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“Enhancing Judicial Reform in the Eastern Partnership Countries”

**Review of the collection of judicial statistics
Republic of Moldova**

Report¹

Chisinau, 28 - 29 August 2014

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General introduction

This activity has been organised within the framework of the Joint Programme between the European Union and the Council of Europe entitled "Enhancing judicial reform in the Eastern Partnership countries" to promote the implementation of CoE and EU standards on the independence, professionalism and efficiency of the judiciary in the beneficiary countries.

In particular the aim of this review is to assist the Eastern Partnership countries, including the Republic of Moldova, to improve the quality of their judicial statistics and bring their national statistics system in line with the standards defined by the European Commission for the Efficiency of Justice (CEPEJ)

The review took place on 28-29 August 2014 in Chisinau, Republic of Moldova. The peer review was mainly concerned about an exchange of views on the collection of judicial statistics of the Republic of Moldova.

Presentation

Date: 28, 29 August 2014

Organisers: Superior Council of Magistrates – Moldovan Ministry of Justice

Participants:

For the Republic of Moldova:

28 August:

Victor Micu – chairman of the Superior Council of Magistracy Moldova (SCM),
Tatiana Răducănu, Dumitru Visternicean, Anatolie Țurcan – members of the SCM,
Ioana Chironeț, head of the Secretariat of the SCM,
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Dorina Cuceș, consultant, Department for judicial statistics of the SCM,
Constantin Bragoi, director of the Department for Judicial Administration, Ministry of Justice,
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Lilia Grimalschi, head of the Division of Analysis and Execution of Judgments of the ECtHR,
General Department of Government Agent, Ministry of Justice,
Representatives of the Supreme Court.

Țurcanu Radu – deputy chairman of the Botanica Court,
Fatima Gamurar – head of the department for generalisation of judicial practice and public relations,
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For CEPEJ:

Ms Sophio Gelashvili, Project Officer, Justice and Legal Co-operation Department, Directorate General of Human Rights and Rule of Law
Mr Luigi CIPOLLINI, CEPEJ Expert, Statistician at the Italian Ministry of Justice.

Visits

Date: 28 August 2014

Place: Superior Council of Magistrates, str. Mihai Eminescu 5, Chisinau

Time:

Subject discussed:

- Procedures and mechanisms of collection of judicial statistics
- Transparency and accountability of data
- Data concerning justice budgets
- Data/information concerning human resources
- Statistics concerning court activity, procedural timeframes and evaluation
- Monitoring/statistics concerning breaches of Article 6 of the European Convention on Human Rights
- Existing IT solutions for collection of the judicial statistics
- Preparation of the data for the Evaluation of European Judicial Systems Report of the CEPEJ.

Date: 29 August 2014

Place: Botanica Court, str. 13 Zelinschi, Chisinau

Time:

Subject discussed:

- Compilation of judicial statistics and submission to the Superior Council of Magistracy and Judicial Administration Department;
- Problems that arise at the distribution and collection of judicial statistics.
- Recommendations for the collection and systematisation of judicial statistics.

Introduction

The first visit took place at the Superior Council of Magistrates where an overall view of the management of the judicial statistics was given. During the review, the Moldovan authorities also organised a visit the Botanica Court in Chisinau where the peers were shown, the administrative part of the statistical data collection, how –in practice- the statistics are produced. They were also shown the computer system for managing cases, the hearing rooms and the recording facilities and special rooms for children hearings.

The peers were warmly welcomed by the Moldovan authorities and the visits were perfectly organised. This strongly contributed to constructive exchanges between the peers and the national authorities. The peers were able to familiarise themselves with the system for collecting and analysing judicial statistics and to have an exhaustive view of the main trends and reforms in the Moldovan judicial system.

The Moldovan judicial system consists of three levels of jurisdiction. It is made up as follows: 44 courts of first instance, including 2 specialised courts (Economic Court and Military Court), 5 courts of appeal and the Supreme Court of Justice.

