

Guidelines for investigation and evaluation of asylum cases in which persecution based on given sexual orientations is cited as a ground.

Upon instructions of the Government, the Migration Board (*Migrationsverket*) previously submitted a report regarding established practices and statistics regarding cases in which persecution due to various sexual orientations is cited as a ground, as well as guidelines for investigation and assessment of these cases. These guidelines are set forth below. The guidelines in Swedish are supplemented by an exhaustive reference list including international agreements, instructive court decisions in various countries, reports and organisations relating to this subject. This reference list, however, has not been included in this English translation of the guidelines.

The guidelines have been formulated in close collaboration with representatives of HomO (The Ombudsman against Discrimination because of Sexual Orientation), the National Institute of Public Health and RFSL (Swedish Federation for Lesbian, Gay, Bisexual and Transsexual Rights). In addition, the Board has also been in contact with organizations such as UNHCR and Amnesty.

Contents:

[General background](#)

[Major aspects in the investigation](#)

[Vulnerable groups](#)

[Collaboration between the Asylum and Reception sections](#)

[Care and housing](#)

[Collaboration between case officers and decision-makers](#)

[Priority](#)

[Choice of investigator](#)

[Choice of interpreter](#)

[Choice of public advocate](#)

[Confidentiality](#)

[Separate investigation](#)

[Interview setting](#)

[Tape recording](#)

[Opinions from medical and psychological experts](#)

[Knowledge of specific countries](#)

[Skills and expertise](#)

[Special considerations to take note of](#)

Major aspects in the evaluation

General background

The objective of these guidelines is to increase the awareness of the staff regarding the special problems of persons with certain sexual orientations can have in the asylum process, and at the same time, to give the applicants as good opportunities as possible, to describe their own experiences, to the extent they will do so, including extremely sensitive and private aspects. Hopefully, all relevant aspects relating to asylum will be brought up and considered in accordance with the legal rights of each individual.

The term “sexual orientation” is defined as heterosexuality, homosexuality and bisexuality. Cases of discrimination against persons with any of these sexual orientations fall within the jurisdiction of the HomO**. Transsexuality (i.e. sex change) is considered an issue of gender affiliation, and falls under the jurisdiction of the Equal Opportunities Ombudsman (JämO).

There is no reason to differentiate between the various kinds of sexual orientation in this context, since the nature of their situation is generally common to all of them. Therefore, in the rest of this report and in the guidelines, the term “homosexual” will also refer to bisexuals and transsexuals. In many countries, homosexuals are an extremely vulnerable group, with the threats against them relating to their sexual orientation and actions. Certain countries have actual statutory provisions directed against homosexuals. In other countries, a powerful negative attitude among the populace, public officials, persons exercising authority and individuals result in homosexuals being subjected to persecution, abuse and all sorts of harassment. Not even in his own family can the homosexual always feel secure, and know that he will not be met with prejudice. Many come from environments where homosexuality is taboo, so it may be difficult for them to open up in an investigation, and especially to authority figures. They often feel strong feelings of embarrassment and shame about their homosexuality. Investigations can therefore take time, and must take the time they require.

Persecution or inhumane or discriminatory treatment of homosexuals is prohibited by many provisions of international human rights treaties, agreements and laws, such as the United Nations Convention against Torture** and the Council of Europe Convention regarding Human Rights. In the case of Sweden, there are provisions offering general protection of groups including homosexuals, and statutes that especially focus on this group (Ch. 3 § 3, first sub-section, third clause of the Alien Act).

The number of persons who cite their sexual orientation as a ground for asylum appears to be small. As set forth in the description of prevailing practice submitted by the Board to the Government, probably less than one percent of the all asylum applicants belong to this group. However, we can assume that certain homosexuals do not want or dare to state their sexual orientation in an asylum case. The difficulty in obtaining a more exact number

of the asylum applicants who cite a given sexual orientation is also related to the fact that favourable decisions cite many different provisions of the Alien Act, while rejections of asylum cases are not recorded according to the grounds for the rejection. Therefore, homosexuals must be identified within the total number of asylum applicants, which, in actuality, would require the studying of individual dossiers. Homosexuality is also brought up, probably more frequently, in other permit matters, especially in the matter of ties and relationships and deferred immigration determination. Here too, the issue of a need for protection can appear.

