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NOTE

from:	Working Party on e-Law (e-Justice and e-Law)
to:	Coreper/Council
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Subject:	Draft Council conclusions inviting the introduction of the European Case Law Identifier (ECLI) and a minimum set of uniform metadata for case law

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 importance of access to national case law, the need for standardisation and a decentralized technical architecture¹.
3. The European Parliament Resolution of 9 July 2008 on the role of the national judge in the European judicial system² stresses the need for cross-border access to national case law to enable the national judge fulfil his role in the European legal order.

¹ OJ 2009/C 75/01

² 2007/2027(INI)

II. IDENTIFICATION OF THE NEEDS

4. A European area of freedom, security and justice in which judicial cooperation can take place requires not only knowledge of European law, but in particular mutual knowledge of the legal systems of other Member States.
5. The European e-Justice portal should fulfil the objective of disseminating information about the EU and Member States' legal systems and should serve as a useful tool for citizens, legal professionals as well as Member States' authorities.
6. Knowledge on the substance and application of European Union law cannot be solely acquired from EU legal sources, 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 above-mentioned goals, such as the metasearch engine of the Network of the Presidents of the Supreme Judicial Courts of the European Union,³ the Dec.Nat and Jurifast databases of the Association of Councils of State and Supreme Administrative Jurisdictions of the European Union,⁴ the JURE (Jurisdiction Recognition Enforcement) database of the European Commission,⁵ EUR-Lex, and the case law database of the European Union Agency for Fundamental Rights⁶.
8. The use and support of these initiatives have underlined the need for such databases but experience has shown that searching these databases is often very complex and not user-friendly.

³ <http://www.network-presidents.eu/>

⁴ <http://www.juradmin.eu/>

⁵ http://ec.europa.eu/civiljustice/jure/search_en.cfm

⁶ <http://infoportal.fra.europa.eu/>

9. A study⁷ performed by a task group of the Working Group on e-Law made it clear that apart from problems with multilingualism, these problems are mostly due to the lack of uniform identifiers for case law. At the national level various identification systems exist, some of them court-designated, others vendor-specific. Databases designed to query case law from various Member States – of which the abovementioned are just a few examples – sometimes invent their own identification system, and sometimes re-use one or more of the national numbering systems. Search and citation of case law in the cross-border context is therefore extremely difficult: identifiers which are issued by one system might not be compatible with other systems.
10. The abovementioned study made it clear that comparable problems exist with metadata used for describing case law. The fact that nearly all national and European databases use different naming and design rules for metadata jeopardizes the possibilities for effective and user-friendly cross-border case law search for judges, legal professionals and citizens.

III. IDENTIFICATION OF SOLUTIONS

11. In line with the principle of proportionality, the principle of decentralization endorsed by the European e-Justice action plan and the principles of the European Interoperability Framework there should be no centralized European database of national case law. Moreover, specific user needs that arise for specific fields of law call for different databases with different functionalities, be they of public or of commercial nature.
12. Both to facilitate the further development of European case law databases and to serve legal professionals and citizens in their use of these databases, a common system for the identification, citation and metadata of case law is regarded as indispensable. Such a common standard would be compatible with the principles outlined in the previous paragraph.