Judicial System and the key actors

In the Republic of Moldova there are two distinctive institutions that are responsible for collecting statistical data regarding the functioning of the courts and the judiciary in general: one is the Department for Judicial Administration within the Ministry of Justice (hereafter "MoJ") and one is the Superior Council of Magistrates (hereafter "CSM"). These two institutions regularly receive figures from the courts and they elaborate their own statistical reports separately.

The current situation was created after the Law on judicial administration (article 54) was amended in 2012. Until 2012 the courts were requested to submit their statistics only to the Department for Judicial Administration. From 2012, the amendment to the law on judicial administration introduced the obligation to provide the data to the Superior Council of Magistrates too.

The peers acknowledge that this is a quite peculiar situation and it may give rise to a few issues in terms of efficiency of the overall management/process of the judicial statistics.

The Moldovan authorities state that, once they receive the data, the analysis is carried out separately by the Department for Judicial Administration and by the Superior Council of Magistrates. They also claim that even though the analysis is carried out separately the final result is the same. The final statistical tables published on their respective websites are pretty much the same. The only differences reside in a different layout and in the narrative part of the final reports. This is due to the fact that the MoJ and the CSM look at the figures from different perspectives. When they note substantial differences in the two reports, the Council and the Department work together to understand the reasons behind these differences.

The CSM believes that the collection of the statistics has to be in the hands of one institution while the MoJ commented that at the end of 2014 there will be a well-functioning system of the judicial statistics in place and the problem will automatically disappear. The peers' views slightly differ from the optimistic one of the MoJ. The introduction of new IT software is definitely profitable but it cannot be considered as a form of panacea for all difficulties.

The peers believe that having one single interlocutor rather than two would definitely be beneficial for the overall efficiency of the system. Getting rid of redundancies would be highly recommendable. Generally speaking human resources could be used more proficiently in other activities. The peers would also advise the introduction of a mixed working team (composed by both MoJ and CSM personnel) that serves as a filter and as a form of coordination between the courts on one hand and both the MoJ and CSM on the other. This uncomplicated action would definitely be beneficial in terms of efficiency and effectiveness; it would also enhance the quality of the data. The legislation also has to be slightly modified accordingly. The peers agree that any change in the structure of the system should be reflected in a normative framework.

Moreover, this new actor within the judicial statistics system would also be beneficial to the CEPEJ. During the visit there was a discussion on which authority was supposed to submit the data to the CEPEJ, and whether the information provided was correct. At the moment the national correspondent works at the General Department Governmental Agent of the Ministry of Justice.

Legislative implications

During the visit there was a lengthy discussion on the legislative basis of the judicial statistics. The CSM believes that any changes to the way the data are collected, elaborated and published have to go through a well-reasoned piece of legislation. Any improvement the current system, in principle, has to be discussed at a higher level and reflected in the relevant legal or normative framework.

The CSM insisted on the importance of the legal basis of the national statistics and in particular the judicial statistics. For instance, when it comes to the “reasonable time of proceedings” the Law has to give specific indications on what “reasonable” means and how to calculate it. Having a clear picture of what the Law provides, the following step is to build up tools that are designed to get the relevant information from the court / system.

The basis of the statistics is in the legal norms and legislative framework; if these norms are well regulated – consequently any issues related to the statistics, e.g. the relationships between MoJ and CSM will eventually disappear. It is important to have clear rules and regulations concerning analysis of the data as well as the collection of the data.

In the current Justice Sector Reform Strategy there are no indications on the activities directly related to the judicial statistics as such. Although the judicial reform concerns other activities that directly affect the statistics. That is why it is important that the rules are well defined and clear. The CSM stressed the fact that they are the first to address and raise these issues in the Republic of Moldova. The peers agree that the legislation should give indication on what needs to be measured and monitored. It would be very profitable to take into account the CEPEJ documentation as it is a rich source of quality standards. Moreover standards proposed by the CEPEJ have already been adopted successfully by many European countries.

Ideally the peers would see very favourably a roundtable where policy makers, court managers, court presidents, judges discussing relevant issues regarding the judicial system and its quality standards. The peers reckon that the discussion should also take into consideration some of the documents produced by the CEPEJ such as the checklist for promoting the quality of justice and the courts (adopted by the CEPEJ at its 11th plenary meeting held in Strasbourg, 2-3 July 2008).

