

Harmonising Administrative Legal Documentation in Europe?



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ACA
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SERVICES DE
DOCUMENTATION
DEPARTMENTS

Webinar

Survey Results from a Questionnaire on
Legal Documentation

I. Introduction

General remarks on ACA documentation departments, the questionnaire and the scope of the (meant to be) seminar on documentation by ACA members

I. Introduction

Questionnaire on documentation by ACA member courts

Starting point

Documentation Seminar for ACA member courts in Leipzig in April 2020

Instrument

Questionnaire

Launch of a comprehensive questionnaire addressing documentation departments of ACA member courts and their documentation methods in Dec 2019 (02.12.):
10 chapters - 191 questions - 27 participants

Focal areas

- Documentation of administrative case law
- Documentation of other documents
- Legal information systems
- Judicial cooperation (JuriFast by ACA Europe, JNEU by the Court of Justice of the European Union (CJEU))

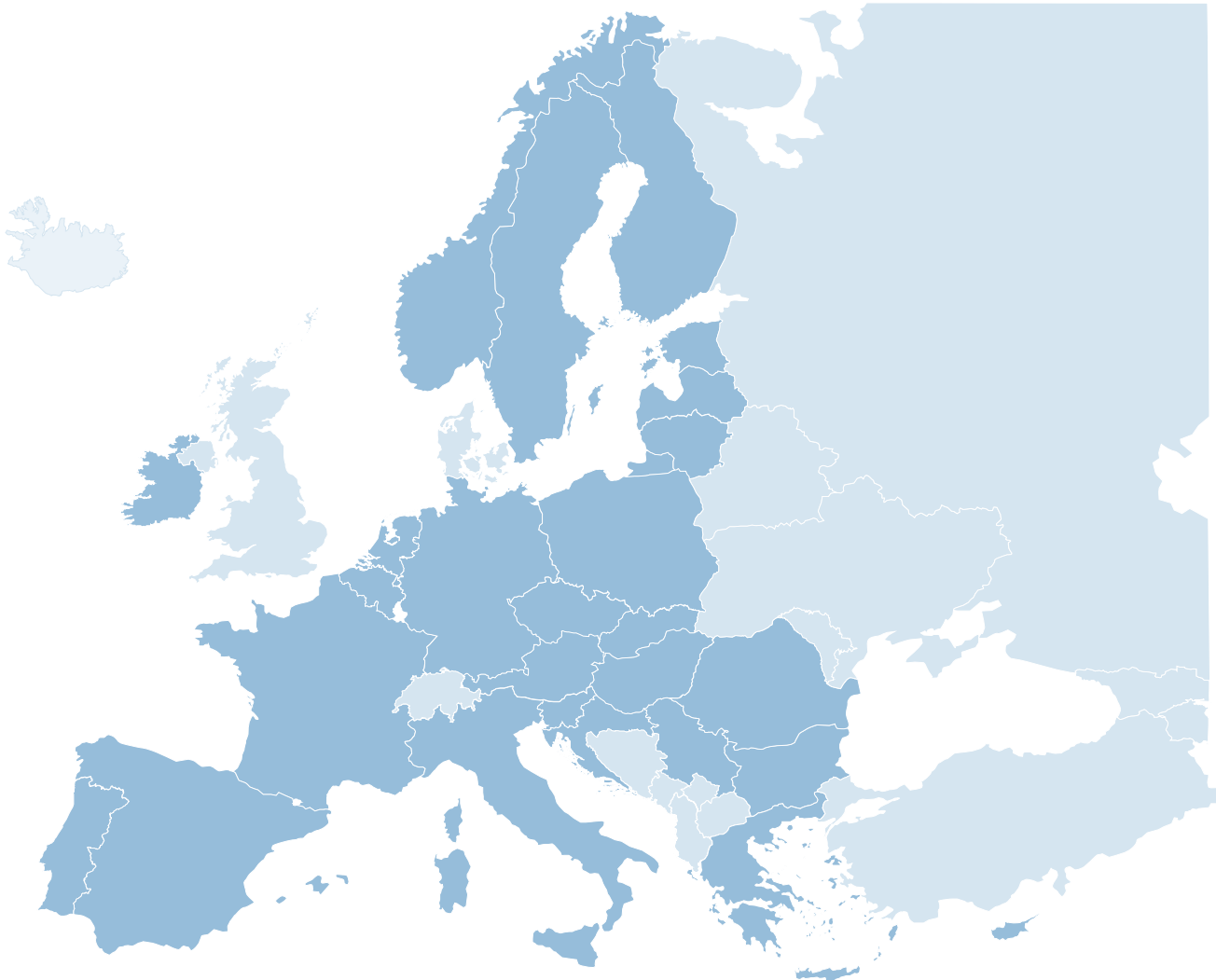
Aim

Find out, whether and how documentation units of ACA member courts can work together more closely

Adjustment of schedule and scope due to Corona pandemic: General report on the results of the questionnaire is published end of October 2020 → Virtual seminar is scheduled in March 2021 → Creation of this webinar to prepare the video conference

I. Introduction

Participants in the questionnaire on documentation



Supreme Courts of the following countries with jurisdiction in (i.a.) administrative law participated:

- Austria
- Belgium
- Bulgaria
- Cyprus
- Czech Republic
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Netherlands
- Norway
- Poland
- Portugal
- Republic of Croatia
- Republic of Serbia
- Republic of Slovenia
- Romania
- Slovak Republic
- Spain
- Sweden

I. Introduction

Why more collaboration? (1)



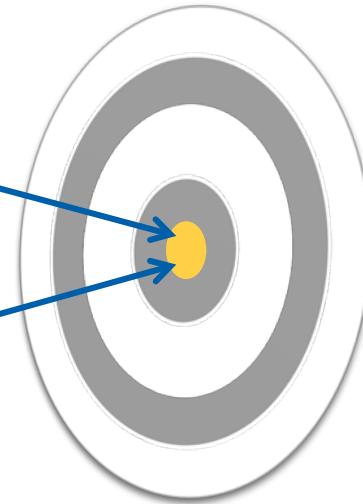
I. Introduction

Why more collaboration? (2)

Common goals

Necessity to provide
