

CEPEJ(2020)10

EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

Activity Report of the CEPEJ - 2019

As adopted by the CEPEJ by written procedure on 2nd July 2020

Highlights in 2019

Forty-seven member States or entities and three CEPEJ observer States (Israel, Morocco and Kazakhstan) started the data collection process for the preparation of the 2018-2020 CEPEJ Report on the Evaluation of judicial systems. The interactive database, CEPEJ-STAT, remained accessible and up to date with the data from previous cycles and is a key tool for obtaining detailed and comparable information on the functioning of judicial systems. The CEPEJ provide the European Commission (EC) with information about judicial efficiency in 26 EU States, enabling it to prepare its annual "Justice Scoreboard". The new large-scale Programme entitled "Dashboard Western Balkans" was launched in May 2019.

The first "European Ethical Charter on the use of Artificial Intelligence (AI) in judicial systems and their environment", adopted in December 2018, was widely disseminated in Europe and the CEPEJ-GT-QUAL has started to develop operational standards on the basis of the principles of the Charter. A toolkit for the implementation of the CEPEJ Cyberjustice Guidelines was developed, and Guidelines to improve judges' skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation were adopted.

The tools of the SATURN Working Group as regards strengthening the efficiency of judicial time management were updated (Guidelines for Judicial Time management, Study on the length of court proceedings in the member States based on the case-law of the European Court of Human Rights (ECtHR)).

A Mediation Development Toolkit was developed to support the application of the Council of Europe's standards in this field.

Specific co-operation was continued with the University of Strasbourg Law Faculty, in particular in the field of cyber justice. The Junior Crystal Scales of Justice Prize was also launched in cooperation with the Strasbourg Law faculty, in order to promote innovative practices contributing to the efficiency of justice. This Prize complements the existing Crystal Scales of Justice Prize.

Judicial authorities in 18 member States organised 36 specific events within the framework of the European Day of Justice.

The tools and the methodology of the CEPEJ have been used to guide judicial reforms, in particular through CEPEJ co-operation programmes (Albania, Azerbaijan, Spain, Kosovo¹, Latvia, Malta, North Macedonia, Republic of Moldova, Slovakia, Egypt, and Tunisia). The CEPEJ was represented in 80 fora (33 States) on the functioning of justice.

¹ All references to Kosovo, whether to its territory, institutions or population in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

For further information: www.coe.int/CEPEJ

1. This report outlines the work undertaken by the European Commission for the Efficiency of Justice (CEPEJ) in 2019 in accordance with its Activity Programme. It was presented to the Committee of Ministers in accordance with the Statute of the CEPEJ.

1. THE EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ) in 2019

1.1 Membership of the CEPEJ

2. The CEPEJ is made up of experts from the 47 member States of the Council of Europe. Only two states (Liechtenstein and San Marino) were not regularly represented on the CEPEJ. Among the states enjoying observer status, Israel, Kazakhstan, Morocco and Tunisia participated in the work of the CEPEJ. Mr Ramin GURBANOV (Azerbaijan) was President of the CEPEJ and Ms Ivana BORZOVA (Czech Republic) was Vice-President. Mrs Laetitia BRUNIN (France) and Francesco DEPASQUALE (Italy) were members of the Bureau.
3. The ECtHR, the Parliamentary Assembly of the Council of Europe (PACE), the Consultative Council of European Judges (CCJE), the Consultative Council of European Prosecutors (CCPE), the European Committee on Legal Co-operation (CDCJ) and the European Committee on Crime Problems (CDPC) were also represented at CEPEJ plenary meetings.
4. The European Union (EU) was regularly represented at the plenary and working group meetings, by the Council of the European Union, the European Commission, the Secretariat of the European Parliament and the Fundamental Rights Agency.
5. The European Association of Judges, MEDEL (Magistrats Européens pour la Démocratie et les Libertés), the European Federation of Administrative Judges, the Council of Bars and Law Societies of Europe (CCBE), the European Union of Rechtspfleger (EUR), the International Union of Judicial Officers (UIHJ), the European Judicial Training Network (EJTN), the European Network of Councils for the Judiciary (ENCJ), the Council of the Notariats of the European Union (CNUE), the European Expertise and Expert Institute (EEEI), the World Bank, the Organisation for Economic Co-operation and Development (OECD) and the American Bar Association – Rule of Law Initiative have observer status with the CEPEJ. The American Bar Association and the ENCJ did not participate in the CEPEJ meetings in 2019.

