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to :	Working Party on Legal Data Processing
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Subject :	Electronic law databases

I.

S U M M A R Y

**on a question-by-question basis from the answers given by the Member States
to the questionnaire on case law**

CHAPTER I: DATABASE(S) AND WEBSITE(S) OF THE COURTS

1. Which courts have a database(s) and/or website(s) in your country?

Among the courts listed here all Supreme Courts have some kind of database and/or website. In a few Member States Supreme Courts also exercise some Constitutional Court functions as well. In other Member States where the organisation of the Supreme Court is divided up according to functions or jurisdictions these courts may have their own databases/websites as well.

2. What is the content of the database(s) and/or website(s)?

The content of the databases/websites differs significantly. In a smaller number of Member States Supreme Court databases/websites provide full texts of judgments while in the majority of the countries only shortened and/or selected judgments are available. In Member States with smaller court organisations these databases/websites also include judgments from lower level courts, or provide some kind of access to these judgments as well.

3. What level court judgments are included (more than one answer is possible)?

In 9 Member States judgments of all court levels are available. In 3 States only Supreme Court judgments are available. In the rest of the Member States at least Supreme Court and appeal court judgments are included in the databases/websites. It should be noted again that the content of the judgments differs significantly: in the majority of the Member States only shortened texts of selected judgments are available.

4. Who operates the database(s)/website(s) and who is responsible for their functioning?

In some Member States the courts themselves operate the databases/websites and are also responsible for their functioning. In others, courts are responsible only for the content of the judgments that they provide to the Ministry of Justice, which is responsible for the functioning of the databases/websites. There are only two Member States in which another body outside the judicial organisation operates the databases/websites. In three Member States the Supreme Court is responsible for the functioning of its own database/website and the Ministry of Justice for the rest of the court organisation.

5. Are the database(s) and/or website(s) open to the public?

With the exception of one Member State databases/websites are open to the public. Another Member State limits total access to users of the public administration. The overwhelming majority of the Member States gave a positive answer to this question.

6. Is the use free of charge?

The number of positive answers was the same as for question 5.

7. Are the database(s) and/or website(s) available only internally to the judiciary?

In 8 Member States there are databases/websites or parts of the public databases which are open only internally to the judiciary. The rest of the Member States have no such specific databases/websites.

8. What period of time do the database(s) and/or website(s) cover?

In 13 Member States the databases/websites cover a period of more than 15 years. In most of these countries, however, coverage is not full. Only some selected judgments, mostly coming from Constitutional Courts and Supreme Courts, date back such a long time. In other Member States the databases/websites cover a period of between 1 and 15 years, and the scope of the judgments available also differs significantly.

CHAPTER II: COMPREHENSIVE CASE-LAW DATABASE(S) AND/OR WEBSITE(S) OTHER THAN THOSE MENTIONED IN CHAPTER I

9. Are there one or more comprehensive case-law databases and/or websites in your country, containing case law from all courts and tribunals?

With the exception of 3 Member States, all Member States have at least one comprehensive case law database/website.

10. What is the content of the database(s)/website(s)?

It is almost a general feature that these databases/websites cover a much wider scope of judgments than those in Chapter I.

11. What level of court judgments are included?

Here again, in the overwhelming majority of Member States the scope is wider and at least a selection of shortened versions of lower level courts' judgments are included.

12. Who operates the database(s)/website(s) and who is responsible for their functioning?

With 3 exceptions it is always a private firm which operates the database/website. In a few Member States there is even more than one firm operating them.

13. Are the database(s) and/or website(s) open to the public?

With the 3 exceptions above, the Member States gave a positive answer.

14. Is the use free of charge?

Private firms charge for the use of the databases/websites. However, the conditions of use are different. A subscription contract or the payment of a fee is generally necessary, and in a very few cases an extra fee is even payable for the reproduction of documents.

15. What period of time do the database(s) and/or website(s) cover?

In many Member States the period covered is the same as in Chapter I. In others, however, as well as including a wider scope of judgments, they also cover a longer period.

16. If, in your country there are several case-law database(s)/website(s), is there a project to centralize them?

Only 4 Member States have projects to centralise the existing case-law databases/websites.

CHAPTER III: OTHER QUESTIONS

17. Do you have special data-protection rules regarding the information in the database(s) and/or website(s)? Please give the appropriate explanations.

Only a few Member States have special data protection rules; the majority of them apply the general data protection rules, which they consider to be sufficient since they are based on the implementation of Directive 95/46/EC.

18. Is the case law anonymous? Please give appropriate explanations.

In the overwhelming majority of the Member States case law is rendered anonymous before uploading to the database/website. However, the technique used differs. In most cases the data which makes parties, property, etc. identifiable is deleted, abbreviated or changed.

19. Is there a project to anonymize case law?

Six Member States have projects to render case law anonymous, while in another one the decision on the matter is pending.

II. SUMMARY

Of the answers given by the Member States, Norway and Romania to the questionnaire on case law

The General Secretariat of the Council prepared a questionnaire to survey the situation of the electronic case law databases and websites in Member States. This summary aims to give a short overview **on a country-by-country basis** from the answers provided by the Member States.

