roles that are available to them (Peters 1999: 26). Also Egeberg explains that normative institutionalism sees

individuals as a collection of roles and identities, and that which of these is awoken depends on the situation (1999: 458).

The logic of appropriateness stands in sharp contrast to the logic of consequentiality described above. The latter is typical for what March and Olsen term the 'aggregative political process' (1989: 118). They focus on the opposite pole, seeing the political process through an 'integrative model'. It stresses that collectives have a common and shared history and future, wherein lay common values and norms that define how the political process should proceed. The norms and values are insured by political rights and reasoned deliberation (March and Olsen 1989: 124). They create "shared preferences […], common cultures, collective identities, belonging, bonds, mutual affection, shared visions, symbols, history, mutual trust, and solidarity" (ibid: 127).

3.3.1 Normative Institutionalism Applied to this Case

There may be two sets of norms and values of interest in this study. One set consists of the domestic norms that characterise each national institution. Some norms and values may seem particularly prominent in each office, giving them a unique character and competence. This could differentiate them from other institutions and might create obstacles to adopting new norms, thereby making the harmonisation process of COI harder to achieve. On the other hand, there are the norms and values which have developed within the EU that might also be strong binding factors to the civil servants who may begin to feel that it is appropriate and expected of them to adopt these norms. One might detect a change in the collective identity of the bureaucrats that will manifest itself in a willingness to cooperate in the harmonisation process. If this is the situation, the institution would not adapt rapidly to the new environment, but if adopted, the norms and values from the EU institutional level will create a more permanent change than what rational choice theory suggests. In regards to how the civil servants perceive the role of the harmonisation process, this depends on which norms and values are predominant. If the domestic norms and values are dominant and conflicting with those of the EU, there might be scepticism towards what the harmonisation process can achieve. However, if there is a tendency towards adopting the EU's supranational values, it might be that there

is agreement on the potential for the harmonisation process to promote universal rights to asylum, perhaps even to strengthen the aspect of the EU as a shared community by taking on new identities. Therefore, a second theoretical proposition follows:

> *Strong domestic norms and values may create resistance amongst the civil servants against the harmonisation process. Yet if the officials show signs of adopting the common norms and values of the EU's harmonisation initiative, this could suggest that the movement towards further cooperation and harmonisation of COI is a slow but sure one.*

3.4. Historical New Institutionalism

Historical institutionalists share the same view as normative institutionalists in that institutions influence individual preferences, and that an institution has a uniqueness resulting from its particular history. Selznick insisted on analysing the institution in a historical perspective. He argued that the past choices that the leaders of the institution make, the "choice of a social basis", "the formation of an institutional core", and "the formalising of methods" (1997: 81-84) will persist, resulting in institutional stability and slow evolution, as well as giving the institution its own character, identity and competence (ibid: 104).

Historical institutionalists insist on the historical contextual circumstances in which ideas were born in the initial development of the institution (Hall and Taylor: 1996: 940). As such, historical institutionalists typically address the persistence of patterns and policies over time within individual countries that amount to cross-national differences. For these scholars, causal analysis is understood as sequence analysis (Thelen 1999: 390), or as Krasner points out, "institutional arrangements are both dependent variable at time t and an independent variable at time t+1" (1988: 72). Krasner explains how institutions persist because they follow a 'path dependency', the process by which "pre-existing structures delimit the range of possible options" (1988: 81). He compares this to the biological 'genetic stock' which allows us to develop only in a certain way. He refers to routines

e.g. "regular and predictable pattern of behaviour" in institutional theory as the equivalent of genes in evolutionary theory: "a persistent feature of the organism [that] determines its possible behaviour" (ibid 83).

This does not, however, imply that path dependency is static. Thelen argues that, on the contrary, the development is a dynamic process (1999: 391). It starts off at a 'critical juncture' in which initial choices, ideas and influences all intertwine in a historical context to set institutions off on different development paths (ibid: 388). Contrary to what the rational choice institutionalists believe, this original birth of the institution is not seen as the result of conscious, rationalistic design. Rather, it is the product of the "political forces at play at the time of the formation of the institution" (Peters 1999: 72). This path reproduces itself in a process of 'self-reinforcing positive feedback' (Krasner 1988: 83). A result of this process, Krasner argues, is typically that routines become more efficient over time. These routines, however, exclude other routines that might have been better suited for the changing environment. Change is costly, but in the long run, he claims, the cost of path dependency might exceed the cost of change (ibid: 84). Thelen, in turn, warns of the tendency of the approach to be "overly deterministic" by not according enough importance to evolution and change in the institution (1999: 396). She argues that certain changes in the environment can create changes in the institution if the pressures of the environment are significant. However, in order to understand which environmental changes create changes in which institutions, one must direct one's attention to the particular reproduction mechanisms of the institution in question. Consequentially, institutional change cannot be separated from the analysis of institutional stability (ibid: 400). The variation of reproduction processes can explain how international trends can have different domestic outcomes, some more resilient to change and reform than others (ibid: 397).

3.4.1 Historical Institutionalism Applied to this Case
The two COI agencies may prove to have strong domestic principles and guidelines that are firmly sealed into their bureaucratic tradition whereby norms and values have sprung out from the forces that were at work when these bureaucracies were formed. One would

then observe a path dependent development, in which foundational principles are reproduced over time. The actors will then seem to have considerably restricted options when facing changes in the environment. Unless environmental conditions surrounding the institution create such strain that it is faced with a 'critical juncture' that will set the institutions off on a new path, change is a problematic and slow process. The firm domestic norms and routines could help to explain lasting differences in the domestic offices when faced with a changing environment such as the EU's wish to harmonise COI. As for how the role of the harmonisation process is understood, the same applies as for normative institutionalism, but with emphasis on the perception of the civil servants proving to be long lasting and a challenge to alter. The third proposition is thus:

If the two institutions were faced with a critical juncture when the EU's harmonisation of COI was introduced, this could have set the offices on a new development path, which would materialise in the form of further cooperation and more harmonised COI. If there was no such critical juncture, the COI agencies might refrain from cooperation because the civil servants are embedded in a domestic institution that is so path-dependent of its bureaucratic traditions that any considerable changes towards harmonisation are unlikely or will be slow at best.

3.5. Sociological New Institutionalism

Even though sociological institutionalism shares many common features with that of the normative perspective, especially from its emphasis on culture and socialisation, both Scott ("the cognitive pillar" 1995: 40) and Peters (1999: 97) argue that it deserves its own category. Sociological institutionalists also emerged as a reaction to the rational choice trends of the 1950s and 1960s and are equally inspired by sociologists such as Selznick, who championed the view that frames of meaning come to life through the process of institutionalisation and social interaction (1997: 26). Yet where normative institutionalists ask which behaviour is appropriate to a given situation, Scott recites early cognitive theorists such as Berger and Luckmann (1967) who ask how the individual comes to interpret the situation by his/her understanding of social reality (Scott 1995: 40).

Similarly, Hall and Taylor explain that sociological institutionalists do not focus on what an individual should do as much as ask "what one can imagine oneself doing in a given context" (1996: 948).

Sociological institutionalists are primarily interested in the cognitive aspect of culture in which symbols play an important role as carriers of shared meaning. According to this view, individuals construct social reality "within the context of wider, pre-existing cultural systems: symbolic frameworks, perceived to be both objective and external, that provide orientation and guidance" (Scott 1995: 41). Individuals internalise this institutional context so that however they understand reality will be taken in a manner that intuitively makes sense to them.

Hall and Taylor suggest that Meyer and Rowan (1991), as well as DiMaggio and Powell (1983), were the founders of the sociological institutionalist tradition in the late 1970s (1996: 947). Sociological institutionalists argue that culture consists of external, macro-level belief systems in society that they refer to as 'social myths'. Myths are spread and adopted by organisational fields, which often adapt modern and rational organisational forms for reasons of legitimacy rather than efficiency. Myths provide a common definition of social reality, therefore creating similar practices within and between organisations in an isomorphic manner (Meyer and Rowan 1991: 46). Accordingly, where historical institutionalists seek to explain the uniqueness of an institution, the sociological researchers rather ask why there is a high degree of similarity between them. More precisely, DiMaggio and Powell argue that "highly structured organisational fields provide a context in which individual efforts to deal rationally with uncertainty and constraint often lead, in the aggregate, to homogeneity in structure, culture, and output" (1983: 147). They present three main forms in which institutional isomorphism takes place between institutions that share the same field. The first is mimetic, a process of imitation where institutions facing uncertainty want to copy the 'best practice' of the 'model' institutions who appear to be successful, rational, and modern. The second is coercive isomorphism, where institutions in an environment enforce considerable pressure on other institutions so as to create no other alternatives than to conform. This

could come from its dependency on the others or from strong cultural expectations in the field, but also from direct imposition through laws and political decisions. The last type of institutional isomorphism is normatively driven, in which a process of professionalisation occurs in a field, defined as "the collective struggle of members of an occupation to define the conditions and methods of their work" (ibid: 152). This process can develop through the educational system and professional networking.

Another angle on this theory is to focus on the micro level of the socialisation processes that take place when an actor's perception of reality is altered. It is suggested that supranational institutions can be seen as social laboratories where one can observe the socialisation of national officials into another institutional level. When confronted with a new institutional culture, new symbols are introduced that carry social meanings and cognitive constructs which, in turn, are internalised by the actors. Johnston quotes Berger and Luchmann's definition of socialisation as "the comprehensive and consistent introduction of an individual into the objective world of a society or a sector of it", and adds "socialisation is aimed at creating membership in a society where the intersubjective understandings of the society become taken for granted" (Johnston 2001: 494). Furthermore, he specifies that socialisation takes the form of both persuasion and social influence. Johnston recites Berger's (1995) definition on persuasion: "[it] alters people's perceptions, attitudes, beliefs and motivations" (ibid: 496). Social influence is understood as a system that provides rewards or punishments in status and merit, depending on the cultural understanding of what is "socially valuable behaviour" (ibid: 501).

3.5.1. Sociological Institutionalism Applied to this Case

DiMaggio and Powell formulate the hypothesis that "the greater the participation of organisational managers in trade and professional associations, the more likely the organisation will be, or will become, like other organisations in its field" (1983: 155). Applied to this study, one could suppose that participation and cooperation at the EU level could lead to greater institutional isomorphism between the COI agencies, which in this case could also lead to more harmonisation of their products. One might see signs of mimetic, coercive or normative/professional isomorphic processes taking place between

them. Similarly, Johnston argues that the microprocesses of socialisation are more likely to take place when "the actor is exposed to counter attitudinal information repeatedly over time" (2001: 499). The exposure could lead to a more 'European' orientation, where goals such as harmonisation of policies, or a sense of a shared European community and future European fate, take precedence over traditional national references and identities. Here, the harmonisation process for COI could be interpreted as taking the role of a community provider and a rights-promoter in the sense that the civil servants feel a sense of belonging to the EU and agree with the goals and abilities of the harmonisation process. Yet, Johnston notes that socialisation is less likely if an actor has strongly ingrained former attitudes that conflict with those that are introduced (ibid). This can be interpreted as an obstacle to harmonisation. The fourth proposition is formulated as follows:

> *The COI of the offices will become more harmonised as a result of isomorphic processes as the civil servants participate in the five forms of cooperation. This participation influences the perception of the bureaucrats who are undergoing a process of socialisation into a supranational institutional culture. However, if domestic socialisation is strong, this can delay and challenge harmonisation.*

3.6. Summary

Although the introduction in this overview of new institutionalism questioned whether and how it makes sense to separate the concept into several under-categories of new institutionalist approaches, this presentation of each theory shows differences between them so that it seems justifiable to separate them. Notably the fundamental difference between the rational choice new institutionalism and the other three approaches, where preferences are seen as universal and exogenous as opposed to endogenous and culturally defined, is an important contrast. In this respect, when applied to the topic of this study, the theoretical proposition based on the rational choice approach will be interpreted as a rival explanation (Yin 1994: 108) to the other three. As this chapter has shown, this division can also be justified by how the different theories point to different perceptions

of the COI harmonisation process. It is suggested that rational-choice theory sees the harmonisation process as a potential problem-solver. As for the cultural perspectives, differences appear to lie in what is in focus when an institution is studied: the norms of what is appropriate behaviour; the historical origins and developments; or the cognitive aspect of what can be imagined. These differences, in turn, can contribute to explaining different phenomena of uniqueness or similarity amongst institutions. Accordingly, the cultural theories can also be concerned with other aspects of the harmonisation process of COI, where its abilities as a promoter of universal rights to asylum and its role as a provider of a defined European community are questioned. The theoretical propositions that were formulated here are meant to assist the research during data collection and analysis. Therefore, the following model has been drawn as a guide for the task ahead.[12] However, before proceeding to those steps of the research, the European and domestic context to which the two COI agencies belong will be presented in the following chapter.

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[12] See Annex B

CHAPTER 4. THE COUNTRY OF ORIGIN INFORMATION AGENCIES IN THEIR EUROPEAN AND DOMESTIC CONTEXT

In this chapter, a historical overview of the developments in European asylum policies will be presented in order to identify the main events that have resulted in the COI harmonisation process in which the two COI agencies currently find themselves. In the second part of this chapter, the two national offices will be introduced in more detail within their domestic setting in the Norwegian and Danish bureaucracies and national legislations. Finally, the third part of the chapter will describe the point of contact between these two contexts, down to the level of the two COI agencies.

4.1. The Steps Towards a Common European Asylum System and the COI Harmonisation Process

4.1.1. The Starting Point: the Conventions

The refugee and asylum policies in Europe can be said to have gotten their first written forms in the United Nations Convention relating to the Status of Refugees (the Geneva Convention) of 1951 and in the European Convention of Human Rights and Fundamental Freedoms of 1950.

The Geneva Convention was initially created to protect European refugees in the aftermath of World War II. The Convention clearly defines who is considered to be a refugee. It lays down basic minimum standards for legal protection, assistance, and social rights whom the persecuted should receive from the contracting states, as well as his or her obligations to these host countries. Article 1 defines a refugee as:

" [...] a person who is outside his or her country of nationality or habitual residence, has a well founded fear of persecution because of his or her race, religion, nationality, membership of a particular social group or political opinion, and is unable or unwilling to avail himself or herself of the protection of that country, or to return there, for fear of persecution ".[13]

The 1967 Protocol removed the time and space limitations of the original Convention to create a universal instrument for the problem of displaced persons. 147 countries have signed one or both texts, including all the EU and Schengen member states. This action on behalf of the member states obliges them to respect the principle that refugees should not be returned to a country where they fear persecution: the principle of *'non-refoulement'*.

The European Council drafted the European Convention of Human Rights. Unlike the UN Convention, it is not solely directed towards asylum issues but to protecting human rights and freedoms in Europe.[14] In order to assure the protection of these rights, the Convention established the European Court of Human Rights, created in 1959. Although the original Convention did not stress that European states could not deport individuals to recipient countries where such fundamental rights were not respected, the Court has later ruled that individuals cannot be deported to recipient states where "torture, inhumane or degrading treatment or punishment" is practiced, as expresses Article 3. The Convention includes several protocols that have also proved relevant in the Court's decisions on asylum issues, such as Protocol 13 that abolishes death penalty without exception. It represents a basic foundation of human rights as all the member states have ratified the Convention.

4.1.2. The Schengen Convention, the Dublin Convention, and Eurodac

The subsequent legal framework that laid the ground for European refugee and asylum

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[13]UNHCR, 1.09.2007. *Convention and Protocol Relating to the Status of Refugees* <www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf> [23.07.08]
[14]Council of Europe. *Convention for the Protection of Human Rights and Fundamental Freedoms as Amended by Protocol No. 11* <http://conventions.coe.int/treaty/en/Treaties/Html/005.htm> [15.08.08]

issues was the Schengen Convention. It was based on the Schengen agreement of 1985 and came into effect in 1995. Together, the original agreement, the Convention, the protocols, and later agreements constitute the Schengen *acquis*.

The Schengen Convention removed the checks at internal borders, but also created a single frontier by establishing a joint cooperation for immigration and asylum at the external borders, including so-called compensatory measures that were put in place such as setting up a common visa policy and the Schengen Information System for police and judicial authorities to share information on persons and goods.

Also in 1990, although not enforced until 1997, the Dublin Convention was signed. This convention stated that asylum applications should only be processed in one Schengen country, the country of 'first contact'. This Convention would be replaced by the Dublin II Regulation in 2003, accompanied by the fingerprint register Eurodac, which assists the authorities in identifying the member state where the asylum seeker first entered the EU/Schengen area (Aus 2007: 20; 23).

4.1.3. Schengen Takes its Place in the Treaty of Amsterdam
The Schengen *acquis* was incorporated into the legal and institutional framework of the EU by the Treaty of Amsterdam, signed in 1997. Subsequently, the control of external borders, asylum, and immigration were all placed under the first, Community Pillar of the EU. Title IV of the treaty deals specifically with the subject of free movement of persons, asylum, immigration, and judicial cooperation in civil matters. It set a deadline of five years for the member states to agree on minimum criteria and standards for: qualifying as a refugee; the reception of asylum-seekers; determining which country is responsible for processing an application; and procedures in granting refugee status.[15] As COI is part of this procedure, this component too was submitted to future standardisation.

