

Review of the Administration of Civil Justice

I refer to the above and in particular area (d)

(d) Reviewing the use of electronic methods of communications including e-litigation and possibilities for making court documents (including submissions and pleadings) available or accessible on the internet;

I respectfully suggest that certain aspects of the work of the **European e-Justice Project** should be examined.

eJustice

The e-Justice process is concerned with the use of information and communication technologies in the area of justice at EU level. It serves to improve citizens' access to justice, to facilitate procedures within the EU and to make the resolution of disputes or the punishment of criminal behaviour more effective. The most visible part of European e-Justice is the European e-Justice Portal

“The European e-Justice Portal is conceived as a future electronic one-stop-shop in the area of justice. As a first step it strives to make your life easier by providing information on justice systems and improving access to justice throughout the EU, in 22 languages.”

- Portal homepage, <https://ejustice.europa.eu/home.do>

The aim of the European e-Justice and its projects is to enable greater access to justice and judicial information for citizens, businesses and legal practitioners, and to facilitate cooperation between judicial authorities of the Member States by using and developing the information and communication technologies for cross-border situations.

The portal has been in operation since July 2010, and provides information on many aspects in the area of justice including.

Law, Case law, Judicial Systems, Legal professions and Justice networks, European Judicial Network in Civil and commercial matters, Going to court, Legal aid, Mediation. Succession, Victims of crime, Right of defendants in criminal proceedings, Tools for courts and practitioners, Registers.

The information is provided on a country basis and once an area is chosen the particular country can be highlighted, and the information pertaining to that country reviewed.

As this is a wide area and there are many different aspects mentioned. In order to focus on the area of the review the following eJustice topic has been nominated.

1. The European Case Law Identifier (ECLI)

The European Case Law Identifier (ECLI) has been developed to facilitate the correct and unequivocal citation of judgments from European and national courts. A set of uniform metadata

- Descriptive metadata describes a resource for purposes such as discovery and identification. It can include elements such as title, abstract, author, and keywords.

will help to improve search facilities for case law in Ireland and Europe wide.

The introduction of ECLI was a result of political demand for an improved cross-border accessibility of national case law. Judicial decisions are registered in various national and cross-border databases, but often having a different identifier in each and every database or law review. All these identifiers – if known at all – had to be cited to enable readers of the citation to find the cases in the database of their preference. Different citation rules and styles complicated the search. Moreover, users had to go to all the databases to find out whether these documents were available – summarized, translated or annotated.

The system is based on the e-Justice portal page and at the present time Twelve EU Member States have already implemented ECLI in (part of) their public case law databases: Spain, France, the Netherlands, Germany, Austria, the Czech Republic, Slovakia, Slovenia, Finland, Greece, Italy and Croatia. ECLI has also been implemented by the Court of Justice of the European Union, the European Court of Human Rights and the Boards of Appeal of the European Patent Office.

Implementation of ECLI has started in Belgium, Bulgaria, Estonia, Latvia, Romania, Malta and Denmark. Ireland is at the preliminary stages.

Before ECLI, it was difficult and time-consuming to find relevant case law. Take, for example, a case where a ruling of the Supreme Court of Member State A was known to be of interest for a specific legal debate. The case was registered in various national and cross-border case law databases, but in each database the ruling had a different identifier. All these identifiers – if known at all – had to be cited to enable readers of the citation to find the case in the database of their preference. Different citation rules and styles complicated the search. Moreover, users had to go to all the databases to find out whether this Supreme Court case was available – summarised, translated or annotated. With the ECLI system one search via one search interface using just one identifier will suffice to find all occurrences of the ruling in all participating national and cross-border databases.

Easy access to judicial decisions of other Member States is of growing importance in reinforcing the role of the national judge in applying and upholding EU law. Searching for, and citation of judgments from other Member States is seriously hampered by differences in national case law identification systems, citation rules and technical fields describing the characteristics of a judgment. To overcome these differences and to facilitate easy access to - and citation of - national, foreign and European case law, the Council of the European Union invited Member States and EU institutions to introduce the European Case Law Identifier (ECLI) and a minimum set of uniform metadata for case law.

Main characteristics of ECLI

The European Case Law Identifier is a uniform identifier that has the same recognizable format for all Member States and EU courts. It is composed of five, mandatory, elements:

- 'ECLI': to label the identifier as being a European Case Law Identifier;
- the country code;
- the code of the court that rendered the judgment;
- the year the judgment was rendered;
- an ordinal number, up to 25 alphanumeric characters, in a format that is decided upon by each Member State. Dots are allowed, but no other punctuation marks.

All elements are separated by a colon.