Data collection - current situation

In the Republic of Moldova the judicial statistics are collected through standardised forms that the courts are requested to submit to both MoJ and CSM on a regular basis. These forms cover a wide range of subjects such as civil, criminal and administrative proceedings but also economic, budgetary and other matters. At the present there are 18 different forms addressed to the first instance courts, 18 reports addressed to the courts of appeal and 20 reports addressed to the Supreme Court. These forms have specific deadlines depending on the matter subject: there are forms that need to be submitted on a quarterly basis, at the end of every 3, 6, 12 months of the reference year. At the moment everything is collected on paper and hard copies are sent by post.

In each court there is a person responsible for the transmission of these forms to the relevant bodies. The main issue of the collection of the statistics is that everything is done manually and the information of the file management system is not taken into consideration. The chancellery and the clerks are reluctant to introduce electronic facilities when it comes to collect judicial data for statistical purposes, as they consider IT software not enough reliable (“risks of losing data”).

In order to facilitate the statistical duties a specific record card is attached to each proceeding folder. This card which represents the front page of the folder contains all the relevant information of the proceeding: ID, name of the claimant, the defendant, the victim, the name of the judge, the status/stage of the proceeding, the type of offence, etc. In other words all the relevant information that the chancellery needs in order to fill in the statistical forms.

At the end of each period the person responsible for the statistics counts these cards manually distinguishing between different kinds of proceedings. The breakdown adopted is quite detailed: the civil form contains more than 60 types of civil matters (e.g. adoption, housing, divorces, etc.) while the criminal form covers around 60 types of offences (i.e. criminal articles). This approach to data collection for statistical purposes based on ‘record cards’ is in place in all courts.

This data collection system is highly sensible to human errors. Human errors are very likely to occur when counting the record cards and also when transferring the figures in the statistical form. Moreover the legislations prescribe that the courts have to send hard copies of the forms. The courts strictly follow these instructions. Only a few courts send the data using electronic spreadsheets as well. The Moldovan authorities consider this as a very time-consuming activity but at the moment they admit that there’s no alternative way to get the information they need.

The peers on their part believe that such data collection activity could be much easier performed through the introduction of a simple computer-based register.

Some courts use spreadsheets to facilitate their job but in the end they print off the form and once it is stamped and signed they send it over by post, as this is what the law prescribes.

The main obstacle here is the prevailing mentality to strictly follow the regulations. Court staff show no effort to find better practices to perform their day-to-day activities. There’s also a lack of confidence in the adoption of IT tools.

The main issue with the collection of judicial statistics through these standardised forms is that the statistical data is already aggregated. The aggregation is represented by the breakdown of the statistical forms (i.e. the number of rows – see appendix B for an example). The information on a single proceeding is lost; this information is vital if one wants to produce in-depth data analysis.

Nowadays the statistics systems are more oriented toward raw data that can be easily and efficiently handled by IT systems.

The peers reckon that the entire process is extremely time consuming and add considerably to the overburdening of the courts. Moreover these forms do not guarantee the necessary quality standards. The Moldavian authorities state that at the moment the paper-based forms are the most reliable source of information as a well-functioning statistical module has not been implemented in the integrated case management system yet.

Botanica Court - notes from the court/chancellery

During their visit to the Botanica Court the peers had a chance to see exactly how the court is organised. In the Botanica Court the chancellery registers approximately 50 cases per day. When cases arrive at the chancellery, they are entered into a paper registry. The application form is stamped and the chancellery issues a copy of the case if needed. The chancellery also prepares a folder containing the application form and all the documents served. The folder is eventually passed on to a clerk whose job is to insert the case into the IT case management system. All attached documents are scanned and uploaded into the system. The case management system randomly assigns the case to a judge according to their workload. Then the folder is passed to the relevant division within the court (civil, criminal or administrative). Eventually each division has its own registry. At the end of the year the resolved cases go to the archive.