The guidelines contain two sections. The first one relates to the investigation phase, while the other deals with various factors in the evaluation. The emphasis is on the investigation section, since this forms the stable basis for the evaluation of individual cases. However, the factors in the evaluation also affect the conduct of the investigation.

Since the autumn of 2000, the Migration Board and the Board of Alien Appeals, in cooperation with HomO (Sexual Preference Discrimination Ombudsman), the National Institute of Public Health and RFSL (Swedish Federation for Lesbian, Gay, Bisexual and Transsexual Rights), have arranged five theme days devoted to homosexuals in the areas dealt with by the Migration Board and the Board of Alien Appeals. HomO has also participated in a training programme for all higher supervisors. The purpose of these activities has been to increase awareness about the situation of homosexuals, both in general and in various countries. Another purpose has been to afford an opportunity for discussions regarding human rights and the need for protection, as well as attract suggestions and ideas regarding how investigations and reception can develop.

During these theme days, the participants have also been made aware of the opportunities to create contacts on the local level with organizations that can contribute guidance and information in daily work.

Additional training sessions are planned in order to disseminate information to an expanded audience.

The Migration Board is currently working on producing a qualified and continuing training programme in investigation methods for case officers and decision-makers. Issues regarding homosexuals will be integrated within the scope of this programme,

The guidelines do not replace other national or international rules, regulations and recommendations, but should instead be seen as a complement to them. There will certainly be an increased focus on the special situation of homosexuals in the asylum process. The guidelines should therefore be viewed as a "living instrument" that is constantly tested and developed in the light of the actual situation to which they apply.

[Back to contents](#)

Major aspects in the investigation

Vulnerable groups

Some countries have penal laws that directly target homosexual acts. The punishment varies, but even capital punishment may apply. In other countries, homosexuals can become a target through the use of other laws, such as carnal abuse, disorderly conduct, obscenity or crimes against religion. Administrative provisions, too, may be used to make it impossible for homosexuals to freely meet, form associations and engage in other similar acts.

Even where no anti-homosexual legislation exists, the general attitude in a country among its population, public officials and those exercising authority may place homosexuals in a vulnerable position, or make them the object of discrimination by denying them employment or the choice of occupation, slandering them, or frustrating their careers. This attitude can vary between different places in the same country and be especially prevalent in small population groups or rural communities, for example.

Homosexuals can be especially vulnerable in countries where a strict religious interpretation permeates both the judicial system and everyday life, or in decidedly patriarchal cultures (“macho cultures”).

[Back to contents](#)

Collaboration between the Asylum and Reception sections

Good cooperation between various case officers and between units is necessary conditions if the special asylum-related needs of homosexuals are to be considered and satisfied. This especially applies to the initial phase of the process, as well as continuously during the further processing of the case.

Individual plans and official and journal entries are important aids that ensure that case officers in the asylum and reception sections are able to perceive and communicate signals to each other, both regarding a given sexual orientation and behaviour that indicates abuse. Through close cooperation, important aspects can be taken into consideration early on, such as the need for special discretion during the asylum investigation, additional investigation, separate residence or medical care. This collaboration is important in cases where a good deal of time has passed between the initial investigation and the in-depth asylum investigation, and especially important when the case officer or decision-maker is changed during the course of the process.

Although the need for collaboration is not specific to investigations of homosexuals, it is useful to note it in this context.

[Back to contents](#)

Care and housing

Special care needs as well as housing options may be considered in certain cases and should be noted as early as possible.

Many homosexuals are in poor emotional condition even at the beginning of the asylum process. Health consultations in which the Board consults with experts from other authorities and organizations can be of use to persons with special needs.

Residential environment is important, and gains in significance the longer the wait for a resolution of the asylum process continues. A homosexual applicant for asylum can have problems if forced to share a crowded residential area with heterosexuals. As the Board does not register sexual orientation, each person with specific preferences or needs must be encouraged to alert the staff about these in order to obtain necessary help and support. It is important to realize that two homosexuals who are applying for asylum together may be a couple, and should be allowed to continue to live together.

In general, flexible approaches to housing issues should be adopted, and these should be worked out on a case-by-case basis, in cooperation with the homosexual involved.