An example of an ECLI is:

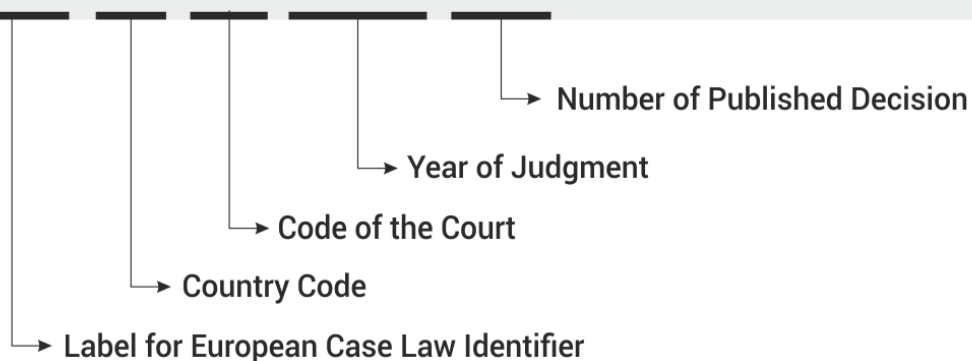
ECLI:NL:HR:2015:472, which is the published decision 472 of the Supreme Court ('HR') of the Netherlands ('NL') from the year 2015.

Deeplinks to any decision in the ECLI Search Engine can be constructed as:

<https://e-justice.europa.eu/ecli/ECLI:XXX>, e.g.

<https://e-justice.europa.eu/ecli/ECLI:ES:TS:2015:2414>

ECLI:NL:HR:2015:472



The benefits of ECLI are as follows.

- **Simplified citing of case law.**
Case law of national, European or foreign courts will be easily citable by using ECLI. All legal professionals, academics included, will profit by spending less time on studying citation style guides and searching for the right identifiers. Since many more decisions will have an ECLI after the project is finished, case law will be citable more easily.
- **Improved case law search over multiple repositories by having a unique identifier (ECLI).**
Reading a case law citation in a legal document mostly means a lot of trouble for the reader: he has to discover where the cited judgment might be found and how and which number has to be entered into which search field. But when an ECLI is used for citation, the reader just has to go to the ECLI Search Engine of the European e-Justice Portal, enter the ECLI and discover immediately in which repositories the judgment is available in which languages.
- **Improved application of EU law by national judge.**
The judge will be substantially facilitated to find relevant case law from other Member States, and will therefore finally be able to comply with the obligation imposed on him by the Court of Justice in the Cilfit case.
- **Reinforced mutual understanding between the legal communities of the EU Member States.**
Taking note of the case law of other Member States is not only relevant in situations where Union law is involved. Improved access to case law will enlarge the opportunities for comparative law studies and therefore contribute to an improved understanding of the similarities and differences between the legal and judicial cultures of the EU Member States.
- **Reinforcement of the rule of law, since by improved qualitative and quantitative accessibility of case law the transparency of justice will be strengthened.**
In the light of article 6 of the European Convention on Human Rights, accessibility of case law is necessary to ensure scrutiny of the judiciary by the public. By improving this accessibility, both in qualitative and quantitative sense, transparency of the judiciary will be reinforced and the rule of law strengthened.

ECLI

European e-Justice portal

The [European e-Justice portal](#) aims to be the one-stop-shop for legal information and online cross border procedures within the EU. Based on the e-Justice Action Plans of the Council of the EU, it is maintained by the European Commission and the Member States.

Within the ECLI framework the European e-Justice portal has two functions.

First, on the [ECLI webpage](#) it displays, in all official languages of the EU, general information on ECLI, and more specifically on the way it has been implemented within various Member States.

Secondly, the [ECLI Search Engine](#) is part of the European e-Justice Portal. With this search engine one can search all judicial decisions from whatever country or court and from whatever data provider, as long as they have an ECLI assigned and are connected to the Search Engine. The ECLI Search Engine went live on 4 May 2016.

It currently contains more than 5.000.000 decisions:

- Court of Justice of the European Union: all decisions;
- Board of Appeal of the European Patent Office: all decisions;
- France: decisions of the Constitutional Court, Supreme Court, Council of State and 'Tribunal des conflits'.
- Spain: all decisions published on the website of the Spanish Council for the Judiciary;
- The Netherlands: all decisions published on the website of the Dutch Council for the Judiciary;
- Slovenia: all decisions published on the websites of the Supreme Court, the Courts of Appeal and the Administrative Court;
- Germany: decisions of the High Administrative Court and the Federal Constitutional Court;
- Czech Republic: decisions published on the website of the Supreme Court (also from other courts);
- Finland: decisions which are republished in the JuriFast database of ACA-Europe;
- Italy: decisions of the Constitutional Court and the Supreme Court;
- Greece: decisions of the Hellenic Council of State;
- Croatia: selected decisions of the Supreme Court, the High Commercial Court, the High Administrative Court and the High Misdemeanour Court.

Association of Councils of State and Supreme Administrative Jurisdictions of the European Union (ACA-Europe): all decisions from the courts mentioned above having an ECLI and being registered in their JuriFast database.