The Botanica Court is requested to fill in 17 different forms (civil, criminal, administrative, budgetary, etc.). These forms need to be sent quarterly (at the end of 3 months, 6 months, 9 months and 12 months of the reference year). In order to fulfil this exercise it takes up to 5 days. The form filling is somewhat seen as a burden rather than a useful tool for the management.

Occasionally the Department for Judicial Administration, asks the court additional information (e.g. domestic violence, license cancellation etc.) in order to cope with requests from the ministry of justice, the parliament and other Moldavian authorities. From the court chancellery's point of view, handling this kind of requests is quite hard as the system is not flexible enough. If the information is not included in the statistical forms they have to manually count all the cases in the archive which is an extremely time-consuming task.

IT systems – Botanica Court

In the Botanica Court the chancellery registers approximately 50 cases per day into the new computer-based case management system. Court clerks are using this facility since 2010.

For the development of this system the Moldovan authorities used the Millennium Challenge Fund. This integrated case management system is present in all courts. It was first introduced in 2008, but it became mandatory only in 2010. Moreover in 2010 all modules (e.g. random distribution of cases to judges) were implemented.

This system also enables an automatic case distribution to judges; upon registration of a new case the system automatically assign the case to a judge who is obliged to accept it. The distribution process takes into account the complexity of the case to allocate and the workload of judges. The software also balances the complexity of the cases between the judges and workload is distributed evenly between the judges. The software calculates the case complexity according to different variables such as number of participants, number of documents attached, etc. The distribution

algorithm also considers whether the judges are newly appointed or not in order to avoid to allocate complex cases to newly appointed judges.

It is worth mentioning that in the Republic of Moldavia there are only a very few specialised judges (e.g. instruction judges responsible for international adoption). Specialisation of judges is a topic discussed at the SCM but at the moment the average number of cases per court is still too low to make judges' specialisation beneficial.

The previous system to allocate cases to the judges was somewhat controversial as judges didn't trust the criteria behind the allocation. The introduction of this new system swept away all criticisms. In other words the judges have no longer any reason to complain about the cases they have been assigned. The Moldovan authorities are very proud of this new software as it is fair and objective, moreover the new system is perfectly in line with the ongoing Judicial Reform and its focus on fairness and transparency.

The case management system works with a local database; that means that each court has its own database. The database has a searchable system so that users can look up for specific information. However some confidential information (e.g. adoption cases) can only be found in the paper registry so that they do not show up in the electronic search for privacy reasons.

This new integrated system is not entirely error-free, this is why the system is being upgraded continuously to fix bugs and new patches are released over time. There are also allegations that the system in some cases is not quite user friendly; cases that do not follow a standard path cannot be handled by the final users as they require the intervention of IT technicians.

Apart from these technical problems there are a few open questions regarding the linking between the paper registry and the integrated system. One of the issues is that the number assigned to the case manually (the one written on the card) differs from the ID automatically generated by the IT system.

Future developments of IT systems

The integrated system is also equipped with a statistics module. However at the moment this module needs to be accurately tested. The aim of the judicial authorities is to switch to the electronic statistics in 2015. On 27 May 2013 decision was made to establish four pilot courts (amongst which the Botanica court) in order to compare the electronic statistics against manual statistics.

At the moment, the manual statistics are by far more reliable than the figures provided by the statistical module. This is probably due to erroneous information uploaded into the system. The statistical module requires that data is entered correctly but judges' assistants are not very accurate when inputting the data as they are overloaded with work.

In January 2015 a new assessment will be held to see whether the statistics extracted from the module match the manual statistics. The pilot courts will play an important role in addressing relevant issues and suggesting practical improvements. Ultimately the assessment will prove whether or not the pilot courts are ready to switch to electronic statistics. In case of a positive response the statistical module will be launched to all the remaining courts. The aim of the judicial authorities is to spread the use of electronic statistics in all courts but the process it will take approximately 4-5 years.

