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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

**Internet access for CODICES Database -
Possible Co-operation
with the University of Chicago Law School**

1. Introduction

At the 7th meeting of the Sub-Commission on Constitutional Justice with liaison officers from Constitutional Courts and other equivalent bodies, Prof. Lessig of the University of Chicago Law School informed the Sub-Commission about a project to connect constitutional courts in Central and Eastern Europe to the Internet (CDL-JU (95) 3). In conformity with the decision taken at that meeting, the Secretariat has prepared the present note on the implications of a connection of the Venice Commission's database to the Internet.

2. General Implications of an Internet Access for the Bulletin/CODICES

The Internet permits information contained in the Bulletin on Constitutional Case-Law and the corresponding "CODICES" database which is being developed by the Secretariat to be made widely available. As a result, new readers having an Internet access could be addressed worldwide. At present, there are approximately between 30 and 60 million persons connected to the Internet. According to a recent study by the consultants "O'Reilly & Ass." their number could rise to as many as 200 million in 1999¹.

Internet is used by a steadily growing number of organisations and courts. Among the constitutional and other equivalent courts participating in the work of the Venice Commission, the following already possess Internet access (www home-pages):

- National Court (Estonia - <http://www.nc.ee>);
- Constitutional Court (Slovakia - <http://www.tuzvo.sk/court>);
- Constitutional Court (Slovenia - <http://www.sigov.si/us/eus-pred.html>);

The Slovene and Slovak Constitutional Courts have already put some of their judgments on the Internet.

The case-law of other Courts is available on the Internet through external servers:

- US Supreme Court, Columbia University - <http://www.law.cornell.edu:80/syllab/>
- Canadian Supreme Court, Montreal University - http://www.droit.umontreal.ca/Droit/CSC/index_fr.html
- South African Constitutional Court, WITS University - <http://pc72.law.wits.ac.za/>

A first reading of the results of questionnaires sent out to liaison officers, librarians and readers of the Bulletin² reveals a strong interest in the availability of the summaries published in the Bulletin on Internet. However, some users prefer diskettes/CD-ROMs or the paper version.

The availability of CODICES on the Internet should not be seen as an alternative to its distribution on diskette/CD-ROM and to the paper version of the Bulletin.

¹ Cf. *Internet, la démocratie en péril?*, *Courrier international*, no. 258, 12-18 October 1995, p. 10.

² During her internship at the Secretariat of the Commission, a French information management student prepared a study on improving the Documentation Centre on Constitutional Case-Law (cf. CDL-JU (95) 10). The study was based on 125 questionnaires sent out to liaison officers, librarians and readers of the Bulletin.

If the location of information in the Internet is known, quick access to this information is possible. Due to the chaotic structure of the Internet, some servers have specialised in providing tables of contents about information to be found on other Internet servers. Special directories on law exist. The Internet-site of the Venice Commission could be included in such directories making it more widely known.

Along with the CODICES database other information on the activities of the Venice Commission could be provided in the Internet *World Wide Web* home-page together with references to publications.

The E-mail facilities of the Internet could be used for the transfer of documents (contributions) to/from liaison officers who use the Internet.

Problems which might result from the intrusion by hackers or viruses through the Internet may be overcome by several techniques, for example by electronically separating data open to the public from private data ("fire-wall") or even using two physically separated servers, one for the ordinary network and another for Internet access.

3. Types of Internet connection

To be able to offer the information contained in CODICES, the set-up of a so-called home-page in the *World Wide Web* will be necessary. Such a home-page can allow for simple consultation of text page by page (i.e. decision by decision) or can offer search facilities (e.g. give me all decisions concerning freedom of speech). The tool for such facilities is called "search engine".

Folio Corporation, the producer of *Folio Views*, offers such a search engine called "*Folio Web Server*". This engine although called server, is a programme, similar in use to *Folio Views* and has the advantage that an existing *Folio Views* database can be connected to the Internet directly without further changes.

The *Folio Web Server* permits access to the database to be limited through the use of passwords.

In order to avoid a negative impact on the recent subscription campaign for the Bulletin, access to the database could be made payable (with the usual exceptions for participating courts and subscribers from countries in Eastern and Central Europe). Access could also be offered free of charge for subscribers to the Bulletin, thus providing an extra incentive for subscription.

4. Internet access through the Council of Europe

The Computer Division of the Council of Europe is planning to provide an Internet *World Wide Web* home-page for the Organisation thus linking the internal network of the Council of Europe to Internet. The information contained in the Bulletin on constitutional case-law might be included in this project.

Actual progress of this project will depend on the availability of funds in the budget for 1996. Even in the most optimistic scenario, it will probably not be operational before the end of 1996. Due to the early stage of this project, no reliable information on communication/hardware costs which might have to be borne by the Commission is yet available.