[Back to contents](#)

Collaboration between case officers and decision-makers

Collaboration is especially important in sensitive cases where the proper structure and investigative method may need to be discussed in light of the circumstances of the case in question. The case should be put on the right track as early in the process as possible.

Decision-makers may also have to be present during investigations involving homosexuals. These cases are often very sensitive and may include crucial credibility aspects. In cases involving credibility aspects, decision-makers should be present during all or part of the oral investigation. Since there is often no evidence other than the story recounted by the homosexual, and because this may be scanty or difficult to assess, due to cultural and psychological factors, the presence of a decision-maker at the interview may be especially worthwhile. However, weighing against this is the need of the homosexual for discretion and confidence in the investigation situation. It is easy to understand why a homosexual can feel resistance to recounting his experiences in front of more persons than are absolutely necessary. Therefore, the appropriateness of having a decision-maker in attendance during the investigation should be assessed on a case-to-case basis.

At the Migration Board there is a network of persons with special connections to issues regarding homosexuals. When the need arises, case officers and decision-makers can consult with persons in this network to obtain advice and support in issues that can arise in individual asylum cases.

[Back to contents](#)

Priority

In certain cases, homosexuality is cited as a ground at a relatively late stage in the process. There may be several reasons for this, and this can be understandable (*cf infra* regarding major aspects in the evaluation). The issue of priority treatment can arise in cases continue for a long time. Sometimes a supplemental investigation may have to be conducted, after which a decision will be made on priority. Experience has shown that many homosexuals are under tremendous emotional strain while waiting for a resolution of their asylum cases. This should be taken into consideration in deciding to grant priority treatment.

During appeals, as well, there can be reason for the Board, by means to site and reception officers, to inform the appellate body regarding any additional information that it may learn of.

[Back to contents](#)

Choice of investigator

The issue of whether a man or a woman should conduct the asylum investigation should be determined from case to case with a good degree of deference paid to the individual's own wishes. The investigation should state that the applicant has been consulted regarding the choice of investigator. The preferences of the applicant should be honoured whenever possible.

This issue can also arise during an ongoing investigation due to the revelation of the applicant's sexual orientation either directly or through some indication. Whether it is more appropriate to change the case officer or whether certain sensitive issues should be investigated separately by a different investigator should be decided on a case-to-case basis.

[Back to contents](#)

Choice of interpreter

The applicant's sexual orientation can also affect the choice of interpreter. A sensitive topic can be expressed more openly with the "right" choice of interpreter. If it is possible to choose a satisfactory interpreter from a country other than the country of the applicant, this may be a preferable solution.

Having the interpreter come from the same country can often create a very sensitive situation leading to uncommunicativeness in the investigation setting. The applicant's preference for a male or female interpreter is important, and the investigation should state that the applicant has been consulted regarding this matter. If an authorized interpreter is available, preferably a judicial interpreter with wide-ranging cultural skills and knowledge, he or she should be used in the investigation.

If the private and sensitive nature of a case is known from the beginning, the investigators can inform the interpreter of this in an appropriate manner before the investigation begins. Any interpreter who appears to have negative attitudes or prejudices regarding homosexuals should naturally be avoided.

[Back to contents](#)

Choice of public advocate

The sensitive nature of a case can also determine the choice of a public advocate. The applicant may be asked for his or her preference regarding a male or female advocate, at least when the sexual orientation is known from the start. The preferences of the applicant should be honoured whenever possible, and this should be stated in the investigation.

The first choice should naturally be advocates possessing a wide range of cultural skills, and perhaps knowledge and insight regarding the problems of homosexuals in the countries or regions in question. General knowledge and skills regarding homosexuality are also valuable to an advocate, as these serve as an additional source of help and support for an applicant in a sensitive situation, and tend to result in a better overall investigation.

In certain matters, such as family cases, it may be advisable to appoint a separate advocate for the homosexual. The applicant's siblings and parents, and even spouse are not always all aware of the applicant's homosexuality. If they all have a single advocate, the homosexual may get the impression that the information he reveals in confidence will be disseminated to the others. Conflicting interests within a family can also justify the appointment of a separate advocate.

[Back to contents](#)

Confidentiality

Although issues of confidentiality are important to all applicants for asylum, they are perhaps of special importance to homosexuals, since they can risk being exposed to negative attitudes and prejudice even among those closest to them. Confidentiality must therefore be safeguarded throughout the entire investigation process. The applicant must be informed of this in detail, and be assured that the information he gives will not be revealed to any third party.

