



Uitvoeringsorganisatie
Bedrijfsvoering Rijk
*Ministerie van Binnenlandse Zaken en
Koninkrijksrelaties*

Accessibility of Judicial Decisions on the Internet

—

Development of a Legal Framework in Europe

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Law via Internet 2015
10-11 November 2015
Sydney Australia

Elements of Legal Framework

1. The public judgment
2. Data protection
3. Reusability
4. Technical standards
 - European Case Law Identifier.

1. The Public Judgment

- Art. 6 European Convention on Human Rights:

Judgment shall be pronounced publicly
but the press and public may be excluded from all or part of the trial in the interests of (...)



1. The Public Judgment

- The European Court of Human Rights:

(...) does not feel bound to adopt a literal interpretation. It considers that in each case the form of publicity to be given to the 'judgment' under the domestic law of the respondent State must be assessed in the light of the special features of the proceedings in question and by reference to the object and purpose of Article 6 (Pretto vs. Italy).

1. The Public Judgment

- The European Court of Human Rights:
 - No obligation to publish the judgment (on the internet)
 - Publication on the internet as a way of public pronouncement? (Nikolova and Vandova vs Bulgaria)
 - Requirement of publicity satisfied by the applicants not being prevented to make the decision public themselves? (Ramsahai vs. the Netherlands).

1. The Public Judgment

- Individual Member States of the Council of Europe:
 - Case law of highest courts (almost) fully published (varying legal frameworks)
 - Wide variety on lower courts:
 - Legal obligation to publish (nearly) all judgments
 - No publication
 - Selection (with or without legal framework).

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11
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COUNCIL OF EUROPE COMMITTEE OF MINISTERS

RECOMMENDATION No. R (95) 11

**OF THE COMMITTEE OF MINISTERS TO MEMBER STATES
CONCERNING THE SELECTION, PROCESSING, PRESENTATION
AND ARCHIVING OF COURT DECISIONS
IN LEGAL INFORMATION RETRIEVAL SYSTEMS**

*(Adopted by the Committee of Ministers on 11 September 1995
at the 543rd meeting of the Ministers' Deputies)*

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2. Data Protection

- Art. 8 ECHR <<>> Art. 6 ECHR
- All continental law systems have strict rules on data protection
 - Some have specific legislation on publication of case law
- All judgments are rendered anonymous before being published
- Data protection rules of the CJEU and ECtHR became more strict.

3. Reusability

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(Legislative acts)

DIRECTIVES

DIRECTIVE 2013/37/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 26 June 2013
amending Directive 2003/98/EC on the re-use of public sector information
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European
Union, and in particular Article 114 thereof,

technical or financial constraints, and which promote the
circulation of information not only for economic
operators but also for the public, can play an
important role in kick-starting the development of new
services based on novel ways to combine and make use
of such information, stimulate economic growth and

3. Reusability

- Reusability is not a choice anymore:
 - If public document is published, it must be available for reuse
 - Exceptions only in limited number of circumstances.

3. Reusability

- Technical requirements; art 5-1:
 - Public sector bodies shall make their documents available in any pre-existing format or language, through electronic means where possible and appropriate.

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3. Reusability

- Technical requirements; art 5-1:
 - Public sector bodies shall make their documents available in any pre-existing format or language, and, where possible and appropriate, in open and machine-readable format together with their metadata. Both the format and the metadata should, in so far as possible, comply with formal open standards.

4. Technical Standards

- General:
 - CEN/Metalex
 - Akoma Ntoso
- Legislation:
 - European Legislation Identifier
- Case law:
 - European Case Law Identifier.

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COUNCIL

Council conclusions inviting the introduction of the European Case Law Identifier (ECLI) and a minimum set of uniform metadata for case law

(2011/C 127/01)

I. INTRODUCTION

1. Article 67(1) of the Treaty on the Functioning of the European Union provides for the constitution of an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States.

2. The multi-annual European e-Justice action plan 2009-2013 of the Council of the European Union stresses the

but also the case law of national courts has to be taken into account, both decisions asking for a preliminary ruling, as well as decisions following a preliminary ruling and those applying EU law on its own.

