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D2.1 Report on the State of Play
with Regard to the Publication of Case Law in Bulgaria

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Abstract (for dissemination)

This document provides an overview of the status of the online publication of case law in Bulgaria and outlines the opportunities and perspectives related to the forthcoming implementation of the European Case Law Identifier (ECLI) within the Bulgarian national case law portal.

Keywords

Case law, Publication of court decisions, Re-use of case law, Metadata, Bulgaria, ECLI, ECLI search engine, e-Justice portal

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1 Introduction

The current report aims to give a brief overview of the publication of case law\(^1\) on the Internet in Bulgaria, in view of the forthcoming implementation of the European Case Law Identifier (ECLI). This study focuses on two key topics: a) analysis of the state of play and b) outlining the opportunities and perspectives related to the introduction of ECLI.

Part II of this report analyses what has been achieved in the last few years concerning the online publication of judicial acts and points out a number of problems on which attention should be paid in the future. The study begins with a description of the judicial system and the current legal and institutional framework concerning the publication and the re-use of case law. Then, it continues with the examination of the actual state of play – Internet websites, completeness and timeliness of the publication, formats, available metadata, anonymisation of personal data, search tools, user interfaces and possibilities for data re-use. The organisation of the access to court decisions on the websites of the Constitutional Court, the Supreme Court of Cassation and the Supreme Administrative Court has been studied separately. Particular attention is paid to the Centralised Web Interface for Publication of Judicial Acts (Централен Уеб Базиран Интерфейс за Публикуване на Съдебни Актове – ЦУБИПА), created by the Supreme Judicial Council, acting as the national portal for case law. Part II ends with some conclusions and recommendations for improving the public access to court decisions.

Part III of the report focuses on the forthcoming implementation of ECLI within the Centralised Web Interface and its interconnection with the ECLI search Interface of the European e-Justice portal. After a brief presentation of the ECLI standard, Part III examines the benefits of the ECLI introduction in Bulgaria, given the lack of well-established national rules on identification and citation of court decisions. Further, the report describes the activities carried out so far by the Supreme Judicial Council (in its role of national ECLI coordinator) and outlines role and tasks of the ongoing ECLI-BG project on the implementation of the ECLI standard. The advantages of the chosen approach to introducing ECLI into the national case law portal have also been explored. Finally, some issues for debate have been discussed in connection with the establishment of interconnection with the European e-Justice portal, such as a proposal to introduce a criterion for the selection of judicial acts to be made available from the ECLI Search Interface on the e-Justice portal.

2 Publication of case law in Bulgaria – current situation and problems

2.1 Structure of the Bulgarian state court system

The courts in Bulgaria are state bodies that administer justice in civil, criminal and administrative cases.

The organisation and activities of the Bulgarian courts are governed by the Judicial System Act, which lays down the structure and operating principles of the judicial bodies and governs

\(^1\) The terms decisions, court decisions, judicial acts, judicial decisions, judgments and case law are used in this report interchangeably.
their interaction with each other and with the legislative and executive bodies. An explicit provision of the law obliges courts to publish immediately on the Internet the acts they have issued (see Section 2.2.1 below).

The administration of justice in Bulgaria is based on three instances. The following courts exist in Bulgaria: district courts, regional courts, administrative courts, military courts, and courts of appeal, the Supreme Court of Cassation and the Supreme Administrative Court as well as the Specialised Criminal Court whose acts are subject to appeal before the Specialised Criminal Court of Appeal. The total number of state courts as of 31 July 2017 amounts to 182.

**The district courts** are the main courts hearing cases at first instance. Their decisions are subject to appeal before the relevant regional court. The number of district courts is 113.

**The regional courts** act as courts of first and second instance. As courts of first instance, they hear a precisely defined category of cases involving significant sums or substantial societal interest. When acting as a second (appellate) instance, they review decisions of the district courts. There is a regional court in each of the 28 regional centres in Bulgaria.

**The administrative courts** have jurisdiction over all cases concerning the issue, amendment, repeal or annulment of administrative acts. There is an administrative court in each of the 28 regional centres in Bulgaria.

**Military courts** (a total of 3 – in Sofia, Plovdiv and Sliven) hear, as courts of first instance, criminal cases concerning offences allegedly committed in the performance of their duties, or in connection therewith, by generals, officers, non-commissioned officers and rank-and-file in the Bulgarian army, civilian staff at the Ministry of Defence and personnel at other ministries and agencies within the structures reporting to the Minister of Defence, at the National Security Agency and at the National Intelligence Service. For such cases, the court of second instance is the Military Court of Appeal.

**The courts of appeal** (a total of 5 – in Sofia, Plovdiv, Burgas, Varna and Veliko Tarnovo) consider appeals and objections against first-instance rulings by regional courts within their territorial jurisdictions. The court of appeal consists of civil, commercial and criminal divisions.

**The Specialised Criminal Court**, which has its seat in Sofia, is equivalent to a regional court. The jurisdiction of the Specialised Criminal Court concerns mainly crimes committed by or for organised criminal groups. The rulings of the Specialised Criminal Court are appealed before the Specialised Criminal Court of Appeal, which is also headquartered in Sofia.

**The Supreme Court of Cassation** is the supreme judicial instance in criminal and civil cases. It exercises supreme judicial review over the proper and uniform application of laws by all courts. Its jurisdiction covers the entire territory of the Republic of Bulgaria.

**The Supreme Administrative Court** exercises supreme judicial review over the proper and uniform application of laws by administrative courts. Its jurisdiction covers the entire territory of the Republic of Bulgaria. All statutory instruments may be challenged before the Supreme Administrative Court.

The Constitution of the Republic of Bulgaria of 1991 establishes for the first time a **Constitutional Court**, which is an independent specialised judicial body outside the state court system. Its purpose is to ensure the primacy and respect of the Constitution and to eliminate the contradictions between the state institutions in the performance of their functions. Unlike the constitutional justice system in other countries, the Bulgarian Constitution does not allow the so-called constitutional appeal by which a citizen or a legal person may refer the matter to the Constitutional Court in order to protect its constitutional rights. As the Constitutional Court is not part of the judicial system of the Republic of Bulgaria, its acts are only published on the court's web site, but not on the Centralised Web Interface for Publication of Case Law (Centralised Web Interface) maintained by the Supreme Judicial Council. For this reason, ECLI-BG project's work plan does not foresee the implementation of the ECLI identifier.
within the case law repository of the Constitutional Court. Nevertheless, the project partners plan to meet with the competent experts of the court’s administration to discuss the possibilities of using the experience of the forthcoming implementation of the ECLI identifier within the Centralised Web Interface with respect to the Constitutional Court's case law published on the court's web site.