This is crucial if the investigation is to be conducted in an atmosphere of trust and confidence. The issue of confidentiality should be addressed at the very beginning of the investigation. As the investigation proceeds, there may be reason to return to this matter and again assure the applicant that the information will be kept confidential.

If the applicant applies at the same time as other family members or has relatives in Sweden, it is important for the investigator to assure the applicant that the information will not be revealed to those persons either.

The applicant must also be informed the interpreter and public advocate are also subject to confidentiality provisions.

[Back to contents](#)

Separate investigation

In certain cases, the homosexual may request that a separate investigation be conducted concurrently with that of close relatives, for example. It is important to allow a person who has a sensitive matter not only to discuss it completely separated from others, but also to give him reasonable time to elaborate in detail regarding the grounds for the application. There are cases where a spouse or parents have not known of a person's homosexual orientation.

[Back to contents](#)

Interview setting

The physical interview setting is important to the quality of the investigation. This is especially true for in the case of sensitive topics or persons who have suffered from difficult and abusive backgrounds. The investigation room and its surroundings should provide a sense of security, a relaxed feeling and facilitate open discussions. The room should be furnished in a neutral manner. Brochures, pictures or other objects in the room that encourage free and independent conversations about homosexuality may also help.

The emotional environment prevailing at the interview is also of great importance in encouraging individuals to talk about difficult experiences. The dialogue should be conducted with understanding and empathy and inspire trust. The interviewer should be very receptive to signals.

The investigator should refrain from using the word processor, at least during especially sensitive parts of the interview (cf. the results of a Stockholm University study regarding cognitive interview technique).

[Back to contents](#)

Tape recording

Tape recording is recommended as the standard routine in asylum investigations. This procedure provides an opportunity to check later what was actually said, and ensure that this was translated correctly. In certain circumstances, and where sensitive subjects are being discussed, taping may be less appropriate, and perhaps make the investigation more difficult. The individual may get the impression that a tape recording means a risk that information given in confidence can easily be revealed to third parties. If conversation regarding sensitive topics is recorded, the investigator must first explain to the applicant, in detail, how the Board will keep and use the tape. Sometimes it is best for the investigator and the applicant to review the investigation transcript, allowing the applicant an opportunity to confirm the contents after making any additions he may wish to make.

[Back to contents](#)

Opinions from medical and psychological experts

Homosexuals applying for asylum are sometimes in a very poor psychological state. This is especially true where the processing of the case has taken a long time, pending an in-depth investigation. There may be a need for specialist care or therapeutic support. Occasionally, there may be reason to obtain various types of opinions from a psychiatrist, as part of the investigation.

[Back to contents](#)

Knowledge of specific countries

The Migration Board's country documentation system (Lifos) is an extensive, intensive and current knowledge bank with links to other information channels. It can serve as an aid and a support in preparation for an investigation. The index function of the system allows for direct searches for topics such as homosexuality. Precedents regarding homosexuality are also entered, and it is important for both case officers and decision-makers to utilize this opportunity to obtain additional knowledge.

The annual "MR Report" sent to the Foreign Ministry by Swedish government offices abroad usually contains a description of the situation of homosexuals in the country of origin of the applicant in question. This report is often scanty and is rarely exhaustive. The case officer may therefore need to direct specific questions to the Swedish government office abroad in order to obtain additional information. Voluntary organizations too, for example, can contribute valuable information. The condition of homosexuals can vary within

the same country, and it is important to gain a comprehensive view of those circumstances that are relevant to the individual applicant.

Lifos also contains information and links to reports on the situation of homosexuals in various countries, by Amnesty, Human Rights Watch and ILGA, for example.

[Back to contents](#)

Skill and expertise

Since cases relating to asylum and homosexuality are often very sensitive, the skill and expertise of the investigator is certainly important. In addition to theoretical knowledge and long investigative experience, conversational techniques and knowledge of cultural issues are helpful, as is an understanding of homosexuality and the homosexual's situation. Recurrent in-service training and education in conversational techniques and perhaps coaching, may be necessary.

[Back to contents](#)

Special considerations to take note of

The following guidelines are general ones, but with a special focus on applicants for asylum who have a given sexual orientation.