In **France** the Supreme Courts have their own database. Another database is set up at the Court of Cassation which contains the judgments of this court and also selected judgments of appeal courts and first instance courts. The database is operated by the courts themselves, its use is free of charge, and it covers the judgments of the last 15 years. Private editors also operate databases which are accessible on a subscription basis. Case law since September 2002 has already been rendered anonymous but some 400 000 decisions taken before that date are still awaiting this process.

In the **Netherlands** all courts have local databases which are integrated into the website of the Council for Judiciary. Judgments are selected, and both a summary and the full text of the judgment are available. The local databases are operated by the courts; some parts of them are available to the public free of charge. The national database covers judgments as from 1999. There is a separate database which is available only internally to the judiciary. All case law has been rendered anonymous.

In **Austria**, besides the courts, tribunals like the Data Protection Commission, the Environmental Senate and the Federal Communications Board also have their own databases. Supreme Court judgments are published in full, while a selection of others are shortened. Courts are responsible only for the content of the judgments that are published. Judgments taken over more than the past 15 years are published on the Internet and are available free of charge. There are also databases operated by private firms which cover selected judgments and some legal literature. Courts render their judgments anonymous before they upload them to the database.

In **Slovenia** the Constitutional Court, Supreme Court, Administrative Court and appeal courts have databases. Courts themselves are responsible for the functioning. Databases are available to the public free of charge and they cover final judgments as from 1992. Private firms also operate websites which are accessible upon payment of a subscription fee. There is a project to centralise the database managed by the courts. Case law is made anonymous by deleting the introductory part of the judgment, abbreviating the names of the parties and altering figures which would make some kind of identification possible.

In **Belgium** the Constitutional Court, Supreme Courts with general and specific jurisdiction, labour courts, appeal courts and other tribunals also have databases. They include selected judgments with their operative part and the summary of the reasoning. Courts themselves are responsible for the functioning of the database, with the technical support of the Ministry of Justice. They are accessible free of charge through the Internet and cover a period of more than 15 years. The Supreme Administrative Court has an internal database available only to the judiciary. Private sector case law databases contain selected judgments and are available upon payment of a subscription fee, or on CD-ROM. There is a plan to centralise court databases under the Phenix Information System. Under this project the full judgments would be accessible only to the judiciary, while a selection of depersonalised judgments would be accessible to the public.

In **Germany**, besides the Constitutional Court, Supreme Courts and special courts, various courts at other levels also have their own websites where they can publish selected judgments in a shortened form. The courts themselves are responsible for the functioning of the databases, their use is free of charge and they cover the past 5 to 10 years. The partly privatised Juris GmbH also operates a database which contains selected and shortened judgments as from 1976. It is accessible either upon payment of a subscription fee, or upon separate payment for each document. Case law is made anonymous by deleting parties' names and changing other data.

Cyprus has no court databases for the time being, but there are plans to establish them in the near future. Two of the three privately owned databases are subscription-based, while the third one is free of charge. This one contains judgments since 1997, the others have judgments since 1883 and from the past 15 years respectively. Case law is rendered anonymous on the basis of the national legislation in harmony with Council Directive 95/46/EEC.

In **Lithuania** the Constitutional Court and the Supreme Court have databases. They contain all final national judgments with their full text. Courts themselves are responsible for operating the website, the Ministry of Justice develops the system, while the National Courts Administration provides technical support to it. Its use is free of charge and covers the past 5 to 10 years. A private firm also operates a database with the same content. Upon payment of a registration fee and a monthly fee it provides summaries of the documents as well. Case law is not rendered anonymous, and general data protection rules apply.

In **Portugal** the Constitutional Court, Supreme Court and appeal courts have their own databases which contain in some cases the full text, in others a summary. Courts themselves are responsible for the content of the database, the Ministry of Justice for the technological background. Its use is free of charge. The database covers in some cases more than 15 years, in others the past 3 and the past 8 years respectively. Case law is anonymous. All data and information which make the parties identifiable are deleted from the files before making them public. In case of doubt the National Data Protection Commission gives assistance.

In **Spain** the Constitutional Court and the Supreme Court have separate databases, which contain the full text of their decisions. They are operated by the Governing Council of the Judiciary, and their use is free of charge. The available Constitutional Court cases date back to 1980 and those of the Supreme Court to 1986. Private firms also operate databases which contain the final judgments of different level courts in their full text. They are available on the basis of a subscription fee. Case law is rendered anonymous on the basis of special legislation on the protection of personal data by deleting all data which makes the person concerned identifiable.

In **Italy** the Constitutional Court and the Supreme Court have databases. Besides the full texts of their judgments they also include selected local court and appeal court judgments. The courts themselves are responsible for the functioning of the databases. They cover more than the past 15 years, and use is free for public administration. For private purposes they are available on subscription. Private firms also operate databases on a payment basis. The case law is not anonymous but there are plans to make it so.