In the presence of an arbitration agreement, private law property disputes may be subject to arbitration. The arbitration courts in Bulgaria are private jurisdictions outside the judicial system of state courts and represent an alternative to it, which is why this report is not intended to examine terms and conditions for accessing their case law. Moreover, unlike acts of state courts, the case law of arbitration courts is subject to copyright protection and the access to it is limited. For instance, a selection of the case law of the largest arbitration court in the Republic of Bulgaria – the Arbitration Court at the Bulgarian Chamber of Commerce and Industry (BCCI), is published in collections issued by the aforementioned Court.²

2.2 Legal framework of the publication and the re-use of case law

2.2.1 Obligation to publish judicial decisions

The obligation of the courts to publish their acts on the Internet is introduced by the Judiciary System Act – JSA (Закон за съдебната власт)³, while the right of their re-use for commercial and non-commercial purposes is regulated by the provisions of the Copyright and Neighbouring Rights Act (Закон за авторското право и сродните му права)⁴ and the Access to Public Information Act (Закон за достъп до обществена информация).⁵

According to Article 64(1) of the JSA, the courts are obliged to make public the documents they have issued by publishing them on their website. For the first time this obligation was introduced with the adoption of the current Judicial System Act (promulgated, State Gazette No. 64 of 07.08.2007). The original version of Article 64(1) of the JSA (in force as of 10.08.2007) provides that the acts of the courts are published on the web site of the respective court on the Internet "every three months", in conformity with the requirements set out in Personal Data Protection Act (Закон за защита на личните данни)⁶ and Classified Information Protection Act (Закон за защита на класифицираната информация)⁷. With the amendment of the provision in April 2009 (State Gazette No. 33 of 30.04.2009, with effect from 03.05.2009), the legislator obliged the courts to publish their acts on the Internet "immediately" after their issuance.

Several months after the promulgation of the amended provision of Article 64(1) of the JSA, the Supreme Judicial Council (SJC) introduced a relatively detailed institutional framework regarding the publication of case law by the courts, which was adopted at the Council meeting on 29.10.2009 with a decision under Point 25 of the agenda (Decision of the SJC under point 25 of Protocol No. 42⁸; hereinafter referred to as the "Decision").

² The BCCI website provides a list of the case law collections issued so far: http://www.bcci.bg/publications.html.
³ http://web.apis.bg/free_web/p.php?i=268938
⁴ http://web.apis.bg/free_web/p.php?i=8772
⁵ http://web.apis.bg/free_web/p.php?i=12168
⁷ http://web.apis.bg/free_web/p.php?i=9154
With the Decision, the SJC:

1) Specifies the scope of the acts to be published

The provision of Article 64(1) of the JSA does not provide for any restrictions on the publication of case law other than compliance with the requirements of the Personal Data Protection Act and the Classified Information Protection Act. However, despite the absence of a legislative delegation, the SJC introduces a standard common criterion for the importance of the judicial act as a precondition for its publication. According to Point 25.2 of the Decision, „all final judicial acts of justice shall be published, including those that put an end to or impede the continuation of the proceedings“. According to Point 25.3, court decisions rendered in non-contentious proceedings, proceedings on interlocutory appeals in civil and criminal cases, except those who put an end to or impede the continuation of proceedings, shall not be published. Apparently in this case, the SJC has adopted the principle of the so-called negative selection, according to which all judicial acts are subject to publication, except those for which there are specific particular reasons not to be published (e.g. for reasons of national security protection, protection of the rights of minors, etc.)

2) Indicates which personal data should be removed from the text of the judicial act when it is subject to publication

According to Point 25.4 of the Decision, in the text of the judicial act, the personal identification number and the names and addresses of the natural persons should be deleted. It has to be noted here that this requirement is incomplete, as it does not cover all the types of data that are found in judicial acts and that allow the identification of individuals. In addition, there is no indication of what method of removal of personal data should be used (e.g. deletion, replacement with certain characters, replacement of the names with their initials, etc.). For this reason, the courts have a very diverse practice regarding the anonymisation of personal data.

3) Provides practical guidance to the courts on the organisation of the publication of judicial acts and the time period within which they should be available on the Internet

The SJC requires the administrative heads of the courts to "update" their Internal Rules for the organisation of publication of judicial acts (Point 25.6 of the Decision) by specifying:

- The assignment of court staff obligations related to the preparation of the acts in electronic form and the compliance with the limitations regarding the scope and anonymisation of personal data;
- The distribution of the work related to the publication of case law in the way that, in addition to the standard formula for selection of acts, there will be an option for an individual assessment by the judge in the particular case or by the administrative manager regarding the need for publication;
- The prerequisites for taking a decision to remove already published court acts from the Internet in case of absence of enough free disk space.

With regard to the latter requirement, in Point 25.7 of the Decision, the SJC sets a minimum period of time for which published acts should be available on the court's

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10 In fact, most courts prepared for the first time such Internal Rules only after the SJC adopted the Decision in October 2009.
website. According to this paragraph, the court should make public at least the acts published by it in the current year, as well as those of the previous year. Access to the already published acts after this minimum period shall be ensured by the Centralised Web Interface case law portal, which was set up by the SJC at the end of 2009.

In compliance with the requirements of Article 64 of the JSA and the SJC's decision of 29.10.2009, each court adopts and publishes on its website "Internal Rules for Publication of Judicial Acts". In general, this document contains three sets of rules:

a) Specific, even more detailed instructions on which acts are subject to publication in view of the specialisation of the court and which shall not be published (for instance, acts rendered in cases related to adoption, an inventory of inheritance estate; acts rendered in the course of proceedings, e.g. for the appointment of experts, for giving instructions to the parties; acts on the constitution of parties, acts amending the claim, etc.

b) A detailed list of the types of personal data that shall be anonymised or removed in the judgment’s text. For instance, the Internal Rules of the Sandanski District Court provide for the removal of the numbers of all bank accounts as well as the insurance numbers. Removal of the data on profession, religious identity, ethnicity, health and social status is required when, despite removal of the other personal data, it would lead to the identification of the individuals concerned. Certain categories of data, which should not be deleted, are also explicitly mentioned, for example the names of the magistrate who delivered the judgment, the court secretary, the jury and the prosecutor, the data of the legal persons, etc.

c) Technical and organisational details regarding the process of publication of judicial acts.

2.2.2 Right of re-use of the published case law

Conditions under which public sector information could be made available for re-use, including court decisions which are published online, are set out in Chapter IV of the Access to Public Information Act (Закон за достъп до обществена информация) – “Procedure for re-use of public sector information”, in force since 22 June 2007. These provisions implement the requirements set out by Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information.

