

# **Judicial time management (CEPEJ-SATURN)**

*Presentation of the ongoing work*

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The 2023 SPRINGTIME MEETING OF THE CEPEJ-SATURN (the 34<sup>th</sup>)

- was held in Lublin on 29 and 31 March, 2023; the Pilot Courts Network met also on 30 March 2023 in Lublin.

## 1. REVISION OF THE TIME MANAGEMENT CHECKLIST

- In 2021 the CEPEJ SATURN WG decided that it was high time for updating the Saturn Time Management Checklist, which in the former version – dating back to 2005 – was already outdated.
- Work was carried out during several regular online meetings with the expert Mr Dimitrije SUJERANOVIC, starting as from the beginning of April 2022 and finished in October 2022.
- On points concerning IT and AI we had as well a joint meeting with the Cyberjust Group of the CEPEJ, exchanging views and receiving commentaries from them.
- At its plenary meeting in December 2022, the CEPEJ decided to postpone the adoption of the draft Revised Time Management Checklist and its Explanatory Note until this plenary meeting in June 2023 to take into account comments received during the meeting.
- Changes concerned mainly:
  - case categorisation
  - starting points for case-tracking specified in the explanatory note based on the case law of the European Court of Human Rights
  - use of artificial intelligence (AI) in courts elaborated on in the Explanatory note with reference to the CEPEJ Resource Centre on AI and Cyberjustice
- The CEPEJ-SATURN adopted in its meeting in Lublin the Checklist and the Explanatory Note and decided to submit it to the CEPEJ for adoption at this plenary meeting.
- The Checklist is a tool for collecting data and information useful for analysing the length of proceedings in the courts. It was updated in the light of the CEPEJ tools, that have been developed since 2005, as well as the new trends in the judiciary.
- **Possible** follow up to this activity (to be discussed during next Saturn meeting in October):
  - CEPEJ-SATURN welcomed the proposal received by the members of the CEPEJ to prepare a time management checklist for public prosecution services
  - The CEPEJ-SATURN agreed to reflect further on possible collection of information based on the Checklist's indicators to

test the Checklist in practice and explore the situation in this area.  
The pilot courts could be involved in the activity.

## 2. CASE WEIGHTING IN PUBLIC PROSECUTION SERVICES

- In the year 2020: approval of the general study on case weighting, which was drafted with the co-operation of the experts appointed by the Group (Prof. Fabri and Prof. Benkin), approved by the Plenary and published in the CEPEJ web site.
- The CEPEJ-SATURN WG decided last year to start a particular study, whose aim should be that of deepening the final part of said report, in two different directions:
  - Developing a number of guidelines on how to concretely implement systems of case weighting.
  - Studying the possibility to apply systems of case weighting in the public prosecution services.
- As far as the first point is concerned (guidelines), we are still discussing whether the final chapter of the study is not already sufficient for the number of recommendations it contains. Maybe the solution could be that of issuing a separate list of recommendations, which could go a little bit more into details. However, for the time being, we decided to focus first on the issue of the case weighting within the prosecutorial services.
- As for the second issue (case weighting in prosecution services), all the relevant information will be provided by CEPEJ Vice President and member of the Cepej-Saturn WG, Mr Ivan CRNČEC, who is directly involved in the preparation of the document.

### 3. TOOL TO ANALYSE THE DIFFERENT TIMEFRAMES ACCORDING TO THE STAGES OF THE PROCEDURE

- In 2020, when we terminated our work on the issue of Case Weighting, the CEPEJ-SATURN WG decided to inquire into the possibility to develop a new methodological tool.
- Nature and Aims of the tool:
  - to help to identify the delays and “bottlenecks” in judicial procedures – and, above all, in the different stages and steps of each kind of procedure – as well as the reasons behind these delays.
  - The WG decided, taking into account the variety of procedures in our continent, to start with the civil proceedings with the help of two experts.
- A questionnaire
  - With the help of two experts, Marco Fabri and Ruth Straganz-Schröfl, a questionnaire for civil procedure was defined in 2022 and submitted in January 2023 to the Pilot Courts network, after a thorough discussion within the WG and with the Pilot Courts.
  - The questionnaire contained the following procedural steps that most likely exist in all jurisdictions in the first and second instance:
    - serving summons acts,
    - filing a response to the legal action by the defendant,
    - preliminary hearing (or first hearing in some jurisdictions),
    - issuing an oral judgment,
    - issuing a written judgment,
    - filing an appeal on the first instance judgment.
- During the CEPEJ-SATURN meeting in Lublin, March 2023, Marco FABRI, scientific expert, presented the preliminary analysis of the replies from the pilot courts.
  - 32 pilot courts from 27 countries replied to the questionnaire.
  - To facilitate the discussion within the CEPEJ-SATURN, the Secretariat prepared the following documents:
    - i) the compilation of the replies to the questionnaire (Document CEPEJ-SATURN (2023)6) and
    - ii) the summary information on the various steps of the civil proceedings (Document CEPEJ-SATURN(2023)8).

