

Online access to legislation in the

EU

- from fee-based to free information -

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1. Legislation online: 3 milestones in Europe

■ (1) Laws stored in databases

- Since the 1970s
- Subscription-based (paying) services

■ (2) Legislation on the Internet

- Since 1995: copies of legal gazettes are put on the Web
 - in addition to the traditional (fee-based) legal databases
- Since 1997/98: the traditional legal databases get a Web interface
- Since 2001: many databases and websites are merged into new free-of-charge services

■ (3) Official publishing of legislation on the Internet

- since 2001
- parallel to, or instead of, the paper gazette
- separate websites for the authentic versions



II. How online access to EU legislation became free of charge: a case study

- *Celex*, the law database run by the Institutions of the EU
 - EU legislation - case law of the Court of Justice - EU law preparatory acts
 - today's name: *EUR-Lex*
- Twofold distribution of *Celex/EUR-Lex*:
 - the EU as a retailer: direct access for end-users
 - the EU as a wholesaler: distribution to national hosts and other re-distributors
- Setting-up of a “*Celex-light*” service, free-of-charge
 - *EUR-Lex*
- Chronology of a change of heart:
 - within 7 years, end-user access to *Celex* became completely free of charge



Digression: Overview European Union (1)

- - 6 Member States in 1952 (4 official languages),
 - 15 since 1995 (11 official languages)
 - 25 since 2004 (20 official languages)
 - 27 since 2007 (23 official languages)

 - ‘European Communities’ / ‘Community’ - ‘European Union’
 - 1952 (‘Paris’) European Coal and Steel Community (ECSC) [-> 2002]
 - 1958 (‘Rome’) European Economic Community (EEC, since 1993: EC)
+ European Atomic Energy Community (EURATOM)
 - 1993 (‘Maastricht’) European Union (EU)
-

- N.B.: 4 EFTA Countries (Norway, Iceland, Switzerland, Liechtenstein)



Digression: Overview European Union (2)

The 3 “pillars of competence” of the European Union (EU)

(1) European Communities (EC, Euratom, [ECSC])

- Customs union
- Single market (4 basic freedoms, competition rules)
- Agricultural policy
- Structural policy
- Trade policy
- Economic & monetary affairs
- EURO
- (many other policy areas)

legislation drawn up by the Community institutions; directly applicable in the Member States; precedence over national law

(2) Common foreign and security policy

(3) Justice and home affairs



End-user access: chronology (1)

- since July 1981: *Celex* open to the public (fee-based access = subscription)
- June 1997: decision to grant free access to:
 - the current Official Journal (OJ) limited to the first 20 days (= new service)
 - EU legislation in force
 - preparatory acts;
 - EU case law (“during the period granted by the Court”: then 1 year)(N.B.: In June 1997, similar decisions were taken, although with different backgrounds, in France and Denmark)
- 1998: the new free website is opened under the name of *EUR-Lex* (*Celex*, the comprehensive database intended for professional users, remains a fee-based service.)
- 1999: *EUR-Lex* gets a common search interface (with no time limitation for free access to case law): the free-of-charge “*Celex-light*” system is completed.



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OJ of the EC

Annex 1.a
Online access to national legislation
(May 1997)



- Free of charge:**
 - entirely free
 - restrictions in usage
 - free during a limited period
- Paying access:**

End-user access: chronology (2)

- 2000: free access to the Official Journal in *EUR-Lex* is extended to 45 days
- 2002: unlimited free access to the OJ,
+ free access to all formats of legislative texts in force
- Dec.2002: the European Parliament adopts a resolution requiring free access to *Celex* (Resolution A5-0440/2002)
- July 2004: *Celex* becomes free of charge
- Nov.2004: *Celex* + *EUR-Lex* are merged to a new (free-of-charge) service: *EUR-Lex*



End-user access: principles + issues (1)

■ The basic “Information market” principle:

“All information and services having a **market price** should not be provided free of charge. **Value-added** information provided by public authorities have a marked price.”

