

The authentic e-Official Journal of the European Union – one year on

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Abstract:

The Publications Office of the European Union, as any official publisher, is confronted by the challenges of the digital revolution. As from 1 July 2013, the electronic edition of the Official Journal of the European Union is authentic and has legal effect, bringing to an end over 60 years of paper-based production. From a legal point of view, the shift took place thanks to Council Regulation (EU) No 216/2013. The regulation provides for the legal value of the electronic edition and sets out the technical standards required to assure citizens that the information they seek is true, accurate and complete. The regulation also provides for cases of exceptional disruption to electronic publication, laying down that the printed edition has legal value in such cases.

From a technical point of view, the authentic e-Official Journal is the tip of the iceberg of a pervasive digital transformation programme put in place at the Publications Office of the European Union. This paper looks back to the conditions which led to the launch of the authentic e-Official Journal, and reviews its first year of implementation from 1 July 2013. Before that date, only the paper edition of the Official Journal was authentic and produced legal effects, even though the Publications Office had been carrying out digital publication of EU law on the EUR-Lex website, as well as on CD-ROM/DVD, for many years.

The paper also briefly looks at the challenges ahead at European Union level, namely the simplification of access to law, the growing importance of codification and consolidation and the publication of legislation as open data to enhance possibilities for transparency and reuse. Finally, the paper questions the survival of official periodicals (journals, gazettes) as distinct from the websites where they are currently published.

Keywords: official journal, European Union, digital publishing, authenticity, access to law

A vision for access to official information in the 21st century

Nowadays content is king. It is the main driver of an ever-growing demand for information. Technologies make it possible to dissociate the content from the container; the message from the medium. The main challenge for official publishers in the 21st century is to guarantee access to and the long-term preservation of content, independent of formats and other technical solutions. Technologies pass by; content is here to stay. Any official publisher, including at European Union level, needs to guarantee authenticity and provide legal certainty to citizens. Reliable public information should be available for access and reuse, free of charge, anywhere, anytime.

The digital transformation programme at the Publications Office of the European Union

The Publications Office of the European Union, established in 1969, is an interinstitutional public body which publishes official information from the EU, *in primis* the *Official Journal of the European Union*. The Office serves all of the EU institutions (European Parliament, Council, Commission, Court of Justice, etc.) and is therefore governed by a committee made up of their representatives. Its core activities include the production and dissemination of legal and general publications in a variety of paper and electronic formats. In particular, the Office manages a range of websites providing EU citizens, governments and businesses with digital access to public information and data from the EU, including EUR-Lex, the portal to EU law; EU Bookshop, for general publications; TED (Tenders Electronic Daily), the online version of the supplement to the *Official Journal of the European Union*, dedicated to European public procurement; CORDIS, the repository and portal for the dissemination of information on EU-funded research projects; EU Whoiswho, the official directory of the European Union; and the EU Open Data Portal, the single point of access to a growing range of data produced by the institutions and other bodies of the European Union.

In order to move away from its traditional role as a print publisher and take full advantage of state-of-the-art technologies, the Office has been carrying out a digital transformation programme over the last five years. This programme aims at enabling common, flexible and fast access to electronic content and metadata through the development and implementation of a harmonised architecture based on common standards. The programme has resulted in the implementation of CELLAR, a common repository for storing and making available all digital content and metadata disseminated by the Publications Office, which uses harmonised open semantic standards to ensure access to and the reuse and preservation of information. Soon, a single easy-to-use common portal will complement the existing specialised portals (EUR-Lex, etc.) to fully enable users to benefit from the possibilities of integrated searches and innovative semantic solutions. The Publications Office has adopted recognised standards such as METS (Metadata Encoding and Transmission Standard) for data ingestion, Dublin Core for core metadata definitions, FRBR (Functional Requirements for Bibliographic Records) for data modelling/ontology and RDF (Resource Description Framework) to expose metadata as linked open data on the Web.