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[15]Europa. *The Gradual Establishment of an Area of Freedom, Security and Justice*
<http://europa.eu/legislation_summaries/institutional_affairs/treaties/amsterdam_treaty/a11000_en.htm>
[24.07.08]

4.1.4. Tampere and the Hague Programme: Common Legislation and Towards Several Forms of Practical Cooperation

The meeting in Tampere in October 1999 translated the goals of the Amsterdam Treaty into practice on the subject of Justice and Home Affairs, including a common EU asylum and immigration policy. A Common European Asylum System was decided upon, determining the first standards and measures to be established by 2004. The intension was to arrive at a "common asylum procedure and a uniform status for those who are granted asylum valid throughout the Union".[16]

As a result of these decisions, the ARGO Programme was established for the period 2002 to 2006, for the purpose of supplying funding for cooperation between the national administrations in the fields of asylum, visas, immigration, and external boarders.[17] The first form of cooperation on COI was the Eurasil expert group network, founded in 2002.[18] This is a forum where COI experts meet from all EU member and Schengen states, accompanied by UNHCR. Depending on the agenda, various COI experts and corresponding specialist organisations are invited to participate and exchange information. According to Gornitzka and Sverdrup who base their findings on the total of 1237 expert groups registered in 2007, such expert groups assisting the European Commission are becoming increasingly influential in a EU that is characterised by multilevel governance (2007: 29). The ARGO Programme also financed the first joint FFMs in 2003, where delegations from two or more national COI agencies travel together, interview sources, and finally write a common report. As mentioned in the introduction, the Eurasil meetings and the joint FFMs are two of the five main forms of cooperation that are included in this thesis' definition of the EU's harmonisation process of COI.

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[16]European Council, 15-16.10.1999. *Presidency Conclusions*
<www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/00200-r1.en9.htm> [24.07.08]
[17]Europa. *ARGO - External Borders, Asylum, Visas and Immigration*
 <http://ec.europa.eu/justice_home/funding/2004_2007/argo/funding_argo_en.htm> [27.07.08]
[18]European Commission, 17.2.2006. *New Structures, New Approaches: Improving the Quality of Decision Making in the Common European Asylum System; Annexes*
 <http://ec.europa.eu/justice_home/doc_centre/asylum/docs/sec_2006_189_en.pdf> p. 9 [15.08.08]

The Hague Programme of 2004 evaluated the first steps of the Common European Asylum System, e.g. legislation and practical cooperation between the member states, and set the agenda for the next five years. An Action Plan was adopted, which specified the steps towards the goal of a fully harmonised Common European Asylum System. This system is to be in place by 2010 together with a European Support Office to oversee all cooperation, including COI, between member states.[19] The office is therefore considered another component of the COI harmonisation process.

Another forum for cooperation between the EU/Schengen countries established in 2004 was the General Directors of Immigration Services Conference network (GDISC). It was through GDISC that the ECS Database was founded in April 2007.[20] This database was created for the purpose of sharing COI between the members and is therefore included as a forth component in COI harmonisation. It is meant to function in such a way that certain expert from different COI agencies become official contacts for a given country of origin. Other experts seeking information can then contact them, and the answers are made available to all the EU/Schengen COI experts.

4.1.5. The Fifth Form of COI Cooperation

In a Communication from the European Commission to the Council and the European Parliament in 2006, there was a call to strengthen practical cooperation based on the goals set from the Hague Programme.[21] Two directives were mentioned, namely the Qualification Directive and the Asylum Procedures Directive. The first defines the "minimum standards for the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international protection".[22] The second specifies the "minimum standards on procedures in member

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[19]European Council, 10.06.2005. *Council and Commission Action Plan implementing the Hague Programme on Strengthening Freedom, Security and Justice in the European Union* <http://ec.europa.eu/justice_home/doc_centre/doc/action_plan_jai_207_en.pdf> p. 6-7 [18.08.08]
[20]GDICS, 25-26.10.2007. *3rd GDISC Asylum Conference* <http://www.gdisc.org/uploads/tx_gdiscdb/Conclusions_GDISC_Asylum_Conference-final.pdf> p. 2 [18.08.08]
[21]European Commission, 17.2.2006. *New Structures, New Approaches: Improving the Quality of Decision Making in the Common European Asylum System, Annexes* <www.ec.europa.eu/justice_home/doc_centre/asylum/docs/sec_2006_189_en.pdf> [26.07.08]
[22] ibid: 2

states for granting and withdrawing refugee status".[23] Article 4 of the Qualification
Directive states that:

> *"[...] the assessment of an application for international protection should take into
> account all relevant facts as they relate to the Country of Origin".[24]*

Article 7 of the Asylum Procedures Directive requires member states to ensure that:

> *"[...] precise and up to date information is made available to personnel responsible for
> examining applications and taking decisions".[25]*

These two directives called for greater practical cooperation on the "joint compilation,
assessment and application of Country of Origin Information".[26] The Commission also
expressed its intention to establish "common guidelines on the production of COI".[27] The
result is a document dated April 2008, entitled "Common EU Guidelines for Processing
Country of Origin Information".[28] This document was the result of a joint effort of the
immigration authorities in Germany, Switzerland, Denmark, the Netherlands, Belgium,
France, Poland, and the UK, and is interpreted in this thesis as the fifth form of
cooperation within the COI harmonisation process.

The report describes in detail the standards for COI that are agreed upon at the EU level.
The report consists of three parts, where the first supplies specific guidelines for how the
COI experts must select and validate their sources, following the quality criteria of
relevance; reliability; currency; objectivity; accuracy; traceability; and transparency.[29]
This first part of the document proceeds to describe every step of the actual report
writing, also annexing a preferred format for a COI report.[30] The second part of the report
clearly states the risks involved in the distribution of COI and suggests harmonisation by

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[23] ibid
[24] ibid: 9
[25] ibid
[26] ibid: 2
[27] ibid: 11
[28] European Commission, April 2008. *Common EU Guidelines for Processing COI*
<http://www.bfm.admin.ch/etc/medialib/data/migration/laenderinformationen/herkunftslaenderinformation
en.Par.0003.File.tmp/COI_Leitlinien-e.pdf> [16.09.08]
[29] ibid: 12
[30] ibid: 39

operating with three different zones of classified versus publicly accessible COI. In this way, it is argued, the experts can be assured that the information exchange will respect the same classification. The third part of the document is a glossary, defining words often used in the context of COI processing. This document can be seen as an illustration of how detailed the harmonisation process of COI has become.

4.2. The Two COI Agencies in their Domestic Context

4.2.1. Bureaucratic Organisation and Institutional Reforms: the Start of the two COI Agencies

The Danish Immigration Service (DIS) was founded in 1984 as a result of according immigration cases their own administrative unit separate from the police.[31] The Danish Refugee Appeals Board (RAB) was also founded in the same year. The two institutions took over the role of the Ministry of Integration to process asylum applications, and the latter could from then on only steer immigration policy through rules and legislation. However, it was first in 1996 that the DIS took over the process of interviewing the asylum seekers. A substantial internal reform came in 2006-2007, when the Directorate's name changed to it's current one. As the name suggests, the reform consisted of a set of internal modernisation initiatives that were influenced by the Danish version of NPM marked-orientated ideals.

In comparison, Norway has experienced a "reform fever" in its administration of immigration (Christensen and Lægreid 2009: 26). The Norwegian Directorate of Immigration (NDI) was established in 1988 under the Ministry of Local Government to take care of both the integration part and the regulatory part of immigration. The work of interviewing was moved from the police to the directorate in 2000. However, the control over the appeals was under the Ministry of Justice until 2001 when the Norwegian Immigration Appeals Board (IAB) was founded in a new reform of the immigration

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[31] All the information contained in this paragraph comes from e-mail and telephone correspondence with Morten Bo Laursen, Head of Information of the Communication and Director Stab, DIS, April 30, 2009, as he explained there are no official written documents or articles that present an overview of the history of the DIS.

administration. The Ministry could then only interfere through legislation, and this gave both the NDI and the IAB far more independence than prior to the reform (ibid: 12). Yet due to a shift in government, a new reorganisation took place in 2005 to re-establish more political control (ibid: 15). The ministry would as a general rule not interfere in individual cases, yet was given the possibility to interfere in specific cases within the decision-making process between the NDI and the IAB. The NDI was split into two parts in 2006, when the Directorate of Integration and Diversity was established to handle the integration part of immigration, leaving the NDI with asylum regulation. Both directorates are now under the new Ministry of Labour and Social Inclusion. As for the influence of NPM, according to Christensen and Lægreid, the later reforms were characterised by a mixture of the traditional Norwegian bureaucratic model, NPM, and post-NPM features (ibid: 26).

The Danish COI office was established in 1993 as part of the DIS, but it was only in 1996 that it took its current form as a substantial documentation office.[32] It was also put in charge of some specific cooperation projects, hence the name Documentation and Project Department. The Norwegian office "Landinfo" was founded in 2005. Prior to this, the departments of COI documentation had been two units, one under the NDI, and one under the IAB. These were then merged into one office that was administratively placed under the NDI.[33]

When comparing the two COI agencies in the context of their directorates under which they are administratively placed, some differences can be detected. The Danish COI office is located on the organisational chart of the DIS directly under the Vice Director,[34] whereas the Norwegian COI office is not included in the organisational chart of the NDI.[35] The names of the two agencies also differ. The Danish office, the Documentation and Project Department, is a sub-category of the DIS, whereas Landinfo has its own,

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[32] Telephone correspondence with Jens Weise Olesen, country of origin expert consultant of the Documentation and Project Department of the DIS, May 9, 2009.
[33] Landinfo, 06.07.09. *About Landinfo* <http://landinfo.no/index.gan?id=6&subid=0> [10.09.09]
[34] Danish Immigration Service: *Organisational Diagram of the Danish Immigration Service 2008* <http://www.nyidanmark.dk/NR/rdonlyres/483419A3-F39B-4FCE-AC53-BD87967F6233/0/organisationsdiagram_juni_08.pdf> [05.02.09]
[35] NDI, 21.11.2008. *Organisational Map* <http://www.udi.no/templates/Page.aspx?id=5572> [20.02.09]

independent name, and also has its own website. Also in the question of the two offices'
professional output, the impartiality of the COI produced by Landinfo is stated in a
Communication from the Parliament, dated 2003-2004,[36] whereas there is no such
corresponding formal legal statement for the Danish COI. Despite that in practice, both
offices produce impartial, objective information that not only their directorates use, but
also the appeals boards, NGOs, the police, and the press,[37] the difference in formal versus
informal status of the impartiality of COI is noted. Because of this impartiality, the COI
agencies cannot be said to be directly involved in the verdict of an asylum application.
Although they have great influence in providing the essential information needed for this
process,[38] they do not instruct on how the processors should use this information.[39]

4.2.2. National Legislation
Two sets of legislation are of great relevance to the COI agencies. These are the Aliens
Acts and the Freedom of Information Acts.

4.2.2.1. The National Aliens Acts
Laws on immigration affect the COI offices indirectly by influencing how many and
which asylum applications require COI. Because the need for COI predominantly
involves applications of asylum, the other forms of immigration, e.g. family reunification
and labour immigration, which are a substantial part of the Aliens Acts, are not
elaborated on here.

In Denmark, the political climate since the late 1990s has been to reduce the number of
asylum seekers entering to the country (Kjær 2003: 254). In fact, the original Aliens Act
of 1983 was at the time one of the most liberal in Europe, but the latest version of 2008 is

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[36]The Norwegian Ministry of Regional Government 2003-2004: *Communication from the Parliament nr.*
21. Management relations in the field of immigration, Chapter 5.3.4
<http://www.regjeringen.no/Rpub/STM/20032004/021/PDFS/STM200320040021000DDDPDFS.pdf>
[03.05.09]
[37] Telephone correspondence with Jens Weise Olesen, country of origin expert consultant of the
Documentation and Project Department of the DIS, May 9, 2009.
[38] See the example in the introduction.
[39]Landinfo, 20.10.09. *About Landinfo* <http://landinfo.no/index.gan?id=6&subid=0> [20.10.09]

considered highly restrictive.[40] Indeed, it was severely restricted in 2002 as a result of the Danish Liberal and Conservative government that passed the Bill No. L. 152/2001-2002, named the 'Aliens Package' (ibid: 255). This Bill abolished the *de facto* concept that defined the rights to asylum beyond those stated in the Geneva Convention.[41] The *de facto* concept, stated in paragraph 7 (2) of the previous act, provided asylum seekers with residence on the count of "reasons similar to those of the Convention […] or other weighty reasons" (ibid: 257). It was replaced by the B-status, which removed the latter statement and in turn specifically included the rights stated in the European Convention for the Protection of Human Rights and Fundamental Freedoms of protection from torture and the death penalty (ibid: 261). The Aliens Act as it stands today has seen a number of further restrictions on the rights of asylum, entry and residence. Although one cannot isolate this alteration as the only variable affecting asylum trends that also fluctuate according to external factors, it is still highly likely that the visibly declining number of asylum seeker applications as well as residence accorded on grounds of asylum are linked to this change in legislation (ibid: 267). Already in 2004, the number of asylum applications was down by one forth of what it had been in 2001, and the number of residencies granted asylum was 10%, compared to 53% in 2001.[42] The overall trend has been for the numbers to continue to drop each year. In 2006, 1900 asylum applications were registered and 18% were granted residence.[43]

The Norwegian Aliens Act has not known as dramatic changes as its Danish neighbour from its adoption in 1988 until the new version in 2008, with correspondingly no similar drop in application and granted residency numbers.[44] Even though the number of asylum

[40]E-mail and telephone correspondence with Morten Bo Laursen, Head of Information of the Communication and Director Stab, DIS, April 30, 2009.
[41]*Changes of the Aliens Act since November 2001 (updated 1. Mai 2009):* e-mail correspondence with Mikkel Bækgaard, the Information Department of the Danish Ministry of Integration, 30.04.09.
[42]The Danish Ministry for Refugees, Foreigners and Integration. *Numbers and Facts on Immigration 2004* <http://www.nyidanmark.dk/resources.ashx/Resources/Statistik/tal_og_fakta/2004/talogfakta2004.pdf> p. 10-12 [23.04.09]
[43]DIS, March 2008. *Numbers and Facts on Immigration 2007* <http://www.nyidanmark.dk/NR/rdonlyres/F496DBF0-6520-4666-BD73-FFA22A74687A/0/tal_og_fakta_2007.pdf> [23.04.09]
[44]The Norwegian Ministry of Work and Inclusion. *Ot.prp. nr. 75 (2006-2007). The Aliens Act* <http://www.regjeringen.no/nb/dep/aid/dok/regpubl/otprp/20062007/otprp-nr-75-2006-2007-/1.html?id=474153> [25.04.09]

seekers is lower than they were in 2001-2002, this is the overall European trend.[45] At the same time, a higher percentage of asylum seekers were granted residence status in later years.[46] In 2006, 5300 asylum applications were filed, of which 57% were given residence.[47] These developments reflect a consensus-driven immigration policy, where the main political parties, with the exception of the Progressive Party, have adopted a general policy of Norway needing to control immigration, but that it should be open to receiving asylum seekers and refugees (Christensen and Lægreid 2009: 5).

The DIS had approximately 500 employees in 2001 whereas it currently employs 350 civil servants.[48] In accordance with the changes in legislation and numbers of asylum seekers, the Danish COI office was at its largest between 1998 and 2001, when it employed 15 people.[49] It currently has 10 employees: the head of the department, six country experts, one administrator, one student, and one part-time intern.[50] The NDI currently employs over 1000 civil servants[51] as opposed to 520 in 2001.[52] Following the steady development of asylum statistics, the Norwegian COI office has grown gradually in response to demands. Currently 22 people are employed in the office, including: the head of department, 18 country experts, and two administrators. This is an increase of five employees since 2005.

[45]Statistics Norway, 17.05.05. *Many Fleeing*
<http://www.ssb.no/vis/magasinet/norge_verden/art-2005-06-17-01.html> [23.04.09]
[46]The Norwegian Ministry of Work and Inclusion. *Ot.prp. nr. 75 (2006-2007). The Aliens Act, The Background for the Proposal* <http://www.regjeringen.no/nb/dep/aid/dok/regpubl/otprp/20062007/otprp-nr-75-2006-2007-/2.html?id=474173> [25.04.09]
[47]The Norwegian Ministry of Work and Inclusion. *Ot.prp. nr. 75 (2006-2007). The Aliens Act, The Picture on Migration*
<http://www.regjeringen.no/nb/dep/aid/dok/regpubl/otprp/20062007/otprp-nr-75-2006-2007-/2/5.html?id=474182> [26.04.09]
[48]E-mail and telephone correspondence with Morten Bo Laursen, Head of Information of the Communication and Director Stab, DIS, April 30, 2009.
[49]Telephone correspondence with Jens Weise Olesen, country of origin expert consultant of the Documentation and Project Department of the DIS, May 9, 2009.
[50]Yet an important difference is also that these ten employees also work on other project-based assignments, whereas the Norwegian Landinfo is solely responsible for producing COI.
[51]NDI, 18.08.2009. *Brief History of the NDI* <http://www.udi.no/templates/Page.aspx?id=3488> [14.05.09]
[52]E-mail correspondence with Per Chr. Jørgensen, consultant in the User Service Department of NDI, May 8, 2009.