TARGET GROUPS

Legal Professionals

In this section we cover the most commonly asked questions with regards to each target audience's involvement with ECLI.

For legal professionals:

- **Why should I use ECLI for citing case law?** ECLI is an unequivocal code to identify a judgment all across Europe. While case numbers can be ambiguous – since many cases have more than one judgment – and no official formatting, the European Case Law Identifier has a fixed format, and is assigned to individual judgments. It is easy to recognize, and easy to read: ECLI – country code – abbreviation of court – year of judgment – some serial number. It is also very well readable by computers, hence ECLI will easily be found by search engine, and facilitate automated linking of judgments to each other, to other legal sources or to academic works.
- **How should I cite an ECLI?** To be understandable by both humans as by computers you should always cite an ECLI in full. Do not leave out any parts, since they are all essential. If you just refer to: 'NL:HR:2015:472' your readers will not understand you are referring to a judicial decision, and also search engines and other computer programmes might have troubles understanding your text.

If you are referring to a national judgment in a national context you probably do not have to supply any additional information, because the court code (the third part of the ECLI) will probably be immediately recognized by all. If you are citing a case from abroad or citing a national judgement for an international audience, you might want to add the name of the court. Your citation could then e.g. be: 'Supreme Court of the Netherlands, ECLI:NL:HR:2015:472'. Additional information, like case numbers, exact date of judgment or parallel citations, which have been traditionally been added to a citation to improve its findability are not needed any more. If implemented correctly by case law publishers, every ECLI can be traced on line.

- **Why do not all judgments have an ECLI?**ECLI is a European standard, but it is implemented on a voluntary basis. In every Member State a ‘national ECLI co-ordinator’ should be appointed, responsible for how and when ECLI can be introduced. This introduction is often dependent upon political priorities or technical and financial constraints.

TARGET GROUPS

Court Administrations

In this section we cover the most commonly asked questions with regards to each target audience’s involvement with ECLI.

For Court Administrations:

- **Who decides on introducing ECLI?**In the Council Conclusions it has been decided a ‘national ECLI co-ordinator’ should be appointed. Since there are many differences between the EU Member States regarding the way case law publication and dissemination is organized, it is left to the Member States to appoint this ECLI co-ordinator. In some countries it is a Council for the Judiciary or a specific court, in other it is the ministry of Justice or another ministry.
- **Why should we assign ECLI’s to our judgments?**Assigning an ECLI to your judgments improves the searchability, findability and citability of your jurisprudence.
- **Why should I connect to the ECLI Search Engine?**When you connect to the ECLI Search Engine your decisions will be more easily to be found for people abroad; interesting or important cases might render more international attention.
- **What about multilinguality?**Judgments will not (yet) be automatically translated when indexed by the ECLI Search Engine of the European e-Justice Portal. But – by using the ECLI – full translations, (translated) summaries and other metadata will be displayed alongside the original version. Hence, your jurisprudence will have more international exposure and will be taken into account in comparative law research studies.

TARGET GROUPS

Database Administrators

In this section we cover the most commonly asked questions with regards to each target audience’s involvement with ECLI.

For Database Administrators:

- **Can I have my database indexed by the ECLI Search Engine?**Every case law database containing judgments that have an ECLI assigned can be indexed by the ECLI Search Engine. Not all judgments in the database must have an ECLI assigned, but on the other hand: only those documents having an ECLI can be indexed.
You do not have to assign ECLI’s yourself to have your database indexed. Also republishers of case law documents can have them indexed. This is especially of value if you add specific metadata (e.g. in other languages).
- **Is it technically complicated to have my database connected to the ECLI Search Engine?**A technical interface was defined the European Commission, supported by an expert group from Member States, to connect to the ECLI Search Engine, based on XML and the Sitemap protocol. An open source software package was also developed to support an easy and quick connection.

The project is driven by.

Marc van Opijnen

Who sits at the eJustice table on behalf of Netherlands

Marc van Opijnen (1963, the Netherlands) studied administrative, international and European Law at the University of Groningen.

Fascinated by the opportunities the internet has to offer, he mastered the necessary computer skills and has been working for over 20 years as an intermediary between the law, the administration of justice and IT. He has a special interest in all aspects relating to the on-line accessibility of case law, also the subject of his PhD thesis at the University of Amsterdam (2014).

Currently he is affiliated to the Publications Office of the Netherlands, and actively involved in various national and European projects on improving the access to legal information. He is a long-standing member of the EU Council working party on e-justice/e-law and currently he is project manager of the EU co-funded project 'Building on the European Case Law Identifier'. He regularly publishes on his fields of interest.

Marc is known myself and has been in active discussion with Noel Rubotham Courts Service in recent times regarding publication of document. I also introduced him to my colleague at the June co-operation meeting.

Marc is willing to assist in any way he can and will provide any guidance in person or by video link if necessary.