In just a few years, the Publications Office has transformed itself from a paper-based publishing house to a centre of expertise in digital information management, covering the different phases of the content life cycle: production, structuring, dissemination, access, reuse and long-term preservation.

The *Official Journal of the European Union* – from Gutenberg to the World Wide Web in 60 years

The *Official Journal of the European Union* is the official gazette in which EU legislation, other legal acts and official information notices are published. In order for them to be binding, legislative acts must be published in the Official Journal, as provided for by Article 297 of the Treaty on the Functioning of the European Union: ‘Legislative acts shall be published in the *Official Journal of the European Union*. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.’

The EU’s Official Journal has a relatively short history when compared with other official gazettes: it was first issued on 30 December 1952 as the *Official Journal of the European Coal and Steel Community*. Following the Treaty of Rome, in 1958 it was renamed the *Official Journal of the European Communities*, while the current name was adopted on 1 February 2003. Initially, the Official Journal was published as a single series: the A series (1952–58), followed by the P series (1958–67). Since January 1968 it has been published as two separate main series:

- L series (legislation): EU secondary legislation (regulations, directives, decisions, opinions, recommendations);
- C series (communication): treaties, EU information and notices (preparatory acts, announcements, summaries of judgments of the Court of Justice, written parliamentary questions, annual reports of the Court of Auditors, statements from the Economic and Social Committee and the Committee of the Regions, calls for expressions of interest for EU programmes and projects, public contacts, etc.).

The S (supplement) series, covering public procurement, is not discussed in this paper as it is not covered by the regulation on the authentic e-Official Journal.

The Office ensures that its services are available 24 hours a day, seven days a week in case publication is urgently required by the institutions. The Official Journal is normally published every day from Tuesday to Saturday in all the official languages (of which there are currently 24) of the EU Member States, beginning on the date they joined the EU (except in the case of Irish and, temporarily, Maltese). All legislation already in force on that date is then translated and published in special editions.

Taking into account the media used and the issue of legal value, the history of the Official Journal can be divided into three main periods, as follows.

- The Paper Age – from 1952 to the mid 1990s, characterised by paper-based dissemination. Although from the 1980s IT-based workflows and digital formats are increasingly used for production purposes, publishing occurs only on paper, which has legal value.
- The hybrid Paper–Digital Age – from the mid 1990s to 2013, during which digital dissemination (CD-ROM, DVD, online) is introduced to complement the paper edition, although only the latter is authentic. The first format used is SGML, followed by PDF and then by both XML and PDF. Automatic conversion from XML to XHTML is introduced in order to facilitate online access. The first online edition, without legal value, is published in 1998. Dissemination through websites like CELEX and then EUR-Lex grows quickly and becomes the favourite way to access the Official Journal.
- The Digital Age – from mid 2013 onwards, when only the electronic edition of the Official Journal is authentic and produces legal effects. The paper edition maintains

a certain role for backup purposes and long-term preservation: 10 paper copies per language version are printed every day for archiving, as well as for the specific procedure to be followed in case of failure of the IT system. Paper dissemination – paper copies can be ordered on demand as a paying service – is not significant.

EUR-Lex – the gateway to EU law

It is impossible today to mention the e-Official Journal without presenting EUR-Lex, where the authentic e-Official Journal is actually published. EUR-Lex is a website and service providing free access, in the 24 official EU languages, to:

- the *Official Journal of the European Union* (authentic for issues published from 1 July 2013 onwards; PDF and HTML formats);
- EU law (EU treaties, directives, regulations, decisions, consolidated legislation, etc.);
- preparatory acts (legislative proposals, reports, Green Papers, White Papers, etc.);
- EU case-law (judgments, orders, etc.);
- international agreements;
- EFTA documents;
- other public documents, such as legislative procedures and summaries of legislation.