[It should be noted that the factual re-use of case law in Bulgaria and its publication in specialised law journals and legal databases began long before the adoption of the Access to Public Information Act and Directive 2003/98/EC. This was made possible namely by the exclusion of judicial acts from the scope of application of the copyright law. Pursuant to Article 4(1) of the Copyright and Neighbouring Rights Act, in force since 1 August 1993, legislative instruments and individual acts of the public authorities are not subject to copyright protection. Although the legislator did not explicitly mention judicial acts, the legal doctrine and lawyers interpreted this norm sensu lato and agreed that court decisions do not fall within the copyright protection. In 2014, the Bulgarian legislator complemented the provision by specifying that also judicial acts are not subject to copyright.]

Pursuant to Article 41a of the Access to Public Information Act, public sector information shall be provided in the format and in the language in which it was collected, respectively created, as the case may be, or in another format at the discretion of the public sector body, as well as in an open, machine-readable format, together with the relevant metadata. The format of metadata in such cases shall conform to the official open data standards. Public sector information should be provided either unconditionally or under standard conditions set by public authorities. By Decree No 147 of 20 June 2016, the Council of Ministers adopted an

12 http://web.apis.bg/free_web/p.php?i=12168
Ordinance on uniform conditions for re-use of public sector information and its publication in open data format. Pursuant to Article 11(1)(3) of this Ordinance, judicial acts are made available for re-use, processing and distribution in conformity with the requirements set out in the Personal Data Protection Act and the Classified Information Protection Act. In fact, this provision enables any person to re-use unconditionally the judicial acts available online, since they had been published in line with those requirements. Quite another question is to what extent it is in fact possible and easy to re-use this case law through its manual or automated download from the respective websites (see Section 2.4 below).

A substantial obstacle to the effective re-use of case law also creates the lack of any information on the courts' websites on the right to re-use the published judicial acts. Moreover, almost all courts have the "©" symbol indicating that the site is the subject of copyright, which indirectly provokes the suggestion that re-use is prohibited. The same sign is used on the Centralised Web Interface portal. Furthermore, the website of the Supreme Administrative Court explicitly prohibits users from "modifying, copying, publishing, selling or licensing some or all of the content of the website, namely this site, and using it for any public or commercial purpose other than to contact the source [of this content] – the SUPREME ADMINISTRATIVE COURT".

2.3 Review of the current state of publication of case law in Internet

2.3.1 General remarks

In accordance with the provisions of Article 64 of the Judiciary System Act, all courts in Bulgaria (with a total number of 182) publish the decisions they have rendered on their website. The publication occurs immediately (i.e. on the day on which the judicial act is rendered). Each of the websites of the courts has its own structure and graphic layout. Therefore, judicial acts are displayed in different ways and in different formats - doc, docx, rtf, pdf, html. Most often, information and metadata are presented in a list or in a tabular form, generally sorted by year and month (see Figure 1 below).

Figure 1: Website of the Court of Appeal of Burgas – List of Judicial Acts

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14 http://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=104965
Few sites, such as those of the Constitutional Court, the Supreme Court of Cassation, the Supreme Administrative Court and the Sofia Administrative Court, offer a search interface for exploring the published case law.

For example, the Regional Court of Stara Zagora16 publishes a list with its judicial acts (in civil, criminal and commercial cases) sorted by year and month, but it does not provide any convenient search facilities – there is neither a search engine, nor a classifier for systematisation and filtering of the judicial acts by a specific criterion. Therefore, the website could only be used in order to find a given court decision provided that the user knows in advance its date and number or, at least, the case number. Even then, finding the act in question could be difficult, since the results are displayed in a list (Figure 2 below).

**Figure 2: Website of the Regional Court of Stara Zagora – List of Judicial Acts**

In the same manner, the Court of Appeal of Plovdiv17 ensures access to information about the finished cases and the rendered decisions sorted by months and years. The results are again in list form, with fewer metadata and no clear ordering criterion. However, the substantive legal norm indicating the subject matter of the legal proceedings in question, which to some extent could be used as a searching or filtering criterion, is specified (see Figure 3 below).

**Figure 3: Website of the Court of Appeal of Plovdiv – List of Judicial Acts**

Given the extreme diversity of organisational practices concerning the publication of case law and the need to ensure a single entry point and a unified search interface for the users of this type of information, the Supreme Judicial Council developed and launched, at the end of 2009, the Centralised Web Interface portal. In addition to the provision of greater convenience for legal practitioners, citizens and companies in terms of searching and using case law, the

17 [http://www.apelsad-pd.bg/menu.htm](http://www.apelsad-pd.bg/menu.htm)
Centralised Web Interface enables also courts to remove older decisions in case there is no more disk space available, since on the Centralised Web Interface portal these acts continue to be stored indefinitely.

Although the main purpose of the Centralised Web Interface is to ensure a single search interface to the entire national case law published in Internet by all Bulgarian courts, the Supreme Court of Cassation and the Supreme Administrative Court have not yet started publishing their decisions on the Centralised Web Interface. According to the heads of the IT departments of the two supreme courts, this is expected to happen by the end of 2017. However, the Constitutional Court will continue not to publish its decisions on the Centralised Web Interface, as it is an independent public body established outside of the judicial system of state courts.

In the following subsections, we will examine and analyse the websites of the Constitutional Court, the Supreme Court of Cassation, the Supreme Administrative Court and the Centralised Web Interface portal with regard to the publication of case law and making it available to the public.

2.3.2 Online access to the case law of the Constitutional court

The recently renovated website of the Constitutional Court provides free access to its entire case law, dating back to the establishment of the court in 1991, via a user-friendly search interface that enables users to search decisions by multiple criteria and metadata:

- By Act – a text search box for searching words or expressions contained in the text, type of decision, year, number, names of the judge(s), particular provision of the Constitution, a keyword from the alphabetical glossary
- By Case – number and year of the case, status (disposed, dismissed, accepted, discontinued), names of judge(s)
- By Keywords – glossary with alphabetical phrases
- By Interpretative Decisions – number and year, names of judge(s), keywords from the alphabetical glossary, particular provision of the Constitution.

The list of search results provides basic information on the judicial act – year and case number, names of judge(s) and date of the decision, but the lack of more detailed metadata and of text snippets from the documents containing the highlighted words or expressions being sought by the user makes the finding of a given act difficult. However, the presence of a summary, if available, is a significant advantage.

Judicial acts are published in HTML format, without the option of direct printing or downloading. This could be done only by using the standard browser functions but in this case, elements of the web page structure are added to the printed/downloaded text. Separate opinions of judges, if there are some, are published in PDF format.

On the website of the Constitutional Court, there is a special section on legislative instruments, which were subject to constitutional review during the years, and for each instrument the website provides a list of court acts containing interpretations of its provisions.