⁷ 12907/1/09

13. For the identification of judicial decisions a standard identifier should be used which is recognizable, readable and understandable by both humans and computers, and which is compatible with technological standards. At the same time it is desirable that national case identification systems can work in parallel with such a European standard, but also that a European standard can serve as the sole national standard for those countries that so wish.
14. Because the organization of courts and IT-applications used by courts vary not only between Member States, but also within a Member State, it should be possible to implement an identification and metadata system court by court.
15. In line with the stated principles on proportionality and decentralization, decisions on the courts and tribunals to participate in this case law identification and metadata system have to be taken at the national level.
16. As acceptance by the courts and governments of the Member States is of utmost importance for the implementation and use of an identification and metadata system for case law, consultations on this recommendation have taken place with the Network of Presidents of the Supreme Judicial 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 LEX-initiative, the CEN/Metalex workshop, Semic.EU, the European Commission, the Court of Justice of the European Union and the Publications Office of the European Union.
17. The identification and metadata system should be made well-known to citizens and legal professionals. Furthermore, to improve the chances of finding case law which is provided with an identifier and metadata as described in the Annex, these judicial decisions should be searchable – by identifier and a minimum set of metadata – via a common interface. The architecture of this common search interface should be decentralized and embedded within the European e-Justice portal. Although a common search interface reinforces the usability of an identification and metadata system, it should not be a prerequisite for the introduction of the identification and metadata at the national level.

18. The common search interface should not only have the possibility to connect to public websites but also to other websites that disseminate case law, e.g. in summarized or translated versions.

IV. CONCLUSIONS

19. Member States are invited to introduce, on a voluntary basis at the national level, the European Case Law Identifier (hereinafter referred to as ECLI) and a minimum set of uniform metadata for case law.
20. The following recommendations would apply to the Member States who decide to introduce ECLI and a minimum set of uniform metadata for case law:
- a) ECLI should be applied as specified in § 1 of the Annex for all decisions rendered by all of their courts and tribunals;
 - b) Member States should provide all decisions of courts and tribunals which are published on public websites with the minimum set of metadata as set out in § 2 of the Annex;
 - c) Member States should appoint a national ECLI co-ordinator as described in § 3.1 of the Annex;
 - d) The Court of Justice of the EU should participate in the system of the European Case Law Identifier;
 - e) The European Commission should set up the ECLI-website, as a part of the European e-Justice portal, as described in § 4 of the Annex;
 - f) The European Commission and the Member States should set up, in close mutual collaboration, an interconnected search of identifiers and metadata, as set out in § 5 of the Annex;
 - g) Member States and their courts should disseminate information on ECLI, the ECLI-website and search interface on their national websites and publications, even if ECLI is not introduced in that specific Member State;
 - h) Apart from Member States candidate countries and Lugano States⁸ are encouraged to use the ECLI-system; and
 - i) Member States should report to the Council each year on the progress made with the introduction of ECLI and metadata for case law.

⁸ Iceland, Norway and Switzerland.

§ 1 The format of the European Case Law Identifier

- 1) A European Case Law Identifier (ECLI) must consist of the following five components, which must appear in the listed order:
 - a) the abbreviation ‘ECLI’;
 - b) the country code for the country under whose competence the judicial decision is rendered.
 - i) For Member States and candidate countries the codes in the Inter-institutional style guide⁹ are used;
 - ii) for other countries ISO 3166 alpha-2 is used;
 - iii) for the European Union the code ‘EU’ is used;
 - iv) for international organizations a code is decided upon by the European Commission, taking into account the codes starting with ‘X’ as already being used by European institutions;
 - c) the abbreviation for the court or tribunal (hereafter: the court code). The court code:
 - i) must have at least one character, and at most seven characters;
 - ii) must always begin with a letter, but may also contain digits;
 - iii) should be chosen in such a way that it appears logical to people familiar with the organisation of the judiciary of the country concerned;
 - iv) must at least be an abbreviation of the name of the court or tribunal, but may also contain an indication of the chamber or division within that court or tribunal, especially if the naming of the chamber or division is habitual in the country’s citation practice;
 - v) should not contain information on the type of document;
 - vi) must be established according to § 5.1;
 - vii) The court code ‘XX’ must be reserved for decisions of courts and tribunals which are not in the list established by the national ECLI-co-ordinator of that Member State (§ 3.1 (2-a)), including decisions from other countries or international courts which do not have an ECLI (yet) by the Member State of the issuing court;
 - d) the year of the decision, which must be written in four digits;