During the past several years EUR-Lex has undergone a major transformation, resulting in a new release in spring 2014. The new EUR-Lex is based on the abovementioned CELLAR content and metadata repository. The database is updated daily and currently contains about 900,000 items (documentary units), with the oldest documents dating back to 1952. This number rises to 7,500,000 when considering all available language versions. Each document is displayed with analytical metadata (publication references, dates, keywords, etc.) organised under different tabs:

- About this document;
- Text;
- Linked documents;
- Procedure (the life cycle of a document);
- All (including all previous tabs).

A document can be displayed in up to three languages simultaneously and synoptically (paragraph and page numbering match exactly across the different versions).

Anybody can use EUR-Lex free of charge. Registered users (registration is also free of charge) can take advantage of additional personalised features, such as: using the expert search tool; creating personalised RSS feeds; saving documents and queries in My EUR-Lex; changing the display, export and print preferences; asking and answering questions and consulting via the EUR-Lex user community.

The new EUR-Lex takes more account of the principle of reuse of public sector information and open data: users can easily export up to 10 items with metadata in various formats (CSV, TSV, Excel, XML or PDF); registered users can export up to 50 items. It also offers the possibility to activate web services and to access bulk data. RDF format is also available for reuse.

EUR-Lex receives about 6 million visits every month.

e-Official Journal: legal aspects

The European Union was not an early adopter of the authentic e-Official Journal, as the first cases (Estonia, Belgium, Austria, France) date back to the period 2000–05. The European Forum of Official Gazettes, the association of official publishers in Europe, provided an important platform to exchange best practices and facilitate the shift from paper to digital. In this context, in 2007 the Publications Office conducted a study on measures to be taken in order to guarantee the integrity of the workflows and to ensure the authenticity of the electronic edition of the Official Journal. A task force was created to undertake actions required in order to provide the electronic edition with a date and time stamp and an electronic signature.

On 4 April 2011, the Commission presented a proposal that after about two years resulted in the adoption of Council Regulation (EU) No 216/2013 of 7 March 2013 on the electronic publication of the *Official Journal of the European Union*. The provisions of the regulation are relatively simple and straightforward, leaving the technical details to the implementation phase.

Article 1 stipulates that the Official Journal shall be published in electronic form, which will be authentic and produce legal effects. The authentication method is defined in Article 2: an advanced electronic signature based on a qualified certificate and created with a secure-signature-creation device, in accordance with Directive 1999/93/EC on a Community framework for electronic signatures. The qualified certificate and renewals shall be published on the EUR-Lex website in order to make it possible for the public to verify the advanced electronic signature and the authentic character of the electronic edition of the Official Journal. Moreover, it is provided that the electronic edition shall display information regarding its publication date, and that it shall be made available to the public on the EUR-Lex website free of charge, in a non-obsolete format and for an unlimited period. A specific procedure is put in place in case it is not possible to publish the authentic e-Official Journal for technical reasons (Article 3). In such cases, only the printed edition of the Official Journal shall be authentic and shall produce legal effects. For these Official Journals, the corresponding electronic version will be made available to the public on the EUR-Lex website for information purposes only, with a specific note to that effect. The EUR-Lex website will provide information on all printed editions that are authentic and that produce legal effects. Finally, Article 4 of the regulation defines the responsibilities of the Publications Office in terms of publication, guarantee of authenticity, management of IT systems, security and access rules, as well as digital preservation.

e-Official Journal: technical and organisational aspects

On the basis of Regulation (EU) No 216/2013, the Publications Office has put in place the infrastructure and implemented the measures necessary for the publication of the electronic edition of the Official Journal, including the advanced electronic signature that guarantees their authenticity, integrity and inalterability, in accordance with Directive 1999/93/EC.

As for the technical aspects, the Office has set up an e-signature infrastructure consisting of: a public-key infrastructure, allowing users to access a strong authentication platform; a signature platform, allowing an advanced electronic signature based on a qualified certificate and created with a secure-signature-creation device; and a verification platform (CheckLex), which enables users to verify the electronic signature and authentic character of the e-Official

Journal. If verification succeeds, users are guaranteed that the electronic edition is authentic and has not been changed since the date of its signature.

