



Association of the Councils of State and Supreme Administrative Jurisdictions of the European Union i.n.p.a.

Association des Conseils d'Etat et des Juridictions administratives suprêmes de l'Union européenne a.i.s.b.l.

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NACZELNY SĄD ADMINISTRACYJNY

With the collaboration of the Supreme Administrative Court of Poland

And the support of the task group "Access to national Case law" of the Council of the European Union

European Case Law Identifier (ECLI) and meta-data: harmonisation of case law identification in the European Union

Questionnaire

Warsaw

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(Simultaneous interpretation English/French/Polish)

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Member State: The Netherlands.

Court: Administrative Jurisdiction Division, Council of State of the Netherlands, The Hague

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1. Are you aware of the ECLI system? If yes, how did you hear about it?

Yes. The Administrative Jurisdiction Division (hereafter: AJD) was informed about the ECLI through different channels at different moment in time. By information provided by the Dutch Council for the Judiciary (*Raad voor de Rechtspraak*) (hereafter: CftJ), by following developments regarding the European e-Justice Portal, by information to be found on the website of ACA-Europe, by taking note of the OJ EU in which the Council Conclusions were published and through the article 'A Wheel Within A Wheel: The Association of State and Supreme Jurisdictions of the European Union' by Johan C. van Haersolte (Review of European Administrative Law, Vol. 3, 2010, nr. 1, p. 131-139 at p. 139).

2. After reading the text of the [Council conclusions](#), are there items you do not understand or on which you would like further information? If so, please specify.

The ECLI consists of two different parts. The first part is the ECLI code as such and described in the Annex of the Council Conclusions, in para. 1. The other part consists of the metadata, nine of which are required while eight others are optional (see para. 2 of the Annex).

We raise here the matter of the scope of application of the ECLI. According to para. 20(a) of the Council Conclusions as well as para. 3.2.4. of the Annex the ECLI is to be used for "all decisions rendered by all of their [Member States] courts and tribunals". We question the necessity to apply the ECLI to judgments that have not been published. In the Netherlands only 2-3% of all judgments are published by the CftJ and are therefore assigned a LJN number. At the AJD only in cases in which a court session has been held the judgments are published on its website. The only exception concerns cases under the Aliens Act where all judgments are published whether or not there has been a court session. Judgments are therefore not published in objection cases (*verzetzaken*) and in cases which are so manifestly clear that no court session is needed. Extending the (limited) present scope of the LJN to all judgments, published as well as unpublished is a big step. If that step would not only cover the ECLI code as such but also the metadata, that would a still bigger step.

Therefore: to what extent is it necessary to apply the ECLI in its entirety, the code as well as the metadata, to all judgments, most of which have not ben published?

3. Are there any barriers to the implementation of such a system in your court (or the courts of your Member State)?

Technical? Other? Please specify.

At present the counterpart of the ECLI code in the Netherlands is the LJV number (LJV = *Landelijk Jurisprudentie Nummer*). The LJV numbers of the judgments of the AJD (*Afdeling Bestuursrechtspraak*) are assigned by the CftJ, not by the AJD. The LJV numbers are at present not used in a consistent fashion by the AJD in its judgments. Only when referring to other judgments of Dutch courts the AJD may use the LJV numbers although there is a preference to use the numbers of (commercial) Dutch case law publications instead.

Some remarks on the relationship between the AJD and the CftJ. With the exception of the AJD no Dutch court can publish its judgments on the internet on its own. The simple reason for that is that only the AJD has its own website (see <http://www.raadvanstate.nl/uitspraken/>) while the other courts have a presence on the internet (only) through the website of the CftJ (see <http://www.rechtspraak.nl>). While the judgments of the other Dutch courts are in the official sense published on the internet only by the CftJ, the judgments of the AJD can be found on both websites.

With respect to assigning the ECLI codes to the judgments of the AJD we do not expect any barriers to occur. It is, however, not yet clear whether that will be done by the CftJ (pursuing the system of the LJV) or that the AJD itself will assume that role. The metadata of the AJD judgments on the other hand, will be managed by the AJD itself. We expect that there will be some technical barriers and possibly also some budgetary restraints which will have to be overcome.