⁹ <http://publications.europa.eu/code/en/en-370100.htm>

- e) an ordinal number, which must be unique in the sense that there must not be more than one judgment of the same court within the same year with the same ordinal number. The maximum length of the ordinal number is 25 characters. The ordinal number may contain dots (‘.’), but no other punctuation marks.
- 2) All components are separated by a colon (‘:’)
- 3) An ECLI must not contain any interspacing or punctuation marks, neither within the constituent components, nor between them – except for those mentioned under (1-e) and (2).
- 4) Letters in all of the components must be Latin alphanumeric characters only.
- 5) Letters in the components described in (1a), (1b), (1c) and (1e) should be written in capitals; at the very least there must not be a difference in meaning as to their capitalization.
- 6) So as not to compromise its use or comprehensibility an ECLI must not be extended with any other components.
- 7) The namespace of ECLI must be registered at <https://e-justice.europa.eu/ecli>.

§ 2 Metadata

- 1) To further the understandability and findability of case law, each document containing a judicial decision should have a set of metadata as described in this paragraph. These metadata should be described according to the standards set by the Dublin Core Metadata Initiative (hereafter: DCMI), and as further specified in this paragraph.
- 2) Each document which is an instance of a judgment should, and in case it has to be searchable by the interface as described in § 5, must contain the following metadata:
 - a) `dcterms:identifier`

A URL where this instance document, or information thereon, can be found. This may be in the form of a web-based resolver together with the ECLI, or any other URL.
 - b) `dcterms:isVersionOf`

The form of this element must be an ECLI, as described in § 1.
 - c) `dcterms:creator`

The full name of the court. The name of a chamber or division may be included.
 - d) `dcterms:coverage`
 - i) The country in which the court or tribunal is seated.
 - ii) It may also contain a part of a (federal) state to specify the territorial jurisdiction.

e) dcterms:date

The date of the decision, which must be written in conformance with ISO8601

f) dcterms:language

i) The language must be abbreviated, in accordance with the Inter-institutional style guide.

In case of languages which are not included in this style guide ISO 639 must be used.

ii) The language is not (necessarily) the language of the original judgment, but the (main) language of the instance document.

g) dcterms:publisher

The (commercial or public) organization responsible for the publication of this instance of the judgment.

h) dcterms:accessRights

This field must have one of two values: 'public' or 'private'. If it is 'public' the document on the given URL must be accessible by all, otherwise the value 'private' must be used, whether the non-public character access is due to commercial or other reasons.

i) dcterms:type

This field may contain information on the type of decision rendered, according to a scheme. The field defaults to 'judicial decision' to distinguish it from other types of documents.

3) Each document which is an instance of judgment may also contain the following metadata:

a) dcterms:title

The title field must not be a replication of other fields. Preferably the name of the parties or an alias should be used, according to national practice and data protection rules.

b) dcterms:subject

The subject field is used to indicate the field of law. It should contain one or more items from a scheme containing values for civil law, commercial law, family law, insolvency law, private international law, criminal law, EU law, administrative law, tax law, international public law and constitutional law, and may contain a more specific description of the field of law.

c) dcterms:abstract

This field contains an abstract or summary of the case, not being a description, classification or interpretation.

d) `dcterms:description`

This field contains descriptive elements, be it in the form of keywords or headnotes.

e) `dcterms:contributor`

Names of judges, Advocate-General or other staff involved.

f) `dcterms:issued`

The date of the publication of this instance document of the decision. The date must be written in conformance with ISO8601.

g) `dcterms:references`.

i) References to other (legal) documents.

(1) If these references are to other national judgments, ECLI must be used if the referred document has an ECLI, otherwise it should contain other references.

(2) If these references are to EU legal instruments, the CELEX-number must be used.