As for other organisational aspects, the Office has adopted an Authentic Official Journal Signature Policy, i.e. the rules for the creation and validation of electronic signatures, including technical and procedural requirements. The signature policy also serves to make all aspects of the signature workflow transparent to all involved parties, so that increased confidence in the applicability and acceptance of these signatures is ensured.

During the 12 months following the entry into force of the e-Official Journal regulation on 1 July 2013, the Publications Office published almost 1000 e-Official Journals belonging to the L and C series on the EUR-Lex website.

In that time there was only one instance where it was necessary to declare the authenticity and the legal value of the paper edition. For technical reasons, the electronic version of OJ L 347 of 20 December 2013 could not be published on time (i.e. during the same day) on EUR-Lex, and it is therefore displayed on the website in the list ‘Official Journal – Legally binding print editions’.

In conclusion, the launch of the authentic *e-Official Journal of the European Union* can be described as a major technological shift that was carried out in a relatively smooth manner. Paper maintains a certain role, but it is clear that since 1 July 2013 a new age really has begun as far as access to European Union law is concerned.

Directions for future developments

Simplification of access to law — In 2015, the Publications Office will complete its digital transformation programme with the launch of its new portal, providing an easy-to-use common access point to all the content (law, general publications, official directory, etc.) and metadata stored in its common repository. The new Publications Office portal and its search functionalities will respond to the need for simplified access, thus complementing EUR-Lex, which has been designed taking into account the requirements of legal practitioners and other specialised users. Particular attention will be devoted to access through mobile devices.

Consolidation and codification of EU legislation — The ever-growing volume and complexity of legislation is an issue at all government levels, as it makes laws more difficult to understand for citizens and might create an extra burden for businesses. Legislative techniques such as recasting, codification and consolidation are part of the solution. The Publications Office is particularly active in the area of consolidation, the integration of amending provisions into the text of an act, one of the most popular sections of EUR-Lex. Consolidated EU legislation currently has no legal value. However, available IT tools today make it possible to achieve *ex ante* consolidation, which means that the legislative authority could adopt amendments to an act, together with its ‘clean’ updated version. This could also be authentic and have legal value, once published in the e-Official Journal, thus making access to law much easier for citizens.

Legislation as open data — The Publications Office has fully embraced the principles of reuse of public sector information and of open data. The technical standards, formats and IT solutions that were chosen within its digital transformation programme are aimed at favouring the reuse of content and metadata for both commercial and non-commercial purposes. This will progressively allow the creation of innovative services. As far as the linking of data

between different public authorities is concerned, the European Legislation Identifier (ELI) is an early example of what is emerging. With regard to commercial players, open data will help public bodies to focus more on their core businesses, thus allowing the private sector to compete in the creation of added-value services based on public data.

The future of the Official Journal — The concept of a ‘journal’ (from the French *jour* – day) refers to a daily publication compiling records, acts or news. The frequency of journals is not necessarily daily; journals are traditionally published at stated regular intervals (periodicals). It has become more and more evident that the concept of a journal, as is true for any periodical, is a legacy of the print era which is rapidly becoming obsolete within the digital paradigm. Information items can now be published online on a continual basis, without the need to be packaged into journals, newspapers or magazines; this applies to newly adopted laws, as well as news articles. The distinction between a website and a periodical published on that website is vanishing. At all government levels, the political and communication pressure to ensure the swift publication of laws that have been passed is growing. Therefore it is plausible that, in the long run, EUR-Lex (or a section of EUR-Lex) will itself become the *Official Journal of the European Union*, fed by a continual, act-by-act production and publication flow. This would also imply that the issue of authenticity will shift from the journal to the single law item. As a result, the Official Journal may change from the concept of a fixed-format daily edition to one of a brand which still ensures the historical characteristics of quality, authenticity and reliability.

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