1.2 Meetings of the CEPEJ

6. The CEPEJ held two plenary meetings in Strasbourg (13-14 June and 4-5 December). During the plenary meeting in June 2019, the members of the CEPEJ held an exchange of views with Mr Linos-Alexandre Sicilianos, President of the European Court of Human Rights, and other judges of the Court, on the possible interactions between the ECtHR and the CEPEJ on indicators of efficiency and quality of justice. The Bureau of the CEPEJ met twice in Paris (18 January) and Strasbourg (9 October). The Working Groups met regularly according to the Activity Programme, with, in the Chair, respectively Mr Jasa VRABEC (Slovenia) for the group on the evaluation of Judicial Systems (CEPEJ-GT-EVAL), Mr Giacomo OBERTO (Italy) for the Steering group of the SATURN Centre for Judicial Time Management, Mr Joao ARSENIO DE OLIVEIRA (Portugal) for the group on quality of Justice (CEPEJ-GT-QUAL) and Mr Rimantas SIMAITIS (Lithuania) for the group on mediation (CEPEJ-GT-MED).
7. The 13th plenary meeting of the Network of national correspondents entrusted with the collection of judicial data took place in Strasbourg (7 March). The 13th plenary meeting of the Network of pilot courts was held in Barcelona (3 October).

2. ACTIVITIES AND ACHIEVEMENTS OF THE CEPEJ IN 2019

8. The CEPEJ's activity programme is part of the Pillar "Rule of law", Sector "Justice", Programme "Independence and efficiency of justice" of the Council of Europe's Programme and Budget. The CEPEJ's task is central to the Council of Europe's activities of promoting common fundamental values: human rights, rule of law and democracy by strengthening democracy, good governance and the rule of law in member States.
9. The CEPEJ has been entrusted by the Committee of Ministers with the task of proposing practical solutions, suitable for use by Council of Europe member States, with a view to:
 - promoting the effective implementation of existing Council of Europe instruments relating to the organisation of justice;
 - promoting the public service of justice and ensuring that public policies concerning the courts take account of the needs of users of the justice system and, in particular, the judiciary and law officers;
 - contributing to reducing the workload of the ECtHR by offering states effective solutions prior to application to the Court and preventing violations of Article 6 of the European Convention on Human Rights (ECHR).

2.1 Tools for analysing the functioning of judicial systems and ensuring that public policies relating to the courts are geared towards greater efficiency

2.1.1 Evaluating the functioning of European judicial systems

10. In 2019, the 2018-2020 evaluation cycle was launched after adaptation of the electronic data collection scheme (CEPEJ-COLLECT) and the provision of information to the national correspondents. For the launch of the evaluation cycle, a visit was organised to Kazakhstan.
11. The CEPEJ evaluation questionnaire was reviewed to adapt some topics, such as the use of information technologies in courts, the performance and evaluation of courts and public prosecution services, and the use of mediation.
12. The structure of the new report has also been redesigned. For the new edition, the focus will be on the analysis of general tendencies observable among States and entities, as well as on good practices, and giving concrete examples of efficient public policies in the field of justice. Countries fiches will also be provided, covering new indicators, in order to provide an overview of the situation in each State or system.