- Principle applied to all EU databases (half of which were free of charge)
- In the case of *Celex*: retailing the database free of charge would have been unfair competition with the (more than 20) re-distributors.

■ Issues:

● Consolidated texts:

Although being “added value”, consolidated acts could be accessed free of charge in *EUR-Lex* (principles of transparency and of “e-Government”)

● Metadata:

EUR-Lex offered a sufficient set of metadata (no doctrine of limitation to “essential data”)



End-user access: principles + issues (2)

- The decision on complete free-of-charge access to *Celex*, taken further to the European Parliament Resolution of December 2002, was based on the political axiom that online access to all official legal information had to be free of charge,
 - although *Celex* was a service intended for professional users,
 - although a comprehensive layman-oriented “light version”, *EUR-Lex*, was operated in parallel.
- (N.B.: A thorough discussion on the technical details and the principles at stake did not take place.)



Access by re-distributors

- The principles of the *Directive on Public Sector Information* (Directive 2003/98EC of 17 Nov. 2003 - OJ L 345, p.90-96) have been applied, even “avant la lettre”, to the wholesaling of *Celex*.
- Today,
 - the texts of EU legislation can be re-used for commercial purposes free of charge;
 - the licence for the database (texts + metadata) has remained fee-based.
- The contents of *Celex/EUR-Lex* are re-distributed free of charge by some hosts and as a fee-based service by others.
- Re-distributors are not critical about the added value with which the reference database is retailed (free of charge) by the EU.



Digression: Free access to case law?

- The situation concerning case law databases is more complex.
 - Many courts publish their decisions (free of charge) on the Internet.
- In most countries, databases containing a comprehensive collection of the decisions of courts and tribunals are run by private companies and are, therefore, subscription-based. (There are still countries with public sector databases that are not free of charge.)
- Case law of the Court of Justice, during the “transition” period:
 - Since 1997, the Court of Justice provided its current decisions free of charge on the *Curia* website, were they were supposed to be taken off after 1 year.
 - Already from 1999, *EUR-Lex* provided free unlimited access to the comprehensive case law collection stored in *Celex*; this practice was actively “tolerated” by the Court.



III. State of play + trends in the EU

■ State of play

- Since Oct. 2008, online access to legislation is free in all Member States. (N.B.: The website of the Italian ‘Gazzetta Ufficiale’ grants free access only during a period of 60 days following the publication of the Official Gazette.)
- In a third of the Member States, the online Gazette has official character.
- 4 Member States do not publish legislation any longer on paper; 2 others will follow in 2009.

■ Trends

- Official publishing of legislation on the Internet
- Paperless Legal Gazette
- Co-existence of normal and “authentic” online versions of legislation



Legislation published officially on the Internet

■	(N.B.:) Norway	2001
■	United Kingdom	2002 (1 Jan.)
■	Estonia	(1 June)
■	Belgium*)	2003
■	Austria*)	2004 (1 Jan.)
■	France	(1 June)
■	(N.B.:) Iceland	2005
■	Slovenia	2006 (1 Jan.)
■	Portugal**)	(1 July)
■	Denmark*)	2008 (1 Jan.)
■	Hungary	(1 July)
■	Spain*)	as from 2009 (1 Jan.)
■	Netherlands*)	as from 2009

*) no official paper edition

***) limited paper edition

- Other official online versions

Greece, Finland, Switzerland

- Projects under way:

EU, Germany, Italy, Sweden and others



Paperless legal gazettes

■	Belgium	2003	
■	Austria	2004	
■	Portugal*)	2007	
■	Denmark	2008	
■	<i>Spain</i>	<i>as from 2009</i>	
■	<i>Netherlands as from</i>	<i>2009 (?)</i>	

*) limited paper edition



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Online access to national legislation

(October 2008)

OJ of the EC

Access to all online versions is free

Non-Binding online version



Binding online version, parallel to the paper edition



No paper edition any longer distributed

