

Judicial time management (CEPEJ-SATURN)

Presentation of the ongoing work

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The **2023 AUTUMN MEETING** OF THE CEPEJ-SATURN (the 35th)

- was held in Strasbourg **on 5 and 6 October, 2023**, in a hybrid form, partly in presence and partly on-line.

1. 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 2020 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), the wg will be working in the next biennium on the possibility of issuing a separate list of recommendations.
- As for the second issue (case weighting in prosecution services), during the October meeting of the Group we discussed and approved the draft report prepared by the three Experts in charge: Ivan Crncec, Ana Krnic-Kulusic and Alexandre Palanco.
- The document is now submitted to the Plenary for possible adoption.
 - The report has a relatively simple, but at the same time quite informative structure:
 - it gives a general overview on the theory of case-weighting, illustrating its usefulness, its objectives and practical applications.
 - As far as the implementation methods are concerned, the study clarifies the differences between the i) Time-study method and ii) Time-estimate method (Delphi or Delphi-like method).
 - In its second part information is provided on the most relevant Prosecutorial Case-weighting systems of 8 European (Austria, Belgium, Bulgaria, Denmark, Germany, Lithuania, the Netherlands and Sweden) and some Non-European states.
 - In its Part III the reports presents a comparative analysis of case-weighting in public prosecution services, also illustrating some

previous system which were abandoned by States and replaced by new ones.

—Information is also provided on existing possible alternative systems to case-weighting.

—Finally, some key guiding principles are provided.

- All the relevant and detailed information will be provided by CEPEJ Vice President and member of the Cepej-Saturn WG, Mr Ivan CRNČEC, who was directly involved in the preparation of the document, which is now presented to this Plenary Assembly for a possible adoption.

2. DATABASE OF BACKLOG REDUCTION PRACTICES

- In June 2023, the CEPEJ adopted the Backlog Reduction Tool. The tool contains a non-exhaustive list of measures to address backlog based on the information provided member States, pilot courts and scientific experts.
- In order to track additional successful measures and follow new developments in this area, it has been decided to complement the Backlog Reduction Tool by a Database/Resource Centre to collect practices conducive to fighting backlog.
- Its setting up could follow the path of the Resource Centre on Cyberjustice and Artificial Intelligence that provide an inspiring example for creating the database.
- During the meeting of 5 and 6 October the Group had an exchange of views on the draft concept note prepared by the Secretariat on the establishment of the Database of Backlog Reduction Practices.
- The Group heard as well a presentation of the experience with the establishment of the Resource Centre on AI and Cyberjustice: Daniel Schmidt and Lidija Naumovska, of the Secretariat of the CEPEJ, highlighted the main features of that experience, which might be source of inspiration for the purposes of the SATURN Group.
- The presentation highlighted the concrete steps to its creation (e.g. create input files, collect first information to find out the kind of backlog reduction activities are in place), lessons learned (e.g. start from small size and extend progressively, consider maintenance, manage expectations) and main difficulties encountered whilst developing the Resource Centre (e.g. verification, quality and presentation of information collected and liability for the information published, resources for maintenance and level of functionalities).
- At the end of the discussions on this point, the Group decided to adopt the concept note drafted by the Secretariat and to submit it to this Plenary for possible adoption.

- The Concept note on the establishment of the Database of Backlog Reduction Practices CEPEJ-SATURN(2023)12, in a nutshell, is structured on several points, aiming at showing following features:
- What is the purpose of a Database of Backlog Reduction Practices:
 - Display functional backlog reduction practices and measures,
 - Help bilateral exchange and learning of authorities,
 - Show a factual presentation, with no endorsement of specific practices,
 - Be as exhaustive as possible for Europe,
 - Serve as starting point for further discussion.
- What a possible structure of the Database could be:
 - The database would be structured according to the categories corresponding to the main area of application of the measure/practice to fight backlog of cases.
 - The database would contain the following entries:
 - Title of the measure/practice,
 - Domain:
 - Legislative,
 - Operational,
 - Resources.
 - Training
 - Areas of application:
 - Legislation, regulation and policies,
 - Organisation of judicial systems,
 - Initial and in-service education,
 - Resource allocation,
 - Digitalisation of judicial systems,
 - Court management,
 - Case management,
 - Justice actors.
- What the level of application of the database could be, and namely:
 - System/national-wide,
 - Court/Prosecution service,
 - Judge.

- What the **period of implementation** could be, and namely:
 - in the last 2 years,
 - in the last 2 to 5 years,
 - before 5 years ago.
- What **measures** can be designed to respond to different implementation periods, and namely:
 - **Status of implementation**:
 - Under implementation,
 - Implemented,
 - Pilot,
 - Cancelled.
 - Further information in the concept note is provided on such items as:
 - **How to collect information** (getting CEPEJ National Correspondents, CEPEJ Members and Pilot Courts involved),
 - What are the **criteria** for publication,
 - **Future steps** to develop the database.