4.2.2.2. The Two Freedom of Information Acts

Regarding freedom of information legislation, both COI agencies write reports and other documents that are primarily produced for the purpose of public administrative processing. Consequently, the question of whether or not these documents should be available to the public affects these two offices. In Norway and Denmark, these legislations have known few differences.[53] The Danish Freedom of Information act is from 1985 and is currently under revision. Norway has a new Freedom of Information Act as of 2009, which is a revised version of the reference of 1970. What mainly characterises the Freedom of Information Acts of the two countries is a high degree of public insight, where the principle is that all public administrative documents should be publicly available unless specific circumstances and concerns call for exceptions.[54] However, on the subject of internal documents, the two Acts' statements differ in how they define circumstances where documents can be classified.

In the case of Denmark, paragraph 8.3. of the Act states that independent documents that are produced to provide guidance or clarity in the facts of a case for administrative processing should be publicly available.[55] As a result of the Danish Act, all COI reports must without exception be publicly available. Yet concerns of confidentiality in regards to a person's safety opens for the possibility for COI sources to stay anonymous in the reports. The new version of the Act will not lead to changes in the full openness of COI products.[56]

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[53]The Norwegian Ministry of Justice and Police. *Ot.prp. nr. 102 (2004-2005). The Freedom of Information Act* <http://www.regjeringen.no/nb/dep/jd/dok/regpubl/otprp/20042005/Otprp-nr-102-2004-2005-/2.html?id=400951> [20.05.09]

[54]Lawdata, 09.01.09. *LOV 1970-06-19 nr 69, The Freedom of Information Act* <http://www.lovdata.no/oll/hl-19700619-069.html#1> [20.05.09]; Danish School of Media and Journalism, *LOV nr 572 of 19/12/1985, The Freedom of Information Act* <http://www.update.dk/cfje/Lovbasen.nsf/ID/LB00000597> [20.05.09]

[55]ibid

[56]Telephone correspondence with Jens Weise Olesen, country of origin expert consultant of the Documentation and Project Department of the DIS, May 9, 2009

In paragraph 5 of the Norwegian act of 1970, the exceptions to public access concern cases where documents could jeopardise administrative processing and in cases where the safety of individuals or organisations could be at stake. In the new Freedom of Information Act of 2009, the possibilities to classify documents are further restricted in paragraphs 11, 12 and 14.[57] Nevertheless, the possibility to classify documents, such as COI reports, still exists. Debates have been ongoing about how to interpret the Norwegian legislation in the case of COI.[58] Although one can observe that some information on the Landinfo website is withdrawn from the public while other information is available, there is generally less classified information in 2009 than in 2005.[59]

4. 3. Relations to the EU

How do Norway and Denmark participate in the harmonisation process towards a Common European Asylum System?

4.3.1. Decision-Making

Denmark has been a EU member state since 1973 and Schengen member since 1996, entering into effect in 2001. Yet Denmark is known to be "EU sceptical" (Martens 2007: 6). Since 1992, Denmark has had certain opt-outs in EU legislation.[60] On the signing of the Treaty of Amsterdam, the Danish opt-out of Justice and Home Affairs included the Title IV. This accords a specific status to Denmark, specified in Protocol no. 5 of the Treaty of Amsterdam. Although it follows the common European visa policy, in other areas related to the Schengen *aquis*, Denmark decides within a timeframe of six months whether or not it will implement a decision from the European Council.

Norway has the right to participate in the implementation and further development of the

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[57]Lawdata, 15.10.2009. *LOV 1970-06-19 nr 69 The Freedom of Information Act.*
<http://www.lovdata.no/all/hl-20060519-016.html#1> [23.05.09]
[58]Dagbladet, 25.10.05. *New Openness on Country of Origin Information*
<http://www.dagbladet.no/kultur/2005/10/25/447403.html> [05.06.09]
[59]Landinfo, 20.10.2009. *Reports* <http://landinfo.no/index.gan?id=168&subid=0> [20.01.09]
[60]The Danish Ministry of Foreign Affairs, 22.11.2006. *The Danish Opt-Outs*
<www.um.dk/en/menu/EU/TheDanishOptouts> [27-07-08]

Schengen *aquis*. Through the European Economic Area agreement, Norway participates in the Mixed Committee together with Iceland, the EU member states and the European Commission. When the member states vote in the European Council on new rules in regards to Schengen, Norway takes its independent decision. If Norway does not concede to an agreement, the Mixed Committee will discuss options during a period of ninety days. If there is not a consensus, the agreement ceases after three months. If Norway wishes to offer a proposal to the European Council, this must be done by the Commission or through another member state.[61]

4.3.2. Approaching Legislation

Norway and Denmark have both made similar alterations to their legislation in accordance with the development of the EU on its legislation on asylum. They both made the necessary alterations after the Schengen agreement came into force in 2001, together with the Dublin Convention. Later adjustments included the common visa policy and the joint recognition of dismissal of an asylum application made in another Schengen country. The two countries also ratified the Dublin II Regulation in 2005, along with the Eurodac fingerprint register.

Although the two countries have followed similar developments when it comes to adapting to these steps of EU legislation, the differences in the national Aliens Acts still result in different relations to the EU on this matter. Norway is seen to have a standard policy, yet as previously pointed out, Denmark's Aliens Act is seen controversial. This is clearly illustrated by the verdicts of the European Court of Human Rights that have contradicted the Danish policy of asylum and family reunification, last seen in the Metock-verdict of July 2008.[62]

One of the main reasons for the new Norwegian Freedom of Information Act of 2009 was

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[61]The European Portal. *Norway's Cooperation with the EU on Justice and Domestic Affairs* <www.regjeringen.no/nb/sub/europapotalen/eu/Norges-samarbeid-med-EU-pa-justis--og-innenriksomradet.html?id=450611> [25-07-08]
[62]The Danish Ministry for Refugees, Foreigners and Integration, 19.08.08. *Note on the Legal Evaluation of the Verdict on the Metock case* <http://multimedia.jp.dk/archive/00119/juridisk_notat_om_m_119748a.pdf> [25.08.08]

to meet criteria from the EU. Dating back to the Treaty of Amsterdam, citizens' right of access to European Parliament, Council and Commission documents were stated in Article 255, and a Regulation on public access to these documents (Regulation (EC) No 1049/2001) was adopted.[63] The following Recommendation, Rec (2002) 2, suggested minimum standards for public access to information for the member states.[64] Still, the document "Common EU guidelines for Processing COI" defines circumstances where COI should be classified. Accordingly, even though Norwegian and EU legislation both allow for high degree of insight, the possibility for classifying COI reports remains in Norway as is also suggested by the EU. Therefore, Norway's legislation on public insight is compatible with that of the EU in the case of public access to COI. The Danish Freedom of Information Act is currently under revision, and one reason for this is to further approach EU legislation. However, in the case of COI, the Danish reports all remain publicly accessible and are therefore less compatible with what the EU guidelines propose.

4.3.3. The COI Agencies Participate

In the field of COI, Denmark and Norway both participate regularly at the Eurasil meetings. The country experts are also involved in the use of the ECS Database and have experience from travelling on joint FFMs. Denmark participated in the realisation of the "Common EU Guidelines for Processing COI" document.[65] Norway provided input to the document in the form of interviews of staff.[66] A more in-depth account of how the civil servants participate in the five forms of cooperation of the harmonisation process was revealed in the interviews of which the results will follow in the next chapter.

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[63]Europa, 28.10.2008. *Access to European Parliament, Council and Commission documents* <http://europa.eu/scadplus/leg/en/lvb/l14546.htm> [24.08.08]
[64]The Norwegian Ministry of Justice and the Police. *Ot.prp. nr. 102 (2004-2005) Freedom of Information Act* <http://www.regjeringen.no/nb/dep/jd/dok/regpubl/otprp/20042005/Otprp-nr-102-2004-2005-/2/6.html?id=400960> [24.08.08]
[65]European Commission, April 2008. *Common EU Guidelines for Processing COI* <http://www.bfm.admin.ch/etc/medialib/data/migration/laenderinformationen/herkunftslaenderinformationen.Par.0003.File.tmp/COI_Leitlinien-e.pdf> [16.04.09]
[66]ibid: 4

4.4. Summary

From the overview of the European harmonisation process of asylum policy generally, and COI cooperation specifically, one can conclude on its importance in the overall ambitions of the EU. The five forms of COI cooperation in the EU speak of a detailed harmonisation process of COI in Europe, wherein the Norwegian and Danish COI agencies are taking part. An overview of the domestic settings of the two offices revealed some key differences, one of which was that the Danish and Norwegian political climates have differed in regards to immigration in the last two decades. The Danish case has lead to an Aliens Act that is considered restrictive in a European context, with an incline in numbers of asylum seekers as consequence. In Norway, the approach on immigration has not known such restrictive measures. The result of this difference in policy is that the NDI currently employs almost three times as many civil servants as the DIS, and that the Norwegian Landinfo is also roughly three times the size of The Documentation and Project Department of the DIS. Furthermore, the differences in placement of the COI agencies in their organisational structure, their respective names, websites, and in what form the impartiality of their information is specified, all suggest that the Norwegian COI agency enjoys more independence from its directorate than does its Danish counterpart. Furthermore, the comparison on the Freedom of Information Acts of Norway and Denmark revealed another key difference: although both countries are showing signs of approaching EU legislation on this point, the Norwegian Act, in line with the recommendations from the EU, still opens for the possibility for COI reports to be classified, whereas Danish legislation has ruled out this option.

After this overview of both the European and domestic 'worlds' to which the agencies belong, the collected data from COI reports and from interviews with COI experts can be presented while baring this context in mind.

CHAPTER 5. DATA: THE FACT-FINDING MISSION REPORTS AND THE CIVIL
SERVANTS

In this chapter, two types of data will be presented and compared. Firstly, following a
brief overview of the products of the two offices in the last two years, three pairs of FFM
reports will be compared with the aim of answering the first part of the research question:
*What are the differences in FFM reports between the Norwegian and Danish COI
agencies?* The documents have been selected for the purpose of comparison and were
thereby chosen out of three criteria, as specified in chapter two: they are FFM reports;
they focus on the same country of origin; and they are written the same year after a
delegation travelled on a FFM. As was also explained previously, the comparisons will
be separated into two main parts: the information sources consulted; and the structure and
content of the reports. Secondly, this comparison is placed into the context of the
Common European Asylum System, to answer the second part of the research question of
this thesis: *What do these differences imply in the context of the EU's harmonisation
process of COI?* Thirdly, the data collected from the qualitative interviews will be
presented by comparing the answers from the civil servants in the two offices. This
presentation is meant to prepare the data for the analysis of the following chapter by
enabling the researcher to identify key similarities and differences between the
Norwegian and Danish COI offices.

5.1. Comparing the Reports from the Norwegian and Danish COI Agencies

5.1.1. Publications in 2007 and 2008
The website of the Norwegian office Landinfo[67] shows 41 reports dated 2007, most of
which are brief notes, between 4 and 10 pages, on specific topics within countries of
origin. These could be for example the situation of HIV/AIDS, TB and Diabetes in
Burundi, or the human rights situation in the Democratic Republic of Congo. A few of

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[67]Landinfo, 20.10.2009. *Reports* <http://landinfo.no/index.gan?id=168&subid=0> [20.10.09]

the reports are specified as FFM reports. These vary in size, ranging from 25 to 40 pages. 57 documents are available from 2008, also largely topic notes. There has been a clear development from writing mostly FFM reports towards topic notes. The Danish office produces mainly FFM reports, and has written approximately 80 such reports since they started in 1994. 7 FFM reports in 2007 and 4 in 2008 are available from the website.[68] These are generally 50 pages long.

5.1.2. The FFM Reports on Somalia, 2007[69]

Both these reports are FFM reports; they are the product of a trip that the COI experts from both the Norwegian and Danish agencies made in 2007. Because travelling into Somalia was considered impossible for safety reasons at the time of the trip, the process of collecting information was based in Nairobi. The Norwegian delegation was in Nairobi in the period 21-29 March 2007. The Danish delegation was there from the 14 to 27 March 2007. As the experts were there at the same time, this makes the reports all the more comparable.

5.1.2.1. References

Several differences can be observed between the two reports in regards to the references to the sources: seven primary sources from personal meetings are the same, out of 41 (not counting the unnamed sources), whereof 20 are from the Norwegian report and 21 from the Danish one. Three written secondary sources are the same, out of 31 whereof 20 are from the Norwegian report, 11 from the Danish one. The Norwegian report has many links to press and media references they have used. The Danish report does not have these specifications. Both reports refer to international organizations and Somali organizations that are kept anonymous; the Norwegian report refers to three, the Danish to six.

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[68]DIS. *Search in Publications* <http://www.nyidanmark.dk/da-dk/publikationer/SearchPublications.htm?SearchType=publications&SubType=Fact-finding%20rapport> [19.01.09]
[69]Landinfo. November 2007. *Security and Human Rights Conditions in Southern Somalia* <http://landinfo.no/asset/648/1/648_1.pdf> [04.06.08]; DIS; Danish Refugee Council, March 2007. *Human Rights and Security in Central and Southern Somalia* <http://www.nyidanmark.dk/NR/rdonlyres/F382C881-5A67-4605-845F-953B98E01355/0/somaliarapport_humanrights.pdf> [12.06.08]

5.1.2.2. Content

The reports are organised differently. The first section of both reports is about the security situation in southern and central Somalia. However, whereas the Norwegian report is organised by region and goes with detail through each one separately and notes differences between them, the Danish has a more general approach by theme.

The following section is on the National Reconciliation Conference in the Danish report. This conference is only briefly mentioned in the Norwegian report. The Danish report also goes more into detail about the current conflict between the Union of Islamic Courts and the Transitional Federal Government in this section.

Many topics that follow are mentioned in both reports: the human rights situation and the security for those monitoring these rights; the situation for minority populations and for internally displaced persons; the subject of politically motivated persecutions with emphasis on the Union of Islamic Courts members as well as the situation for those supporting the Transitional Federal Government. The topic of clan protection is also mentioned in both reports. The Danish document supplements this topic by also bringing up the topic of cross-clan marriages. This is not mentioned in the Norwegian report. In fact, other noteworthy differences include:

- Both reports have a section on the situation specifically for women, with emphasis on female genital mutilation and rape victims, yet a difference in opinion from sources is expressed. The Norwegian report refers to a source that says there is positive progress in the movement against female genital mutilation, whereas in the Danish report, the informant is clearly negative, stating that nothing has been achieved in the last 10 years. In the Norwegian report there is also information on the security situation for non-female genital mutilation activists.
- On the topic of children, the phenomenon of forced recruitment of children and child soldiers is brought up in both reports, yet the Danish report has a section that describes the situation for orphans and also mentions the subject of re-education

trips to Somalia of children living abroad. Neither of these two issues is mentioned in the Norwegian report.

- Concerning minority groups, the Danish report has a section on HIV/AIDS victims, as well as a section about the situation for homosexuals in the country. Also the subject of religious conversion and the situation for Christians is mentioned. None of these topics are mentioned in the Norwegian report. The Danish report also describes the situation for persons returning from Europe as well as Ethiopia. This is also not discussed in the Norwegian report.

- Other topics mentioned in the Norwegian report that do not figure in the Danish one are property seizures and the legal systems/courts in the country.

5.1.3. The FFM Reports on Nigeria, 2006[70]

The FFM reports on Nigeria focus on human trafficking. Landinfo travelled to the regions of Abuja, Lagos, and Benin City in the period 12 to 26 March 2006. The Danish delegation travelled to Lagos and Abuja and stayed from the 12 to 21 December 2006. The Norwegian office also wrote a more general FFM report after the trip. The Danish office wrote another FFM report on the subject of prison conditions in Nigeria from their trip. Both offices had written FFM reports on Nigeria in 2004, the Danish one being a product of collaboration between the British Home Office and the DIS. In the Norwegian report, it is stated that the decision to make the report public was taken previous to the trip and that all the sources were informed of this fact.

5.1.3.1. References

Also between these two reports, the variety in sources is significant. Six out of 35 primary sources are the same, the Norwegian office referring to 28 and the Danish office to 15. The Norwegian report refers to 15 written sources and quotes several passages of articles inside the report itself. The Danish report refers to no such secondary sources. All sources in both reports are referred to by full name.

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[70]Landinfo, 12-26.03.2006. *Trafficking in Women – Fact-finding Trip to Nigeria (Abuja, Lagos and Benin City)* <http://landinfo.no/asset/224/1/224_1.pdf> [23.07.08]; DIS, 12-21.12.2006. *Trafficking in Nigeria. Report from Fact-Finding Mission to Lagos and Abuja, Nigeria* <http://www.nyidanmark.dk/NR/rdonlyres/0090EF1C-C160-4033-A008-5D29D89F227F/0/MenneskehandeltraffickingiNigeria44.pdf> [20.07.08]

5.1.3.2. Content

Both reports give much importance to the National Agency for the Prohibition of Trafficking in Persons and Other Matters (NAPTIP), established in 2003 for the purpose of enforcing the national 'Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2003'. Much of the content of both reports are based on the information given to the delegations from NAPTIP.