The transition from manual to electronic statistic will have a huge positive impact on the quality of the data but the success of the initiative is highly susceptible to the training of the personnel. The statistical module requires that data is entered correctly and therefore people need to be trained how to use the software properly. The Moldovan authorities ensure that they have both initial and in-service training in place. In particular the National Institute of Justice (NIJ) is responsible for training of all the court staff (including judges and secretaries). The peers insist that the process of modernisation of IT facilities (and electronic statistics consequently) has to be necessarily accompanied by adequate actions and investment in terms of training and education.

The introduction of a well-functioning statistical module would also be extremely useful to handle data requests of a wide range of subjects (e.g. domestic violence, license cancellation etc.). Provided that the information in the system is correct, the database can be easily interrogated to extract any kind of information from it.

Quality Standards

Once the data is collected by the court it is sent to both the MoJ and the CSM. These two bodies have special departments which deal specifically with the judicial statistics. They receive hard copies of the statistical forms and all figures are converted into spread sheets.

Before preparing the final table/reports the data must be validated but the quality check in place are quite basic: all figures sum up correctly, the pending cases at the end of a certain period must be equal to the pending cases at the beginning of that period plus the incoming cases minus the resolved case, no data is entered twice. In case of errors or mistakes the courts are requested either to give explanations or amend their data. However it is not clear how the MoJ and the CSM coordinate their activities when the courts amend their data.

The peers are slightly concerned about the fact that the data is accepted blindly regardless the figures provided in previous periods. In other words neither the MoJ nor the CSM compare current figures against previous figures and the trend is not taken into consideration during the validation stage. Peers agree that spotting outliers should be a core component of the quality check procedure. In general, the statistical data collected in the past should be taken into account not only in order to guarantee some kind of quality control but also to develop time series and monitor the trend of specific indicators across time. It would be highly beneficial to entire judicial system to set targets and benchmarks and see how the judicial system is performing according to these targets.

The peers agree that the main issue is that the forms used to collect statistical data are on paper and no electronic forms are used. As it stands, the process is extremely exposed to human mistakes. The only rigorous check in place is during the inspections. De facto the verification of data accuracy is performed by the inspection body only.

Availability of the data

After the data is validated, totals are drawn (first instance courts and appeal courts are counted separately). The data is aggregated and 47 courts reports are joined in one general report. Final tables and reports are eventually uploaded on the web so that they are publicly available to all citizens on both the MoJ and CSM websites (some reports are also available on certain courts' websites). All data collected, including general information (e.g. number of courts, numbers of judges, etc.) is available to the Public.

A couple of examples of statistical table can be found in Appendix A.

Specific tables about monthly workload per judge are also calculated. Some reports available on the web include both statistical tables and general comments to the tables; sometime they also include comparative notes with the previous years' data. The reports on MoJ and CSM websites differ from each other in the layout even though the figures are the same. Also the narrative part of the report can be different as the MoJ and the CSM look at the figures from different perspectives.

Moreover the CSM prepares the annual report that is presented to the annual general assembly of the judges and it is also addressed to the President and to the Parliament.

Both the Moldovan authorities and the peers agree that the availability of the statistics online is a big incentive against the corruption. Very often during the visit the Moldovan authorities highlighted the importance of having the statistics publicly available on the web as sort of transparency act that is highly appreciated by the citizens. Online statistics act as a form of incentive to the credibility of the judicial system.

The peers insist on the fact that information technology should enable prompt production of statistical reports and planning at the policy level. Up-to-date statistical information ideally should be promptly available for all courts, at any moment.

Timeframes

As it stands, the current statistical system doesn't collect the necessary data to calculate exact lengths of proceedings. At the moment, the duration of judicial proceedings can only be calculated indirectly using the data contained in the statistical forms (i.e. number of pending case for more than 12 months, 24 months and 36 months). The peers agree that the limitations of the information available are due to the fact that the current system is based on aggregate figures only. At the moment they cannot extract information from each single proceeding.

During the visit the CSM underlined the fact that these timeframes have no legal basis, and they are not defined by legal regulations. The timeframes included in the statistical form (12, 24, 36 months) are not prescribed by the law and they are to be considered as remains from the old system.