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.
- The 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 the first afternoon of the SATURN’s meeting, on 5th of **October**, a **special meeting** with representatives of a **task force** of 7 Pilot Courts was held on-line, in the framework of the Group’s meeting;
 - The following pilot courts are members of the task force:
 - District Court, Freiburg im Breisgau, Germany,
 - District Court, Maribor, Slovenia,
 - County Court, Reading, United Kingdom,
 - Commercial Court, Coimbra, Portugal,
 - District Court, Banska Bystrica, Slovakia,
 - Court of Appeal, Rovaniemi, Finland,
 - District Court, Turin, Italy,
 - District Court, Warsaw, Poland,
 - District Court, Lublin-East Swidnik, Poland.
 - The basis of the discussion was the already mentioned **questionnaire**;
 - To facilitate the discussion at the meeting, the Secretariat prepared a **concept note** entitled “**Which way forward for the tool to analyse the length of the steps of civil proceedings?**”

- (Document.CEPEJ-SATURN(2023)11). The concept note outlined the possible objectives of the activity, specified the possible **methods** of data collection and **outputs expected** to be delivered by the task force at the end of the process.
- It was decided to **limit** the analysis to the so called “**ordinary civil proceedings**” (with exclusion of special proceedings, such as the urgent procedures, special proceedings in fields like family law, succession law, etc.);
 - It was also decided to **focus**, at this stage, on **two main points** that could result in bottlenecks for the civil procedure, which is to say: I) the **notification of the summon** act by the plaintiff and II) the **response** by the defendant;
 - Information should be gathered on I) **legal provisions**, II) **factual data** (where available) and III) Pilot Courts **estimates** on deadlines and timeframes concerning those **two phases** of the civil proceedings.
 - It has been foreseen that the Task Force should **meet on-line regularly**, with the attendance of the two scientific experts (Marco Fabri and Ruth Straganz-Schröfl, the President of CEPEJ and the President of SATURN) **about once every month**, to pursue this exercise, addressing other phases of the ordinary civil proceedings.
 - The **next meeting** of the task force will be held on **23 November**. Until then, it was agreed to **gather information** on
 - the type of cases falling within the category of “**regular civil procedure**”,
 - **legal provisions** concerning **serving documents** and filing a response to the legal action by the defendant and,
 - for the pilot court in the **United Kingdom**, verify whether the defined **steps** in civil proceedings, are **identical or similar** to those existing in the civil law system.

4. FUTURE WORK OF CEPEJ-SATURN (2024 – 2025)

During its **October meeting**, the SATURN Group had an exchange of views on the future themes to consider for the **next two years**.

In fact, the Group examined a **document elaborated by the Secretariat** and approved it.

The Group decided as follows.

- To **continue** the work on the **ongoing themes**, and namely:
 - Develop a **tool enabling to better analyse the various timeframes according to the various steps of the civil procedure** [this theme is under way; after receiving replies to the questionnaire, a group composed of CEPEJ pilot courts was created to further work on this topic].
 - Develop **guidelines** allowing the **implementation** of a system of **case weighting** [after having elaborated the studies on case weighting in judicial systems and in prosecution services, a thorough reflection could be carried out on possible elaboration of case weighting guidelines].
- To **follow up themes on the past work**; the proposed themes deriving from the work already accomplished were proposed to complement the existing tools:
 - **Time Management Checklist** for **prosecutors** [this new Checklist will be developed based on the Time Checklist Management Checklist adopted by CEPEJ in June 2023 that is intended for the judiciary. Involvement of CCPE should be envisaged],
 - **Implementation** of the **Time Management Checklist** in the courts and judicial systems in general [The proposal is to collect information based on the Checklist and prepare a report analysing the situation in the countries from comparative perspective. There could be other alternative proposals. The tool could be tested in pilot courts],
 - **Backlog reduction database** [See the concept note CEPEJ-SATURN(2023)12],
 - **Update** of the **Report** on the length of court proceedings in the member states of the Council of Europe **based on the case law of**

the European Court of Human Rights by Ms Françoise Calvez and Nicolas Regis.

- To address following **new themes**:
 - **Workload measurement tools** in judicial systems in Europe [During the elaboration of the report on case weighting, the research showed that states use different systems of measurement of workload of judges. This work will help to explore different systems and identifying advantages and disadvantages],
 - **Balancing professional and personal life** in the judiciary [The issue of judges' workload is particularly acute today. The working conditions influence the results of the work organisation in courts and the duration of court proceedings and the quality of judicial decisions rendered. Different aspects need to be examined in order to gain a useful understanding of judges' workloads and how they are changing. Workload is influenced by measurable (ex. number of cases handled) and non-measurable factors (ex. management style, communication, training, psychological support, etc.)],
 - **Tool on the effective court management** [This work will help to identify different management practices in Europe and come up with guidelines on how to set up a court management system that would allow to ensure quality and efficiency of court services],
 - **Measuring potential effects of the use of AI tools on court efficiency** [The AI tools are rapidly developing and the potential for their use in judiciary is increasing. Although at this point in time, their actual usage is not on a high level, it would be good to examine what are the possible effects on the length of proceedings that use of different AI tools might have in the future (for example tools used for case law analysis). The main area of interest would be whether the use of AI tools can really improve efficiency (by shortening the procedures or decreasing the inflow of cases in courts), and if yes, by how much.].

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.

The next CEPEJ-SATURN meeting will be organised together with the 17th meeting of the Network of CEPEJ pilot courts. The meeting will be organised in Mechelen/Malines, Belgium, in spring 2024 upon invitation from the court of first instance in Antwerp that is a CEPEJ pilot court.