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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

Dissemination of the CODICES Database

Note by the Secretariat

Introduction

1. The idea of a database was already mentioned in the first study on "the establishment of a Documentation Centre on Constitutional Case-law" (CDL (92) 2) which was prepared in 1991. The *Bulletin* was always seen as a first step for the creation of a fully functioning database on constitutional case-law.
2. A first version of this database has been set up at the Secretariat in Strasbourg. It has been called:

CODICES *D*igest of *C*onstitutional *C*as*ES*

3. At the 8th meeting of the Sub-Commission, on 22 November 1995 in Venice, a preliminary version (1.2 beta) of CODICES in English was presented and distributed to the participants on diskette for testing and comments. This version of the database contained all the summaries (précis) that had been published to this date in the *Bulletin*. During the 9th meeting of the Sub-Commission, on 28 June 1996 in Madrid, a preliminary version of CODICES in French will be distributed for testing and comments. This version (1.4 beta) contains about 160 full texts.

The database consists of three parts:

- summaries of decisions;
- full texts of decisions;
- the systematic thesaurus.

4. It is envisaged that the database will eventually contain all available full texts of judgments summarised in the *Bulletin*. The liaison officers have already been invited to transmit on diskette to the Secretariat further full texts of judgments which are available on magnetic storage media, for their inclusion in CODICES.

5. The present note examines three different options for the dissemination of the database (diskette, CD-ROM, Internet). All options have to be considered in the light of current budgetary allocations for the database. In the Venice Commission's budget for 1996, FF 120.000,- have been earmarked for the database CODICES. Most of this money is still available. One hopes that budgetary allocations for 1997 will probably be of similar proportions. It should be noted however that the Commission will be required to pay annually FF 76.000,- for maintenance of Folio Views and MS-Access in the network.

I. Dissemination by diskette

6. Preliminary versions of the database have so far been distributed on diskette to participating courts. Currently one language version of the database, including only about 160 full text judgments, together with the research tool ("Folio Bound Views") requires more than 10 diskettes. Given the rapidly growing volume of data, the number of diskettes required will increase quickly.

7. Due to the rapidly increasing volume of data, the Secretariat is not in a position to produce the whole database on diskettes on a regular basis on its own. If the duplication of diskettes is done by a commercial supplier, the costs will be relatively high. According to estimates received by the Secretariat, the net price for the preparation of 30 sets of diskettes containing the actual version (1.4 beta) of CODICES would amount to approximately FF 6.000,-.

8. Dissemination of the database on diskette is neither practical nor userfriendly. It cannot be seen as a viable alternative to CD-ROM or the Internet. It must however be taken into account that certain of the participating courts do not possess CD-ROM or Internet facilities. The Secretariat will therefore be obliged to provide these courts with updates of the database on diskette. Those versions would, however, not contain any full texts.

II. Dissemination by CD-ROM

1. Technical Implications

9. All information currently contained in the database, including the growing number of full texts of judgments, can easily be stored on a CD-ROM. A CD-ROM has a storage capacity of 620 MB. The CODICES CD-ROM would also include Folio Bound Views which is required to effectuate all available research functions of the database (full text search, hierarchical search via the branches of the systematic thesaurus, search via isolated keywords or dates of decisions, etc.).

10. There are two ways to produce a CD-ROM:

- production of a prototype of CD-ROM and subsequent duplication by a commercial supplier who will receive the database on a magnetic storage medium (portable hard disk);
- production of a prototype CD-ROM at the Secretariat which will be duplicated by a commercial supplier.

11. The second alternative presupposes the acquisition and installation of special hardware at the Secretariat. For the time being, this alternative is not envisaged.

12. The CD-ROM needs to be up-dated at regular intervals. It might be advisable to follow the publication of the *Bulletin* and to produce three CD-ROMs per year. It would also be possible to have only one up-date per year.

2. Costs

13. According to estimates received by the Secretariat, the production of 500 CD-ROMs containing the database CODICES would cost about FF 10.000,- (including pressing, labelling and package). The final price depends to a certain extent on the number of colours on the CD-ROM label and on the choice of package materials (plastic or paper hard cover).

3. Elements for an evaluation

14. Dissemination by CD-ROM offers many advantages. It is manageable and userfriendly. All research facilities of the database would be available at a reasonable price.

15. Not all participating courts possess CD-ROM drive. According to the questionnaire which was sent out in 1995, only eight of the participating courts are equipped with a CD-ROM drive (the Constitutional Courts of the Czech Republic, Lithuania, Slovenia and Spain, the French Constitutional Council, the National Court of Estonia, the Dutch Supreme Court and the Swiss Federal Court). Due to the growing use of CD-ROM in legal research, it is likely that this number has increased by now.

16. One major drawback in comparison with on-line or Internet access is the fact that the database would only be updated at certain intervals. It should however not be forgotten that CODICES is a highly specialised database which, due to the publication rhythm of the *Bulletin*, can only be up-dated three times per year. Under these circumstances, on-line access offers only marginal advantages for the user.

17. If the participants decide to produce a CD-ROM, the following questions must be addressed:

- the rhythm of production of updated CD-ROMs (once or three times per year?);
- the number of CD-ROMs to be produced each time;
- the price of a CD-ROM and the categories of persons who will receive the CD-ROM free of charge (in addition to all participating courts, all subscribers to the *Bulletin* or only certain categories of subscribers, e.g. those who make it available to the public?).