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18 http://www.constcourt.bg/bg/Acts/Index
19 http://www.constcourt.bg/bg/Cases/Index
20 http://www.constcourt.bg/bg/KeyWords/Search
21 http://www.constcourt.bg/bg/Acts/InterpretativeDecision
The list contains not only the final decision of the court ending the constitutional proceedings but also other related documents, such as the request for declaration of unconstitutionality, opinions, decision on admissibility, etc.\textsuperscript{22}

Due to the particular nature of the proceedings before the Constitutional Court, the acts do not contain personal data subject to anonymisation and are published without any changes of the names of the judges or of the senior public officials appearing in the text.

2.3.3 **Online access to the case law of the Supreme Court of Cassation**

Since 2009, the website of the **Supreme Court of Cassation** provides online access to the court’s acts. Judicial acts rendered before 15 September 2008 are not digitalised – they are physically available at the court’s archive premises but the website provides bibliographical references. For acts dated after 15 September 2009, the website provides an online full-text access. In 2013, when the new search engine was put into operation, the website contained more than 60 000 legal acts.

The website of the Supreme Court of Cassation offers several **forms (tools) to search for case law**\textsuperscript{23}:

- By **Case records data**\textsuperscript{24} (search form “Case reference”) – appeal number, case number, filing date, type of document, chamber, division, closure date, case number and decision of the lower instance court, names of parties;

- By **Case records data and reference terms**\textsuperscript{25} – the reference terms are elaborated by court’s experts according to a classification scheme and are selected from a drop-down menu list:
  - Case classifier\textsuperscript{26} – by the substantive law provision being the legal basis of the initiated proceedings
  - Glossary with key phrases – by a key term from a list of pre-defined phrases.

Beside the above mentioned search functions, the Case records data and reference terms form (see Figure 4 below) allows users to perform a search, along or separately, by: a) court registry details – time period (from to), b) text – phrase in the document, words in a sentence, words in the contents

- By **Alphabetical index of key phrases**\textsuperscript{27} – a list with pre-established key phrases (for example, authors remuneration, copyright, copyright on graphic representation);

- By **Glossary of key phrases**\textsuperscript{28} – a list with pre-established key phrases: one for criminal matters and another one for civil and commercial matters.

\textsuperscript{22} [http://www.constcourt.bg/bg/LegalBasis](http://www.constcourt.bg/bg/LegalBasis)

\textsuperscript{23} On the website, one can find a “User’s guide” with detailed instructions concerning all the searching methods – [http://www.vks.bg/2013_03_04_Search_Instruction_full.pdf](http://www.vks.bg/2013_03_04_Search_Instruction_full.pdf)

\textsuperscript{24} The search form allows for combined use of case records data and reference terms: [http://www.vks.bg/vks_p03.htm](http://www.vks.bg/vks_p03.htm)

\textsuperscript{25} [http://www.vks.bg/vks_p15.htm](http://www.vks.bg/vks_p15.htm)

\textsuperscript{26} Actually, this classifier is currently inactive and can not be used by users.

\textsuperscript{27} [http://www.vks.bg/vks_p15a.htm](http://www.vks.bg/vks_p15a.htm)

\textsuperscript{28} [http://www.vks.bg/vks_p15b.htm](http://www.vks.bg/vks_p15b.htm)
Depending on the method used for searching case law, the list of results provides different information (metadata) with different graphic layouts and without following a particular alphabetical or chronological order of the results. For each case, the following metadata types are supported:

- Reference data concerning the lower instance’s proceedings (however, no link to the judicial acts published by lower instance’s courts is established) – name of the court and case number;
- Case details concerning the proceedings before the Supreme Court of Cassation – year and case number, case type, chamber and division, appeal number and filing date;
- Hearing – date, type of hearing, court room number, outcome of the hearing;
- Judicial acts – number, year, outcome and link to the full text-version of the judicial act;
- Outcome of the proceedings before the Supreme Court of Cassation – number, date and type of the final court decision and name of the court to which the case was sent back (see Figure 5).
Judicial acts are published in HTML format, without the option of direct printing or downloading. This could be done only by using the standard browser functions but in this case, elements of the web page structure are added to the printed/downloaded text.

In addition, the website of the Court of cassation has a special section with **Interpretative Decisions**\(^{29}\) and **Decisions of great public interest**\(^{30}\) but there is no option to perform search by different criteria currently – the decisions in these cases are displayed in list form in chronological order, making it difficult to find a particular case. In both sections, the legal acts are published in PDF format. Concerning the Interpretative Decisions section, users have access not only to the final decision, but also to other related acts – application initiating the proceedings, court order to initiate a case, court order to appoint a hearing, court order to stay proceedings and others.

Acts are published after anonymisation of personal data. Removal of personal data is carried out via abbreviation of names and removing of all other personal identifiable details, such as address, bank account number, immovable property number and others. As a rule, in addition to the personal data of natural persons, anonymisation of data identifying legal persons is also performed. Undoubtedly, however, in cases where these data do not constitute business secrets or classified information, their removal exceeds the limitations imposed by the law in connection with the publication of case law.

### 2.3.4 Online access to the case law of the Supreme Administrative Court

The **Supreme Administrative Court** was the first to publish its case law on the Internet. Since 1999 its website gives access to the judicial acts as well as the scanned copies of applications and claims. The innovative role of the Supreme Administrative Court is remarkable, given that a legal statutory requirement for online publication of judicial decisions is only introduced eight years later. For more than a decade, the court’s website has been leveled at home and abroad as an example of transparency and good governance in the judiciary.

\(^{29}\) [http://www.vks.bg/vks_p10_02.htm](http://www.vks.bg/vks_p10_02.htm)

\(^{30}\) [http://www.vks.bg/vks_p10_01.htm](http://www.vks.bg/vks_p10_01.htm)
The website offers four search forms for access to case law depending on the legal nature of the case:

- By **Case records data**\(^31\) – this is the main search tool, which enables users to freely enter a text and/or case details, such as type of document (appeal, case, decision, minutes of a hearing), act number, case number, appeal number or a time period in which the searched act was rendered

- By **Interpretative decisions case records data**\(^32\) – type of the document (appeal, case, decision, order), number and year of the searched act, case or appeal, free text to search

- By **Case records data on jurisdiction disputes between the Supreme Administrative Court and the Supreme Court of Cassation**\(^33\) – type of the document (appeal, case, decision, minutes of a hearing), number and year of the searched act, case or appeal, free text to search

- By **Joined Interpretative Decisions of the Supreme Administrative Court and the Supreme Court of Cassation**\(^34\) – type of the document (appeal, case, decision, order), number and year of the searched act, case or appeal, free text to search

In the **List of results**, the user may see basic metadata on each document. Acts are displayed in a list, with no particular alphabetical or chronological order. A graphic image, placed before each document, indicates the nature of the document or the status of the litigation.