Co-operation with the European Union

13. The Council of the EU, the European Commission and the European Parliament are regularly represented at the meetings of the CEPEJ.
14. The "Justice Scoreboard" was published by the EC in April 2019, mainly based on the "Study on the functioning of judicial systems in the EU member States" prepared by the CEPEJ using its own methodology and information transmitted by the States concerned. A new Study, conducted following the collection, processing and analysis of data updated in 2018, was sent to the EC at the end of 2019 with a view to the publication of a new Scoreboard in spring 2020. This exemplary co-operation between the EC and the Council of Europe is based on a multi-year contract under which the EC contributes financially to the work of the CEPEJ (€ 200,000 per year).
15. The cooperation with the EC has also been developed in the framework of a specific programme for an annual evaluation of the functioning of the judicial systems in the States and entities of the Western Balkans (Programme "Dashboard Western Balkans") which started in May 2019.
16. The EC's trust in the CEPEJ data and methodology must be highlighted. The involvement of the CEPEJ in the EC's efforts strengthens the CEPEJ's preeminent role as regard justice evaluation, as well as the synergies between the EU and the Council of Europe in this field. It also increases the visibility of the CEPEJ and of the Council of Europe.

Co-operation with the OECD

17. The OECD pays particular attention to the CEPEJ's work for evaluating the situation within the judicial systems in their European member States, and the CEPEJ methodology for extending such evaluation to non-European members. The OECD has participated in relevant CEPEJ meetings, and reflections on a tighter cooperation started in 2019.

2.1.2 Optimising and improving the foreseeability of the timeframes of judicial procedures: the SATURN Centre

18. The CEPEJ SATURN working group continued its work to develop appropriate tools on judicial timeframes with the assistance of experts and the CEPEJ Network of pilot courts.

19. In this context, the CEPEJ SATURN worked on developing a methodology available to the judicial systems for setting up a case weighting system, as well as guidelines on how to develop efficiency dashboards.

20. CEPEJ SATURN also focused its work on the timeframes for criminal cases under Articles 5 and 6 of the ECHR, as well as on the role of the parties and practitioners in preventing delays in proceedings.

21. The CEPEJ court coaching programme for implementing SATURN tools on judicial time management is the basis for CEPEJ co-operation programmes (see below).

2.1.3. Promoting the quality of justice

22. The CEPEJ adopted in 2018 the "European Ethical Charter on the use of artificial intelligence in judicial systems and their environment" (CEPEJ(2018)14) which provides, for the first time in Europe, a framework of principles that can guide policy makers, legislators and justice professionals in addressing the rapid development of Artificial Intelligence in national judicial processes.

23. Following this objective to face the challenges posed by artificial intelligence and predictive justice, in 2019, the CEPEJ members and experts, as well as its Secretariat, took part in a number of fora in Europe and beyond to promote the application of the Charter. CEPEJ-GT-QUAL has worked in particular on the development of operational standards on the basis of the principles of the Charter.

24. The CEPEJ members and experts also adopted a Toolkit for implementing the Guidelines on cyber justice (CEPEJ(2019)7) and approved the principle of launching a preliminary feasibility study on the possible establishment of a mechanism to certify tools and services of artificial intelligence (CEPEJ(2019)6) which is currently being conducted.

25. Moreover, following the objective to develop the evaluation of the activity of judges through a qualitative framework, the CEPEJ developed new Guidelines to improve judges' skills and competences, strengthen knowledge-sharing and collaboration, and go beyond the culture of judicial isolation (CEPEJ(2019)15).

26. Coaching programmes aimed at organising court user satisfaction surveys based on the CEPEJ Handbook are used in several co-operation programmes (see below).

2.1.4. Promoting the use of mediation

27. In order to promote the concrete implementation of the Recommendations of the Council of Europe in the field of mediation, as a means of improving the efficiency and quality of judicial procedures, the CEPEJ adopted the European Handbook for Mediation Lawmaking (CEPEJ(2019)9), Guidelines on designing and monitoring mediators' training schemes (CEPEJ(2019)8), a Mediation Awareness Programme for Judges (CEPEJ(2019)18) and for Notaries (CEPEJ(2019)20), as well as a Training Programme for lawyers to assist clients in mediation (CEPEJ(2019)21).