easy and reliable access
to legal information

Need for more
cross-border information
inside the European Union



Solution?

Exploit common synergies!

I. Introduction

Scope of the seminar on documentation by ACA member courts

Focus on the aspect of “judicial cooperation“:

- between documentation departments of ACA member courts
- between documentation departments of ACA member courts and the European Court of Justice (CJEU)

I. Introduction

Good reasons for collaboration among ACA member courts (1)

ACA member courts

All documentation departments have been assigned the same **task of indexing decisions of court proceedings**

ACA Europe implemented the **database JuriFast** where **many member courts** already **upload decisions** for which metadata is created

ACA Europe had an **informal „Database Support Group“** for JuriFast for several years

I. Introduction

Good reasons for collaboration among ACA member courts (2)

2/3

ACA member
courts

Two thirds of the survey participants can imagine a closer collaboration among documentation departments of ACA member courts.

Suggested topics for future collaboration:

- A common thesaurus or common keywords
- A terminology database for translations
- Common subject areas (other than EurLex)
- Citing of legal provisions
- Guiding principles for documentation

I. Introduction

Good reasons for collaboration between ACA members and the CJEU

Documentation departments of ACA member courts and the CJEU show similarities and have things in common:

The CJEU

- has its own documentation department
- has already shared its internal database Dec.Nat. with ACA member courts
- has started its digital platform and database JNEU to cooperate with national supreme courts
ACA member courts use JNEU to upload their decisions
- contributes to and uses ACA's database JuriFast

II. Focal Area 1

The work carried out by ACA documentation departments

II. Work of ACA documentation departments

Content of legal documentation

What do documentation departments of ACA member courts document?

