
Marc van Opijnen
marc.opijnen@koop.overheid.nl

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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).
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)
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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• 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.
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 importance of the improvement of the quality of case-law and the way it is communicated. The quality of the case-law of the European Court of Justice is essential for the Union's legal order, 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 (NJPE), 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
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: eclivsrs@sodisce.si
Contact person: Gregor Strojin

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

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.
ECLI:NL:RVS:2009:BJ4384

Data provider: ACA-Europe

Issuing country or institution: Netherlands

Decision type: Judgment

Date of decision: 24/07/2009


Field of law: Administrative law

Abstract: Jurifast

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: NL

Field of law: Administrative law

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

Description: This metadata instance is available in the following language(s) only: NL
Implementation: State of Play
Future Work

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

- **Building On the European Case Law Identifier**
- 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