Several topics are discussed in both reports. Focus is given to where and what socio-economic background the victims come from, the Norwegian report also stressing the collapse of the traditional value system in the poor regions. Both reports state the same opinion from their informants that currently, most victims decide themselves to contact traffickers to leave Nigeria, and know that they will work as prostitutes, but that they often do not realise the extent of control that others will have over them. Both reports describe how the trafficking usually takes place from initial recruitment in Nigeria to the situation in Europe and finally return and reintegration. Some key concepts here are: 'ju-ju,' or spiritual oaths that are taken between the victim and the trafficker; the 'Italios' that are former trafficked victims who have returned after having success in Europe; and the 'madams', often former prostitutes who now run organised prostitution businesses. They also both emphasise what NAPTIP's main responsibilities are and how they work.

Some of the main differences between the two reports are the following:
- There is a detailed description in the Danish report of the criteria for defining someone as a victim of trafficking, both from the United Nations and NAPTIP. The Norwegian report offers no such definition.
- The Danish report goes into detail on risks of abuse for the victims, by the traffickers, private persons, Nigerian authorities and family, and refers to NAPTIP's opinion that fear of abuse from these persons is unfounded. The Norwegian report does not develop this subject specifically, but does mention one informant who expressed concern for the safety of victims also upon return to Nigeria from her knowledge of threats from agents and family.

- The Norwegian report mentions specifically the health situation of victims, of whom a majority, according to one informant, has HIV/AIDS. The Danish report does not elaborate on this point, yet both reports discuss the psychological state of the victims.

- The Norwegian report has a section on children that focuses on the extent of local and regional problems of child trafficking. This subject is not described in detail in the Danish report.

- The Danish report states that the problem of victims of trafficking and that of asylum seekers are linked because the agents encourage the women to seek asylum if arrested, but the Norwegian report suggests that there is little coherence between those who are trafficked and those who seek asylum.

5.1.4. The FFM Reports on Iraq, 2003[71]

The Norwegian report is the result of a joint Norwegian and Swedish FFM to northern Iraq, Kurdistan, but the FFM report in hand is written by Landinfo. The trip took place from the 31 August to 10 September 2003, during which the delegation travelled to six cities in Kurdistan where they held 33 meetings in total, as well as to Damascus and Amman. The Danish report is the result of a joint Danish and British FFM to Iraq and the written report is the product of both agencies. The delegation travelled to Damascus, Amman and Geneva from the 1 to 13 July and on the 23 July 2003. There is a difference in the purpose of the reports, the Norwegian one focusing solely on Kurdistan while the other looks at the whole country. Yet the Danish-British report has an under-category of each chapter dedicated specifically to the Kurdistan region. The comparison of the two reports will be focused on this particular region.

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[71]Landinfo, 27.08.2003-11.09.2003. *Report from a Fact-Finding Mission to Northern Iraq. Syria and Jordan* <http://landinfo.no/index.gan?id=168&subid=0> press link: Report from fact-finding mission, Iraq 2003 (English) [17.08.08]
British Home Office; DIS. 1-13-07-03; 23.07.03. *Joint British-Danish Fact Finding Mission to Damascus, Amman and Geneva on Conditions in Iraq*
<http://www.homeoffice.gov.uk/rds/country_reports.html#countries>; press link: Archive Publications; Iraq, COI Fact Finding Mission July 2003 [17.08.08]

5.1.4.1. References

In a strict sense, 3 sources out of 46 are the same, including 7 anonymous sources in the Danish-British report. The Norwegian report has no anonymous sources and refers to a total of 29 sources, whereof 26 are from the Kurdistan region. The Danish-British report has a total of 21 sources. A closer look reveals that two of the same organisations have been consulted, only at a different location.

5.1.4.2. Content

The contents of the two reports have some obvious differences due to the differences in geographical focus, yet there are similarities in the overall topics and structure of the reports. The Danish-British report has a first chapter on the current political situation in Iraq that the Norwegian report does not have, but further on the two reports follow the same sequence in chapters: the security situation; the humanitarian situation; human rights - specific groups; and finally return/repatriation. However, within these topics one can observe several differences:

- The security situation: The reports mention different attacks that have occurred after the war. The Danish-British report mentions an attack on a International Organization of Migration office, on a City Council, and police station. The Norwegian report mentions an attack on a residential area where Americans lived. Ethnic tension between Arabs and Kurds as a result of de-Arabisation of the region is also mentioned in both reports. However, the Danish-British report states that the tension is getting worse, whereas the Norwegian report does not express this tendency.

- The humanitarian situation: In the joint Danish-British report, the section about the northern region is brief on this topic, stating that there is access to food, water, and healthcare. The Norwegian equivalent to this chapter focuses on the health situation and goes into great detail concerning hospitals, medical equipment, training, and access to treatment in Kurdistan and abroad. The Norwegian report mentions that the only institution for mental illness in Iraq was in Baghdad, but the Danish-British report declares that there were no institutions treating mental illness at the time.

- The human rights situation – specific groups: Only the Norwegian report presents the conditions for women in prison. Both reports present sections on ethnic and religious minorities, as well as discussing the de-Arabisation process in the north and the situation for political oppositions such as the Iraqi Communist Party. Yet only the Danish-British report describes in detail the situation for Ba'ath party members and supporters with their families.

- Return/repatriation: The Norwegian report states that the Kurdish leadership wants Kurds to return, and mentions that a source insists that the Kurds are pushing to go home on their own, estimating that 300 Kurds return daily. The Danish-British report, however, refers to a source explaining that the Kurds consider it too soon to return to the area. The Danish-British report states that the return must be matched with where the individuals came from originally, that according to a source, internal relocation is not possible. This is not mentioned in the Norwegian report. The latter, however, has a specific section concerning the return of unaccompanied minors, a subject that is not mentioned in the Danish-British report.

5.1.5. Summary

The comparison of these three pairs of reports can serve as an illustration on how different the COI documents from the two national COI agencies are to date. From the overview presented above, one finds that clear similarities occur, especially in some main topics that are discussed. However, many differences were identified. It was a great challenge to find reports that were comparable following the criteria of 'same country of origin, same year'. This speaks of a high variety in production of COI between the two agencies. One striking difference was the low number of common information sources, such as for Somalia, where 7 out of 41 sources were the same. Furthermore, some key differences in perspectives on specific topics were found. In the case of Somalia, one difference was that the Norwegian informant on the subject of female genital mutilation stated that progress had taken place concerning the risks for a woman to be subjected to this act, whereas the informant consulted by the Danish delegation was of the opinion that no progress had been made. On the subject of trafficking in Nigeria, an informant in

the Danish report stated that the risks of abuse to victims of trafficking by their agents or families was unfounded, whereas an informant in the Norwegian report was of a different view. Finally, in the Iraq/Kurdistan reports, an example worth mentioning was that the Danish report described the ethnic tension between Kurds and Arabs as worsening, whereas this tendency was not described in the Norwegian report. In general, the comparison of the three sets of reports, from 2003, 2006 and 2007, does not suggest a clear chronological development towards more or less diversity, and the constellations of the FFM delegations, both from different national institutions and as cooperation with foreign COI agencies does not suggest any set pattern.

5. 2. Implications of the Differences in FFM Reports

In the previous chapter, the steps of the development towards Common European Asylum System were described, with emphasis on the harmonisation process of COI. Within this context, the Qualification Directive and the Asylum Procedures Directive were described, and it was highlighted that Article 4 of the Qualification Directive states that:*"[…] the assessment of an application for international protection should take into account all relevant facts as they relate to the Country of Origin".[72]* Furthermore, Article 7 of the Asylum Procedures Directive reads: *"[…] precise and up to date information is made available to personnel responsible for examining applications and taking decisions".[73]* These goals are expressed as standards that should be attained throughout the EU and Schengen area, and are the driving force behind the several forms of COI cooperation in the EU.

Considering the challenge of finding comparable reports and the key differences that have been identified by comparing the three sets of FFM reports above, it is clear that, in practice, COI reports differ between the two agencies. The extent of variation of information sources that have been consulted does not necessarily affect the

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[72]European Commission, 17.2.2006. *New Structures, New Approaches: Improving the Quality of Decision Making in the Common European Asylum System, Annexes*
<www.ec.europa.eu/justice_home/doc_centre/asylum/docs/sec_2006_189_en.pdf> p. 9 [consulted 26.07.08]
[73] ibid

harmonisation process negatively. A range of sources could allow for the weighing of their quality. Yet the comparison shows that the opinions of these sources have, at times, revealed themselves to be contradictory between the two reports, e.g. the difference of opinion concerning the risks of abuse for Nigerian victims of trafficking. Similarly, given that the topics of the reports are related to the asylum applications filed at the domestic level, the variation of topics that are raised does not directly oppose harmonisation. However, the challenge lies in whether topics are left out that could have provided additional information, which would set the application in a different light. A description of the security situation of a specific region in Somalia as opposed to a thematic overview of the country; or a detailed description on a certain minority in the country, could be an illustration of the latter. Such challenges prove that it is legitimate to ask whether the goals set by the EU as expressed in the articles 4 and 7 above have currently been met. The Qualification Directive and the Asylum Procedures Directive wish to set minimum standards for qualifying as a refugee or someone otherwise in need of international protection, as well as standard minimum procedures that grant this status. As such, the results of this comparison of COI products show that it is conceivable that a person in need of protection could qualify in one country and not in the other. The asylum application could be processed differently, depending on the COI that is available to the processor at a given moment. The comparison of the three sets of reports above may serve as an illustration to show that the EU's harmonisation process of COI has, in practice, not as of yet achieved its goal to achieve fully harmonised COI in the EU and Schengen area.

Is the COI of the Norwegian and Danish COI agencies likely to become more harmonised as the result of further cooperation as the EU harmonisation process of COI continues? The following data from the interviews with civil servants from the two agencies will provide the basis for answering the final part of the research question of this thesis.

5.3. Comparing the Interviews from the Norwegian and Danish COI Agencies

The interviews will be summarised and compared by following the main structure of the interviews: the degree of freedom of decision-making; comments on the comparison of the reports; and views on COI cooperation within the EU/Schengen area. As previously mentioned, seven civil servants were interviewed in total, among them five country experts, one expert on the ECS Database cooperation, and one head of office. The respondents from the Norwegian office are listed as informant A through D. The Danish respondents are listed as informant E, F and G.

5.3.1. Freedom Versus Regulations: Who Makes the Decisions?

The interviewees were asked to describe how the FFMs take place. The situation in both offices was that the asylum departments of the two directorates as well as the two appeals boards informed them of their needs for new COI. Yet the degree of freedom the experts had to make decisions in the process seemed to vary between and within the agencies. Informant A felt that he/she had a high degree of freedom to choose which subjects to investigate and include in a report, to choose when would be the best time to go on a FFM, and to choose which sources to interview. Informant C felt that the issues that were to be investigated on a FFM were quite clearly specified by their users and that there was some, but not much, flexibility. Informant B agreed that there were precise requests from their users, but that they were the ones taking final decisions on the topics to be investigated because they were the ones with the overview of what information already exists and what is worth looking into for a current update. He/she explained that: "we have 'need to know' and we have 'nice to know'. We're the ones who make sure it's all 'need to know'." They also made the final decisions regarding when to travel and which sources to interview.

Informant B stated that the way this takes place in Denmark is far more formal. "Everything is in written form and all parties must officially approve of the document. Here we don't need approval from the top, and I've asked myself why they have to have such a formal procedure in Denmark", he/she added. Informants E and F stated that they

receive direct instructions from the DIS and the RAB on which information they seek. The DIS, the RAB, the Ministry of Foreign Affairs, the National Commissioner of Police, and sometimes the Danish Refugee Council work together with the COI office to write a 'kommisorium'. This is a document stating all the decisions made prior to the FFM regarding what information they need. Informant E added that once these decisions were made, there is no room to improvise, although the Danish COI agency did, as was the case in the Norwegian agency, decide how to organise the trip and which sources to interview. Informant F explained that this procedure had the positive advantage of legitimising the final product. "When everyone has been involved and has agreed, there are no discussions later."

As for the degree of freedom to decide whether the reports were to be available to the public or not, the informants in both offices replied that they follow their national legislation on freedom of information. The interviewees from the Norwegian office explained that there are often discussions about how open a report should be considering the particular circumstances, but that these discussions always refer to the interpretation of the Norwegian Freedom of Information Act. The informants from the Danish office explained that all their reports must without exception be publicly available, following the Danish Freedom of Information Act. Informant E explained that they are allowed to keep some sources anonymous for reasons of protection, but stressed that they try to avoid this as much as possible.

The actual writing of the reports was solely the responsibility of the country experts. Yet informant F from the Danish office stated that the format and the table of content of the report, e.g. not only the content but also the structure and sequence of topics of the report were decided in the 'kommisorium'. He/she described the work as "very specific".

5.3.2. Discussing FFM Reports
When asked about the differences in the reports between the Norwegian and the Danish agencies, informant A pointed out that some of these differences could be due to personal prioritisation and writing style. Even within the Norwegian office, there were discussions

on how to write. Informant B explained that the agency has changed towards writing less FFM reports and more topic notes. Topic notes were more specifically to the point on the issue concerning an asylum application and easier to constantly update when it was not in the format of a general report that was dated according to a specific trip.

On the subject of sources, the informants explained that the different sources that have been used in the Norwegian and Danish reports could be due to the contact network that each embassy has. Many of the sources they use have been introduced to the COI experts by their embassy, and that these may then vary depending on which embassy is involved. Both informant B and E stressed that a network of sources is also the result of continuous and regular contact between them and their sources, some of which have existed for a long time. Informant A mentioned that various country experts might prioritise different types of sources. He/she felt it was important to use many written sources from historical and anthropological studies to place the report in its proper context. Furthermore, it was considered a high priority to meet with the local press in the country. He/she expressed that there was little point in interviewing the human rights organisations and diplomats that "wear the same glasses as we do". Rather, the goal was to receive information from another perspective that could possibly correct the information they already possess. Informant B mentioned that one must take into consideration that every source has its own motives behind the information they are giving, and that it was essential to ask oneself: "who are they; who do they represent; what do they want; and how well do we know them?" Informant B stressed the importance of crosschecking with several sources, as did informant F, stating that you could get a very different feeling of a situation depending on which source you talked to. It was also stressed by informants A and E that there was great value in having been to the location in person and talked to sources directly. Because this value is recognised in both Norway and Denmark, they are two of the COI agencies that travel the most on FFMs amongst the EU and Schengen states.

On the question of content, all informants made it clear that the issues raised in each report directly reflect the current asylum flows they have and the questions related to these applications. When asked whether political climate or media focus had influence on

what they wrote about, the informants from both agencies stated that there was no such direct influence. The aim was for the COI to be as objective as possible, uninfluenced by political opinions or topics raised by the press. However, it was mentioned by informant E that, indirectly, substantial political changes such as the changes to the Aliens Act in Denmark has drastically reduced the total number of asylum seekers, and therefore also the needs of COI. As for their own abilities to be impartial and well suitable for making the appropriate selection of material, the interviewees pointed out that the level of education of all the COI experts was high, with minimum a master degree. They also stressed that the many years of work experience with the country of origin and its region made them suited to evaluate which information is the most impartial and trustworthy. The one informant who was newly employed pointed out that she/he received a high level of training from the experienced COI consultants.

5.3.3. How do We Cooperate?

Informants from both offices explained that certain forms of information exchange have existed for a long time, such as bilateral exchange between the Nordic countries. Yet, as noted while comparing the reports, significant differences remain to date. When asked about how they relate to the diverse forms of cooperation that have now been established at the EU level, answers seemed to vary considerably depending on which specific type of cooperation in question.

5.3.3.1. Eurasil Meetings

Regarding the Eurasil meetings, the interviewees from both offices argued that they were generally considered to be useful, but not because the experts actually learned something new during the meetings. All the respondents except for informant C stated that they had not yet had the experience of receiving new information on their respective country of origin during the meetings. On the contrary, the general perspective was that other EU member states, especially the new members, were learning from their expertise during these meetings.

The reason why the respondents felt it was useful to participate was because the meetings provided opportunities for networking between experts. All the respondents stressed that it was rewarding to meet other country experts. Informant A mentioned that it made a big difference to "have a face", so that you remember the person and their specific expertise. It was then easier to keep contact with that particular person or office when seeking information. The foreign office could provide them with useful information, and they, in return, could supply the others with the expertise they had. According to informants A and B, the criteria for such a relationship was that the foreign experts had the same higher education level, had long experience with COI work, and were specialised or had embassies in regions/countries where they had none. Informant B stated this opinion clearly: "if someone comes up to me and says: "I've worked with this country for a year, so I know everything now", my answer is: no you don't!"