Legal information stemming from ...

different fields of law, e.g.:

- administrative law (all)
- constitutional law
- tax law
- social law

different types of documents , e.g.:

- decisions in court proceedings (all)
- advice/recommendations (Councils of State)
- legal literature
- legal provisions

II. Work of ACA documentation departments

Scope of the seminar on documentation by ACA member courts

Focus on **documentation of decisions in court proceedings** because this is the **core business** of documentation by ACA member courts.



II. Work of ACA documentation departments

Findings from the questionnaire

230 – 20.000

Number of decisions for documentation

Number of decisions in court proceedings, that are available for documentation per year, varies from court to court: between 230 and 20.000 decisions

Document all decisions

50 

More than 50% of the courts document all decisions. The others document a selection, the assessment rate varying from 2,5% to 70%.

Document selection is largely made by the courts



The document selection for documentation is largely made by the courts themselves. In the majority of institutions, a judge or a court panel makes this decision

Findings

Publish decisions on their own homepage



A great majority of courts publish decisions on the institution's homepages or in internal information systems

Publish decisions in free or fee-based external legal databases

50 

Up to 50% of the courts publish decisions in free or fee-based external legal information systems, in legal journals, in collections of legal decisions or in the official journal

Document decisions, issued by other institutions

1/3

About one third of the courts document decisions with reference to administrative law that have been issued by other institutions like:

- National courts of lower instance,
- The European Court of Human Rights,
- The EU courts or other national supreme courts

II. Work of ACA documentation departments

Methodology

How do documentation departments of ACA member courts document court decisions?

Staff

- Largely by in-house documentation and mainly in documentation departments or units
- Mostly by legally trained employees, in five courts judges perform documentation activities

Rules

- Documentation rules are mainly set within the courts
- A few courts apply their documentation rules to an external agent who enters metadata on their behalf.
- Within a small number of courts external documentation rules apply

Tools

- A vast majority of courts assign keywords
- More than half of the courts provide a summary or an abstract
- Less than half of the courts write a headnote and document case law referred to in the decision
- Less than half of the participating courts use a keyword index or a list of controlled terms
- Few courts extract keywords from the text
- Very few courts use their own thesaurus

Nice to know

- About one third of the courts translate important decisions or summaries into English
- The majority of courts which cite legal provisions do this manually