- The Board has an extensive responsibility to investigate cases, pursuant to administrative law norms. Many homosexual applicants for asylum have a history of traumatic experiences. The investigators can therefore face problems both unexpected and of a special nature. ***The awareness of the investigator*** regarding these problems is perhaps the foremost condition for having a case analysed in the most comprehensive manner as possible.
- The investigator should create the ***best possible basis*** to encourage the homosexual to not only be willing to reveal the details forming the basis of his application for asylum, but be willing to do so, as well. From the very beginning, the investigator should try to build up an atmosphere of trust, and develop a trusting attitude toward the applicant. Cognitive interview methods can be one way toward a more successful investigation.
- In many cases, ***an investigator does not know from the beginning that an applicant for asylum has a given sexual orientation***, or that the grounds for asylum may relate to this very circumstance. Various "signals" indicating this may appear during the investigation, however. To pick up these signals, an investigator must have sensitivity and a general understanding of homosexuality and the situation of the homosexual. The investigator can attempt to elucidate the circumstances by posing

question. Naturally, these questions must be formulated and posed in a psychologically appropriate manner, and demonstrate a respect for the individual's integrity.

- The applicant should be given the opportunity to give a general description of the situation of homosexuals in his country. However, most important is that he be given the opportunity to describe the relevant chain of events and personal reaction to it, **in his own words, and at his own pace**. Open questions are preferable to closed ones.
- Investigations concerned with sensitive topics such as homosexuality can take time, and must be **allowed to take time**, and be completed without any disturbances. Additional investigation sessions should be considered where necessary.
- An applicant can have **powerful feelings of shame** about his homosexuality. It is difficult for many applicants from countries with a great deal of repression to discuss their homosexuality with outsiders, and especially those in authority.
- **The attitude of the investigator** to the homosexual is important, and should be a neutral and interested one. Comments and follow-up questions are important, but should be encouraging rather than value-laden. Since, at times, non-verbal communication can be most important, the investigator should be aware of his own behaviour so as not to disturb an atmosphere that encourages trust.
- In order to produce good documentation to serve as the basis for an evaluation, the investigator must **ask the right questions**. The "right questions" may vary depending on the country, region or culture of the homosexual. The questions can also depend on whether the applicant is a man or a woman. In many countries, homosexuality is a topic that is generally taboo. This can be especially sensitive for women who are subject to the low status and position and the dependent situation prevailing in many countries. An investigator needs broad cultural understanding and skills in order to understand the applicant's situation and vulnerable position.
- A high quality investigation requires **language comprehension across cultural boundaries**. Words that are basically similar can be given different meanings in different countries and cultures. The same applies to body language and emotional expression. It is especially important to realize that these kinds of differences can exist between men and women. The interviewer's request for a non-verbal explanation (e.g. draw a building or room) can sometimes facilitate the understanding of what an applicant actually wished to say.
- Although it can often be **unnecessary to ask for details** about various events, a more in-depth view of certain aspects can be important in order to obtain a more reasonable basis to assess the credibility of the

information. It can be especially difficult to obtain detailed descriptions from an applicant that has been subjected to extreme stress or trauma.

- In many countries, the vulnerability of homosexuals can result from a combination of several factors such as legislation, religious beliefs, membership in a group, domestic political dissension, general attitudes amongst the public and public officials, lack of support from family members, neighbours and NGOs. The investigator should afford the applicant an opportunity to give a **comprehensive perspective of the applicant's own situation and circumstances**.
- A homosexual applicant may have **entirely justifiable reasons for not wanting to speak about his sexual orientation**, and any of its consequences on the applicant in his or her country of origin. In any case, not all applicants are willing to go into greater detail on this matter. Naturally, this opinion must be respected, and the applicant may not be placed in a coercive situation regarding this area. Naturally homosexuals can have other and more conventional grounds for asylum, which should be investigated and considered as usual. The applicant may also not feel compelled to discuss a sensitive area when his need for protection and possibility to remain in Sweden can be expected to be decided based on more general criteria, such as previous cases dealing with Iraq or Afghanistan. The investigator, however, should inform the applicant regarding the regulatory scheme and general criteria that Sweden applies for obtaining a permit as a refugee or person in need of protection. The applicant can then decide for him or herself how detailed the description of his or her experiences will be.
- In cases that are sensitive and difficult to investigate, it is extremely important for the investigator **to be sure that he has correctly heard and written** what the homosexual has stated. The investigator should therefore carefully reread aloud and/or review the investigation together with the applicant and any representative the applicant may have, before considering the investigation as concluded.