In **Greece** the Supreme Court has a website, but its database is under construction. The courts with jurisdiction in administrative matters have separate databases which include all the judgments of the Supreme Administrative Court taken in the last 15 years and also some other selected judgments. These databases are operated by the courts and are not open to the public. The Athens Bar Association also operates a database which is open to the members of the legal profession upon payment of a monthly fee. It includes the operative part of the judgments of some selected courts with a summary of the reasoning. The case law is anonymous.

In **Ireland** the Courts Service website operates a limited case-law database. It gives access to the full text of limited national judgments of the past 5 years. High Court, Supreme Court, Court of Criminal Appeal and Central Criminal Court judgments are accessible free of charge. The judgments published are liable to editorial revision or correction. Private firms also operate databases: some of them are free, others are accessible upon subscription. They contain different level court judgments; besides the full text some also provide a summary of the case. Only family law cases are anonymous. In the case of judgments general data protection rules apply.

In **Luxembourg** a new database containing all judgments by all courts is being introduced. For the time being it is available only to the judiciary, but there are plans to make it public in an anonymous form. It will contain all national judgments with their full text. Case law is made anonymous and general data protection rules apply.

In the **Czech Republic** the Constitutional Court and the Supreme Court have databases which contain the full text of their decisions. These are open to the public and cover the judgments of the last 5 years as a general rule. Furthermore, important judgments of regional and high courts are also available only for internal purposes to the judiciary. Courts themselves are responsible for the content of the website, with the technical support of the Ministry of Justice. Private firms also operate databases which contain the operative parts of judgments with a summary of reasoning of selected judgments. Their use is not free of charge. All judgments made public have to be rendered anonymous, and it is the task of the database operator to ensure this.

In **Estonia** the Supreme Court acts as a Constitutional Court as well and has a database. All its judgments are made public and some 50% of other lower level court judgments are also in the database. Databases are open to the public free of charge with the exception of some parts of some lower level court judgments due to data protection reasons. Judgments date back to 1993 and 2001 respectively. Case law is anonymous.

In **Denmark** the Supreme Court decides on the constitutionality of acts as well, and its website publishes a summary of its judgments. High Courts also publish some selected judgments on their websites. Access to websites is available free of charge, and the courts themselves are responsible for their functioning. Websites cover a period from 6 months to 5 years. A private firm operates a database which contains the case law of the Supreme Court, High Courts and special courts. It covers a period of more than 15 years and works on a subscription basis upon payment of a fee. There is a project to set up a centralised database open to the public free of charge. Case law is anonymous and general data protection rules apply.

In **Hungary** the Supreme Court and the Constitutional Court have websites but no database. Constitutional Court decisions are available in their full text, while the Supreme Court website only contains selected decisions in an edited version. The majority of the Regional Courts also have websites, but only a few have databases which give access to a limited number of decisions only. Court websites are open to the public and their use is free of charge. Private firms also operate databases which contain summaries of selected judgments of different level courts. They are available upon payment of a fee either on CD-ROM or on-line. There is a project to centralise case law which will contain the operative part and the summary of different level court decisions. Case law is rendered anonymous by referring to the parties as "plaintiff" or "defendant", and general data protection rules apply.

In **Slovakia** the Constitutional Court and the Supreme Court have databases which contain a collection of decisions. They are operated by these courts themselves, and the Ministry of Justice is responsible for the functioning of the databases of the Regional District and Special Courts. The use of the databases is free of charge and they cover a period of more than 15 years. Case law is anonymous and general data protection rules apply.

In **Poland** the database of the Constitutional Court contains the full text of its decisions. The database of the Supreme Court contains the operative part of the judgments of lower level courts as well. The courts themselves are responsible for the operation of the databases, the use of which is open to the public free of charge, with the exception of the Supreme Administrative Court's database which is open only to the judiciary. They cover a period of 5 years and more than 15 years respectively. Private firms also operate databases with the operative part of the judgment and a summary of the reasoning of medium-level and appeal courts, special courts and the Supreme Court. They cover a period of more than 15 years and are available on payment of a fee. Case law is rendered anonymous by showing only the first letter of the name.

In **Finland** the Supreme Court, some special courts and lower level courts as well have databases, which include the full text of precedent cases and at least the operative part of other cases. The courts operate their own websites and the Ministry of Justice operates the databases, which are available free of charge to all users of the Internet. All databases cover a period of more than 15 years. Databases are centralised, and the case law is rendered anonymous in such a way that identification of persons is not possible.

In **Norway** the Supreme Court and other courts too have databases with the full text of all final judgments. They cover a period of less than 5 years, their use is free of charge, and they are operated by the courts themselves. A private firm also operates a database with approximately the same content which is partly free of charge and partly works on a subscription system. Case law is made anonymous.

In **Romania** the Constitutional Court and Supreme Court have databases. Lower level courts' databases are under development. The courts operate the databases themselves, while the Ministry of Justice is responsible for their functioning. Their use is free but there is a separate database for the internal use of the judiciary as well. In the open database selected and shortened judgments covering a period of less than 5 years can be found. There are other databases as well operated by private firms with a selection of shortened judgments. These are available upon payment of a fee. Case law is anonymous and there are plans to develop this further.