- The preliminary analysis showed that
  - most respondents (pilot courts) have no legal deadlines for the various stages of civil proceedings
  - nor collect the data on their real duration.
- The question is as to whether the legal deadlines affect the length of civil proceedings.
  - It appears that there are some procedural rules that (apparently) affect the overall length of the proceedings.
  - While legal deadlines do not seem to impact significantly on the initial procedural stages (e.g. serving documents, response to the parties), their effect may be more visible in the later stages, in particular for the duration between preliminary/first to final hearings.
- The CEPEJ-SATURN decided to continue working on this theme with pilot courts as follows:
  - In a first stage, we'll work with a limited number of pilot courts.
  - Therefore, the Secretariat launched a call for expression of interest among pilot courts and 7 pilot courts applied.
  - The Secretariat also contacted two experts Marco Fabri and Paweł Wrzaszcz to join this Task Force.
  - It is preliminary planned to have a first online meeting in october with this task force to determine which data/information (quantitative/qualitative) that the group shall collect, the appropriate methodology that will be applied, and define the desired outcomes.

#### **4. POSSIBLE UPDATE OF THE RECOMMENDATION(86)12 OF THE COMMITTEE OF MINISTERS TO MEMBER STATES CONCERNING MEASURES TO PREVENT AND REDUCE THE EXCESSIVE WORKLOAD IN THE COURTS**

- The Cepej-Saturn has been working on this document since our March 2022 online meeting, based on two draft proposals submitted, respectively, by myself and by Marco FABRI (Italy).
- In the course of the discussion following points were made:
  - we consulted other WG, EUR (European Union of Rechtspfleger), International Union of Notaries and pilot courts and we received valuable comments and we thank them for it.
  - All these contributions have been collected by the Secretariat in a comparative table and have been discussed during our meeting in Strasbourg in October 2022.
- The Working Group decided to consult the other working groups of the CEPEJ:
  - CEPEJ-GT-EVAL (particularly on the analysis of the functioning of judicial systems resulting from the evaluation cycles as well as national practices of its members)
  - CEPEJ-GT-QUAL (esp. as far as mediation is concerned)
  - CEPEJ-GT-CYBERJUST (esp. as regards the use of information and communication technologies (ICT)).
- During its last meeting in Lublin, the CEPEJ-SATURN examined the draft opinion, that the CEPEJ could adopt, aimed at proposing to the European Committee on Legal Co-operation (CDCJ) an update of the Recommendation (86)12.
  - This new draft took into account comments provided by the other working groups of the CEPEJ (CEPEJ-GT-EVAL, CEPEJ-GT-QUAL and CEPEJ-GT-CYBERJUST) and the European Union of Rechtspfleger and court clerks (EUR).
  - A valuable contribution was also given by the International Union of Notaries, whose remarks were as well kept into account by the WG.
  - Therefore, the WG wants to express through this presentation of mine, our warmest thanks to the other three WGs of the CEPEJ, as well as

to the pilot courts network, for the valuable contribution provided to this important document.

- The new draft Opinion referred to the necessity, in particular:
  - to redraft the provisions regarding alternative dispute resolution (ADR), while highlighting the need for raising awareness on the ADR methods among justice professionals.
  - The updated Recommendation may also include new provisions related to the use of information and communication technologies (ICT) and the necessity to equip courts with adequate technical equipment (e.g.: computers and software).
  - The list of non-judicial tasks of which judges could be relieved from were expanded to the family, criminal, procedural and commercial laws and the law of persons.
- The draft Opinion was discussed with the pilot courts at the 16<sup>th</sup> meeting held in Lublin, Poland, on 30 March 2023:
  - The pilot courts confirmed that they faced high workload.
  - They highlighted, as a means for reduce workload, the importance for national justice sector strategies, the quality ICT equipment in courts and training on ADR.
  - The discussion focused on the possible tasks which could be moved from judges to other persons or institutions.
  - The pilot courts highlighted that the simple transfer of tasks from judges will not reduce their workload unless substantive measures are taken for the judicial system as a whole.