Another reason mentioned as a positive effect of participating at the meetings was Norway's reputation in the EU. Informant D explained that because Norway has high competence in the field of COI, this gives the country a good image. The expertise they possess is valued: "they listen to us even though we are such a small country in the EU context", he/she explained. Informants A and E mentioned that a country is heard and is asked to give presentations on account of acknowledged expertise, not according to its importance and role in the EU. According to informants A, B and E, the other European countries recognise that they have experience from a long history of COI work, as well as having done and currently going on many FFMs. The argument of "having actually been there and talked to the source", is highly regarded. Informant G also mentioned that the Danish agency participates on COI meetings and workshops just as the other EU member states regardless of the Danish opt-outs. However, as a consequence of their opt-outs of Title IV, they do not receive financing from ARGO in all cooperation as the others do.

Informant C added that not only did participation in the EU in areas where they have expertise give Norway a good reputation in the EU; it was also beneficial to Norway because it legitimises their own policy. "There is much to be gained from receiving confirmation from the EU that our standards are good because it adds to Norway's

confidence in domestic policy", he/she explained. Informant A also expressed this view, but with his/her own case as an example: "it is good to come home with the confirmation that you know everything there is to know about your country of origin". Informant B warned about the danger of isolation from the EU: "even though you don't necessarily learn anything new, you need to keep your eyes and ears open, and take care never to stand on the outside of goings-on".

Some interviewees had worked in the COI offices for many years and some were relatively new. Accordingly, some had been to numerous Eurasil meetings and two had only been to a few. The officials were asked to comment on several questions that revolved around whether participating at Eurasil meetings had made them more EU-orientated. All the informants except one answered that it had not. The informants perceived of themselves as country representatives when participating at EU meetings. It was also the general opinion that although there was mention of the importance of working towards common EU harmonisation, there was little emphasis on promoting the concept of a common EU community during the Eurasil meetings. The civil servants were categorised according to their nationality and referred to as such. Focus was on practical exchange of information between the member countries, not on playing down their differences in favour of a feeling of a shared community. However, informant A remembered that Norway's nametags were of a different colour and design than those of EU member states (!), and that this was a statement to imply that they are outsiders. One informant answered that she/he often left a meeting feeling inspired to work towards forming a greater community in Europe, yet mentioned that: "after a while the general view in the office that it takes time away from other work sinks in again and the initial enthusiasm wears off".

5.3.3.2. Regular Joint FFMs?
When asked about their opinion regarding the suggestions from the EU for COI agencies to travel together on joint FFMs, the informants from both offices expressed a dual view on the matter. Although they could see benefits in information sharing, several informants stressed that there were many issues that needed to be dealt with and clarified

if such a trip should be successful. Such issues were mostly concerns on a practical level, where travelling together would mean a greater need for coordination, bureaucracy, and time. One needed to be absolutely sure all parties agreed on all methods applied, topics discussed, purpose of the report (for public or classified use), means of transportation, and security measures. Informant E explained that it would be of no use for a delegation that must publish all information publicly (such as Denmark) to travel with a group that keeps all or most information classified. The methods in such a case would be incompatible, and much confusion could arise for the sources. Informants B and C were of the opinion that they could lose valuable information if travelling with a delegation that needed to make all information public. It was their opinion that several sources would withhold information or refuse to talk to them at all if the reports would be entirely open to the public. Informants from both agencies preferred to travel incognito with local taxis and without visible statements of being an official delegation, and voiced concern that too many travelling together could intimidate the sources to the point where they would not feel at ease with sharing information.

5.3.3.2. Guidelines

When asked about the document "Common EU Guidelines for Processing COI"[74], all the country experts thought it was a good document, but stressed that such documents were not rules that had to be followed. Rather, they were free to interpret and relate to the proposed standards as they wished. Informant A summed up the situation as follows: "we include what we feel makes sense from EU cooperation, but we are in no way locked in to any of the standards they set on COI matters." The particular position that Norway has, by not being a EU member state, was given as the explanation to this freedom. However, informant G from the Danish agency explained that even though they had participated in the process of making the guidelines, these were not rules that had to be followed. Accordingly, the two offices relate to the document in a similar fashion.

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[74]European Commission, April 2008. *Common EU Guidelines for Processing COI* <http://www.bfm.admin.ch/etc/medialib/data/migration/laenderinformationen/herkunftslaenderinformation en.Par.0003.File.tmp/COI_Leitlinien-e.pdf> [16.09.08]

Although they could relate to the document as each of them saw fit, the overall tendency was to consider it of minor importance to them. One reason given for according the document little attention was that there did not seem to be much difference in how they work and how the joint EU guidelines announce that the COI processing ought to occur. Yet it seems that the main reason stated for not giving the document much attention was that they had to prioritise working efficiently with the time they had in order to provide their respective immigration directorates and national appeals boards with requested information. They had to stick to their ways of working and could not spend time using this or other documents as checklists to see if everything they did corresponded to the criteria, methods and definitions proposed as standards from the EU.

When asked specifically about the second part of the document that suggests how to separate public and classified COI, all the informants pointed out that this part of the document is not relevant to them because they must follow their national legislation on this matter. In both agencies, the interviewees expressed that they were in favour of their legislation. The Danish civil servants were of the opinion that full public access to information was the best solution for everyone, and informant E stressed that all COI offices in the EU should make COI available to the public. The Norwegian civil servants preferred their variety, stating that as much information as possible should be publicly available, but that the possibility for exceptions was important in some cases.

According to several interviewees, the document was a good and useful tool for the new EU member states. Informant C called the document: "a great piece of work, a real achievement and a step forward in the process of setting common and higher standards for COI work". The respondents from both offices agreed that this was a good document for other EU member states that had less experience with COI and were currently setting up their first offices. Still, informant F stressed that the document could not replace the training and guidance received from experienced colleagues.

5.3.3.3. The ECS Database

Informant D explained that the ECS Database system is meant to function in such a way that some representatives are made responsible for COI on countries on which they have expertise. Informant F gave the example of Sweden and Denmark who are now officially the contacts for all member states to send questions to concerning Iraq. Up until then, they had only received two questions. Informant D explained that Norway has become the official contact on Somalia in the ECS system. Informant F also mentioned that there have been disagreements about the degree of public access to the information on the database. Informant D explained that this is an entirely closed database where only COI experts have access. Concerning the database, the dilemma of time and prioritising their own work was brought up again. Informant C felt it was too slow and bureaucratic, as informant D also mentioned was the weakness of the system. The latter said the general attitude was that people felt there were too many cooperation forums, and they could hardly see how they would have time to be involved in one more. The concern that harmonisation into such a database might affect the quality of COI to actually lowering standards was raised several times.

5.3.3.4. A Joint Support Office in 2010?

When asked about the joint European office predicted for 2010, informant C mentioned that it could be a first step to start gathering information physically in one place, but that a functioning well-established EU office where all COI was collected and available was a long way away. The latter then warned of the danger of such an office replacing national agencies for reasons that this would quite possibly lead to lower standards of COI. Several others announced this concern. "It is very important that you set standards by looking to those who excel at it and make the others strive to achieve that level, not that we focus on minimum standards", explained informant E and concluded that "harmonisation is very important in the sense of raising standards, not in the sense of achieving only one opinion through a shared office." Informant B questioned the prospects of a joint office on a practical level: "how are they going to recruit people to the office in order to make sure they can match the competence our national offices have? How can they expect to delegate such a tremendous workload onto fewer people and

expect the standards of information we have today to stay the same?" He/she also pointed out the fact that Norway would probably not have any significant influence in shaping this central office. Informant G also expressed this concern and pointed out the necessity of freedom for every COI agency to collect information.

5.4. Summary

The comparison of the three sets of reports in the first part of this chapter concluded that there were important differences between them. In fact, very few COI products from the two agencies were comparable, if one wanted to compare information on the same country from the same year. This comparison suggests that the EU harmonisation process of COI has not resulted in similar reports to the extent where one could guaranty that processors of asylum cases would have access to the same COI, ultimately resulting in the same outcome for an application, regardless of which COI agency was consulted. This conclusion questions the probability of the goal of a Common European Asylum System as a fully harmonised system being reachable within the scheduled timeframe of 2010.[75]

When comparing the answers from the conducted interviews, an important observation is that there are differences in how the agencies proceed in producing FFM reports, but much convergence in how they relate to the different components of the EU harmonisation process of COI. Firstly, the data point to decision-making procedures in the Danish case as being more formal and more controlled, seeing that a written document is created by all the involved authorities, which specifies in great detail what questions must be answered in the FFM reports. There is no such formal written equivalent in the preparation of a FFM report for the Norwegian COI office, and there is generally more room for decision-making over topics to include in a new report. Furthermore, they pointed out that the embassy networks in the countries of origin highly influence the choice of sources that are used, and that you can get a different feeling for a

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[75]European Council, 13.12.2004. *The Hague Programme : Strengthening Freedom, Security and Justice in the European Union* <http://ec.europa.eu/justice_home/doc_centre/doc/hague_programme_en.pdf> p. 8 [24.10.08]

situation depending on which source you talk to. Also in regards to national legislation on the subject of freedom of information, the answers of the interviews confirm that the civil servants in the Norwegian COI office enjoy more freedom to judge what reports should be public and which must be classified, whereas the COI experts in the Danish office do not have this option. The civil servants were in favour of the procedures of their respective offices, both on the topics of decision-making and legislation.

Probing further into the types of exchange of information that currently take place within the context of the EU, some forms of cooperation were favoured more than others by both offices, such as the Eurasil meetings for their networking benefits. Cooperation in the forms of a shared ECS Database, a future Joint Support COI Office, and EU documents providing guidelines for COI, were generally given less attention. This was mostly because they were time-consuming without giving clear benefits, and could also be impossible to realise on a practical level. The interviewees also explained that there is considerable bilateral cooperation and communication between the Norwegian and the Danish agencies, and that this exchange has occurred since the two agencies were formed.

Do the data from the interviews point to factors that might set the course in the direction of more or less future cooperation of the two agencies in the harmonisation of COI? Attempts to answer this question will be presented in the analysis of the following chapter.

CHAPTER 6. ANALYSIS: MATCHING PATTERNS

Do the data from the interviews point towards likely future tendencies of how the Norwegian and Danish COI agencies might cooperate in the EU's harmonisation process of COI? The theoretical propositions from the four new institutional perspectives in chapter three are the point of departure to respond to this question. As previously explained, although the four theories are all commonly categorised as new institutional theories, the rational choice new institutionalist perspective can be said to have the least in common with the others, bearing the most resemblance to pedigree rational choice theory. It was therefore treated as the 'rival explanation' in contrast to the other three that are considered to be 'cultural' perspectives. When applying this divide to the three categories introduced by Sjursen (2008: 2), it followed that the four theories could assist in predicting the likelihood of further cooperation of the two agencies through the manner in which they perceived the harmonisation process of COI predominantly for its pragmatic problem-solving capacities, its qualities as a promoter of universal rights to asylum, or as a component in providing a shared European community.[76] The main findings will be presented in the order of the propositions from chapter three, followed by an attempt to combine the results into a stronger analytical model.

6.1. Rational Choice Institutionalism

6.1.1. Formal Organisation

As was explained in chapter three, rational choice new institutionalism recognises the importance of institutions in the sense that they create formal constraints to the rational actors that must play by the rules (Peters 1999: 43). From the comparison made by looking at the domestic bureaucratic context of the two agencies and from the replies of the interviewees, it was shown how such constraints take the form of formal organisation and legislation. Concerning the freedom of decision-making, chapter four showed that the

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[76]See Annex B for the theoretical model that summed up chapter three.

Danish COI agency is placed directly under the Vice-Director of the Danish Immigration Service, whereas the Norwegian agency does not figure on the Norwegian Directorate of Immigration's organisational map. Also, the Danish COI office has no independent name or website equivalent to the Norwegian agency. The latter also has a legal document underlining the impartiality of its products. These differences could be interpreted as tighter control structures in the Danish case compared to the Norwegian agency. This interpretation was further strengthened by the answers of the Danish interviewees in chapter five, who explained that there is a 'kommisorium' document that must be approved by all the involved authorities, including the DIS, the RAB, the Ministry of Foreign Affairs and the National Commissioner of Police before a FFM can take place. There is no such formal written document in the Norwegian case, where there is more room for discussion on content and writing format of reports. Regarding legislation, chapter four sketched how the Aliens Acts of the two countries affect the COI agencies indirectly in size and tasks because the content of the COI reports are directly linked to the asylum applications in each country. The change in the Danish Aliens Act, perceived as controversial in the EU, influences both the amount of applications and what kind of applications needing COI, resulting in the COI department downsizing to half its size and taking on other projects as well as producing COI. From comparing the Freedom of Information Acts, the main difference relevant to COI work is that the Norwegian civil servants, in line with EU guidelines, have the possibility to classify information whereas the Danish COI experts have no such option. The interviewees from the Norwegian agency confirmed that not only does this option exist; they also have frequent discussions on when and how a document should be classified. Recent changes in legislation have also shown that Norway has kept the possibility of classifying documents, whereas the changes in the Danish Freedom of Information Act towards EU standards will not change the full openness of COI reports.

These differences in formal rules suggest that the civil servants in the Norwegian COI office are less constrained within their organisational framework than their Danish counterparts. Rational choice institutionalism would claim that the Norwegian civil servants enjoy more room for decision-making in the form of rational calculation within

their institutional framework than do the Danish COI experts. Do the data point to such a rational calculation taking place?

6.1.2. The Logic of Give and Take

Rational choice institutionalism sees the world consisting of individuals who apply a rational, self-maximising cost/benefit logic to the situations they face. From the data collected, one can soon observe that when asked about the various forms of EU cooperation, the informants use a specific terminology to describe their views on this subject. The expressions "useful to us/me", "beneficial", "of interest to me", "something worth my time", "what we can gain from", "this may cost us", "we could lose" and "rewarding", were the predominant ways of describing their own attitudes when discussing the various types of EU cooperation that they face.

Not only is there a terminology that suggests a cost and benefit logic, but also in the arguments themselves there is a process of weighing options according to predicted consequences. As detailed in chapter five, the Eurasil meetings are spoken of as "useful", not because they prove to be informative in themselves, but because of the networking that goes on between experts at these forums, where one is open to finding potential exchange partners. The potential new partner must fill certain 'criteria' in order for the offices to start the exchange. The logic is that if they are to supply COI to others, they must also get something in return that makes the relationship worthwhile. The desired situation is that of swift, unproblematic exchange between equals to the mutual benefit of both parties.

The same line of reasoning is used when the interviewees state their views on the suggested joint FFMs. It seems that something can be gained by exchanging information during these trips, but again there are clear 'criteria' for such a cooperation to be worthwhile. The officials point to various ways in which the benefits of cooperation on FFMs can be outweighed by potentially greater losses in the time spent for all parties to agree on all issues beforehand, as well as the information available to them from their sources, to the extent that it could even be impossible to cooperate.

The same calculating logic can be seen when the informants express their views on the document "EU Common Guidelines for Processing COI" and the ECS Database. These were generally not seen as useful to the interviewees and were thought of as costly in the sense that they were time-consuming, without receiving anything in return. Yet they were described as "useful tools" for the new EU member states who, from what they could see, would benefit from these forms of cooperation.

The picture emerging from the argumentation above is that most of the exchange of information takes place bilaterally and in the form of a 'give and take' relationship. One recognises that one needs to give a little of what one has in order to get a bit of what one desires. On the other hand, if nothing is to be gained, 'the deal's off' or would never be born in the first place.

6.1.3. The Freedom to Change.
The logic of calculating costs and benefits in the choice of the form of cooperation desired is proof of the experts' freedom of decision-making. Although certain formal constraints were identified, seemingly stricter for the Danish COI agency than for the Norwegian one, the interviewees stated that they had considerable freedom in their choice of sources and can evaluate the quality of information as they see fit, thereby also the choice of exchange and cooperation partners. The freedom the experts enjoy shows that there is room within their institution to make certain rapid changes if current factors in their environment suggest that it is more beneficial to do so. This is in line with a rational choice perspective. In addition, the officials from both offices stressed that there were no rules from the EU that dictated how they must cooperate or how to process COI. The fact that the experts can choose which types of cooperation to focus on can also create more variation than if the actors had no choice but to conform to all cooperation, regardless of costs and benefits.

6.1.4. What's in it for Me?

At this point, one can conclude that elements of a rational and calculating logic are present in the way the COI experts currently relate to the various forms of cooperation within the harmonisation process, and that they enjoy considerable freedom in the choice of such cooperation. There is a "what's in it for me/us?" reasoning in the general dynamic of relating to cooperation at the supranational level. In chapter three, a connection was made between the rational choice perspective and the perception of the harmonisation process of COI as a pragmatic problem-solving process. Indeed, it seems that the answers from the civil servants suggest that they perceive the harmonisation process as first and foremost a potential problem-solver. Even if there are differences between the two COI agencies in the extent of freedom they enjoy, the officials choose cooperation in the form of networking at Eurasil meetings, resulting in bilateral cooperation and an increase in the exchange of COI between the EU and Schengen COI agencies. Following this reasoning, the rational choice model could support a prediction where the two COI agencies are likely to cooperate in the harmonisation process in future because of the benefits of the Eurasil meetings, but that this cooperation will not be as comprehensive as it would have been, had all forms of cooperation been considered rewarding.