Unlike the website of the Court of cassation, the website of the Supreme Administrative Court does not offer keyword classifiers (glossaries). The prior classification, indicating the challenged legislative act, is no longer supported. On the other hand, the search forms for the more specific categories of acts (e.g., interpretative decisions) allow search for text entered by the user.

The website of the Supreme Administrative Court has also a special section with **Interpretative Decisions**\(^35\), ordered by year (since 2000). The decisions are published in different formats (Word, PDF) and among them there are other related documents (request for seeking interpretation, opinions, examples of conflicting jurisprudence). However, this section is not kept up to date. It does not contain interpretative decisions rendered after 2014, and they can only be found by using the search form "Interpretative decisions case records data".

Judicial acts are published in **HTML format** with direct printing function. The presence of links between different judicial acts of the court is of a significant importance for the users. When there is such a connection, an icon "Previous Judgment / Order" or "New Judgment / Order" appears in the top left corner of the screen. By clicking on the icon, the user opens the previous or the newer court decision.

Similar to the Supreme Court of Cassation, acts of the Supreme Administrative Court are published with anonymised personal data not only of the natural persons, but also of the legal entities, including state authorities.

The enhanced requirements for the anonymisation of judicial acts were introduced by an order of the court’s chairperson of 2016,\(^36\) according to which the following details are subject to anonymisation: names of parties, names of legal persons, names of political parties and organisations, e-mail, IBAN, PIN, EIK/BULSTAT number (identification number of legal entities

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\(^{31}\) [http://www.sac.government.bg/court22.nsf/$(All)/$Searchform](http://www.sac.government.bg/court22.nsf/$(All)/$Searchform)

\(^{32}\) [http://www.sac.government.bg/TD_VAS.nsf/$(All)/$Searchform?SearchView](http://www.sac.government.bg/TD_VAS.nsf/$(All)/$Searchform?SearchView)

\(^{33}\) [http://www.sac.government.bg/2courts22.nsf/$(All)/$Searchform?SearchView](http://www.sac.government.bg/2courts22.nsf/$(All)/$Searchform?SearchView)

\(^{34}\) [http://www.sac.government.bg/TR.nsf/$(All)/$Searchform?SearchView](http://www.sac.government.bg/TR.nsf/$(All)/$Searchform?SearchView)


\(^{36}\) Order No 1369 of 07.09.2016 – Internal rules for deletion of personal data in the judicial acts published on the website of the Supreme Administrative Court.
in Bulgaria), address, city, municipality, vehicle number, date of birth, names of streets or boulevards, other details on which basis a person could be directly or indirectly identified. Due to the factual practical inability to delete personal data in scanned documents, these are not subject to publication.

The exceptionally wide range of data subject to anonymisation under the order of the chairperson of the Supreme Administrative Court gave rise to criticism from a number of non-governmental organisations as well as from journalists.\(^{37}\) One of the arguments against the excessive anonymisation is that it leads to a lack of transparency regarding the activities of the state authorities whose acts are declared unlawful and repealed by the court.

### 2.3.5 National case law portal (Centralised Web Interface)

The Centralised Web Interface for Publication of Legal Acts (hereafter Centralised Web Interface) was launched at the end of 2009. The portal was developed in implementation of a public tender for “Renovation of the case management systems, development of a centralised web interface for publication of judicial acts, implementation and training”, organised by the Supreme Judicial Council. Financing was granted within the project “Renovation of the information systems for better administration. Legal framework of e-Justice”, as part of the Operational Programme “Administrative capacity” with the financial support of the European Social Fund and the state budget of Republic of Bulgaria. In 2014, the interface of the portal was entirely renewed, giving its current design. The oldest documents date back to 1990. However, the most significant volumes of documents are court decisions rendered after 1 January 2008.

In its original design, the Centralised Web Interface was designed as a national portal providing access to the case law all courts in the country except the Supreme Court of Cassation and the Supreme Administrative Court. Currently, ongoing efforts are made in order to make available on the portal also the case law of the two supreme courts, which is expected to become a reality by the end of 2017. However, the careful examination of the published acts has proved that at the moment of drafting this report, apart from the decisions of the Supreme Court of Cassation and the Supreme Administrative Court, also the decisions of the Specialised Criminal Court of Appeal are not published in the portal. Four other courts – Administrative Court of Smolyan, District Court of Blagoevgrad, District Court of Gotze Delchev and District Court of Elena have stopped sending their acts to the Centralised Web Interface.

It is important to note here that, regardless of whether the courts publish their acts on the Centralised Web Interface portal, according to the Judicial System Act they are required to publish these acts on their own website.\(^{38}\) All of the abovementioned courts comply with this requirement and thus their case law is still available to users. The latter, however, suffer the inconvenience to use different websites with diverse organisation of the access to published acts. For this reason, the Supreme Judicial Council should encourage the already mentioned courts to eliminate any technical or organisational problems that prevent the publication of their acts on the Centralised Web Interface.

The Centralised Web Interface offers two forms\(^{39}\) for searching case law:

- **Quick Search** – this form allows combining one or more of the following search criteria:
  - Court – selection from a classifier displaying all national courts (the user can select only one or all courts at once)

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\(^{38}\) In fact, the Central Interface is a ‘mirror’ of the publication carried out on the respective court’s website – it does not maintain its proper (unique, unpublished) documents and data.

\(^{39}\) [https://legalacts.justice.bg/](https://legalacts.justice.bg/)
Both search forms force the user to enter the CAPTCHA code displayed. This requirement, designed to prevent any automatic download of the database, undoubtedly hampers the normal use of the portal.
The fact that the user is not allowed specifying more than one value when choosing a classifier element is an additional shortcoming of the approach taken to formulate search queries. For instance, it is not possible to search two types of acts of two or more different courts at once (e.g. judgment and order of District Court of Plovdiv and Regional Court of Plovdiv). Another drawback is that no search results are displayed if there are more than 1000 acts responding to the selected search criteria. The better solution, however, would be to display the first 1000 acts that meet the criteria.

The list of results contains the basic information allowing individualisation of the relevant act – type of act, number of the act, status, court, number and year of the case, type of the case (see Figure 7). Apparently, the results are arranged in ascending chronological order – from the oldest (at the top of the list) to the latest acts. A careful examination reveals that not all acts are arranged in the correct chronological order, most likely because the order of publication is not the date on which the act was rendered but the date on which it was published on the Centralised Web Interface. However, the portal does not allow the user to sort the results by a criterion that s/he chooses.

