



**COUNCIL OF
THE EUROPEAN UNION**

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JURINFO 60**

NOTE

from:	Working Party on e-Law (e-Justice and e-Law)
to:	Coreper/Council
No prev. doc.	15338/2/10 REV 2 EJUSTICE 103 JURINFO 46
Subject:	Report on the implementation of ECLI and a common set of metadata for case law

1. At its meeting of 22 December 2009 the Council adopted the conclusions on the European case-law identifier, as set out in 17377/09 JURINFO 58 JUSTCIV 23 JUSTPEN 2.
2. The Council mandated the Working Party on e-Law (e-Law and e-Justice) to carry out preliminary studies as regards the following:
 - a. ECLI register, its specifications, development and maintenance;
 - b. possible construction and implementation of a voluntary ECLI system and the Dublin core common vocabulary for case-law;
 - c. preparations and timetable for implementation;
 - d. financial costs involved;
 - e. role of the European e-Justice portal in the ECLI system.and invited the Working Party to submit by the end of 2010 a report to the Council on the above-mentioned aspects and on the feasibility and possible timetable of implementing ECLI at national courts' level.

3. While Member States should be free to decide whether and when to implement a system on ECLI and metadata, it is also acknowledged that – given the constant renewal of court IT systems – in the short term a clear technical standard is needed for those (courts in) the Member States that want to adopt ECLI and the minimum set of metadata. For this reason, and with a view to materializing the proposal, the “Council Conclusions inviting Member States to introduce the European Case Law Identifier (ECLI) and a minimum set of uniform metadata for case law” were drafted.
4. The draft was discussed with the Member States, the Court of Justice of the European Union, the Network of Presidents of the Supreme Courts of the European Union, the Association of the Councils of State and Supreme Administrative Jurisdictions of the European Union, the European Network of Councils for the Judiciary, the standardization initiative URN:LEX and CEN (the European Committee for Standardization) on 17 March 2010¹ and 8 November 2010.²
5. The draft contains the technical specifications for the construction of the ECLI and the use of a minimum set of metadata. Many Member States have stressed the independence of the courts and judicial authorities with a view to the implementation of the recommendations. In particular, attention was drawn to the need not to impair existing national solutions. The draft conclusions leave enough discretion here: the proposed standard is of voluntary nature, it can be implemented in phases and does not put constraints on existing national solutions.
6. The ECLI-register will be virtual by nature; in accordance with the European e-Justice action plan the infrastructure will be decentralized – as described in § 5 of the draft conclusions. The adoption of the ECLI-standard by (some) Member States is crucial for the development of the (virtual) ECLI-register. The ECLI-register should be part of the European e-Justice portal.

¹ 7878/10 EJUSTICE 38 JURINFO 8

² 16387/1/10 REV 1 EJUSTICE 125 JURINFO 57

7. Most Member States have declared that, even with the detailed technical guidelines, it is very difficult to make any estimate of the financial impact of the recommendations. The adaptation of IT-systems only to implement ECLI/metadata will, in general, be much more costly than when these proposals are taken on board at a time when IT-systems for the publication of case law are renewed for other reasons. Estimation of costs is also hindered by the disparity of IT systems, court administrations and publication models within the Member States. The difficulty to make a financial estimate at this moment does not impair the willingness of a considerable number of Member States to start implementation.
8. In this context and considering that the issue of costs is of importance to the Member States,³ it is proposed to attempt to evaluate the possible costs by the end of 2011 in the light of the experience of Member States following the pending adoption and implementation of the Council Conclusions inviting Member States to introduce the European Case Law Identifier (ECLI) and a minimum set of uniform metadata for case law.
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³ 16871/10 EJUSTICE 133 JURINFO 61