III. Focal Area 2

How to achieve more harmonisation in documentation among ACA member courts

III. Harmonisation of documentation among ACA members

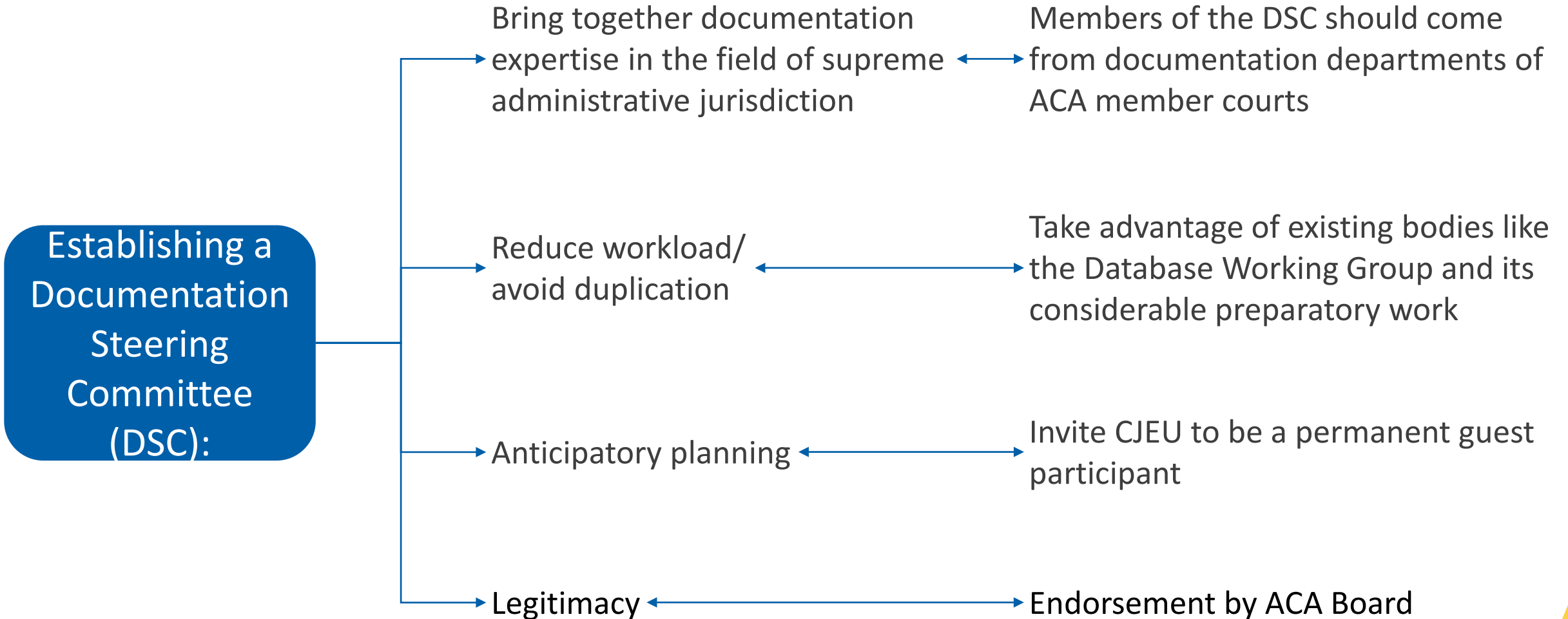
Framework for enhanced cooperation

Create an organisational structure facilitating cooperation among ACA documentation departments by

- Establishing a Documentation Steering Committee (DSC)
- Setting up a work programme
- Establishing a small annual budget

III. Harmonisation of documentation among ACA members

Documentation Steering Group



III. Harmonisation of documentation among ACA members

Work programme

Setting up a
work programme:

Should contain all the **topics** for future cooperation among ACA members

The DSC can **make proposals** on how best to achieve the objectives of the work programme