Figure 7: Centralised Web Interface – List of Results

![Centralised Web Interface](image)

After opening a selected document from the results list, the user may see detailed metadata information about the act (Figure 8).
Metadata of the acts generally correspond to the search criteria, and are ordered in three main groups – case data (court, type, number, year, and court panel), act data (type, number, and year) and data on the related judicial acts (type, number, date of entry into force, court, case number and year, and type of the case). It is noteworthy that the results list provides data on the date on which the act has entered into force, but this information is missing in the metadata displayed after opening a document on the list. Metadata are also not supported on the legal matter to which the decision relates (e.g., the cited provisions, the type of claim, the legal basis of the claim, etc.). An effort has been made in order to establish links to acts of lower or higher instance’s courts but, in practice, the information is rarely displayed and updated.

In section “Act data” there is a link to the full text of the decision. In case it is a criminal conviction, there is also a link to the reasoning part of the sentence\textsuperscript{40}, which, according to the procedural law, can be issued after the criminal conviction. For this reason, the metadata of the act indicates in a separate field also the date of the statement of the reasoning part of the sentence.

Judicial acts are published on the Centralised Web Interface portal in different file formats – DOC/DOCX, HTML, PDF, depending on how they were originally published on the website of the respective court.

2.4 (No) Re-use of case law

Despite the existence of a detailed legal framework (see Section 2.2 above), the actual re-use of case law is severely hampered. No court offers on its web site features for bulk download or download through an API / FTP site of the published court decisions, nor does it publish in open formats the metadata for these acts. Therefore, the only option for providers of legal information services to re-use the published case law is to develop specialised software tools to download automatically judicial acts and metadata for them - the so-called web crawlers,

\textsuperscript{40} By "sentence" is meant a judgment in a criminal case.
robots, or spiders. The huge number of websites, each with different architecture and organisation of the access to the published acts, makes the task extremely difficult to solve. Therefore, the automated download of case law from the Centralised Web Interface portal appears to be the only reasonable alternative. However, it is deliberately hindered by the requirement to enter a CAPTCHA code when executing any search query in the portal.

2.5 Findings and recommendations

Bulgaria is one of the few Member States of the European Union, which adopted the principle of negative selection in the publication of judicial acts\(^1\) for both the supreme courts and the courts of first instance and appellate courts. Under the Judiciary System Act, the institutional framework adopted by the Supreme Judicial Council and the internal rules of the courts all judicial acts are subject to publication except:

- those whose disclosure would undermine prevailing public interests – for example, would jeopardize national security or the rights of vulnerable social groups (minors, etc.) or, in spite of anonymisation, would reveal sensitive personal data
- those which, by their very nature, are insignificant, do not contain substantive legal arguments and grounds, and are not relevant to the developments in legal theory – for example, acts rendered in the context of non-contentious proceedings.

As a result, the publication of case law in Bulgaria is characterised by the completeness and comprehensiveness of the information, but also by a certain complexity for users in dealing with multiple sites and platforms. Both supreme courts and some of the courts of appeal have richer metadata and more sophisticated search tools, whereas the first-instance and most of the appellate courts provide information in tabular or list form only.

The difficulties for users arising from the adopted legislative solution for decentralised publication of case law by each court in the country are largely overcome by the efforts made by the Supreme Judicial Council to create a national case law portal – the Centralised Web Interface, which maintains a secondary copy of the acts published by the courts at central level. The major contribution of the Centralised Web Interface above all is that it provides a single entry point and search interface to users for exploring the case law of all first instance and appellate courts in Bulgaria. However, in order to fulfil its role in entirety, it is necessary that the Centralised Web Interface would integrate the case law of both supreme courts – the Supreme Court of Cassation and the Supreme Administrative Court, as soon as possible.

Undoubtedly, the achievements to date with regard to the publication of case law place Bulgaria along with Spain among the EU Member States that provide the most comprehensive access to the decisions of their courts. Notwithstanding the remarkable progress made, we believe that further efforts are needed in the following directions:

1) Integration of the case law of the Supreme Court of Cassation and the Supreme Administrative Court within the Centralised Web Interface portal, not only for the decisions to be published in the future, but also for the old collections of acts already published on the websites of both courts.

2) Renewal of the regular publication of judicial acts on the Centralised Web Interface portal by those courts, which, for technical or organisational reasons, have stopped sending them to the portal.

3) Improvement of the functionality of the Centralised Web Interface portal by:

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• Providing options for simultaneous choices of several classifier elements when building search queries (e.g. choosing two or more courts, two or more types of court acts, etc.)

• Adding new classifiers and search criteria, such as: keyword classifier, subject area classifier, legal basis of claim classifier, quoted regulatory acts classifier

• Introducing a single HTML format for the publication of court acts, which will allow
  o the highlighting the occurrences of the words searched by the user in the text of the decision

• Establishing the missing links between acts in related cases of different instances so that the user can trace the entire course of a court case from the first to the last instance court.

4) Introduction of uniform rules on the anonymisation of personal data in the texts of judicial acts and a single software tool for automated anonymisation in order to overcome diverse practices and excessive deletion of data going beyond legal requirements.

5) Provision of the case law repository of the Centralised Web Interface portal for re-use by publishing it as “open data” on the Open Data Portal of the Republic of Bulgaria.42

6) Introduction of uniform (advisable and voluntary) rules for citing regulatory and judicial acts.43

7) Implementation of the European Case Law Identifier (ECLI) within the Centralised Web Interface portal and the establishment of interconnection with the European e-Justice Portal.

While the implementation of the activities under points 1 and 2 of the above list is indispensable for the completion and establishment of the Centralised Web Interface portal as the national case law platform, the activities under items 3 to 6 are recommendable. The initiative and the management of their implementation should come from the Supreme Judicial Council.

The implementation of ECLI within the Centralised Web Interface portal, which is the main objective of the ECLI-BG project, is discussed in more details in the next Section III.

42 https://opendata.government.bg/

43 Bulgaria is one of the few countries in Europe that still do not have established uniform rules for legal citations. The absence of such rules results sometimes in the use of matching abbreviations when citing normative acts (e.g., the abbreviation “ЗЗД” is used in the legal practice when citing three different Bulgarian laws) or multiple variations of the abbreviation for the same legal instrument. Unfortunately, the Annex to the Decree on the Implementation of the Statutory Instruments Law, which contains an official list of abbreviations of the most frequently cited normative acts, is not maintained since its last amendment of 22 July 1980.
3 Opportunities and perspectives for the introduction of ECLI in Bulgaria

3.1 The role of ECLI as a European semantic web standard for case law

The European Case Law Identifier (ECLI) is a European semantic web standard developed to facilitate the correct and unequivocal citation of judgments of European and national courts, thus improving cross-border accessibility of case law.

The decision on the implementation of ECLI has been taken by the Council of the European Union in December 2010. Within these “Council Conclusions”, also a set of fifteen metadata has been decided upon to improve searchability of judicial decisions published on the Internet.