7. With financial support or direct involvement from the European Union recent years have witnessed initiatives that support the abovementioned goals, such as the meta-search engine of the Network of the Presidents of the Supreme Judicial Courts of the European Union (3), the

ECLI Ecosystem

- Identifier
- Metadata
- National co-ordinator
- ECLI website
- ECLI search engine.

ECLI Ecosystem 1: Identifier

- Identifies the judgment, not the case
- Identifies the judgment at an abstract level, not a specific document
- Vendor and medium neutral
- As citation readable by humans and computers
- Not (necessarily) replacing national identifiers
- Fixed format of five elements, but flexible:

ECLI:country:court:year:number

ECLI:NL:HR:2012:938

ECLI:SI:VSTS:2015:VIII.IPS.56.2015

ECLI Ecosystem 2: Metadata

- Based on international standard 'Dublin Core'
- 9 Mandatory / 8 optional
- Most allow different language versions, e.g. an English summary on a Spanish judgment
- Some controlled vocabularies (e.g. on decision type and field of law).

ECLI Ecosystem 3: National Co-ordinator

- Decides on court codes
- Decides on fifth part of ECLI
- Maintains information on ECLI website
- National implementation, technical and organizational
 - Introduction in stages or big bang
 - With or without historical records
- Connecting to the ECLI search engine.

ECLI Ecosystem 4: website

Law

Case law

Judicial systems

Legal professions and justice networks

EJN in civil and commercial matters

Going to court

Legal aid

Mediation

Successions

Wills

Victims of crime

Rights of defendants in criminal proceedings

Tools for courts and practitioners

Registers

Find a...

Glossaries and terminology

European judicial training

Dynamic forms

Access to justice in environmental matters

European Case Law Identifier (ECLI) - Slovenia

National ECLI coordinator

The national ECLI coordinator for Slovenia is:

Supreme Court of Republic of Slovenia

Registry Department,

Tavčarjeva 9, 1000 Ljubljana

Slovenia

Contact email: ecli.vrsr@sodisce.si

Contact person: Gregor Strojín

Country code

The country code for Slovenia is: [SI]

Generation of national ECLI

On 1 October 2011, Slovenia introduced ECLI as an integral part of all existing documents published in its courts' [case law databases](#). All new documents which are entered into case-law databases also receive an ECLI. ECLI will also be included in all new judicial decisions in the near future.

All ECLI are created automatically on the basis of the existing data.

All known private publishers of case law documents will be informed and advised to amend their documents with ECLI in accordance with the specifications.

Court codes:

VSRS: Supreme Court of Republic of Slovenia (Vrhovno sodišče Republike Slovenije)

VSCE: Higher Court in Celje (Višje sodišče v Celju)

VSKP: Higher Court in Koper (Višje sodišče v Kopru)

VSLJ: Higher Court in Ljubljana (Višje sodišče v Ljubljani)

VSMB: Higher Court in Maribor (Višje sodišče v Maribor)

EU

INT

BE

BG

CZ

DK

DE

EE

IE

EL

ES

FR

HR

IT

CY

LV

LT

HU

MT

NL

AT

PL

PT

RO

SI

SK

ECLI Ecosystem 5: Search Engine in the e-Justice Portal

11-11-
2015

ECLI search form

Login

Welcome to the ECLI search engine of the European e-Justice Portal. This function allows you to search for legal decisions with an assigned ECLI identifier.

Simple search

I am looking for

[tip](#)

I have read, understood and agree to the terms of service and disclaimer for this system, and the rules, limitations and conditions on accessing data from national ECLI providers.

[More criteria...](#)[Top](#) ↕

More criteria...