Implementation of the proposals is **voluntary**

III. Harmonisation of documentation among ACA members

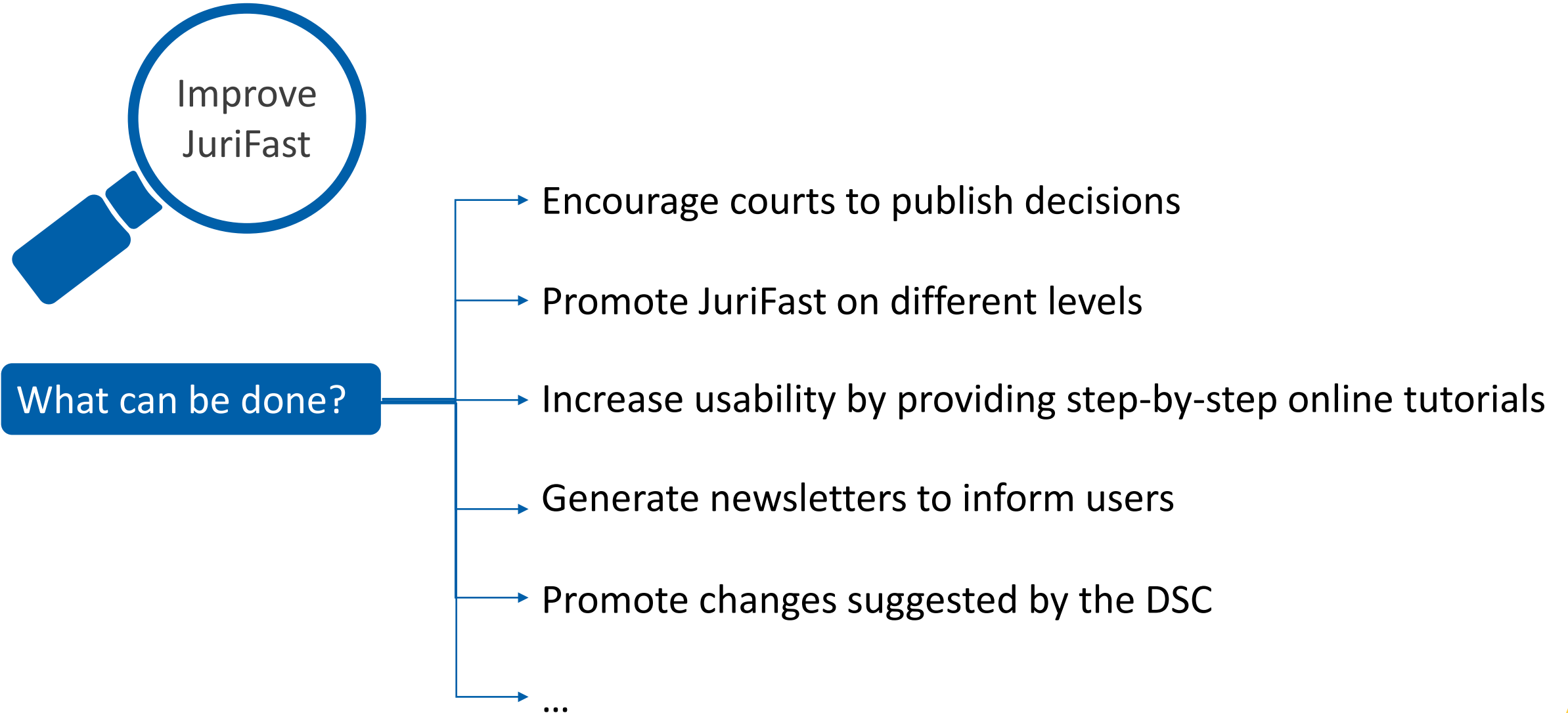
Annual Budget

Establishing a small annual budget:

- buy licenses for a collaboration platform, if necessary
- allow for three to four virtual meetings per year of the DSC
- organise a documentation seminar every two years
- combine the seminar with a meeting of the members of the DSC


III. Harmonisation of documentation among ACA members

Collaboration topics – Improve JuriFast



III. Harmonisation of documentation among ACA members

Collaboration topics – Assignment of content metadata




Pool
resources
when assigning
content
metadata

What can be done?

- create a keyword index or a list of controlled terms
- allow for translation of this index or list in several languages
- decide on a common set of attributes from ECLI XL
- try to cooperate with the CJEU Innovation Group

III. Harmonisation of documentation among ACA members

Collaboration topics – Promote ECLI



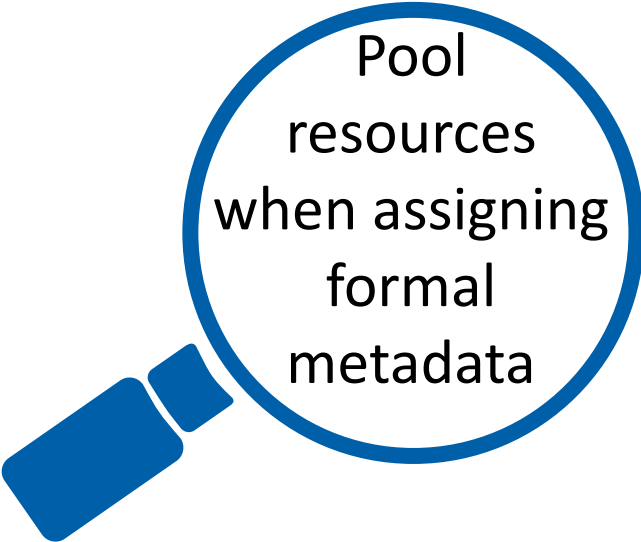
Promote
the use
of ECLI and
ECLI XL

What can be done?