The role of ECLI as a pan-European standard for facilitating cross-border access to case law is explained in the Council Conclusions in the following way:

"…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. … The fact that nearly all national and European databases use different naming and design rules for metadata jeopardises the possibilities for effective and user-friendly cross-border case law search for judges, legal professionals and citizens … 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… For the identification of judicial decisions a standard identifier should be used which is recognisable, 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."*

ECLI is implemented by the Court of Justice of the European Union, the European Court of Human Rights, the European Patent Office and (voluntary) in EU Member States.

The European Case Law Identifier is a uniform identifier that has the same recognisable format for all Member States and EU courts.

It is composed of five, mandatory, elements:

1. “ECLI”: to label the identifier as being a European Case Law Identifier;
2. the country code;
3. the code of the court that rendered the judgment;
4. the year the judgment was rendered
5. 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.

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* 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)
Detailed information on the ECLI standard and its implementation in the individual EU Member States is published on the e-Justice Portal.\textsuperscript{45}

The portal also offers ECLI Search Engine\textsuperscript{46}, a free service provided by the European Commission that allows decisions of European and national courts with an assigned ECLI identifier to be searched for when the relevant courts and/or Member States have established the necessary technical interconnection with the e-Justice Portal.

### 3.2 Existing practices for the identification and citation of court decisions

Bulgaria does not have own identification system for case law. Judicial acts can be identified and cited unequivocally by courts and legal practitioners only by using a very complex and descriptive textual reference. It includes at least the following elements: type of decision (judgment, order, etc.), number of decision, the date on which it was rendered, name of the court, court chamber (if any), case type (civil, commercial, criminal, etc.) and case number plus the year in which the case was filed. If one or more of these numerous elements are missing, the decision may be not identified unequivocally. For instance, it is possible that the same court has rendered on the same date two decisions with the same act number and the same case number. The only difference is the type of the case. For example:

- Определение от 20.11.2002 г. на САС по гр. д. № 2273/2002 г., гр. колегия, 5 с-в
- Определение от 20.11.2002 г. на САС по ч. гр. д. № 2273/2002 г., гр. колегия, 5 с-в

In the example above, it can be seen that only the type of the case differs and that the difference in its abbreviation is only one letter.\textsuperscript{47}

However, in most cases, judges and other legal practitioners are citing decisions without sufficient reference data and are using a variety of ways to shorten the various reference elements. The variety of existing citation practices not only makes it impossible to identify the cited judgments by computers through automated (machine) recognition of the citations, but often by humans.

### 3.3 Necessity and expected benefits of introducing ECLI

The lack of a national identification system in Bulgaria for case law makes the implementation of ECLI even more imperative. ECLI comes timely to meet the critical need of introducing a national standard for unequivocal identification and correct reference of the decisions of Bulgarian courts.

In Bulgaria, ECLI will definitely play dual role as both a European and national standard. All Bulgarian legal practitioners will benefit from its introduction – judges, court staff, prosecutors, lawyers, in-house lawyers, and others, who will be able to gain knowledge how to use ECLI in legal citations and find judgments of Member States’ courts on the e-Justice Portal. The use of ECLI in the texts of judicial acts while citing court decisions will allow providers of legal information services to develop even more sophisticated software tools for automated reference recognition in the interests of users.

\textsuperscript{45} \url{https://e-justice.europa.eu/content_european_case_law_identifier_ecli-175-bg.do}
\textsuperscript{46} \url{https://e-justice.europa.eu/content_ecli_search_engine-430-bg.do}
\textsuperscript{47} Both court orders are rendered in civil cases, but the second one – in civil interlocutory proceedings.
The introduction of ECLI in Bulgaria will be beneficial for legal practitioners, citizens and businesses across Europe, as well as employees in EU institutions and Member States as it will contribute to improving cross-border access to Bulgarian case law and its interaction with the case law of the European courts and the courts of the other EU Member States.

3.4 Initial steps

The Supreme Judicial Council, which is the national coordinator of ECLI, established in 2012 a working group on the elaboration of ECLI identifier specification for the Bulgarian judicial acts. Such a specification has been drawn up but has not been fully completed because of the hesitation whether the adopted approach for determining the fifth element of ECLI will ensure its uniqueness.

In early 2017, the Supreme Judicial Council resumed the work on specifying the composition of the ECLI identifier, and this time brought it to completion. The specification is published as a section of a normative act, namely Chapter Seven of Ordinance No. 4 of 16 March 2017 on the keeping, preserving and accessing the register of acts of the courts (Ordinance No. 4).  

The European case law identifier is formed according to the requirements of the Council conclusions on ECLI introduction (see Section 3.1 above).

Under Article 30(1) of Ordinance No 4, the national format of ECLI contains the following elements, which must be arranged in the specified order:

1. The abbreviation "ECLI"
2. "BG" code, being an indication that the court decision was taken under Bulgarian jurisdiction
3. Type and code of the court where:
   a) "SC" is used to designate the Supreme Court of Cassation
   b) "SA" is used to designate the Supreme Administrative Court
   c) "PA" is used to designate the Specialised Criminal Court of Appeal
   d) "PC" is used to designate the Specialised Criminal Court
   e) "MA" is used to designate the Military Court of Appeal
   f) "MC" is used to designate a military court
   g) "AP" is used to designate a court of appeal
   h) "AD" is used to designate an administrative court
   i) "DC" is used to designate a regional court
   j) "RC" is used to designate a district court
   k) The code of the court corresponds to the 3-digit code of the court under the Rules of administration in the courts

4. Year of the judicial act
5. Year of the case, code for the type of the case (according to Article 76(2) of the Rules of administration in the courts), 5-digit sequential number of the case and sequential number of the judicial act in the specific case.

Further, the provisions of Article 30(2)-(5) of Ordinance No. 4 define the syntax of the ECLI-identifier:

- The five elements shall be separated by a colon ("::")
- The type of the court and the code of the court shall be written together

The year of the case, the code for the type of the case and the 5-digit sequential number of the case shall be written together

The year of the case, the code for the type of the case and the 5-digit sequential number of the case shall be separated from the serial number of the judicial act on the specific case with point (".").

Example of ECLI-identifier:
ECLI:BG:AP100:2016:2016100502941.001 is the judgment of the Court of Appeal of Sofia No. 1989 of 01.05.2016 in case No 2941 of 2016

In the above ECLI-identifier, the meaning of the third, fourth and fifth elements is as follows:

- AP100 – the code of the Court of Appeal of Sofia
- 2016 – Year in which the judgment was rendered
- 2016100502941.001 – Year of the case + 3-digit code of the court + Case type code (in this example – second instance civil case) + Case number + Sequential number of the judicial act in the specific case.