Advanced search

European Case Law Identifier

[tip](#)

Issuing country or institution

Any
European Patent Office
Spain
Netherlands

[tip](#)

Issuing court

Any court

Select court(s)

[tip](#)

Exclude decisions that have not been assigned an ECLI code by the court responsible

[tip](#)

Reference

Type

Relation

Reference

Any

Any

[tip](#)

Language

Any
Czech
German
English

[tip](#)

Type of decision

Any

[tip](#)

Date of decision

day month year

To day month year

[tip](#)

Date of publication

day month year

To day month year

[tip](#)


Wording of judgment

Abstract Description Wording of decision/judgment Title

[tip](#)

Year of decision

2012 (1)
 2011 (3)
 2009 (4)
 2008 (1)


Other... 

Available language of the judgement

English (10)
 French (10)
 Dutch (10)

 Search summary

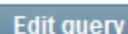
Court

Netherlands - Raad van State (RVS) 

Publisher

aca 

10 Result(s)

 Edit query

Displaying 10 record(s), from 1 to 10. Page 1/1

Sort by: Relevance 

ECLI:NL:RVS:2009:BJ4384   

Data provider: ACA-Europe

Issuing country or institution: Netherlands

Issuing court: Raad van State

Decision type: Judgment

Date of decision: 24/07/2009

 Wording of decision/judgment:  <http://www.aca-europe.eu/index.php/en/jurifast-en?ID=747&page=DETAIL>  html
 http://www.aca-europe.eu/WWJURIFAST_WEB/DOCS/NL01/NL01000225.pdf  pdf

Field of law: Administrative law

Abstract: Jurifast

 Netherlands Raad van State, Administrative Law Division 24 July 2009 200803358/1/V3 Subject Free movement o...

Description: Right of entry and of residence


 ▶ **ECLI:NL:RVS:2009:BJ4384** 

Data provider: Raad voor de rechtspraak (Council for the Judiciary)


Issuing country or institution: Netherlands

Issuing court: Raad van State



Decision type: Judicial decision

Date of decision: 24/07/2009

Date of publication: 03/08/2009

Wording of decision/judgment: *This metadata instance is available in the following language(s) only:* 

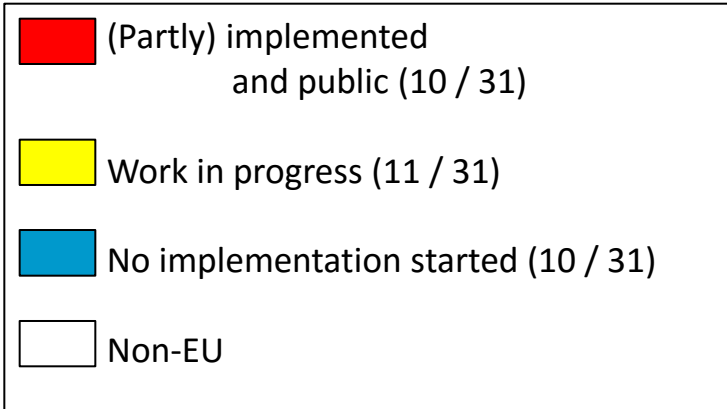
Field of law: Administrative law

Abstract: *This metadata instance is available in the following language(s) only:* Description: *This metadata instance is available in the following language(s) only:* 