The CEPEJ has given very specific recommendations on this matter. Every court should collect data regarding the timeframes of proceedings that are taking place in the court. Pending and completed cases within the period (e.g. calendar year) should be separately monitored, and the data on their duration should be split in the groups according to the periods of their duration, i.e. cases pending or completed in less than one month, 1-3 months, 4-5 months, 7 to 12 months, 1-2 years, 2-3 years, 3-5 years and more than 5 years. In addition to the spread of cases according to periods of their duration, the average and mean duration of the proceedings have to be calculated, and an indication of minimum and maximum timeframes should be given as well. The time of processing should consider only the time that was needed to process the case within the particular court, i.e. the time between the moment when the case arrived to the court and the moment when the case exited the court (e.g. final decision, transfer to a higher court to be decided on appeal, etc.). If possible, the information on timeframes of proceedings for the completed cases should be distinguishable for the cases completed after a full examination of the case (i.e. the cases that ended by a decision on the merits) and the cases that were completed otherwise (by withdrawal, settlement, lack of jurisdiction etc.).

It is particularly important that the cases in the court can also be distinguished according to their total duration. The total duration is the time between the initiation of the proceedings and the final

disposal of the case (see the CEPEJ Time-management checklist and SATURN Guidelines). Ideally, the time needed to enforce the decisions should also be appended to the information on total timeframes of proceedings.

The monitoring of timeframes should not be limited to the collection of data regarding total timeframes between the start and the end of the proceedings. Information on duration of intermediate stages of the proceedings should also be collected. At the minimum, the stages to be monitored should include the duration of the preparatory stage of the proceedings (e.g. time between the start of the proceedings and the first hearing on the merits), the central stage (e.g. from the first to the last hearing on the merits) and the concluding stage of the trial (e.g. from the last hearing to the delivery of the decision on the merits). The data on duration of appeals proceedings, or duration of other legal remedies should also be available. Special monitoring should be provided for the periods of inactivity (waiting time).

As far as CEPEJ indicators are concerned, the bodies responsible for collecting and processing judicial statistics can easily calculate both clearance rate and disposition time using resolved, incoming and unresolved cases at the end of the period. Moreover they are able to calculate both clearance rate and disposition time for a wide range of civil matters (more than 60 types contained in civil form) and criminal offences. However in order to get robust statistics when calculating the above indicators the numbers have to be big enough.

The introduction of the new statistical module will allow the calculation of more detailed indicators and measures. The current integrated case management system already contains all the relevant stages and dates associated to a case (registration, first hearing, etc.) so it would be quite easy to assess the duration of individual stages of the proceedings through a query. In this regard the CEPEJ has provided a list of the most important stages of any proceedings that a case management system should ideally take into consideration (see Time management Checklist – Indicator Four for details). The key point here is that the data has to be correctly entered into the system. During their visit the peers were informed that the courts are now discussing the possibility of using this module to monitor lengthy proceeding. The peers see very favourably this opportunity: ideally statistical information about length of proceedings and delays should not only be collected through an information system but also regularly used for strategic planning. Ideally there should be an office that is in charge of monitoring the regular course of particular proceedings and locating delays with a view to reducing them, irrespective of the stage of proceedings (first instance, appeal). The Such office should eventually take steps to resolve current delays or prevent future ones and speed up the proceedings.

According to the CEPEJ recommendations the peers suggest the Moldovan judicial authorities should develop some kind of procedures to promptly identify delay and reduce the impact of delays on the parties and also procedures to accelerate the proceedings and prevent delays. This goal might be reached –for instance- imposing sanctions against participants in the proceedings that intentionally or unintentionally delay the proceedings (admonition, replacement, fines and cost decisions).