## Annex to the Original Rec. (86) 12

## CEPEJ-SATURN Draft Opinion on the Updating of Rec. (86) 12 – Proposed new Annex –

*Appendix to Recommendation No. R (86) 12*

*Examples of non-judicial tasks  
of which judges in some states could be relieved  
according to the particular circumstances of each country*

Celebration of marriage  
Establishment of family property agreements  
Dispensing with the publication of marriage bans  
Authorising one spouse to represent the other: replacing the consent of the spouse prevented from giving consent  
Change of family name—change of first name  
Recognition of paternity  
Administration of the property of those lacking legal capacity  
Appointment of a legal representative for legally incapacitated adults and for absent persons  
Approval of acquisition of property by legal persons  
Supervision of traders' books of account  
Commercial registers:  
traders  
companies  
trademarks  
motor vehicles  
ships, boats and aircraft  
Granting of licences for the exercise of commercial activities  
Judicial intervention in elections and referenda other than provided for in the Constitution  
Appointment of a judge as chairman or member of committees in which his presence is merely required to strengthen the committee's impartiality  
Collection of taxes and customs duties  
Collection of judicial fees  
Acting as a notary public  
Measures relating to estates of deceased persons  
Civil status documents and registers  
Land registry (control over registration of transfer of property, of charges over immovable property...)  
Appointment of arbitrators when such appointment is required by law.

*Proposal for the update: examples of non-judicial tasks  
that judges in some States could be relieved of, depending  
on each country's specific circumstances*

### 1. Law of persons

- Declaration of absence and death
- Decision to authorise or record consent for organ donation
- Decision to authorise the protection to safeguarding the rights of children and people with incapacities
- Court approval or authorisation for the performance of acts of disposal, encumbrance or other acts relating to the property and rights of children or adults with incapacity
- Granting powers of representation, such as "future protection mandate"
- Judicial grant of emancipation and of the benefit of legal age
- Gender reassignment
- Non-litigious cases concerning the status of physical persons:
  - Appointment of tutors, curators, and other administrators
  - Administration of the property of those lacking legal capacity

### 2. Family law

- Divorce and legal separation by mutual consent for couples without children or with adult children only
- Change of matrimonial regime
- Conclusion and registration of civil partnerships
- Granting alimony and determining issues arising from it
- Adoption / consent to adoption of people over the age of majority
- Approval or authorisation in non-litigious proceedings of the declaration of parenthood in respect of children born out of wedlock
- Collection of consents in the context of medically assisted procreation
- Handling non-litigious proceedings for the administration of common property when one of the spouses is unable to act

### 3. Real estate, property and succession law

- Supervision of real estate records
- Supervision of property records relating motor vehicles, ships, boats, and aircrafts
- Non-litigious proceedings in the field of succession law:
  - Presentation and publication of secret wills
  - Declaration of an opening of succession
  - Setting up of inventories
  - Issuance of a national or European certificate of succession
  - Acceptance of an inheritance with the benefit of inventory
  - Issuance of an authorisation for accepting or waiving an inheritance or a legacy, when such acts are submitted for authorisation
  - Submission of executors' accounts and removal of executors, authorisation of acts of disposition by executors (except for children and people with incapacity)
  - Authorisation of the sale and purchase inheritance goods
  - Liquidation and property division in the context of non-litigious and litigious cases

### 4. Commercial and contract law

- Issuing payment and injunction orders
- Decision to authorise the establishment and registration of legal persons
- Production of accounts by persons required to keep accounting records, or otherwise bound to produce accounts
- Small claims relating to consumer disputes
- Non-litigious proceedings concerning trusts:
  - Approval of particular "arrangements" on behalf of any person who may have an actual or contingent interest in a trust (including unborn children)
  - Varying or revoking all or any of the terms of the trust
  - Approval of transactions considered expedient but cannot otherwise take place for lack of power of the trustee or for any other reason
  - Issuance of declarations as to the validity or enforcement of a trust, the existence of any resulting or constructive trust, breach of trust or failure of a trust, etc.
  - Non-litigious proceedings concerning debt relief or debt settlement for natural persons

### 5. Criminal law

- Authorisation of payment or delayed payment of fines
- Transcription of testimonies or depositions given during hearings and subsequently proofreading of related court documents