Yet two important questions remain. Firstly, what do the interviewees see as costs and benefits? In the interviews, time and information are frequently mentioned in the argumentation. Time seems to be a key concept as something you win or lose. Information is also seen as something you can get more or less of, also in better or worse quality. The aim, in short, is to obtain the best quality COI possible, which one is able to achieve with the maximum amount of time at one's disposal. These goals are different from private incentives of personal gain such as wealth, power and prestige, described as the universal motives of actors according to rational choice theory. Motives of private gains were never mentioned in regards to the interviewees' own attitudes towards COI cooperation. One might argue that if the actors do not produce high standards of COI, employment can become insecure, and that if, on the other hand, their products are of a high standard, this may lead to promotion and recognition for the civil servants. Though such motives may be underlying constants (Egeberg 1999: 459), they do not seem to be

in focus when the civil servants explain the factors involved in their decision-making in relation to COI cooperation. Furthermore, the picture that is formed by the experts does not give the impression of the institution being merely a 'tool' for them to obtain private gains. Rather, secondly, it is worth asking: who do they speak of when saying "I" and "we"?

6.2. Normative Institutionalism

6.2.1. Who's Preferences?

When looking at the data from a normative institutionalist perspective, the picture one sees is not merely of the civil servants maximising self-interest within the blank walls of a formal structure. As chapter three explains, individual behaviour and preferences are also influenced by the institutional culture of which they are a part. In both agencies, high quality, current, impartial, and fully covering COI was described by the civil servants as their most important and desired goal. Far from being of a private nature, this goal, shared by all the bureaucrats in both institutions, can be said to be an expression of the value of high independent professional standards (Jørgensen 2007: 372).

The value of obtaining the best quality COI is further defined by the informants by adding: for whom? While being asked to comment on the document with COI guidelines, the informants mentioned that they could not spend time crosschecking their work to see if everything they do corresponds to such guidelines. This would delay them in their main task: that of providing high quality information for their users, the directorates and appeals boards. This was their priority above all other concerns. In fact, in all the arguments of what forms of cooperation are considered beneficial or not, what seems to be implied in this calculation is: what would be the most beneficial for the needs and objectives of our domestic 'users'? These statements show that values of accountability (Jørgensen and Bozeman 2007: 364) towards institutions in the national public administration that are dependent on them are strong. The answers also show embeddedness, support and loyalty towards national obligations over supranational requests. Another value expressing accountability is that of responsibility for the

protection of individual rights and minorities (ibid: 360), expressed by the civil servants' concern for preserving a high standard of COI in regards to the rights of the asylum seekers.

Embeddedness, support, confidence, and loyalty towards their own public administration can also be detected when the civil servants say they are in favour of their national legislation on freedom of information, as well as preferring their own bureaucratic regulations on decision-making when preparing for a FFM. The first supports the value of high degrees of openness and transparency of the public administration towards its environment (ibid: 364), the second degrees of agency autonomy in decision-making, or professional independence (Jørgensen 2007: 374). The hierarchy of preferences that the interviewees express seems in fact to be endogenous, in line with the goals of their institution, which is predominantly focused on domestic concerns.

6.2.2. Identities, Roles and Matching

When the interviewees talk about costs and benefits for "me" and "us", the impression one gets is that these terms refer to the person(s) in a certain way. As seen in chapter three, normative institutionalism sees individuals as a collection of roles and identities and that which of these is awoken depends on the situation (Egeberg 1999: 458). Facing this particular situation of the requests for cooperation from the EU, when the civil servants say: "it is not in my interest", what seems to be implied is: "it is not in the interest of someone filling my role as the country expert of country X in the national COI agency Y". The data points to the identity of "I" as being anchored in the institutional role that the civil servants occupy. "We" becomes the shared group identity of those working in the same institution, and institutional gains become "our" gains. Egeberg explains that: "an identity is a conception of self organised into rules for matching action to situations" (1999: 458). Following this line of reasoning, if the civil servants refer to themselves as 'the country expert of the Norwegian/Danish COI agency', then they will choose among options for matching in accordance with what is expected from their role in their office. In fact, suppose the norm in their institution is to relate to supranational cooperation in a rational, cost/benefit manner. If so, one might argue that this is the

appropriate and expected way of matching in the institution when faced with this specific situation. Is there such a norm in the two agencies?

6.2.3. The Norm of Rationality

There are no written rules or control mechanisms that explicitly state that such a prioritisation of domestic concerns over EU cooperation must always be made, but one can gather from the responses that such is the norm in the two agencies. Argumentation such as "we include what we feel makes sense to us from EU cooperation" implies taking part in judging what is useful to the agency, and shows further loyalty to the institution. In this explanation, a rational calculation of costs and benefits is taking place within an institutional frame that sets the agenda for the priority of preferences. Making this calculation is expected because it serves domestic interests to have the experts choose which is the most beneficial strategy. As Egeberg argues, "the two logics (the logic of consequentiality and the logic of appropriateness) may operate simultaneously in concrete decision situations" (1999: 458). Similarly, Christensen and Røvik announce that "the extensive application of rationality and the logic of consequentiality is a very strong ideology permeating modern organizations, to such an extent that behaving appropriately often means demonstrating clearly that one is acting in accordance with this logic" (1999: 177).

The goal of harmonising COI in the EU can also be expressed in terms of norms. It is expected of the EU member and Schengen states to participate and cooperate in all the five forms of cooperation. Yet the data do not suggest that the COI agencies cooperate as a result of the civil servants adopting the norms and expectations of the EU. The norm in the domestic agencies is that they must prioritise national obligations, thereby cooperating on the arenas where they benefit. In this sense, one could conclude that because of the norm of rationally weighing costs and benefits for domestic concerns, normative theory applied to this study partly supports the conclusions drawn above by the rational choice institutionalist model. The reasoning is the same: the COI agencies will continue to cooperate in the harmonisation process because it is beneficial for domestic interests to cooperate at the Eurasil meetings. Other forms of cooperation are not

prioritised because they are not beneficial, something that delays harmonisation. This gives further support to the role of the EU as a problem-solver as being central in how the agencies perceive the harmonisation process. Yet the normative perspective adds the crucial understanding that costs and benefits are institutionally defined in these two cases, and that the civil servants in both agencies show identity formation and loyalty to the norms and values of their respective national public administrations. Such identities and loyalties may come into conflict with the two other aspects of the harmonisation process: that of a promoter of human rights to asylum and a provider of a European community. Even if incentives in the environment would suggest a change, these domestic values seem to be powerful and long lasting concepts that do not change easily. This perspective suggests that a change towards further harmonisation takes longer than a simple calculation. Where do these institutional norms and values of the two agencies come from, and just how slow may such a change be?

6.3. Historical Institutionalism

6.3.1. The Value of Traditions
As formerly described, historical institutionalism looks for the origins of institutions from the forces at play of the time they were born, and sees how path-dependent processes evolve, possibly interrupted by critical junctures. First of all, in this context, a critical juncture did not occur from the introduction of the EU's harmonisation process of COI. From the data it is evident that cooperation has been introduced as suggestions, guidelines and requests to participation, not forced upon the national COI agencies. From this it can be concluded that the two offices have not been set on an entirely new and potentially similar development path to insure survival as a result of great changes and pressures from the environment, in this context the EU. Now remains the question of whether one can observe a path-dependency in regards to the domestic norms and values that have been identified, which might challenge the harmonisation process.

Christensen explains that the Norwegian bureaucracy is characterised by four state traditions: "the sovereign rationality-bounded or centralised state; the institutional state;

the corporatist-pluralist state; and the supermarket state" (2003: 165), whereof the first three "explain the historical development of the strong Norwegian state over the last 100-150 years" (ibid: 184), and that the combination of the centralised and institutional traditions best describes Norwegian governance (ibid). In fact, he explains that in the Norwegian public administration, the bureaucrats are reluctant to the values of the supermarket-state that were introduced in the 1980s, even though ideas from NPM have had and continue to have some influence (ibid: 183). Similarly, Jørgensen points to the Danish bureaucratic traditions of the centralised and institutional state (2007: 377) and that values of "rational choice favourites: *career opportunities* and *good payment"* scored the lowest in his research of values of civil servants towards their public administration (ibid: 375). Do the norms and values previously identified correspond to these bureaucratic traditions?

6.3.2. The Rational-Legal Order

The tradition of the rational centralised state, with its origins in the concept of the *Rechtsstaat*, can be said to have taken fully form in Norway from the kings' loss of power in 1884 (Christensen 2003: 166). This tradition is characterised by a purposely-designed centralised structure of a hierarchical civil service, and where executive and legislative powers form a close relationship (ibid). The foundation of the bureaucratic *Rechtsstaat,* as defined by Weber, is a rational, neutral and impartial public administration that provides due process and the rule of law (Olsen 2007: 5). Weber described bureaucratisation as "an inevitable part of a historical trend towards rationalisation – *Entzauberung* – of life in the west" (ibid: 9). Jørgensen claims that the values of legality and due process are one of four main values in the 'general public ethos' that his research on civil servants in Denmark has identified. These traditional values, he explains, stem from the rationally bound *Rechtsstaat*, established in Denmark over the eighteenth and nineteenth centuries (2007: 377). The concept of procedural rationality in the two Nordic bureaucracies is therefore as old as the public administrations themselves and was the result of the political and ideological influences of the time. The fact that the interviewees in these two cases apply an instrumental cost/benefit logic when they are acting in the roles of civil servants of the two public

administrations could therefore be linked to the values and norms of this bureaucratic tradition of impartially weighing choices according to what best serves the institution and those in need of its services. It does not seem to be the case that there is a rational calculation taking place wherein personal gains are the essential driving forces that exist independently of their institutional context.

6.3.3. Professionalism and Autonomy

Previously, the value of providing the best quality COI for domestic purposes was identified as the highest ranking desired goal amongst the civil servants. In addition, the data also shows that the officials felt that political changes did not influence their work in the sense that their information stayed objective. As shown, the Danish Aliens Act after 2002 has decreased the number of COI experts considerably, and the binding 'kommisorium' document gives clear direction as to what the content of the reports should be. Nevertheless, the COI civil servants are still recognised as professional experts who in the final stages produce information that follows the bureaucratic value of impartiality. In Norway, though somewhat more flexible, there are also decision-making procedures over the content of FFM reports, but the weight remains on the recognition of the expertise and professionalism of the COI civil servants and the impartiality of their products.

Christensen explains how already in the early to mid nineteenth century, professional groups grew rapidly in the public administration in Norway and requested directorates and agencies that were to be independent of the ministries (2003: 163). The early formation of public administrative values related to profession and expertise, but also to the value of a neutral public apparatus where the agencies became relatively autonomous from their respective ministries. As mentioned, the NDI has gone through three reforms that have accorded more or less political autonomy to the NDI and IAB (Christensen and Lægreid 2005: 3-4). Nevertheless, to this day agencies are not formally a part of the ministries in Norway (Martens 2005: 5). Denmark also has strong and widespread values of independent professional standards in its public administration. This is a second set of values that Jørgensen identifies in his research results of the Danish 'general public

ethos' (2007: 372). He explains that, in Denmark, "independent professional standards have their roots in the general professionalisation of public services during the twentieth century and earlier" (ibid: 377). However, the Danish bureaucracy developed a monistic structure, the regular agencies being formally a part of the ministries, thereby enjoying less independence (Martens 2005: 5). The differences previously identified in the formal organisation, organisational placement, and legal matters between the two COI agencies could be interpreted to reflect this traditional difference in autonomy of the two counties. In fact, Martens suggests that Danish agencies operate less independently (than Norway and Finland) at the EU level because of their close ties to the ministries (2005: 12).

The civil servants in both agencies expressed strong professional values. The difference between them lies in the degree of autonomy. Because the civil servants of each office support their own structure of decision-making, this suggests that the value of autonomy of the agency is somewhat stronger in the Norwegian agency than in the Danish office.

6.3.4. Public Insight

Jørgensen identifies a third value in the Danish 'general public ethos' as "there must be insight for the public into public organisations" (2007: 372). He explains how the value of public insight is anchored in the ideals of the *Rechtsstaat*, but also in Danish democratic culture, which has traditionally been a homogeneous, integrative and collective one (ibid: 377). Christensen also points out the institutional tradition of the Norwegian state, which was based on a homogenous and low-conflict society with a high level of cultural and collective interaction and integration (2003: 173-4). It was in this tradition that the public was also meant to participate and interact with the public administration to further public goals, thereby promoting openness and insight into the bureaucracy. Openness towards the public was later also given an institutionalised expression by the establishment of the Ombudsman in the 1960s, where the public in organized form could file complaints to the civil service (ibid: 175). It was during this time, in 1970, that the Norwegian Freedom of Information Act was written and would set the norm for a high level of insight, as did the Danish Act of 1985.

From the data, it is clear that the civil servants of both agencies support their Freedom of Information Acts. Because the legislation in both countries emphasises high insight, the value of high public access to information is strong amongst all the informants. The difference is again a question of degree. Because the Norwegian officials support their legislation that opens for the possibility of classifying their documents, this could suggest that the value of public access to information is generally somewhat lower amongst the Norwegian than amongst the Danish informants.

6.3.5. Accountability

"The institutional state traditionally combines universal rights with the special care of vulnerable groups" claims Christensen (2003: 177). In the data, it is clear that the civil servants from both agencies express both feelings of accountability and responsibility towards meeting the needs of their respective directorates and appeals boards, but also concern for whether the rights of asylum seekers are being met when discussing the standards of COI in the processing of applications. They insisted on the importance of razing standards, especially in the new EU member states, to ensure that this universal right will be met. The impression one gets is that not only is their focus on providing the highest quality COI for their respective directorates and appeals boards, there is also shared awareness and feelings of responsibility for their part in the processing of asylum applications and ultimately the verdict and its implications.

Accountability here is meant in a traditional sense: "a subjective felt sense of obligation" (Christensen 2003: 177), motivated by the sense of shared purpose, or as Jørgensen puts it, "the devotion to a cause" (2007: 377). The latter also points to the final ingredient identified in his results of the 'general public ethos' in Denmark: "the public sector should be accountable to society as such" (ibid: 372). Jørgensen again points to the principle traditions of the *Rechtsstaat*, which should guaranty the rights of the individual and the citizen, but also to the development of the welfare system in Denmark that promotes the idea of the state providing for the needs of not just individual citizens but also groups in society (ibid: 377). He adds that the feeling of serving the greater good may also have its roots in Protestantism, which is the state religion in both Norway and

Denmark. From the perspective of the institutional tradition of the public sector, Christensen describes Norway as the 'moral community' (2003: 172) where, from 1884 to 1940, Durkheim's communitarian ideology of *Gemeinschaft* was a strong influence. This was later to be followed by the Labour Party's welfare state principles wherein it was the state's responsibility to provide integration and equality (ibid: 174).

6.3.6. Loyalty

The interviewees from both offices stated that they agree with and support their own Freedom of Information Act and their decision-making structures. As the data shows, they also justify them. However, this tendency does not merely point to variation in the degrees of insight of information and of bureaucratic control mechanisms amongst the civil servants. The answers also express loyalty and support to their own national public administration. The fact that they always prioritise domestic concerns before other commitments is also an indicator of loyalty towards one's own administration.

Christensen explains that in the Norwegian institutional state tradition, "civil servants are carriers of certain values and not neutral instruments independent of the political leadership" (ibid: 173). He refers to research that has shown that identities and loyalties are formed within the public administration in Norway (ibid: 172). Derived from a homogenous culture, shared norms and values as well as trust and confidence are traits reflected in government institutions. The statements of loyalty and support the informants expressed are therefore in line with this institutional tradition. In fact, if one looks at public values in general, research shows that in Norway, the population at large trusts and supports the political and administrative institutions (ibid: 173). In the case of Denmark, the loyalty and support that the civil servants accord their public administration is also reflected in the tradition of the general democratic culture, where Denmark has scored highest in European studies on populations' confidence in their public institutions (Jørgensen 2007: 378). Therefore, also this aspect of the received answers seems anchored in the two state traditions.

6.3.7. Path-Dependency and the Possibility of Change

From this dive into the Norwegian and Danish bureaucratic traditions, some links have been drawn between the civil servants' replies and the historical background of the public administrations of which they are a part. Traditions still exist and shape the values and norms amongst the bureaucrats that were interviewed. Even though the civil servants use typical terms of cost/benefit rationality, their values seem to be attached to institutional public administrative traditions, and less to the concept of the super-marked state. This observation suggests that the two institutions develop in a way that is path-dependent and are therefore a challenge to change. However, chapter three stated that path-dependency does not exclude change. In fact, it seems the norms of rationality and independent professionalism allow for relating to the harmonization process as a problem-solver in a manner that benefits the institution and is in line with the loyalty one has to one's own public administration. Yet a sense of loyalty, particularly regarding the value of accountability towards one's own administration and towards human rights, may be challenged by the other two aspects of the harmonisation process. Paired with a path-dependent development, this points towards a limited future cooperation and harmonization for both cases.