- voluntary agreement by ACA member courts to use a certain set of attributes
- link key words to ECLI XL metadata
- create online - information sessions

III. Harmonisation of documentation among ACA members

Collaboration topics – Assignment of formal metadata



Pool
resources
when assigning
formal
metadata

What can be done?

- change the assignment of national and /or EU provisions from manual to automatic
- promote the use of ECLI as identifier for decisions
- try to cooperate with the CJEU Innovation Group

III. Harmonisation of documentation among ACA members

Collaboration topics – Translation of decisions



Pool
resources
for providing
translations of
decisions

What can be done?

- identify and test automatic translation possibilities
- set up a database for terminology in administrative law
- try to cooperate with the CJEU Legal Terminology Group

IV. Focal Area 3

How can we as ACA documentation departments work more closely together with the CJEU?

IV. Cooperation between ACA documentation departments and the CJEU

Judicial Network of the European Union (JNEU)

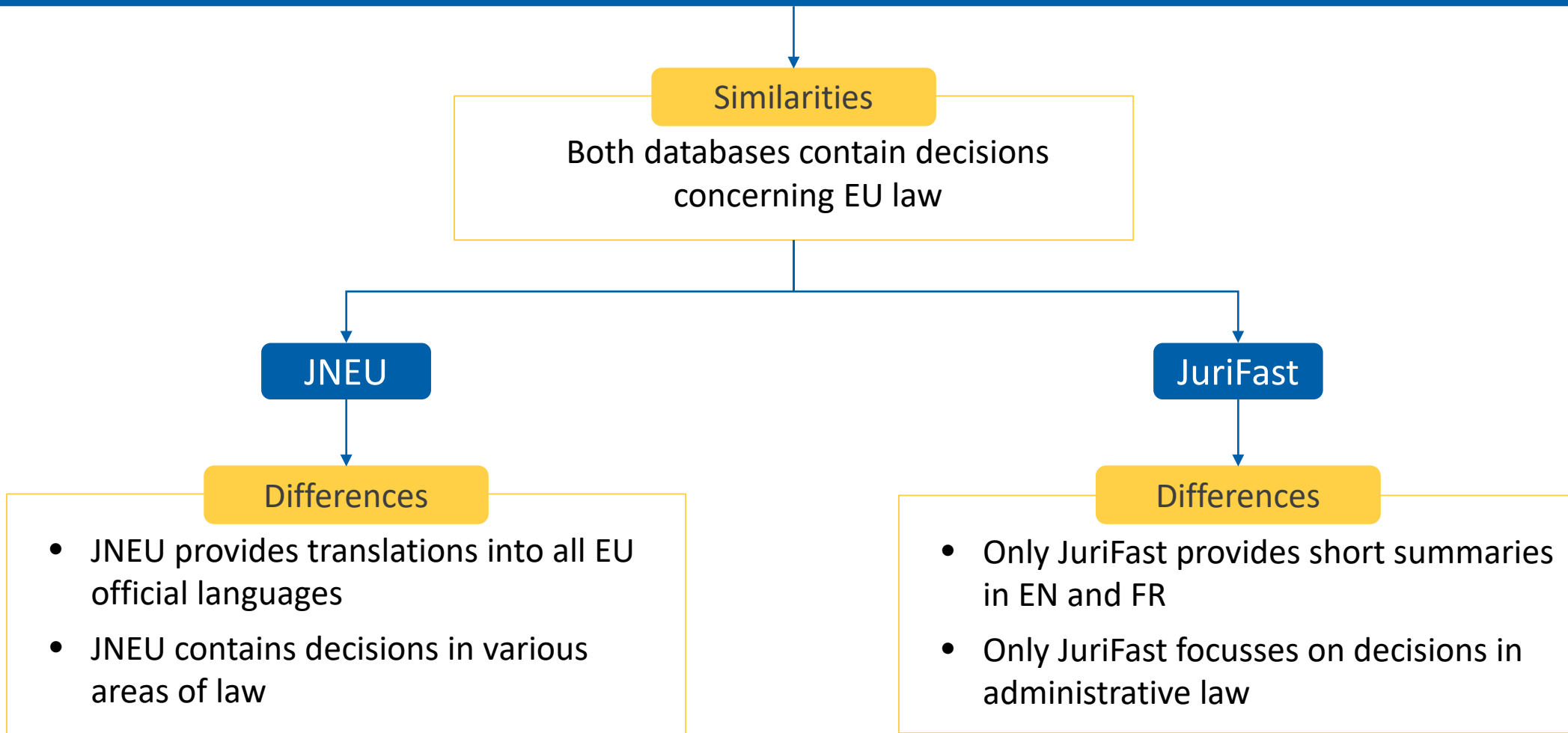
Contributors and content (as of December 15, 2020) :

