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European Case Law Identifier: a Short History and the Broad Outlook

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Introduction

Within the EU, there is a growing need for access to national case law from other Member States: lawyers require more knowledge about actual jurisprudential developments in other EU Member States because of the deepening of the internal market and the growing number of cross-border procedures; judges have to be aware of EU related decisions taken by colleagues in other Member States to actively play their role in upholding and developing the common legal order²; and legal scholars and policymakers welcome the growing volume of case law for their comparative law studies.

To facilitate this cross-border access to national case law, European judiciary organizations, European institutions and commercial companies started developing specialized databases and meta-search engines.³

Although some of these web applications are quite comprehensive and well up-to-date, the user gets lost quite easily: all these databases use their own identification system and apply their own metadata and search criteria. As a result, citing a (foreign) judgment in such a way that it can easily be retrieved (by hand or computer) from all databases where it is possibly stored, is cumbersome and error-prone. And moreover, to find a cited judgment one has to actually visit all these databases, guessing which identifier is needed in which search box.

To address these fundamental problems of legal information retrieval the Council of the EU agreed in December 2009 – based on an initial report of a task group⁴ – “*(T)hat a common identification system based on the standardised European Case-Law Identifier (ECLI) should be examined further and that a Dublin core implementation for caselaw*

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² European Parliament resolution of 9 July 2008 on the role of the national judge in the European judicial system (2007/2027(INI))

³ For an overview of these initiatives: M. van Opijnen, “Identifiers, Metadata and Document Structures: Essential Ingredients for Inter-European Case Law Search,” in *European Legal Access Conference, Paris 10-12 december, 2008* <www.legalaccess.eu/spip.php?article47>.

⁴ Council of the European Union, *Final report of the task group on the access to national case-law (12907/1/09)*, 2009.

should be defined.”⁵ After extended preparatory work by the task group – in close co-operation with the Court of Justice, European judiciary networks and standardization initiatives – a technical standard was set in December 2010 with the ‘Council conclusions inviting the introduction of the European Case Law Identifier (ECLI) and a minimum set of uniform metadata for case law’ (hereafter: the ECLI Conclusions).⁶

The ECLI framework has five essential components, which will be outlined below: the ECLI syntax, the metadata, the national ECLI co-ordinator, the website and the search interface. Finally, stock will be taken of current developments regarding implementation.

ECLI Syntax

The annex to the ECLI Conclusions gives precise specifications on the constituting components of the identifier, which basically consists of five (mandatory) parts, separated by colons:

- ‘ECLI’ as the self-descriptor;
- EU country code;
- A national court code;
- The year the decision was rendered;
- An ordinal number, with a maximum of 25 alphanumeric characters.

A valid ECLI would e.g. be: ECLI:NL:HR:2011:4563, which could be a decision of the Supreme court in the Netherlands.

Both by lawyers and computers an ECLI can be recognized and interpreted quite easily.⁷ ECLIs can exist alongside other (national or commercial) identifiers or even encapsulate them. The ECLI syntax might look quite long, but because all essential information is comprised within the ECLI, the total number of characters used to cite a case will be drastically reduced. Specific references indicating where to find a judgment are no longer necessary if the ECLI search interface is realized.

Metadata

Many case law databases use their own technical and semantic solutions for storing metadata. And even if the Dublin Core (‘DC’) metadata set is used, interoperability problems arise from the fact that this standard is not strict enough on how and where to store specific (legal) metadata. Therefore the ECLI Conclusions give guidance on how to use a subset of DC⁸ for case law documents. Nine of these fields are mandatory if the document has to be retrievable via the ECLI search interface. The use of eight other – optional – DC elements is also defined.

⁵ Conclusions of the Council on European Case-Law Identifier (ECLI), 17377/09, JURINFO 158

⁶ 16871/10 <<http://register.consilium.europa.eu/pdf/en/10/st16/st16871.en10.pdf>> The document will be published in the C-series of the Official Journal of the EU shortly.

⁷ See on the basic technical considerations of the ECLI-structure: M. van Opijnen, “Finding Case Law on a European Scale - Current Practice and Future Work,” in *Legal Knowledge and Information Systems - JURIX 2008: The Twenty-First Annual Conference*, ed. E. Francesconi, G. Sartor, and D. Tiscornia (Amsterdam: IOS Press, 2008).

⁸ <<http://dublincore.org>>

Organization at National and European Level

Not only EU Member States, but also associated countries, international organisations and the EU itself are invited to join the ECLI-system. Every participating entity has to appoint a ‘National ECLI co-ordinator’, responsible for establishing national components of the standard, like the list of court codes. As far as the ECLI Conclusions are concerned (courts in) the Member States are free to decide upon their own implementation route, like the range of courts using ECLI and whether or not to include historical records.

ECLI Website

At the European level the ECLI Conclusions call for an ECLI-website, which should be part of the European e-Justice portal,⁹ as instituted by the European e-Justice Action Plan.¹⁰ On this website the ECLI system should be explained to citizens, lawyers and information specialists. Information supplied by the national ECLI co-ordinators – like the court codes used – will be an essential part of the website.

ECLI Search Interface

According to par. 5 of the ECLI Conclusions: “*There should be a common search interface for searching national case law by ECLI and (some of) the metadata.*” This interface will be part of the ECLI-website; the European Commission will be responsible for the technical implementation. Following the guidelines of the European Interoperability Framework and the European e-Justice Action Plan this ECLI search interface should be virtual in nature; no central database is to be developed. The ECLI search interface is meant to search for any case law document having an ECLI and the essential metadata. The search should not be limited to databases of national courts; also European databases, commercial websites and academic repositories could be indexed.

Implementation

The ECLI Conclusions do not impose mandatory legal obligations on the Member States, but they call for voluntary action. Already, various Member States have started technical and organisational preparations for the implementation of ECLI.

Furthermore, the ECLI website can be expected to go live shortly, and studies on the technical implementation of the search interface have started. To stimulate the interest for ECLI within the highest administrative courts the Association of Councils of State will organize a special seminar in the autumn of 2011.¹¹

Given the fact that implementation requires time and technical adaptations, the work already in progress is encouraging. The coming years will demonstrate the viability and usefulness of the ECLI framework.

⁹ <<https://e-justice.europa.eu>>

¹⁰ European Union, *Multi-annual European E-Justice Action Plan 2009-2013*. <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:075:0001:0012:EN:PDF>>

¹¹ <http://www.aca-europe.eu/en/activities/activities_2011_en.html>