Thelen points out that in order to understand which environmental changes create changes in which institutions, attention must be paid to the particular reproduction mechanisms of the institution in question (1999: 397). As noted, the civil servants express loyalty and support to their own administration. This support can be interpreted as having the effect of "self-reinforcing positive feedback" as Krasner suggests (1988: 83). As was explained above, these attitudes of trust towards the public administration are reflected in the general population, and this in turn can surely be self-reinforcing in a democratic culture. Furthermore, Thelen claims that the variation of reproduction processes explains how similar changes in the environment can create changes in some institutions and not others (1999: 397). An example Thelen mentions is how international trends can have different domestic outcomes, some more resilient to change and reform than others (ibid: 400). This comparison of the history of the two cases suggests that because of the expressed loyalty and support from the civil servants towards the norms

and values of their own public administration, the differences in degree of organisational control and public access to information may be reinforced over time. Such reinforced differences may therefore contribute to setting the agencies on separate development paths in the context of further cooperation in the harmonisation process.

From the use of this retrospective lens, emphasis has been on traditional norms and values of the civil servants. The following analysis will look more closely at the notion of socialisation of the civil servants that may currently be taking place, all the while keeping their cultural past in mind.

6.4. Sociological Institutionalism

6.4.1. Two Cultures

From a sociological institutionalist perspective, one looks for clear signs of a cultural system that sets the context within which the actors form their social reality. This would again affect the cognitive perceptions of the individuals in such a way that the orientation that it provides becomes intuitive to them (Scott 1995: 41). They have internalised these perceptions and are thereby socialised into their institutional environment.

Because this thesis focuses on the critical point where national and supranational policies meet, a distinction between a national and a supranational culture is made. Firstly, the EU harmonisation initiative, with the norms and values on cooperation that come with it, is placed into a EU supranational culture. These include values that are expressed by the European Council and the Commission in regards to the Common European Asylum System. As mentioned previously, these are expressed as solidarity and shared responsibility within the community; and norms in the form of expectations to cooperate and adapt to common standards.[77] It is predominantly the aspect of the harmonisation process as a component in providing a value-based community that is in question when searching for signs of socialisation: ethical norms and values that characterise the EU

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[77]European Council, 13.12.2004. *The Hague Programme : Strengthening Freedom, Security and Justice in the European Union* <http://ec.europa.eu/justice_home/doc_centre/doc/hague_programme_en.pdf> p. 8 [24.10.08]

community, distinguishes it from other communities, and provides identity, belonging and integration to its members (Sjursen 2008: 2). Yet it also concerns the rights-based aspect, as the community's members must also believe in its ability to promote human rights, as it claims to do.[78] Secondly figures the national culture, with the traditional norms, values and loyalties identified above. The normative institutional perspective has shown that the civil servants prioritise domestic over supranational concerns. Does sociological institutionalism supply further support to domestic culture being the most influential in the orientation of the civil servants?

6.4.2. Who Are "We"?

One sign of an existing culture is to see how the actors identify themselves. The data seen from a normative institutional perspective points to the interviewees as having preferences that are endogenous to the institution, and that they identify with the role that they have as domestic civil servants. When probing deeper into the conception of the 'self', one question is to ask whether they ever think of "we" as "we in the EU/Schengen" or if "we" always referred to "we in the national offices". The answer from the informants exclusively confirmed the latter. When questioned about the Eurasil meetings, the informants always perceived of themselves as country representatives, regardless of whether they had participated at many or few meetings. This data does not support Johnston's hypothesis that repeated exposure to a supranational community in the form of participation at meetings leads to the socialisation of individuals who internalise the new culture (2001: 499). In fact, the general impression one is left with is that the identification with the domestic level seemed intuitive, as if evident. It did not seem to be the case that participation had partly replaced their domestic identity, nor had it supplemented an additional part to this identity, as some theorists of socialisation have discovered in other cases of participation at the EU institutional level (Egeberg: 1999: 457). However, it does give support to the view that strong domestic socialisation may delay or inhibit socialisation into international institutions (Johnston 2001: 499). The answers concerning identity from the data point to the presence of a dominant domestic culture that seems unchallenged by EU cooperation. This lack of European orientation

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[78]ibid

suggests that the community aspect of the harmonisation process does not seem to win much support from the two cases.

Still, an interesting exception to the rest of the answers is mentioned: one informant was inspired to adopt the understanding of the supranational institution of the importance of working together towards common goals as a shared European community. The interviewee also mentioned that the general attitude of priority to domestic objectives at the office was so strong as to influence him/her to abandon these new concepts and return to a domestic understanding of priorities. This comment signals two things. Firstly, the domestic orientation of the others is strong and influential. Yet, secondly, the informant in question could be said to be adopting an additional identity, that of belonging to a EU/Schengen community. This supplementary identity is admittedly not constant, but because the informant has reflected on how participation is influencing him/her, this proves that the identity of the country representative is not a given. As such, some degree of socialisation has taken place in this one occurrence.

6.4.2. Do We Agree?
Another clue as to whether socialisation has taken place is whether one questions the values and understandings of the introduced culture. The data has shown that some informants expressed scepticism towards the goal of full harmonisation of COI. They question whether a joint COI office would succeed in maintaining the high standards that their services currently provide. They also express concern for the quality of COI diminishing if the choice of sources and reports were to be limited to a single database. The Eurasil meetings are also part of the greater process of integrating the new member states in the field of EU asylum policy. As explained in chapter four, universal rights to asylum based on the conventions lie at the basis of the European asylum policy, and so the Eurasil meetings are arenas where the EU plays its role as a rights-based union as well. This role of promoting human rights has been a strong, if not the strongest, argument in questions of EU enlargement (Sjursen 2008: 11), yet the civil servants in this study prove to be sceptical towards this ability. Informant B asked: "Harmonisation to what price?" From these statements, the picture emerging is far from that of actors who

have been persuaded, e.g. having their beliefs altered (Johnston 2001: 496) by a new culture from which they have internalised norms and values. From their argumentation, it seems the civil servants have greater concern for achieving high standards of COI in respect to the asylum seekers' rights to fair and high quality processing of their applications than to accomplish a fully harmonised COI system in Europe. The reason they gave was that the harmonised system is orientated towards establishing common 'minimum standards',[79] as opposed to the highest possible standards.

6.4.3. Socialisation Efforts from the EU

Socialisation could be said to consist both of those who are socialized into a new culture and of those who socialise the newcomers, the reference group who rewards the correct behaviour (Johnston 2001: 494). Although the community aspect the Common European Asylum System, e.g. solidarity and sharing responsibility between the member states, is stressed in the Hague Programme,[80] there was little mention of this particular aspect during the Eurasil meetings. One community-based expressions found in the data was the use of different nametags on the Eurasil meetings. These can be interpreted as active use of symbolism defining who is and who is not a member of the EU. The informants noted that participants are categorised as national representatives and that the language used during the meetings is that of the practical benefits of information exchange for each country. Accordingly, the aspect that is given the most weight during the Eurasil seminars is that of its role as a practical problem-solver (Sjursen 2008: 2).

6.4.4. Alternative Signs of Socialisation

Other statements, however, point to some alternative tendencies where socialisation might not be clearly confirmed, but may nevertheless be present. The civil servants expressed that there was no clear effort on behalf of the Eurasil committee to enhance the EU community identity. However, the interviewees pointed out the importance of being

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[79]European Commission, 17.2.2006. *New Structures, New Approaches: Improving the Quality of Decision Making in the Common European Asylum System, Annexes*
<www.ec.europa.eu/justice_home/doc_centre/asylum/docs/sec_2006_189_en.pdf> p. 2 [26.07.08]
[80]European Council, 13.12.2004, *The Hague Programme: Strengthening Freedom, Security and Justice in the European Union*: <http://ec.europa.eu/justice_home/doc_centre/doc/hague_programme_en.pdf> p. 8 [24.10.08]

aware of the developments in the EU, of Norway's reputation in the EU, and also how participation and cooperation gave them influence and had a legitimising effect on domestic policy. The issue of reputation within the EU can be interpreted as assigning importance to the status one has inside the community. As explained in chapter three, Johnston mentions that what he calls 'social influence' is a sign of socialisation (Johnston 2001: 501). Described as a system where rewards or punishments take the form of degrees of social status, this concept could be relevant in explaining why the civil servants feel that the reputation of their agency in the EU does matter, and that having influence at the supranational level is important to them. Similarly, the fact that participating in the EU cooperation on COI has the effect of providing confirmation and legitimacy to domestic policy, this could be a sign of the status accorded to the social value of participating at the EU institutional level, thereby indicating some degree of socialisation.

From a notion of a shared community whithin the EU, one could also expect expressions of solidarity between the member states, even to the degree of accepting costs (Sjursen 2008: 2). One observation worth mentioning is that the interviewees from the Norwegian and Danish agencies frequently spoke of the new EU member states and how important it was for them to reach the same high standards of COI that they had. The document of the guidelines for COI was seen as a "good tool" for the new offices, and the ECS Database was a good way for the new offices to get access to COI information from other experts. This interest could suggest that there has been some orientation towards solidarity in the form of offering assistance. The Danish agency has also participated in workshops to train new COI agencies on the topic of FFMs. However, given the general arguments of costs and benefits of each form of COI cooperation, it seems that even though there is expressed an interest in the progress of the new member states, there would be no compromising of the time and effort needed for their domestic duties. One might also argue that this interest may be motivated by the problem-solving aspect of burden sharing from the 'first country of entry' principle of the Dublin 2 agreement. This can only be fully realised when the boarder member states also have an approved system of minimum standards in place. However, in this context the informants also expressed concern for the

quality of processing needing to be satisfactory in regards to asylum seekers' rights in the new member states. Here again one sees scepticism towards the abilities of the rights-based aspect of the harmonisation process.

6.4.5. Copycats

Another aspect the civil servants mentioned was that the new member states were learning from them as established COI agencies through COI cooperation. The two offices mentioned that they are regarded as highly competent in the context of the COI offices in Europe because of their long experience and their possibility to go on many FFMs. In this respect, they can be seen as model institutions that other COI agencies imitate. Applying the terms of DiMaggio and Powell (1983: 147), the sum of the COI offices can be seen as an organizational field, where it is rational for the new offices to imitate those who are seen as successful. Mimetic isomorphism occurs when the standards of the model institutions are seen as an ideal that the others adopt. Also, it is conceivable that professional isomorphism is taking place in the same direction. Because the new member states are currently establishing their COI agencies, the questions of qualifications, positions, and responsibilities are involved in the process of defining the occupation of COI experts. Here the meetings and networking in Eurasil appear to have influence. Coercive isomorphism seems too strong a term to describe the COI harmonisation process because the Norwegian and Danish COI experts stated clearly that they were in no way bound to any rules on cooperation from the EU institutional level.

6.4.6. Harmonisation as Socialisation

It is interesting to observe from a sociological perspective that there is high convergence in the data on the subject of socialisation into the EU, even though Denmark is an old member state and Norway is only a member of Schengen. The general tendency was that the identity of a country representative has not clearly been influenced by the EU harmonisation process by adopting a sense of belonging to and sharing the values of the supranational community. The civil servants seem to be anchored into a predominantly national culture where they show scepticism towards the rights-based aspect, and little interest in the community aspect of the harmonisation process of COI. The lack of a EU

community-based motivation can certainly contribute to slowing down the integration of the Norwegian and Danish COI agencies into the harmonisation process. Yet some signs of indirect socialisation, such as importance accorded to reputation and legitimacy in the context of the EU are simultaneously taking place, suggesting a change towards some influence from the supranational level. Another process was identified, namely that the Norwegian and Danish cases serve as model institutions in the European context. Although this would presumably not affect their own cooperation directly, the processes of isomorphism could contribute to the further harmonisation of COI within the EU and Schengen area.

6.5. What Now?

What is left after going through the data and looking at it from four angles within new institutionalist theory? It seems to be the case that all the theories can explain something, but none of them can explain everything. Keeping in mind chapter three, which explained that the separation between them is also a constructed one, is it possible to keep a contribution from each theory?

6.5.1. Creative Borrowing

Hall and Taylor presented the strengths and weaknesses of the new institutionalisms and declared that: "the time has come for greater interchange among them" and that they "favour taking this interchange as far as possible, most fundamentally because each of these seems to reveal different yet genuine dimensions of human behaviour and of the effects institutions can have on behaviour" (1996: 955). Thelen supports this concept of 'interchanging' between the new institutional theories, but does not propose a full synthesis of them, which she claims would undermine fundamental differences (1999: 380). Instead, she introduces the concept of 'creative borrowing' (ibid: 379), explaining that she could see benefits of "employing some of the tools of rational choice to sort out the logic of the situation and the responses of the actors", yet adding: "It will not, however, substitute for the process-orientated analysis that is characteristic of historical institutionalism" (ibid: 400). Studies that have followed since these propositions were

made have indeed proven the benefits of such an interchange. Aus, in his study of decision-making in the Justice and Home Affairs Council, shows how they "tend to adhere to the logic of appropriateness, the logic of consequentiality, or both while drafting important legislative acts" (2007: 50). He proceeds to identify conditions under which these logics are triggered and suggests to "integrate analytically distinctive perspectives […] into a single and presumably more powerful explanatory model" (ibid). Christensen and Lægreid declare the need for a multi-perspective approach in analysing the dynamic of political control versus agency autonomy of the NDI, to which they applied instrumental, negotiation, and cultural path-dependency theory (2009: 28). Gornitska and Sverdrup approach the subject of the expert groups of the European Commission (such as Eurasil) with a twofold model: the design perspective, where the groups are seen as instrumentally designed tools to perform necessary tasks for the Commission (2007: 6); and the institutional perspective, where in turn the expert groups are recognised as units of local rationality, traditions, and path-dependencies of certain norms and values (ibid: 9).

6.5.2. Joining the Threads

Judging from the findings of this analysis, one could argue that a similar solution of creative borrowing is warranted in this comparative study. In line with Hall and Taylor, each of these approaches seems to highlight different yet genuine aspects of the collected material (1996: 955). Furthermore, the results presented above suggest that the theories stand in a dynamic relationship to each other in the manner of supporting and/or contesting parts of the other's views.

The use of rational choice sketched a basic understanding of the formal organisational framework of regulations and legislations wherein the civil servants in the Norwegian and Danish agencies choose rationally from the five forms of cooperation of the COI harmonisation process. This picture was supported by the three other theories. The latter three, however, rejected the exogenous individual preferences and ease of redesign suggested by rational choice theory. The normative, historical and sociological

perspectives supported each other with their ability to give insight into the cultural dimension of the two cases.

Although the latter three supported each other, they also provided different insight. The normative perspective highlighted the institutional setting in which the civil servants take on identities as COI experts for their national public administrations, and share values of rational procedures, professionalism, autonomy, public insight, accountability, and loyalty that together define the institutional preferences for the rational calculation they apply in their choices of European cooperation. The historical dimension added the understanding that these norms and values are anchored in the respective Norwegian and Danish public administrative traditions. Because the norms and values expressed by the civil servants are rooted in their respective history, the development from bureaucratic traditions to current values can be described as path-dependent. One could also detect a process of positive feedback in the form of loyalty and support towards the civil servant's own public administration that seems to reinforce path-dependency. The sociological perspective did not conclude, as some scholars from this line of theory have found, that there was a clear tendency for increased socialization of civil servants into a supranational EU culture as a result of increasing exposure to the EU arenas in regards to COI cooperation. Rather, it gave support to the findings of the two previous theoretical approaches by generally concluding upon the particularities of the two institutions, showing that the cognitive, intuitive understanding of the civil servants seems firmly anchored in domestic culture. However, this perspective also pointed out that some of the data could be understood by the concept of 'social influence', suggesting signs of indirect socialisation into the EU in the form of importance given to awareness of developments in the EU, confirmation and legitimacy participation gives to domestic policy, as well as one's influence and reputation in the EU.

In an attempt to join the results from the analysis of each theory, a new model is presented at this point. It is not to be seen as a synthesis of new institutional theories. Rather, it tries to follow Thelen's advice: "We might instead strive for creative

combinations that recognise and attempt to harness the strengths of each approach"
(1999: 380).[81]

It is suggested that the formal organisation and procedures of the two agencies stand as
an important starting point for the analysis, as well as the rational logic that the civil
servants clearly apply in relation to EU cooperation. However, this analysis recognised
that the latter findings could not solely explain the complexity of the two agencies'
relation to the EU's harmonisation process of COI. The initial explanations based on
rational-choice theory are therefore shown to go through the filter of another set of
variables that are based on the cultural new institutionalist dimension. The analysis
proved to identify embeddedness and socialisation into domestic bureaucratic culture,
where norms, values, identities, cultural understandings and cognition are rooted in
history and contribute to shaping the formal organisation and rational logic that were
initially recognised. The composition of these variables defines the path-dependent
process that describes how the two COI agencies are developing. Yet path-dependency
does not imply that there is no development towards harmonisation to speak of.
According to Thelen, a path-dependent development is a dynamic process that is open to
change, but this change is gradual and depends both on the different components of the
path-dependency and its reproduction mechanisms (1999: 396-397). This analysis has
recognised signs of positive feedback that can be self-reinforcing to path-dependency, but
has also identified signs of social influence that suggest change.