### 6. Procedural law

	<ul style="list-style-type: none"><li>- <i>Control of payment of judicial fees</i></li><li>- <i>Participation in out-of-court settlement disputes/conducting mediation/conciliation processes</i></li></ul> <p><b>7. Enforcement procedures</b></p> <ul style="list-style-type: none"><li>- <i>Judicial sales by auction</i></li><li>- <i>Declaration of enforceability of court decisions</i></li></ul> <p><b>8. Others</b></p> <ul style="list-style-type: none"><li>- <i>Appointment and participation of judges as members or presidents of disciplinary or selection boards/committees regarding persons who are not members of the judiciary (e.g. notaries, lawyers accountants)</i></li><li>- <i>Administering oaths for non-judiciary professionals (auditors, notaries), collection of testimonies and written evidence</i></li><li>- <i>Legalisation or apostille of documents</i></li></ul>
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## 5. GOOD PRACTICES IN ANALYSING SUCCESS FACTORS CONCERNING JUDICIAL TIME MANAGEMENT

- During its meeting in March 2022, the CEPEJ-SATURN discussed as well the steps to update the Compendium on “best practices” on judicial time management (Document CEPEJ-SATURN(2006)13).
- The following steps could be envisaged to collect practices concerning judicial time management in member States:
  - To carry out analysis to assess as to whether the projects pertaining to judicial time management awarded by the “Crystal Scales of Justice” Prize and their results could be used to update the Compendium.
  - To collect information on bodies in charge of collecting judicial practices in member States, including in the field of judicial time management. The CEPEJ members and/or national correspondents could be contacted in this respect.
  
- The issue has been later on discussed in the last meeting in March 2023, on the basis of a concept note elaborated by the Secretariat. It was decided to continue this work of collecting good practices concerning judicial time management in member State.
- The concept note also foresees the setting up of the CEPEJ Resource Centre on judicial time management/efficiency of justice
  - The Resource Centre would contain different practices and measures relevant for effectively managing the courts.
  - The CEPEJ Resource Centre on cyberjustice and artificial intelligence could serve as an example for creating this Resource Centre.
  
- Therefore, the CEPEJ-SATURN decided to explore the possibility of developing the resource centre on judicial time management

## **6. MEETING OF THE NETWORK OF THE PILOT COURTS**

- The CEPEJ pilot courts held its 16<sup>th</sup> meeting (the first in person meeting after the pandemic) on 30<sup>th</sup> of March 2023 in Lublin (Poland), together with the 34<sup>th</sup> CEPEJ-SATURN meeting.
- 31 pilot courts participated in the Network’s meeting.
- The pilot courts exchanged views on the following topics:
  - fighting backlog of cases,
  - evaluating the performance of judges,
  - draft opinion on the updating of Recommendation(86)12 of the Committee of Ministers to Member States “Concerning Measures to Prevent and Reduce the Excessive Workload in The Courts”, and
  - reducing the excessive workload in courts.
- Above mentioned topics were discussed in the workshops.
- The exchange of views in the plenary focused on the role of the Network of pilot courts and the analysis of the replies to the questionnaire on the length of civil proceedings (see the item 3 above).
- The Secretariat presented to the pilot courts the CEPEJ Resource Centre on Cyberjustice and Artificial Intelligence.
- The following two concrete measures resulted from the discussion:
  - Measure 1: one regular meeting in person per year may be supplemented by an addition on-line meeting(s) to discuss a specific topic relevant for the pilot courts and/or the CEPEJ. The pilot courts participated in an on-line seminar on civil digital courts organised by the European Cyberjustice Network where the experiences from the UK and Estonia were shared. The pilot courts were also included in the surveys on the electronic public of court decisions launched by the CYBERJUST working group.
  - measure 2: select a group of pilot courts (task force) to work on the possible tool on the length of various steps of civil proceeding. It is expected that these measures will strengthen the co-operation with the pilot courts (see above).

Finally, we may mention that SATURN also works on the HELP module on judicial time management and in this context thanks to cesco and marco for their thorough review of the module. Cepej-Saturn gives credit to the

relevant contributions provided by CEPEJ President Cesco De Pasquale and by the CEPEJ Expert, Prof. Marco Fabri to this work, in particular during our last pilot courts meeting in Lublin.

[Link to the video recording on the 16th meeting of the CEPEJ Network of pilot courts](#)

**The Cepej-Saturn will hold its next meeting on 5-6 Oct. 2023.**