With regard to the judgments of other courts in the Netherlands than the AJD, no difficulties which cannot be overcome are expected.

4. What adaptations are needed in your court (or the courts of your Member State) to implement the ECLI system requirements?

At the AJD the databases as well as the working methods of the lawyers preparing the judgments will have to be adapted.

The same applies to the judgments of other courts in the Netherlands than the AJD.

5. What meta-data (a) required or b) optional) for ECLI are already in place in your court (or the courts of your Member State)?

One has to realize that a judgment of the AJD can at present be embodied in different (versions of a) document(s): (I) the official paper version (the amount of which may vary according to the number of parties involved), (II) the digital version of the official paper version (which is stored in one of our databases), (III) the digital version contained in an internal database (called '*Jura*') which contains the most relevant judgments of the AJD, (IV) the digital version to be found in the database which we offer to the public on our website (<http://www.raadvanstate.nl/uitspraken/>), (V) the digital

version to be found in the database which is offered by the CftJ (<http://zoeken.rechtspraak.nl/default.aspx>) and (V) the versions of the judgment as they may be published in various commercial publications, on paper or electronically. Each version contains some metadata but they may vary.

The following meta-data of judgments of the AJD are already in place at the AJD (in at least one of the versions mentioned above, and sometimes implicitly; by 'implicitly' we mean that that piece of information is to be found in the judgment without there existing a separate 'field'/'column' for it in the database).

Required metadata

- a. identifier
- b. isVersionOf
- c. creator *implicitly*
- d. coverage *implicitly*
- e. date *implicitly*
- f. language *implicitly*
- g. publisher
- h. accessRights *implicitly*
- i. type *implicitly*

Optional metadata

- a. title (*Dutch privacy and anonymity requirements will often result in an empty field*)
- b. /
- c. abstract *implicitly*
- d. /
- e. contributor
- f. issued *implicitly*
- g. /
- h. /

With regard to the judgments of other courts in the Netherlands than the AJD and which are managed by the CftJ, all required metadata are in place. Of the optional metadata the following are in place:

- b. subject

c. abstract

f. issued

The use of some of the other metadata is being prepared such as title, contributor and references.

6. Are there any obstacles for your court (or the courts of your Member State) to extend the available metadata?

As answered at Question Three we expect that there will be some technical barriers but possibly also budgetary restraints at the AJD which will have to be overcome. Although, however, we acknowledge the usefulness and the added value of the (optional) metadata we also reiterate the question whether metadata should be assigned to all judgments, published as well as unpublished.

With regard to the judgments of other courts in the Netherlands than the AJD, some technical barriers but possibly also budgetary restraints are to be expected which will have to be overcome.

7. Is there a national coordinating authority in your Member State? If yes, please provide coordinating entity's name and contact details.

If not, which organisation do you think should play this role?

The Dutch national coordinating authority will probably be the Council for the Judiciary (CftJ).

8. Do judicial institutions in your Member State cooperate on implementation of ECLI standard metadata? Please specify, especially if you have examples of good practice.

Yes, preparatory steps have been taken in the framework of the CftJ to some extent. The CftJ is in itself an example of good practice as it entails one organisation with one website covering all judicial institutions.

9. Are there interoperability problems between ECLI and standard metadata on the one hand and European or national semantic web initiatives on the other hand?

No.

10. In your Member State, are there already plans to implement ECLI? Please tick the relevant box.

Implementation already underway (see next questions)

Implementation to start in the short-term (within 1 year)

Implementation to start in the medium-term (2-5 years)

Implementation to start in the long-term (> 5 years)

No specific plan

Additional comments:

Discussions on how to carry out the implementation are still taking place in the Netherlands.

11. Are you planning to apply ECLI to all case law, retroactive / legacy, or will you limit its use to the new case law?

Retroactively, at least for those judgments which have been published.

12. In case your court (or the courts of your Member State) is already implementing ECLI, to share information on best practices, please provide additional information on:

Preparations undertaken:

architectural design, project start-up, co-ordinating activities;

Timetable:

at present the CftJ expects that the ECLI implementation will have been concluded by 2012;

Financial costs:

cannot be specified at present as the costs form a part of a larger project;

Other resources:

/

Difficulties encountered:

/

Other information:

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