2.2 Supporting States in their judicial reforms

28. The CEPEJ is pursuing a significant effort in order that its methodology, tools and the experience of its members and experts may be made available for capacity-building and co-operation programmes, enabling in this way the Council of Europe to offer beneficiary States a strong added value as regards reforms of judicial systems. Very good synergies have been developed between the CEPEJ's intergovernmental work and the direct and in-depth use of this work to support judicial reforms at national level. Such co-operation targeted both the national authorities responsible for justice policies (Ministries of Justice, Parliaments, High Councils for the Judiciary) and individual courts.

29. Specific co-operation programmes were carried out by the CEPEJ to support in particular judicial reforms:

- in Albania and Kosovo* - within the framework of "Horizontal Facility for Western Balkans and Turkey (HF II)" - Joint Programme with the EU,
- in Azerbaijan and the Republic of Moldova - within the framework of the "Partnership for Good Governance" (PGG II),- Joint programme with the EU
- in Latvia - "Strengthening the access to justice in Latvia through fostering mediation and legal aid services, as well as support for the development of judicial policies and to increased quality of court management" – Programme with DG-REFORM,
- in Malta – "Supporting the efficiency of Justice in Malta" - in cooperation with the DG REFORM,
- in Spain - "Promoting cyber justice in Spain through change management and improvement of data collection – Programme with DG-REFORM,
- in Egypt and Morocco – within the framework of "Ensuring sustainable democratic governance and human rights in the southern Mediterranean" (South Programme III)- Joint programme with the EU,
- in Slovakia -"Continued support to a well performing Slovak judiciary"– Programme with DG-REFORM
- in Tunisia – within the framework of "Improving the functioning, performance and access to justice in Tunisia (AP- JUST)" – Joint Programme with the EU

2.3 Strengthening relations with users of the justice system and with national and international bodies

2.3.1 Contributing specific expertise to the debate on the functioning of the justice system: providing the legal and judicial community with a forum for thinking and suggestions and bringing justice systems and their users closer together

30. The CEPEJ continued developing specific working relations with other committees of the Council of Europe, such as the justice advisory bodies (CCJE, CCPE), standard-setting committees (CDPC, CDCJ, CDDH) and other bodies dealing with matters related to justice, such as the Department for the execution of the judgments of the ECtHR.

31. The European Justice Day was celebrated on 25 October in 20 countries, through 43 events. On this occasion, the 2019 European Crystal Scales of Justice Prize, organised by the Council of Europe and rewarding innovative judicial practices in European judicial institutions, was

awarded to the Supreme Court of Slovenia for its project "Improving the quality of justice" (IQ Justice) in Oslo (Norway).

32. A specific collaboration has been agreed with the Law Faculty of the University of Strasbourg, notably especially in the field of cyber justice.

2.3.2 Facilitating the understanding of, and access to, the CEPEJ's work

33. A glossary of the definition of the main concepts used by the CEPEJ was adopted in 2019 (CEPEJ(2019)5REV1). This document aims at harmonising the definitions of terms frequently used in the various tools and work of the CEPEJ since its creation in 2002. It may be updated on a regular basis.

With specific member States and other international partners

34. The CEPEJ was represented by its members or Secretariat at 80 events, which took place in 33 States in Europe and in other parts of the world and addressed issues of direct relevance to the functioning of justice. Moreover, numerous European media outlets refer regularly to the work of the CEPEJ. This confirms the importance that the European and international judicial communities attach to the work of the CEPEJ.

Means of communication

35. The "CEPEJ Newsletter" on the thematic of "judicial timeframes" was published electronically and disseminated to almost 3.500 recipients (registered free of charge). The Newsletters included articles written by senior judicial or political figures and experts, as well as news about the CEPEJ's activities.
36. The success of the CEPEJ's internet site is confirmed, with an average of almost 10.000 connections per month. The site remains a standard reference within the European judicial community. The CEPEJ Facebook page has more than 1200 followers.