

23 June 2021

## EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

### CEPEJ Activity Report – 2020

*As adopted at the 36<sup>th</sup> CEPEJ plenary meeting  
on 16 and 17 June 2021*

#### Main results 2020

The year 2020 was above all marked by the COVID-19 health crisis in our daily lives, which pushed the European Commission for the Efficiency of Justice (CEPEJ) to adapt to a new set of challenges, and to support the member States as they went through the same. Indeed, the pandemic has pushed European justice systems to reorganise, innovate and often significantly accelerate the process of dematerialisation of judicial work within the courts. It should nevertheless be noted that, for the year 2020, the CEPEJ has succeeded in implementing its 2020-2021 programme of activities as approved by the Committee of Ministers, almost normally and without experiencing any delay in the execution of its work.

The CEPEJ organised its December 2020 plenary meeting online and with a normal agenda. It chose an original format for its plenary meeting in June: the documents submitted for adoption were submitted by written procedure on 10 June 2020, and an *ad hoc* plenary meeting was organised, in the framework of the Greek Chairmanship of the Committee of Ministers, on the impact and lessons of the COVID19 crisis with regard to the efficiency of justice and the functioning of judicial systems. This meeting, opened by the Secretary General of the Council of Europe and several European Ministers of Justice, resulted in the adoption of the "[Declaration on the lessons learnt and challenges faced by the judiciary during and after the COVID-19 pandemic](#)".

The CEPEJ has also published its Evaluation Report of European Judicial Systems, 2020 evaluation cycle (2018 data), with a new presentation in three parts ([Tables, graphs and analyses - Country profiles - CEPEJ-STAT database](#)). The document was very well received by the Committee of Ministers, the Conference of European Ministers of Justice (9 November 2020) when it was presented, as well as at a press conference and in European media. The CEPEJ is also continuing its cooperation with the European Commission, on the basis of the CEPEJ's own evaluation methodology, through (i) the annual study on the functioning of the judicial systems of the EU member States, (ii) the annual evaluation of the functioning of the judicial systems in the states and entities of the Western Balkans, (iii) the annual evaluation (as from January 2021) of the functioning of the judicial systems in the "Eastern Partnership" countries (Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova, Ukraine).

The working group on quality of justice (CEPEJ-GT-QUAL) has developed a [feasibility study on the possible introduction of a mechanism for certifying artificial intelligence tools and services in the sphere of justice and the judiciary](#), which it wishes to submit to the Committee of Ministers. This is one of the possible follow-ups to the [European Ethical Charter on the use of artificial intelligence in judicial systems and their environment](#), adopted by the CEPEJ in December 2018. The CEPEJ-GT-QUAL is also continuing its work on diversity in the careers of judges, the centrality of the user in judicial procedures in civil matters, the simplification and clarification of language with litigants, and in mediation.

The working group on judicial time management (CEPEJ-SATURN) developed the [Report on case weighting in judicial systems](#), adopted by written procedure by the CEPEJ in July 2020. It has also continued its work on court dashboards, the modification of the existing guidelines on judicial time management to include lawyers, court staff, forensic experts and enforcement agents, and finally on the case weighting system, for which guidelines will be prepared to facilitate its implementation, following the above-mentioned Report.

The context of the sanitary crisis has also given unprecedented importance to the work of the new working group on cyberjustice (CEPEJ-GT-CYBERJUST), which has developed a [roadmap](#) and a work plan for its first work, decided on the basis of the priorities expressed by the member States: (i) the electronic court file, (ii) online dispute resolution, (iii) online enforcement of court decisions as well as (iv) the use of video-conferencing in court hearings.

The working group on Mediation (CEPEJ-GT-MED) was suspended in 2020, the CEPEJ-GT-QUAL being in charge of mediation for the time being, but the Toolbox for the development of mediation that the CEPEJ-GT-MED developed remains a reference document, used in the member States and in particular in the CEPEJ cooperation programmes.

The first edition of the Crystal Scales of Justice Junior Edition Prize was organised and awarded to the team of the Strasbourg Law Faculty.

Judicial authorities in 17 Member States organised 23 specific events for the European Day of Justice around 25 October 2020, despite restrictions on access to courts due to the health crisis.