Generally speaking the length of proceeding is a highly sensible issue at European level. A large part of the cases before the European Court of Human Rights concerns the violation of the "reasonable time" of a proceeding provided for by Article 6 of the European Convention on Human Rights. Once again the peers highlight that special attention should be paid to the collection of statistics regarding the length of proceedings as it would be difficult to offer effective solutions for optimum and foreseeable timeframes unless the judicial authorities first have detailed knowledge of the situation. However, defining optimum timeframes of proceedings is out of the scope of the statistics. It is an issue that needs to be addressed beforehand by the judicial authorities. It would be highly desirable

that the definition of optimum timeframes comes as a result of a discussion between judicial authorities and other organisations representing the legal and judicial professions. The way the statistic system is organised should only reflect decisions made by the policy makers in terms of appropriate (adequate, optimum) duration of court proceedings.

As far as the Article 6 of the European Convention of Human Rights is concerned, some cases were brought against the Republic of Moldova at the European Court of Human Rights (ECtHR) in the past. Since law no.87 was adopted, the country has no longer cases on violation of Art 6 (violation of the length of proceedings). In the Republic of Moldova if the procedural timeframes are not respected one can either ask for the compensation or ask for the acceleration of the case.

The use of Statistics

At the moment the statistics collected by the MoJ and the CSM are used at different levels for different purposes. Primarily statistics are used to prepare the budget for the next year, to calculate the workload of each judge and secondary to ask for additional resources (not only human resources) and to calculate bonuses for the judges.

The peers would see very favourable the use of statistics for more general planning and managerial purposes. For example the setting of court objectives, the definition of standard timeframe for processing cases. The computer system and consequently the statistics should be considered as a very powerful tool in the hand of the management to monitor the activities of the court to assess whether the standards are met or not and enabling them to take the appropriate decisions accordingly. At a higher level, making-law authorities could even use the statistics to foresee the implications of new pieces of legislation to the existing flows.

The peers agree that at the moment the use of the statistics is limited and it is generally perceived more as a duty rather than a tool that can contribute to the improvement of the efficiency and functioning of justice. All data regarding performance and quality of the judicial system should be collected and presented through a compatible and consistent methodology applicable to all the branches and bodies of the judiciary so as to be able to evaluate the efficiency of the means allocated to them.

CEPEJ Scheme and judicial data

As far as the information needed in order to fill in the CEPEJ scheme for evaluating judicial systems, it is the Ministry of Justice responsible for gathering all relevant data. The National Correspondent is from the General Directorate Governmental Agent of the Ministry of Justice. The Ministry is able to collect case flow data from all courts (first instance, courts of appeal and Supreme Court) and also other judicial data such as salaries, budget, legal aid, etc.

The Department for Judicial Administration is very optimistic about the statistical module which is about to be integrated into the existing case management system as it will make the process of data collection definitely smoother. For instance, at the moment it is not easy to calculate the amount of court fees received by the State but in the near future the new statistical module will enable users to easily extract the information from the database.

As far as data related to prosecution, the Ministry interacts with the Prosecution Service and other relevant authorities to get the relevant data for the CEPEJ scheme. The Ministry of Justice by the means of an official letter asks all relevant national authorities, including the Department of Judicial Administration to fill in the CEPEJ questionnaire, based on their functional competences. Subsequently, this information is generalised, and finally introduced and filled in the CEPEJ

questionnaire online. The Ministry and Prosecution Service do not have access to each other's databases. Presently police and the prosecutors have their own systems. However, at the MoJ they are discussing the possibility to create a superstructure that would enable to navigate several systems: probation, penitentiary, corrections, judicial statistics etc. At the moment this is just an overall idea that still needs to be investigated before it becomes a proper project/programme.

Areas of Improvements and recommendations

The peers have identified a series of difficulties that need to be addressed and faced by the Moldovan authorities.

One of the difficulties that prevent the take-off of the use of **technology** on a large scale is the prevailing mentality among court staff according to which the paper is to be preferred to the electronic documents. Court staff is extremely reluctant to introduce electronic facilities in their day-to-day activities as digital documents are not enough reliable ("risks of losing data"). There is still distrust and cautious approach to the electronic database ("what if the problems occur, viruses destroy files"). The current legislation requires that both versions (paper and electronic) are kept, so the courts follow these instructions closely.