[Back to contents](#)

Major aspects in the evaluation

- Chapter 3, §3, subsection 1, clause 3 of the Alien Act defines as a protected group persons who feel a well-founded fear of being persecuted due to their gender or homosexuality. This provision shall be deemed to apply to **bisexuals and transsexuals as well as heterosexuals and homosexuals**.
- There can hardly be an exact and exhaustive definition of the concepts **persecution**. This concept should be viewed in a broad manner, and be interpreted with the help of both national legislation and case law, as well

as international rules, recommendations, MR instruments and the UNHCR Handbook.

- The interpretation of the concept ***well-founded fear of being persecuted***, as well as ***evidentiary requirements*** is the same in both the refugee provision (Chapter 2, §2 of the Alien Act) and the “torture and gender provision (Chapter 3, §3, subsection 1, clauses 1 and 3 of the Alien Act).
- According to a clearly enunciated Swedish position, homosexuality is not within the purview of the convention’s ground “***membership in a particular social group***” (1951 Geneva Convention). However, there is a clear international trend toward including gender-related persecution and homosexuality as a “social group,” at least under certain circumstances. After the EU Commission has presented a proposed directive relating to the content of the definition of “refugee,” this matter is being studied in Sweden. It is probable that prevailing practice will change in the future. A person, whether homosexual or heterosexual, can also direct criticism against his country of origin’s regime, through the mass-media or otherwise, which can be viewed as a political act, and give rise to refugee status. A combination of various harassment and restrictive measures against a homosexual may constitute the grounds for refugee status, even though each individual action would not, provided they, at least partially, are a result of a cause upon which refugee status can be based.
- Although persecution on the basis of homosexuality can be directed against ***women, as well as men***. It is more common that men assert homosexuality in their application for asylum.
- An asylum case relating to a homosexual can come under the purview of several provisions of the Alien Act, such as the torture and gender provisions, as well as humanitarian reasons. A natural principle here should be that in cases where ***there are several competing provisions***, the individual applicant should be allowed to stay in Sweden based on the provision that gives him the best protection.
- ***Body language and emotional expression***, such as gestures, crying, mimicking or the lack of these, may vary among various cultures and classes in a population. In cases regarding sensitive areas, such as homosexuality, understanding what the individual means is extremely important.
- In many countries, both the general attitude toward homosexuality and that existing in the applicant’s family may be very critical and exhibit a great deal of prejudice. This topic is often connected with strict social ***taboo-related ideas***, or to paraphrase a foreign government authority report, “since the government has decided that there is not homosexuality, there are no homosexuals.
- Sexual violence and insults due to homosexuality can be associated with ***powerful trauma and especially with feelings of guilt and shame***. In

the investigation, the individual homosexual often carries an image of himself coloured by these prejudices, and may choose, consciously or subconsciously, not to state his actual reasons until a later stage in the process.

- The legislative comments to Swedish asylum legislation emphasizes the importance of not setting the **level of evidence required** too high with regard to statements about the risk of capital punishment, inhumane or humiliating treatment or punishment. Complete evidence can rarely be presented in these cases. The account of the applicant must therefore be accepted if it appears to be credible and probable.
- Naturally, the statement of an applicant for asylum to the effect that he or she is a homosexual can be difficult to “prove.” In general, a **statement regarding homosexuality** should be accepted, unless specific circumstances exist which indicate otherwise. The fact that the homosexual is married, and perhaps has children with a person of the opposite sex should not in any way rule out the fact that he or she has a homosexual orientation.
- The fact that the homosexual **has not been in contact with organizations for homosexuals**, whether in Sweden or in the country of origin, is seldom a factor that would gainsay his or her fears regarding a return to the country of origin, and thereby negatively affect the assessment. In addition, in many countries there are no such organizations to consult.
- Homosexuality is often a **very sensitive** matter, even within one’s closest family. In many cultures, the homosexual risks being excluded from his family, and subjected to all the resulting stress. Because of this, for example, relatives cannot always confirm the homosexual’s account of his sexual orientation.
- In many countries, there is a strong **prejudicial attitude** toward homosexuals among certain authority figures, within professional corps such as the police and military, as well as among administrative personnel. This attitude can apply to persons outside the corps or authority, as well as against homosexuals within. There can thus be good reason by a homosexual may fail to complain about serious harassment and abuse, especially when the perpetrator himself may well be wield authority, and homosexuality may be a criminal act.
- In certain countries, homosexuals may encounter severe problems in obtaining **documentation** of instances of abuse, especially in cases where a sexual connotation is present. Where documentation is obtained, it may have a general content, not relating to the homosexual aspects. The documentation may actually have a detrimental effect, since it may hold the homosexual morally responsible for an event that is shameful and culturally unacceptable. Homosexual women can often encounter special difficulties due to the attitudes toward women that exist in many countries.