CEPEJ tools and methodology have been used to guide judicial reforms, notably in the framework of CEPEJ cooperation programmes (Albania, Azerbaijan, Georgia, Kosovo\*, Latvia, Malta, Republic of Moldova, Morocco, Slovak Republic, Spain, Tunisia and Mediterranean neighbourhood).

The CEPEJ has been represented in many fora and seminars about the functioning of justice.

**For more information :** [www.coe.int/CEPEJ](http://www.coe.int/CEPEJ)

1. This report describes the work carried out in 2020 by the European Commission for the Efficiency of Justice (CEPEJ)<sup>1</sup>, in accordance with its programme of activities 2020-2021<sup>2</sup>. It will be 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 2020**

### **1.1 Composition of the CEPEJ**

2. The CEPEJ brings together experts from the 47 member States of the Council of Europe. Only two states (Liechtenstein and San Marino) were not regularly represented at the CEPEJ. Amongst the States with observer status, Israel, Kazakhstan, Morocco and Tunisia have participated in the work of the CEPEJ.

3. Elections to the Bureau of the CEPEJ took place during the plenary meeting of 8 December 2020. Mr Ramin GARAGURBANLI (formerly GURBANOV) (Azerbaijan) was re-elected President of the CEPEJ for a period of two years and Mr Francesco DEPASQUALE (Malta) was elected Vice-President for a period of two years. Ms Nino BAKAKURI (Georgia) and Mr Juan Fernando ARMENGOT IBORRA (Spain) were also elected members of the Bureau.

4. Ms Hanne JUNCHER, Head of the Legal and Judicial Cooperation Department, under whose authority the CEPEJ Secretariat is placed, leaves the Department to take up the duties of Executive Secretary of GRECO and Head of the Crime Control Department.

5. The ECHR, the Parliamentary Assembly of the Council of Europe (PACE), the European Committee on Legal Cooperation (CDCJ) and the European Committee on Crime Problems (CDPC) were also represented at the CEPEJ plenary meeting on 8 December 2020.

6. The European Union (EU) was represented at the CEPEJ plenary and working group meetings.

7. The European Association of Judges, MEDEL (European Magistrates for Democracy and Liberties), the European Federation of Administrative Judges (AEAJ), the Council of the Bars and Law Societies of Europe (CCBE), the European Union of Registrars of Justice (EUR), the International Union of Judicial Officers (UIHJ),

<sup>1</sup> The CEPEJ was set up on 18 September 2002 by Resolution [Res\(2002\)12](#) of the Committee of Ministers of the Council of Europe, Annex 1 of which sets out its statute.

<sup>2</sup> [Document CEPEJ\(2019\)9](#).

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 Institute of Expertise and Expert (IEEE), the World Bank, the Organisation for Economic Cooperation and Development (OECD) as well as the American Bar Association - Rule of Law Initiative, have an observer status with the CEPEJ. The American Bar Association did not participate in CEPEJ meetings in 2020.

## **1.2 Meetings of the CEPEJ**

8. The CEPEJ held its 34th plenary meeting on 8 December 2020 by videoconference. The meeting, traditionally organised in June, was replaced by an *ad hoc* plenary meeting on 10 June 2020, due to the COVID-19 pandemic. The work of the CEPEJ was adopted by written procedure. At the beginning of April 2020, the CEPEJ set up a blog allowing the sharing and comparison of experiences and practices in the field of emergency organisation of court operations, thereby helping member states to better design emergency measures and respond adequately to challenges in the context of the COVID-19 pandemic. The CEPEJ Bureau met twice on 23 January and 15 October 2020 (online). The working groups met regularly in accordance with the programme of activities, under the respective chairmanships of Mr Jasa VRABEC (Slovenia) for the group on the evaluation of judicial systems (CEPEJGTEVAL-), Mr Giacomo OBERTO (Italy) for the SATURN group on judicial time management (CEPEJ-SATURN), Mr Joao ARSENIO DE OLIVEIRA (Portugal) for the group on quality of justice (CEPEJGTQUAL-) and Ms Maria Giuliana CIVININI (Italy) for the group on cyberjustice (CEPEJ-GT-CYBERJUST). As the meetings were organised online, the initial schedule of meetings was modified according to the progress of the work; shorter, more frequent meetings on a specific topic were sometimes preferred to traditional Working Group meetings, as these were more in line with the availability of the members of the groups. This flexibility in the organisation and form of meetings should be maintained even after the crisis, although meetings to discuss the content of a document in detail are more effective in person than online.