(3) If these references are to national legal instruments, judgments not having an ECLI or to scholarly writings available URL's or other identification systems should be used.

h) `dcterms:isReplacedBy`

An ECLI, once issued, must be persistent. Renumberings though are unavoidable because of administrative errors or when an ECLI is assigned to decisions with a formerly XX-court code (according to § 1 (8)). In case of such renumberings the new ECLI must be recorded in this field. This field must not contain any other type of information.

- 4) All metadata in this paragraph which do not have a fixed format or which are not based on a scheme must have a language attribute.

§ 3 On national implementation

§ 3.1 *The national ECLI-co-ordinator*

- 1) Each Member State using the ECLI must appoint a governmental or judicial organization as the national ECLI-co-ordinator. One country must not have more than one ECLI-co-ordinator.
- 2) The national ECLI-co-ordinator is responsible for:
 - a) the list of courts and tribunals that can have a code as mentioned in § 1 (1-c) and § 2 (2-c);
 - b) the scheme on the types of documents as mentioned in § 2 (2-i)

- 3) The national ECLI-co-ordinator should publish on the ECLI-website, as defined in § 4, information describing the way the ordinal number is composed.

Existing national identification systems for case law should – to the widest possible extent – be encapsulated in the ECLI. However, the formatting rules of § 1 must be obeyed.

§ 3.2 Implementation

- 1) National implementation of ECLI is a national responsibility, notwithstanding the possible availability of European funding.
- 2) Courts and tribunals within one country may join the ECLI-system at different moments in time.
- 3) The ECLI should also be used within physical embodiments of the judgment itself, to facilitate easy referral.
- 4) The ECLI should be used on all judgments which are rendered, and not only on those which are published on judiciary websites.
- 5) The ECLI may be assigned to historical judgments.
- 6) At the national level the assignment of the ECLI should be organized as a separate service, in accordance with the guidelines of the European Interoperability Framework.

§ 4 The ECLI-website

- 1) An ECLI website should be established; this website should be part of the European e-Justice portal.
- 2) The website should contain:
 - a) information on the format and use of ECLI. Regarding the format it should contain:
 - i) the formatting rules as described in § 1.
 - ii) (a reference to) the list with abbreviations of participating countries.
 - iii) lists per country of the abbreviations used for the participating courts and tribunals.

Names of the courts should be translated in all languages, according to the multilingual thesaurus of names of organisations as set up to be used within the e-justice portal, and with hyperlinks to the descriptions of these courts as comprised on the e-Justice portal – if available.
 - iv) description of formatting rules of the ordinal number per country (if available).
 - v) technical information.

- b) information on the availability of metadata, as set out in § 2.
- c) information on the national ECLI-co-ordinators: their role and responsibilities, but also contact information per country.
- d) the website should offer access to the common search interface, described in § 5, once it is available.

§ 5 The ECLI search interface

- 1) There should be a common search interface for searching national case law by ECLI and (some of) the metadata as defined in § 2. The introduction of the ECLI and the common set of metadata is not dependent on the availability of the search interface.
- 2) In accordance with the European e-Justice action plan the interface should be decentralized in nature: no database at European level should be built; only a search possibility on interconnected national databases or websites should be provided for.
- 3) The European Commission is responsible for the technical functioning of the search interface.
- 4) For end-users the ECLI search interface must be available via the ECLI-website, although it does not have to be an integral technical part of it.
- 5) The European Commission must make available a well-described interface for web applications to connect to the search interface. It must also make available a mechanism to the national ECLI-co-ordinators to update their list of courts and tribunals and to publish information on the formatting of the ordinals numbering system(s).
- 6) In case of abuse or misbehaviour the Commission reserves the right to deny an organization the right to be connected to the search interface.
- 7) A resolver must be available at <https://e-justice.europa.eu/ecli/> meaning that an ECLI typed after this address will show the available data on this ECLI via the search interface.

§ 6 ECLI within the EU

- 1) The ECLI co-ordinator for the EU is the Court of Justice.
- 2) Where appropriate in the Annex ‘country’ or ‘Member State’ should be read ‘EU.’