- Network was created in 2017
- Accessible to national supreme courts since January 3, 2018
- 20 ACA member courts upload decisions to JNEU
- 11.855 Preliminary questions and 952 national follow-up decisions
- Contains more than 13.000 documents
- Not only a database but also a platform for exchange (e.g. working groups)

IV. Cooperation between ACA documentation departments and the CJEU

JNEU versus JuriFast

The Database Working Group has identified:



IV. Cooperation between ACA documentation departments and the CJEU

Need to improve the JNEU

How the CJEU could improve JNEU:

General changes needed:

- evaluate JNEU platform
- improve usability
- provide support and assure availability
- define target groups of JNEU
- speed up uploading process

Specific changes needed:

- provide data in XML-format
- indicate relevance of key decisions
- indicate changes in legal interpretation
- provide fact sheets for cases
- provide compilations of decisions for different subjects

IV. Cooperation between ACA documentation departments and the CJEU

Possible support by ACA documentation departments

How ACA documentation departments can assist the CJEU:

- inform about national changes
- provide summaries of national decisions
- inform about important EU topics
- inform about national impact of CJEU's opinion
- create and use common subject areas
- provide compilations of decisions for different subjects



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V. Focal Area 4

Invitation to a video conference

V. Invitation to a video conference

Discussion about suggested documentation practices

Starting point



Your ideas presented in the questionnaire



Instrument

Video conference

Video conference on March 10/11, 2021

Focal areas

- Discussion of suitable collaboration ideas
- Documentation practices of ACA member courts
- Statements from experts



Aim



Identification of collaboration ideas suitable for adoption of a work programme for the ACA Documentation Steering Committee

V. Invitation to a video conference

Get to know each other's documentation practices



Be inspired by listening to different practices on documentation from colleagues

Best practice examples:

- **Estonia:** Common documentation rules of all national supreme courts
- **France:** Usage of a thesaurus for the assignment of content metadata
- **Germany:** Contributing to a terminology database (used by other public institutions) as quality assurance of translations
- **Italy:** Citation of legal provisions on an automated basis
- **Netherlands:** Usage of a keyword index for the assignment of content metadata
- **Poland:** Aspects of Polish documentation practice

V. Invitation to a video conference

Get to know each other's documentation practices



Be inspired by listening to expert advice:

- **From ECLI to ECLI XL: Why should we make a leap?**
Speaker: Marc van Opijnen
- **Insight into the documentation practice of the Court of Justice of the EU**
Speaker: CJEU

V. Invitation to a video conference

A work programme for the Documentation Steering Committee



Let us know which ideas from the webinar should become part of the future work program of the Documentation Steering Committee (DSC):

- Opportunity to vote:
 - Rank our suggestions/ideas for better collaboration among ACA member courts
 - Rank our suggestions/ideas for better collaboration of ACA member courts with the CJEU
- Proposals with the majority of votes will be presented to the ACA Board in spring 2021

V. Focal Area 4: Invitation to a video conference

We value your participation



Many thanks for your attention.

We are looking forward to welcoming you at our virtual conference on March 10-11, 2021.

Stay tuned for more details.

Do you have any questions or do you need further information?

Please do not hesitate to contact us via Email or phone:

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