In order to predict the probability of how the harmonisation process will affect the COI
agencies, it is this path-dependent process that can point to more or less cooperation of
the two COI agencies in the future by showing how it scores on the three characteristics
of the EU harmonisation process. In both cases, rational logic has proven to be strong
within the institutionally defined preferences. Therefore, the EU harmonisation process
has been understood in the terms of whether or not it can be beneficial to the COI
agencies, a potential problem-solver. This aspect of how both cases relate to the
harmonisation process suggests that they will continue to cooperate because the agencies

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[81]See Annex C

are moderately in favour of cooperation through the Eurasil meetings, but that this process is not as rapid as it would have been if all forms of cooperation were considered beneficial. Also, both COI offices showed strong domestic socialisation in prevailing norms, values, identities and understandings, and low on socialisation into a supranational European culture. Therefore, the path-dependent process for both cases scores low on the characteristics of the COI harmonisation process as a rights-promoter and a community provider, though some signs of social influence suggest slight changes towards more importance of these two aspects. Nevertheless, the low scores can be interpreted as brakes to the harmonisation process. Together, the theories predict moderate future cooperation and slow development towards harmonisation.

Although the collected data from the interviews showed high convergence, some differences between the two cases were also identified. Firstly, when summarising the differences in formal organisation and procedures between the two COI offices, it was recognised that the Danish agency is more strictly regulated and is more locked-in regarding its organisational structure, formal procedures, and legislation than is the Norwegian office. Accordingly, this could have an impact on how the cases might develop differently. With little freedom of decision-making, it is possible that even the aspect of the COI harmonisation process that is the most appealing to the agencies, its potential problem-solving abilities, could be considerably restricted. In the case of the Danish COI agency, its formal procedures for collecting and producing COI suggest less compatibility with other COI agencies and EU standards, combined with little freedom to change this, thereby further narrowing down the potential usefulness of cooperation and harmonisation. Secondly, the data confirmed that the COI agencies have an institutional culture where the civil servants show loyalty and support to their respective procedures for collecting and producing COI. This positive feedback can lead to reinforcing their own system and therefore further restricting the possibilities for change. The Norwegian COI office, on the other hand, has a more flexible structure, both in formal organisation, procedures and legislation, which allows for more freedom of discussion and decision-making within the processes of collecting and producing COI. Paired with the Norwegian civil servants' support to this system, a path-dependent development from this COI

agency may show more flexibility and compatibility with EU legislation and standards. This, in turn, increases the chances of COI cooperation in the EU proving to be useful to the Norwegian COI agency and suggests that it will be more likely to cooperate in the harmonisation process than the Danish COI office.

CHAPTER 7. CONCLUSION: WHAT IS, AND WHAT IS TO COME

7.1. The Three Steps of the Research Question

The first spark of curiosity that would set the aim of this master thesis was to learn more about on what grounds an asylum application is judged, hence the introduction to Country of Origin Information and the discovery of the European Union's current wish to harmonise COI within the overall goal of attaining a 'Common European Asylum System'. The intention was to, firstly, examine how far the harmonisation of COI had come, and secondly, to identify what would be the likely future developments of this harmonisation process, including its progress and challenges. In order to study how 'harmonised' COI reports in the EU and Schengen area had become to this date, this student set out to compare COI reports from different COI agencies in Europe, only to discover that merely four COI offices would share these reports (and not all of them) with the public. The result was the possibility to compare Fact-Finding Mission reports from the Norwegian and Danish COI agencies: the Norwegian Landinfo and the Documentation and Project Department of the DIS. The study of the harmonisation of COI in the EU and Schengen area was therefore specified to revolve around the activity of these two agencies.

The research question aimed to firstly compare reports to see whether there were significant differences between the products of the two agencies, resulting in the comparison of three sets of reports: FFM reports from Somalia, Nigeria and Iraq. A noteworthy variation lied in the surprising number of different information sources consulted. For the FFM reports on Somalia, 7 out of 41 primary sources from interviews were the same. For the reports on Nigeria, 6 out of 35 primary sources were the same. Regarding differences in content between the reports, two observations were judged as significant. Firstly, there were several issues raised in either the Norwegian or Danish reports that were not mentioned in the corresponding report from the other office. An

example was that in the reports on Iraq, the Danish report described the tension between Kurds and Arabs as worsening, whereas this was not mentioned in the Norwegian report. Secondly, and most importantly, some of the same subjects were given contradictory views, depending on the source quoted in one report compared to the other. One example was that the Danish report on Nigeria stated that, according to their sources, the risks of abuse to victims of trafficking by their agents or families was unfounded, whereas in the corresponding Norwegian report, the source expressed concern on this matter. Moreover, in the Norwegian report, a source stated that there had been progress on the situation on female genital mutilation in Somalia, whereas the source consulted by the Danish delegation stated that there had been no such progress.

These differences bring the attention over to the second part of the research question: to discuss the significance of these differences in the current context of the COI harmonisation process in the EU and Schengen area. In chapter four, the main steps towards a harmonised asylum system in the EU and Schengen area were described, wherein the harmonisation of COI plays an important part. The goals expressed through the Qualifications Directive and the Asylum Procedures Directive to set minimum standards for qualifying as a person in need of protection and for processing asylum applications, specifically point to the need for more cooperation on COI. Therefore, five forms of cooperation have been initiated so that COI can be more easily accessible and may become as complete as possible in order to assure the same standard of processing of an asylum application, regardless of which EU or Schengen member state is responsible for this processing. The first important observation in comparing products between the Norwegian and Danish COI agencies was that it was a great challenge to find any COI reports that were comparable between the two cases, something that in itself pointed to great variation between the products of the two offices. Furthermore, taking into consideration the comparison of the three sets of FFM reports, it was argued that the differences that were identified do not confirm that processors of asylum applications in all EU and Schengen states have full access to all the relevant facts, including precise and up-to-date COI, as expressed in the goals of the two Directives. It was shown that the variety of information sources could lead to contradictory views on specific subjects that

are raised in two reports, and that differences in topics that are raised could result in incomplete information. This comparative case study questions whether fully harmonised COI, as part of the Common European Asylum System scheduled for 2010, will be reached. Though one cannot generalise from the results of this study that only compares two cases, the comparison can nevertheless serve as an illustration of variation.

This conclusion on the current state of affairs brings the thesis to its final part of the research question. In order to predict the likelihood of how the two COI offices will cooperate in the harmonisation process in future, rational-choice, normative, historical and sociological new institutional theory were applied. A proposition was drawn from each theory as it applied to the study of this thesis by arguing how each one predicts the outcome of potential harmonisation by the manner in which it highlighted the aspects of the harmonisation process as predominantly a problem-solving process; a promoter of rights to asylum; or rather a component in providing a common European community.[82]

The analysis resulted in a combination of the theoretical propositions as it was discovered that each of the new institutional theories gave insight into different yet genuine and important aspects of the collected data. Taking the advice of Thelen to use 'creative borrowing' (1999: 379) between the theories, a new model was drawn in an attempt to best capture the different variables and processes that seemed to interfere in the likelihood of further cooperation in the harmonisation process for the two cases.[83]

The starting point in this model was based on a rational-choice perspective. Accordingly, the formal organisation and legal framework of the COI agencies were taken into account. It was shown that such formal constraints, together with formal procedures for collecting and producing COI, suggested that Landinfo enjoys more freedom of decision-making than its Danish counterpart. The Norwegian COI office has more freedom to decide over the content of the reports, whereas the content of the Danish reports is exclusively tied to specific COI needed to process asylum applications. These, in turn, are

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[82]See Annex B
[83]See Annex C

affected by the Danish Aliens Act that has undergone important alterations, resulting in a far more restrictive policy in granting asylum. Also, the Danish COI agency must publish all COI publicly as a result of the Danish Freedom of Information Act, whereas the Norwegian agency has the possibility to classify reports. Within this difference of their respective institutional framework, the data showed that the civil servants of both COI offices did first and foremost relate to the COI harmonisation process in a rational, cost-benefit calculating manner.

Yet formal organisation and procedures, as well as rational logic, were shown in the model to go through a filter of a cultural dimension. This is because, when analysing the data through the lenses of normative, historical and sociological institutionalism, it became clear that the rational logic that the civil servants applied was, in both cases, rooted in the general domestic institutional norm of how to relate to such supranational cooperation, and that preferences were defined by an institutional culture into which the civil servants took on identities in their roles as national COI experts. Accordingly, they expressed values of high degree of rationality; professionalism; autonomy; public insight; accountability; and loyalty. These values proved to be anchored in the respective Norwegian and Danish national bureaucratic traditions. Socialisation into domestic institutional culture seemed generally to be intuitive and dominant as opposed to a possible EU orientation.

From this filter, a process of path-dependency was drawn to predict the likelihood of further cooperation of the two COI agencies, depending on how they scored on the three aspects of the harmonisation process as a pragmatic problem-solver, a promoter of rights to asylum, or a component in providing a European community. The development of both agencies was described as path-dependent, a development where change is not excluded, but is challenging and slow. This path-dependent process was identified in both cases as being reinforced by positive feedback from the civil servants in the form of their expressed loyalty and support to the specific procedures of their respective institutions. This reinforcement signals even further difficulties for change. Yet the model also reveals that some degree of social influence from the EU in the form of expressed importance of

awareness of the developments within the EU; legitimacy and confirmation of domestic policies received through cooperation; and the importance of one's influence and reputation within the EU, was taking place. Accordingly, this feature was added to the path-dependent process to point out that some signs of change towards a more European orientation were recognised. Ultimately, the end result of the analysis was a model that followed Thelen's suggestion to apply certain tools from rational choice to better understand "the logic of the situation and the responses of the actors" within "the process-orientated analysis that is characteristic of historical institutionalism" (1999: 400).

7.2. Potential Gain 'In the Long Run'

The results of the analysis showed that both COI agencies regard the EU harmonisation process for COI as predominantly a problem-solving process, and they can be described as moderately willing to participate in this process because only one out of five forms of cooperation, the Eurasil meetings, is currently judged as beneficial. Nevertheless, this points to the likelihood of both COI agencies participating in the harmonisation process in future. However, the agencies scored low on the two other aspects of the harmonisation process because domestic cultural orientation showed scepticism towards its abilities to set sufficiently high standards in rights to asylum, and showed low interest in its community aspect. These low scores act as brakes to change and add support to the view that a development towards further cooperation and more harmonised COI is a slow process.

Finally, differences between the Norwegian and Danish COI agencies suggest the possibility that the Norwegian COI office will be more involved in the harmonisation process than the Danish office, due to its more flexible aspects in formal organisation, legislation and procedures that are more compatible with the standards proposed by the EU. This prediction is strengthened by the fact that the differences between the two cases seem to be reinforced by cultural attitudes of positive feedback within the two institutions. Ultimately, considering that it is the role of the harmonisation process as a

problem-solver that is given most weight by both agencies, it is foreseeable that the Norwegian COI agency, despite Norway not being a member of the EU, has more to win from cooperation than the Danish COI agency. It is therefore more likely to take active part in the harmonisation process of COI in the years to come than the Danish office. The latter has proven to have procedures and legislation that are less compatible with EU standards Ongoing changes to its legislation do not suggest that these incompatible aspects in the field of COI are likely to change in the near future.

7.3. Further Research

The differences in COI products between the Norwegian and Danish COI agencies can be said to be all the more surprising when taking into account that this study is a comparison of two similar cases in the context of the EU, and that they have had much bilateral cooperation between them outside the forums of EU cooperation. In fact, the analysis seen from a sociological new institutional perspective showed that the Norwegian and Danish COI agencies both figure as model institutions for other COI agencies, especially those of the new EU member states. The study of isomorphic processes, as well as further comparisons between COI agencies such as comparing the COI of the central and typically more closed bureaucracies of Germany and France with the border states of Greece, Italy and Spain, and the new eastern-European border states, would provide greater insight into the current variation of COI in Europe and the potential for future harmonisation of this field. However, the Country of Origin Information of these respective agencies would first have to be accessible for research. Such public openness to this information seems to be a long way away from current conditions.

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Annex A

Interview Guide[84]

1. Introduction.
- Introduce the aim of the study; why this particular person; familiarity with their work (vocabulary, current events); anonymity; recording yes/no?

2. Decision-making at the domestic level.
2.1. Can you guide me through the process of the realisation of a FFM?
- Who are the parties involved in the decision-making on: when to go; what topics to inquire about; which sources to meet; setting up the schedule?

2.2. What is involved in writing a FFM report?
- Who are the parties involved in the decisions on: writing; format; structure; content; access to the reports?
- What are your thoughts on the differences I have found between the Danish/Norwegian reports?
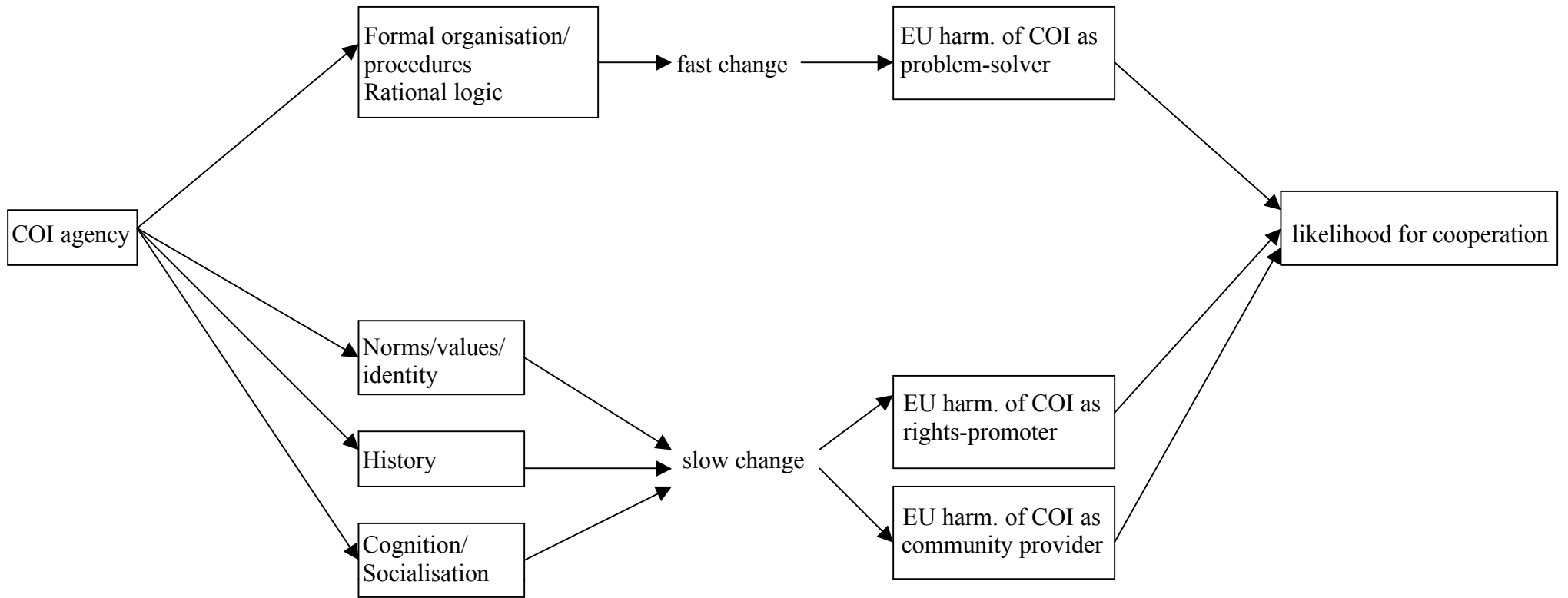
3. Cooperation at the European level.
3.1. Can you tell me about your experiences at the Eurasil meetings?
- Number of times; influence; positive/negative impression; importance?
- Organisation of participants according to: membership; old/new- big/small states; talk of shared goals beyond problem solving?

3.2. Have the guidelines in this document (show them "EU Common Guidelines for Processing of COI") had an impact on your work?
- Criteria, definitions, zones of public versus classified information?

3.3. How have you used the ESC Database (if at all)?
- For questions; for answers; listed as an expert?
- Positive/negative sides to the database?

3.4. Have you gone on joint FFMs with other COI agencies?
- Previous negative/positive experiences; future prospects; criteria?

3.5. Have you any thoughts on the Joint Support Office COI scheduled for 2010?
- Possible positive outcomes; difficulties; implications for future COI in Europe?

4. Conclusion.
- Do you have anything to add, have I missed something important?
- Possibility to e-mail if new questions come up?

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[84]Numbers represent general main questions, dashes are keywords that represent the follow-up questions.

ANNEX B

ANNEX C

| COI Agency | → | Formal organisation/ procedures, rational logic | → | Cultural dimension: identity, norms, values history, cognition, socialisation | → | path-dependency social influence |

EU harm. of COI as problem-solver

EU harm. of COI as rights promoter

EU harm. of COI as community provider

Likelihood for cooperation

self-reinforcing positive feedback