Full E-mail facilities will hopefully be accessible via the Council's network in 1996. (E-mail messages can already be received but not sent out by the Secretariat.)

Technically, two ways of using the Council's Internet link exist:

a) Direct use of the Council of Europe network

Due to the use of another operating system than that required for the *Folio Web Server*, only simple downloading of summaries of decisions might be possible.

b) Use of the Council's Internet link via a separate server

A separate Internet server of the Venice Commission might be linked to the Council of Europe's network thus using the future high speed Internet link of the Council. Already, the Council's Computer Division has indicated that due to insufficient resources such a link might be difficult to be established.

5. Internet access using servers of Universities

Already, one service in the Council of Europe is using the server (computer) of the University of Strasbourg free of charge for its Internet access. Negotiations with this University or others might lead to Internet access free of charge for the Bulletin. Here too, a search engine might be unavailable. Furthermore, due to the local distance between the Secretariat and the Universities, E-mail facilities will be impractical, even if possible.

6. Co-operation with the University of Chicago Law School

a) *The COCONET project*

At his presentation to the Sub-Commission on Constitutional Justice in Lausanne (3/4 July) and in a letter dated 10 August 1995, Prof. Lessig of the University of Chicago³ offered the Venice Commission co-operation in his project linking Constitutional Courts in Eastern Europe to the Internet (COCONET).

During a first phase of COCONET, the Constitutional Courts of Slovakia, Russia, Hungary and the Czech Republic will be provided with an Internet server as well as necessary equipment and

³ *The University of Chicago is very active in legal research about Eastern Europe. Its Law School has established a "Center for the Study of Constitutionalism in Eastern Europe" which publishes the "East European Constitutional Review" featuring analyses of constitutional developments in Central and Eastern Europe.*

software. Communication costs will be covered during the first year of the project.

Other courts in Eastern and Central Europe will be invited to participate at a later stage.

The Courts will obtain E-mail facilities and will be able to set up a *World Wide Web* home-page to present themselves and their judgments. The *Folio Web Server* software is to be used for this purpose.

b) *Conditions of co-operation*

Prof. Lessig offered to the Venice Commission the same equipment and resources as to the constitutional courts:

- a server with all necessary support and software (including *Folio Web Server*) would be provided for as long as the project continues (on a loan basis);
- communication costs for one year.

c) *The pros and cons of a co-operation with the University of Chicago Law School*

The COCONET project seems to be viable and will probably go ahead, with or without the participation of the Venice Commission.

aa) *advantages*

- The server of the Venice Commission would be at the very centre of the COCONET because global information about all constitutional and equivalent courts, whether in Western Europe or beyond, would be found here. The server of the Venice Commission would naturally become the entry point of the whole network. From here, users would be able to jump via hyperlinks to servers of the participating courts where they can obtain more detailed information (in particular the full text of judgments). On such a server, however, it will only be possible to consult the database of one court at a given time.
- Communication with the courts which are equipped with Internet E-mail facilities would be greatly facilitated. Contributions for the Bulletin/CODICES from the liaison officers could be sent by E-mail much quicker than, as in the present method, by sending faxes and mailing diskettes.
- Using the same user interface (*Folio Web Server*) for all of the participating Internet sites (Courts and Venice Commission) interlinked in a single network would also enhance the user friendliness and user-acceptance of a Web page of the Commission as compared to a standalone system. (CODICES uses the *Folio Views* database software, the handling of which is very similar to the *Folio Web Server*).
- The cost of setting up a separate Internet server using the *Folio Web Server* by the Venice Commission on its own would be considerable. Even if one of the servers within the Council of Europe might be used for this purpose - see problem of operating system above - additional software (*Folio Web Server* at FF 56,000) would be required.

bb) *possible disadvantages*

- Financing of the project is being provided by the University of Chicago. It is known that the University in turn will at least partly use funds made available by the Soros Foundation.
- The offer of equipment is only valid as long as the co-operation continues. The University of Chicago could stop co-operating and demand its equipment back.

Therefore, specific terms of co-operation would have to be drawn up stipulating that at least for some time the equipment could continue to be used in order to enable the Venice Commission to set up an alternative system.

- As from the second year, the Venice Commission would have to bear the communication costs. First estimates for the cost of a high speed connection amount to at least FF 100.000 per year due to relatively high telecommunication costs in France. A lower speed connection might be sufficient in the beginning for a testing period.

7. Conclusions

Connecting the CODICES database to the Internet offers a unique possibility to increase its dissemination worldwide. Linked to databases of constitutional courts worldwide, it would become a very efficient research tool.

Given the lack of available funds in the 1996 budget of the Commission, only the co-operation with the University of Chicago Law School or the use of a University server provides a realistic opportunity to put CODICES on the Internet in the near future.

It must, however, be ensured that any such co-operation will not be detrimental to a future inclusion of the database in the Council of Europe's Internet project.