III. Internet Access for CODICES

1. The Internet

18. 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 (World Wide Web home-pages) and offer their judgments on these pages:

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

19. 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/>
- German Federal Constitutional Court (extracts of decisions), University of Hamburg - <http://www.uni-hamburg.de/glaw/index.html>

2. Types of Internet connection

20. To be able to offer the information contained in CODICES, the set-up of a 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 all decisions concerning freedom of speech). The tool for such facilities is called "search engine".

21. *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.

22. The *Folio Web Server* permits access to the database to be limited through the use of passwords which could be linked to a subscription.

3. Possible access to the Internet

a) Access through the Council of Europe

23. The installation of CODICES on the network of the Council will facilitate considerably the production of the Bulletin (via the joint use of MS-Access and Word Perfect macros) and the shared use of files for *Folio Views*.

24. Since the beginning of 1996, the Council of Europe provides an Internet *World Wide Web* home-page (<http://www.coe.fr>). It contains currently information provided by the Parliamentary Assembly. The Venice Commission is not yet present on this home-page. There are also Internet and X400 e-mail facilities accessible for the Commission's Secretariat via the network of the Council of Europe. The presence of the Council of Europe on the Internet is still in its early stages (see decision of the Committee of Ministers annexed).

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

- Direct use of the Council of Europe network

The Council of Europe is currently using another operating system than that required for the *Folio Web Server* (*Windows NT*). An evolution towards *Windows NT* is currently under consideration. This would allow for the use of the *Folio Web Server* on the Council of Europe network.

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

Once a high speed Internet link has been established for the Council, a separate Internet server of the Venice Commission could be installed.

The maintenance and telecommunications cost for such a link might be borne by the general budget of the Council of Europe. Installation costs, however, would occur.

b) Separate server

26. Connecting CODICES via a separate server to the Internet involves considerable costs. Costs for the installation of even a low-budget server will amount to approximately FF 140.000,-. In addition to this, the Venice Commission would have to bear the communications cost. First estimates for even a low-priced connection (*liaison numeris dynamique*) amount to at least FF 60.000,- per year due to relatively high telecommunication costs in France.

c) Access through a University server

27. One service in the Council of Europe is already using the server (computer) of the University of Strasbourg 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 would be unavailable. Due to the local distance between the Secretariat and the Universities, there are considerable technical difficulties to overcome.

4. Elements for an evaluation

28. Internet access for CODICES offers considerable advantages. The home page of the Venice Commission would be accessible worldwide. It could be linked to the servers of other constitutional and equivalent courts. Users would be able to jump via hyperlinks to servers of the participating courts where they can obtain more detailed information on the courts.

29. Possible drawbacks are:

- the availability, if free of charge, of the database on the Internet may have a negative impact on the subscription campaign for the *Bulletin*;
- there is only a limited number of participating courts which are connected to the Internet (see above at para. 18);

30. Intrusion by hackers or viruses may be prevented by electronically separating data open to the public from private data ("fire-wall").

31. During previous discussions among liaison officers it was emphasised that 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*. It must be taken into account that the current budgetary situation (see above under para. 5) does not allow the acquisition of the equipment required to offer a high-speed Internet access via a separate server with full research facilities.

32. The situation in the Council of Europe is evolving rapidly. The Informatics Division is currently considering to switch to the operating system *Windows NT*, a modification which would greatly improve the chances to use Council of Europe facilities to put CODICES on the Internet. Under these conditions it might be advisable to postpone a final decision on CODICES access to the Internet.

Action to be taken

33. Participants are asked to consider the following draft decisions:

The participants decide to charge the Secretariat to produce [500] copies of a CD-ROM containing all Bulletins which have so far been published as well as all available full texts of judgments summarised in the Bulletin.

The CD-ROM shall be distributed free of charge to all participating courts [and on demand to all subscribers of the Bulletin] [and on demand to all subscribers who receive the Bulletin free of charge] [and on demand to all libraries in Eastern and Central Europe which can make it available to the public].

The price of the CD-ROM shall be fixed at FF [100]/US Dollar [20].

An up-dated version of the CD-ROM shall be produced [following the publication of each Bulletin] [once a year].

The participants decide to resume discussion of linking CODICES to the Internet at their next meeting.

APPENDIX

568th meeting - 3-6 June 1996

Item 1.6

1.6

INFORMATION POLICY OF THE COUNCIL OF EUROPE (GR-I(96)3)

Decision

The Deputies, having heard a report by the Chairman of the Rapporteur Group on Information Policy on the meeting held on 23 May 1996, took note of the Secretariat's plans, as set out in Doc. GR-I(96)3 (Appendix),

- . for the opening of a Council of Europe homepage on the Internet from July 1996;
- . for the launching, in autumn 1996, financed from existing budgetary appropriations, of an electronic and paper Council of Europe general (non-specialist) newsletter, the content of which would be kept under review by the Rapporteur Group on Information Policy;
- . for an in-depth study concerning the periodical "Forum", including the cost/distribution ratio, as well as for the study of plans for other types of publications.