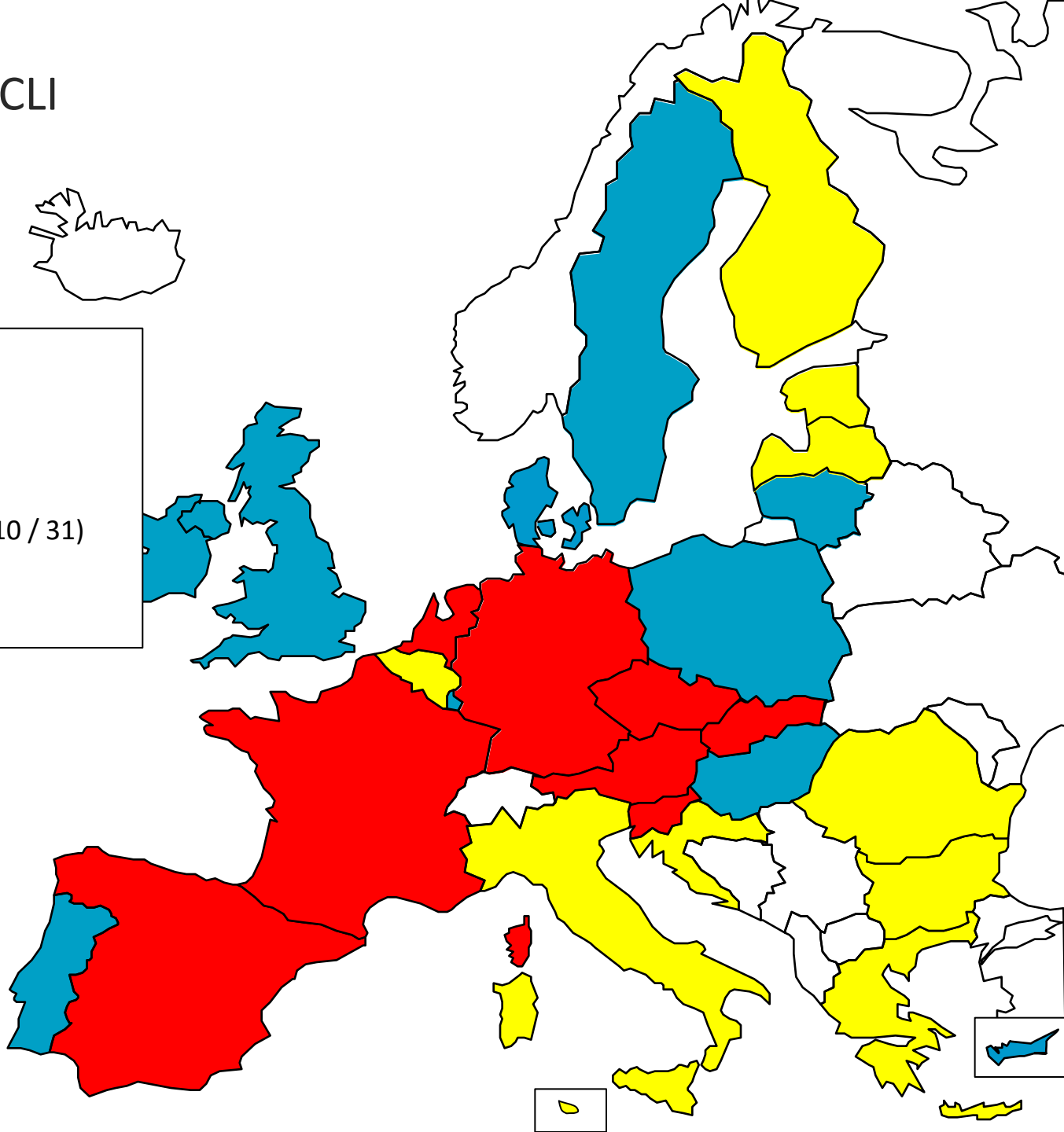
Implementation: State of Play

Implementation ECLI

Legend



-  Court of Justice of the European Union
-  Board of Appeal European Patent Office
-  European Court of Human Rights



Future Work

- Going live of the portal (2015-Q4)
- More implementations of ECLI
- More secondary data providers
- BO-ECLI.

BO-ECLI

- **B**uilding **O**n the **E**uropean **C**ase **L**aw **I**dentifier
- Started 1 October 2015
- Duration 1,5 – 2 y
- Co-funded by the Justice Programme 2014-2020 of the European Union.



BO-ECLI objectives

- 1) (Further) implementation of ECLI & integration with ESE-EEJP in:
 - Belgium
 - Italy
 - Germany
 - Estonia
 - Czech Republic
 - Greece
 - Croatia
 - Netherlands.

BO-ECLI objectives

- 2) Improving accessibility of case law by creating linked open data
- 3) A 2.0 version of the ECLI standard, aligned with other semantic web standards, as well as backwards compatible
- 4) EU wide policy guidelines on the publication of case law, specifically regarding:
 - Selection criteria
 - Data protection
 - Open data.

BO-ECLI objectives

- 5) To have ECLI widely used for citing case law in all legal and academic writings and for interoperability in (legal) IT applications.

Thank you