3.5 The ECLI-BG project and the introduction of ECLI in Bulgaria

The need of introducing ECLI in Bulgaria was one of the main topics at the round table discussion held in Sofia on 12.02.2016. The event was organised by the present ECLI-BG project partners “Apis Europe JSC” (APIS) and the Union of Bulgarian Jurists (SUB) with the support of the Bulgarian ECLI coordinator – the Supreme Judicial Council, the Ministry of Justice, the Supreme Court of Cassation and the Supreme Administrative Court. The main conclusion of the round table was that the ECLI coordinator, with the involvement of all relevant stakeholders, should accelerate the work on the ECLI introduction, in particular by seeking favourable funding opportunities.

Such an opportunity was provided by the Justice Programme of the European Union with the opening of a new call for proposals in the autumn of 2016. APIS and SUB prepared a project proposal for the introduction of ECLI in Bulgaria. At its meeting on 24.11.2016, the Plenum of the Supreme Judicial Council adopted a decision on item 6 of the agenda, which says that the Council supports the participation of APIS and SUB in the call for proposals of the Justice Programme.

A draft version of the proposal was agreed with experts from the Information Technologies and Judicial Statistics Directorate of the Supreme Judicial Council and then approved by the Council’s Commission "Vocational Training and Information Technologies" on 09.01.2017. The project proposal was submitted on 11.01.2017 and was approved by the European Commission for funding several months later. The implementation of the ECLI-BG project started on 01.07.2017. It is carried out by APIS (coordinator) in partnership with SUB and with the support of the Bulgarian ECLI coordinator – the Supreme Judicial Council. The duration of the project is 18 months – until 31.12.2018.

The main objective of the ECLI-BG project is to introduce the European Case Law Identifier (ECLI) into the national case law portal – the Centralised Web Interface for the Publication of Judicial Acts (Centralised Web Interface), developed by the Supreme Judicial Council, and to

50 For more information, see http://www.vss.justice.bg/стрианица/преден/3511.
52 The full title of the project is „Implementation of ECLI Identifier in Bulgaria and interconnection with the e-Justice Portal“. Further, only the project acronym – ECLI-BG, is used in this document.
establish interconnection with the ECLI Search Interface on the e-Justice Portal of the European Commission. Unlike many other Member States, where in most cases ECLI is implemented by courts within their case management systems, ECLI-BG adopts a different approach. Taking into account the comfort that the Centralised Web Interface provides to its users, the project envisages implementing the ECLI within this portal.

The main advantage of the chosen approach is that it enables the ECLI identifier to be introduced for the case law of all courts in Bulgaria (except the Constitutional Court) both for all currently published acts in the Centralised Web Interface portal and for the whole old collection of court decisions available in the portal. In practice, this means that only the judicial acts published in the Centralised Web Interface portal will receive ECLI identifier. The project does not provide for the ECLI identifier to be generated by the four case management systems currently used by the courts. On the one hand, this would lead to at least four times higher costs and, on the other hand, it does not guarantee a sustainable solution, since in the next few years the Supreme Judicial Council plans to develop and implement a new unified case management system as part of the introduction of e-Justice in the Bulgarian judicial system.

3.6 Issues for debate regarding the establishment of interconnection with the e-Justice portal

As a result of the implementation of the ECLI-BG project, over 2 million judicial acts published in the Centralised Web Interface portal are expected to receive a unique ECLI identifier and thus can be uniquely identified and cited. By connecting the Centralised Web Interface portal to the ECLI Search Interface on the e-Justice portal, this case law can also be available to all users from other Member States. Building such a connection, however, raises a number of issues for a preliminary discussion.

Firstly, it is important to decide whether all the judicial acts published in the Centralised Web Interface portal should also be available from the e-Justice portal, and, if a selection is made, what criteria will be used.

One of the possible selection criteria is whether the judicial act is related to the application of EU law, that is to say, only case law citing EU legislation or case law of the Court of Justice of the EU should be sent to the ECLI Search Interface. Here, it should be pointed out immediately that such an approach to the selection of Bulgarian judicial acts is impossible because neither the Centralised Web Interface portal nor the websites of the courts support metadata for the cited acts of EU law. Even if such metadata existed, limiting the scope of case law to this criterion is inappropriate at least because it is possible that the court decisions are citing Bulgarian legal instruments, which are transposing EU directives. In this case, the case law in question will formally refer to Bulgarian legal provisions, but indirectly will be related to the application of EU law.

Another possible selection criterion is the significance of the judicial act with a view to its inclusion in an information retrieval system and the access to its text by users who are not parties to the case. Namely, this criterion is outlined in Points 25.2 and 25.3 of the Decision of the Supreme Judicial Council of 29.10.2009 on the publication of judicial acts by the courts (see Section 2.2.1 above). Notwithstanding the guidelines of the Supreme Judicial Council, several hundred thousand of judgments that do not meet the criterion of significance can be found on the courts’ websites and on the Centralised Web Interface portal. In view of this, we believe it is advisable to introduce a formal selection criterion that will allow information on these acts not to be available on the e-Justice portal. Such a criterion, we think, is the type of act. In our opinion, the e-Justice portal should only be given access to three types of judicial acts – judgments, orders and sentences, but to exclude acts of other types, such as protocols, opinions and agreements that are currently numbering more than 250,000.
Secondly, the question should be answered whether Bulgarian judicial acts that will be available on the e-Justice portal will contain the complete set of all 15 metadata fields defined in the ECLI standard. The analysis of the metadata included as search criteria in the Centralised Web Interface portal (see Section 2.3.5 above) shows that the judicial acts published in it do not contain information that corresponds to the following optional metadata fields of the ECLI specification:

- dcterms:subject – a field used to indicate the field of law to which the decision relates
- dcterms:abstract – a field containing an abstract or summary of the decision
- dcterms:description – a field containing keywords or headnotes
- dcterms:references – a field containing references to national and / or EU legislative and judicial acts cited in the decision.

It is obvious that at this stage it is not possible for the Bulgarian judicial acts that will be available on the e-Justice portal to contain the full set of metadata specified by the ECLI standard. However, a future extension of the Centralised Web Interface portal functionality should provide for adding new fields with the above-mentioned metadata, especially because some courts already support such information on their websites.

Lastly, it should be noted that outside the ECLI standard remains a large group of acts that, although not issued by courts, in their nature closely resemble the case law. These are the acts of a number of special administrative jurisdictions, such as the Commission for protection of competition, the Commission for consumer protection and the Commission for protection against discrimination. Such jurisdictions outside the judicial system exist in all EU Member States. Acts issued by this type of administrative bodies contain detailed reasoning part and are subject to subsequent judicial review. From the point of view of the users of legal information, their meaning is the same as that of the acts of courts of first instance. For this reason, we believe that a further version of the ECLI specification should allow the inclusion of this “quasi-case law” in the scope of the standard.
4 Annex – Text of the report in Bulgarian

Доклад за текущото състояние по отношение на публикуването на съдебна практика в България (PDF, 1.6 MB)