- The attitude toward **transsexuals** can be very different from those regarding homosexuals and bisexuals. However, this is not always the case. Even if the general attitude of government authorities is one of tolerance, for example, private individuals or representatives of government authorities may express strong prejudices.
- A homosexual may have suffered from traumatic experiences due to his orientation. There is often **no reason to investigate traumatic abuse in detail**. The lack of details in an account in such a context should be seen as a consequence of the abuse, rather than a sign of the insufficient credibility of the information given.
- The risk that a homosexual may be persecuted or harassed due to his sexual orientation should be evaluated with the help of the knowledge regarding conditions in the applicant's country of origin. The ongoing **country reports** submitted to the Board may lack a more in-depth analysis regarding the specific situation of homosexuals. Conditions may vary in different parts of the country, and may be related with factors other than only penal law provisions. The risks may also vary among different groups within the population, social and religious membership and even from attitudes within families.
- There can also be **political changes** in a country in a generally favourable direction. In the same way, legislation can be liberalized. However, these changes do not necessarily mean that conditions for homosexuals have changed for the better. Deep-seated attitudes and prejudice can be difficult to attack. In certain countries, changes in the law, such as abolishing penal sanctions relating to homosexual acts may take a long time to implement, and may not necessarily mean a easier situation for homosexuals at present.
- The opportunity of individual homosexuals to obtain **protection from the authorities in their countries of origin** against persecution or serious discrimination varies. In many countries, there may be few or no practical opportunities for government authorities to can here. Sometimes, there is no willingness to do so. The chances of being accorded protection by the State should be seen from a realistic perspective, along with the realization that the attitude of those wielding public authority toward homosexuals may act as an obstacle or even a threat to the individual. In countries where homosexual behaviour is criminalized, an individual may perceive contacts with government authorities as particularly difficult.
- There may be opportunities for an **in-country change of residence alternative** for a homosexual person. Much depends, however, on the circumstances of the individual matter. An untenable situation in the applicant's neighbourhood may possibly be avoided by moving. However, for homosexuals, this may mean being excluded from what can be seen as naturally secure and protective environments, such as among relatives and close friends. It is more difficult to escape from circumstances that

exist throughout a country, such as penal law. Other factors such as linguistic, ethnic or cultural differences between various parts of a country can often be obstacles. Economic and purely practical circumstances can also cause difficulties. A move generally can create greater and different difficulties for homosexual women than for men. The totality of the circumstances of a given case can render a move unfeasible or saddled with too many serious pressures or an unsatisfactory way of life.

- In some asylum cases, the applicant may state reasons other than political ones, such as a connection to a partner in Sweden. In certain cases, the connection can be the crucial factor in the determination. When considering whether it is reasonable to require that ***the application for a permit be submitted in the country of origin***, the Board must also consider the possibilities of obtaining an exit visa based on a homosexual relationship.
- ***When formulating the reasons for a decision, and when serving the decision***, the sensitive nature of the case must be taken into consideration. Otherwise, there is a risk that third parties will learn of these circumstances. Generally, however, the determination of a homosexual's special grounds for asylum must be clearly expressed in the reasoning of a given decision. A too general formulation of the decision would give the homosexual the impression that not all of the grounds for asylum asserted by him or her have been considered.
- The very personal and sensitive nature of this area, as well aspects of confidentiality must also be taken into consideration in **interviews pending a return of the applicant to his country**.

[Back to contents](#)