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# Country of Origin Information – Value and Due Process

London, 23 September 2016

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Michael Hoppe,  
Higher Administrative Court of Baden-Wuerttemberg

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# Country of Origin Information

- The necessity of COI
- Evaluation of COI
- Quality standards in the use of COI by Courts & Tribunals
- Right to be heard / Fair Trial and the Use of COI

# The Necessity of COI

- Refugee Law is about
  - a forward looking analysis
    - on future risks
    - on protection available in the future
    - in a foreign country
- COI is the main source
  - for a general assessment of a specific situation
    - general circumstances prevailing in a part of the country
    - willingness and ability to offer protection
    - subsidiary protection
  - that helps to check plausibility of statements
  - for background information

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# The Necessity of COI

- Article 4 (3) QD
  - “all relevant facts as they relate to the country of origin” must be taken into account
- Article 4 (5) QD
  - typical lack of evidence → except for applicant’s own statement
  - coherence and plausibility of statements not running counter to available specific and general information

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# Evaluation of COI

- Art. 10 Directive 2013/32/EU (APD)
  - Information shall be
    - precise
    - up-to-date
    - from various sources (EASO, UNHCR, relevant international human rights organisations)

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# Evaluation of COI

- IARLJ Checklist
  - relevance, also: temporally
  - established reputation
  - COI based on publicly available and accessible sources
  - comprehensiveness
  - reliable sources
  - sound methodology
  - Does COI exhibit impartiality and independence ?
  - judicial scrutiny by other courts

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# Quality Standards in the Use of COI

- Inquisitorial procedures
  - first step: Obtaining relevant COI → courts' burden
  - second step: Assessing COI
- Adversarial procedures
  - one step: Assessing COI submitted by the parties

# Quality Standards in the Use of COI

- Taking into account
  - entirety of sources
- if diverging information is provided
  - diversity should explicitly be addressed in the judgment
  - weighing and deciding is the judge's job
  - decision-making must be rational though!!
  - some piece of information might be wrong, some might have a different viewpoint
  - there is mostly more than one truth



# The Right to be Heard / Fair Trial and the Use of COI

- Parties must have access to relevant COI
- Courts should give advise on which COI they might use
  - List of relevant COI required!?
- Courts must act transparent in their judgments
  - which COI is used and
  - why does the information lead to the decision taken?
  - Article 23 APD
    - Danger to equality of arms
    - Can a decision be the result of fair / due process if one party does not know the foundation of the judgment?

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