Moreover court staff keeps questioning the **legal validity of digital documents** and they also argue that emails have not the same strength than a stamped hard copy sent by post. Once again this is a more general problem and legislation can resolve the issue by introducing specific recommendations on the use of digital documents. This is a problem that has to be faced on a more general level not just within the judicial environment.

The Moldovan authorities are very keen to speed up the process of modernisation of the system through the adoption of new IT software. However it seems more a problem that has to do with people confidence toward technology that slow down the process. Peers envisage that some sort of **IT education and training** is needed especially among personnel of a certain age.

Since a complete adoption of the new case management system in all courts will probably take around 4-5 years, the peers would highly advice -in the meantime- the introduction of simple/basic IT tools (such as spreadsheet) to facilitate the tasks of clerks when it comes to the collection of judicial statistics.

The judicial system needs to have **sufficient resources** to cope with its regular workload in due time. The resources have to be distributed according to the needs and must be used efficiently. In the Republic of Moldova they have experienced a shortage of staff especially in courts outside Chisinau. Until 2010 there was quite high flow of personnel coming and going. Apparently the reason is the low salary of court staff. In the last few years things have been getting better but there's still room for improvements. Due to the fact that the Moldovan justice system is suffering from a shortage of staff, the peers insist that requests for statistics should not unduly overload court staff but correspond to the needs of the smooth management of the overall judicial system. The judicial authorities should have a clear picture of the judicial system through a well-organised statistical system. On the other hand the courts should be administered in such a way that the statistics are part of their main activities and not an uneasy exercise.

Apart from the non-judge staff, the peers have observed a shortage of **judges** especially in the distant courts. The majority of judges are young and the peers understand that they need to be stimulated and supported, especially during their initial stage. The peers believe that some kind of

incentives have to be found so that newly appointed judges are encouraged to work in distant regions.

As far as the **judicial statistics** is concerned, the main problem has to do with the collection of the data. Presently the data collection is done without using any kind of IT facilities, for this reason the system is highly sensible to human errors. Moreover the statistical forms used for the analysis only contain aggregate figures, which makes almost impossible to produce in-depth data analysis. Both the peers and the Moldovan Authorities are very optimistic about the introduction of a statistical model into the integrated case management system. The transition from manual to electronic statistic will have a huge positive impact on the quality of the data.

Having said that, the introduction of a new and more sophisticated IT system by itself doesn't necessary mean an automatic improvement of the statistic system. Certainly the new IT system will enable more detailed analysis and improve the quality of the statistics but this is not enough. The bodies responsible for collecting and processing judicial statistics will be in a position to re-think the way their statistic system is designed. They will have the opportunity to ensure dialogue with the organisations representing the legal and judicial professions, researchers and other organisations with an interest in the matter so as to guarantee a broad consensus on the information collected and communicated. Moreover they will have the opportunity to start monitoring relevant information on the courts and the judicial system overall adopting a series of standardised indicators and benchmarks of performance. There are several indices that the CEPEJ recommends in order to analyse and monitor the duration and other factors important for the understanding of timeframes in the court:

- Clearance rate: the relationship between the new cases and completed cases within a period;
- Case Turnover ratio: the relationship between the number of resolved cases and the number of unresolved cases at the end;
- Disposition time: it compares the number of resolved cases during the observed period and the number of unresolved cases at the end of the observed period.

Other important indicators (such as efficiency rate, total backlog, backlog resolution, case per judge, standard departure etc.) that are illustrated in the CEPEJ guidelines on judicial statistics (GOJUST).

The peers also stress that the process of modernisation of IT facilities (and electronic statistics consequently) has to be necessarily accompanied by adequate actions in terms of investment in training and education.

Relevant links:

Ministry of Justice

<http://www.justice.gov.md/>

Ministry of Justice - Studies and analysis

<http://www.justice.gov.md/pageview.php?!=ro&idc=56&>

Superior Council of Magistrates

<http://www.csm.md/>

Superior Council of Magistrates – Judicial statistics

<http://www.csm.md/statistica-judiciara.html>

APPENDIX – A

Example of statistical tables

APPENDIX – B

Example of statistical forms