9. The Network of National Correspondents for the collection of statistical data and the Network of Pilot Courts did not meet in 2020.

## **2. CEPEJ ACTIVITIES AND ACHIEVEMENTS IN 2020**

10. The CEPEJ's programme of activities is part of the "Rule of Law" Pillar, Sector "Justice", Programme "Independence and Efficiency of Justice" of the Council of Europe's Programme and Budget. The CEPEJ's mission of promoting common fundamental values is essential to the activities of the Council of Europe, in particular to consolidate democracy, good governance and the rule of law in member States.

11. The Committee of Ministers has entrusted the CEPEJ with the task of proposing practical solutions to be used by the member states of the Council of Europe to :

- promote the effective implementation of existing Council of Europe instruments on the organisation of justice;
- to promote the public service of justice and ensure that public policies concerning the courts take into account the needs of the users of the judicial system, in particular those of the magistrates and court officers;
- contribute to reducing the workload of the ECHR by providing States with effective remedies prior to recourse to the Court and by preventing violations of Article 6 of the European Convention on Human Rights.

### **2.1 Tools for analysing the functioning of judicial systems and for guiding public justice policies towards greater efficiency**

#### **2.1.1 Assessing the functioning of European judicial systems**

12. The CEPEJ Evaluation Report "European Judicial Systems", 2020 evaluation cycle (2018 data), benefits from a revised structure. Now in three parts (Tables, graphs and analyses - Country profiles - CEPEJ-STAT database), the general trends observable among states and entities are more easily identifiable, and good practices have been added to give concrete examples of effective public policies in the field of justice. For the first time, Part II of the report presents country profiles, including a number of relevant indicators providing a general overview of the situation in each state or system. The CEPEJ-STAT database has been updated and expanded with new dashboards. The report was very well received by the Committee of Ministers, the

Conference of European Ministers of Justice at which it was presented (9 November 2020), as well as at the press conference and in the European media;

13. The next round of evaluation on the basis of data from the year 2020 has been launched and the next Evaluation Report will be published in 2022. The CEPEJ, as usual, has revised the Evaluation Grid in order to further refine the indicators contained therein, following the remarks and questions of the states during the previous data collection cycle. The CEPEJ-GT-EVAL will also have to adapt the explanatory note accordingly. The timetable foresees that the e-Grid will be open for response to national correspondents from March 2021 until 1 October 2021.

#### **2.1.1.1 Cooperation with the European Union**

14. The Council of the European Union, the European Commission and the European Parliament are regularly represented at CEPEJ meetings.

15. Cooperation on the evaluation of judicial systems with the European Commission continues and is being bolstered with :

- the new edition of the annual study on the functioning of the judicial systems of the member States of the European Union,
- the new edition of the annual evaluation of the functioning of the judicial systems in the Western Balkans,
- from January 2021, the first edition of the annual evaluation of the functioning of the judicial systems in the "Eastern Partnership" countries (Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova, Ukraine).

16. The confidence of the European Commission in the data and methodology of the CEPEJ should be underlined. The involvement of the CEPEJ in the efforts of the European Commission reinforces the pre-eminent role of the CEPEJ in the field of evaluation of justice, as well as the synergies between the European Union and the Council of Europe in this area. It also increases the visibility of the CEPEJ and the Council of Europe.

#### **2.1.1.2. Cooperation with OECD (Organisation for Economic Cooperation and Development)**

17. The OECD attaches particular importance to the work of the CEPEJ in assessing the situation within the judicial systems in its European member states, and to the CEPEJ's methodology for possibly extending this assessment to non-European members. The OECD regularly participates in the relevant work and meetings of the CEPEJ.

### **2.2. Optimising judicial time management**

18. The CEPEJ-SATURN working group has continued its work to develop relevant tools on judicial time management, knowledge of judicial timeframes, drawing on the expertise of the CEPEJ Network of Pilot Courts.

19. The CEPEJ adopted by written procedure, on 2 July 2020, the Report, prepared by the CEPEJ-SATURN, on the weighting of cases in judicial systems. It aims at presenting the different existing systems of case weighting implemented or planned in various Member States, analysing and comparing them in order to allow judicial systems and their decision-makers to choose, where appropriate, the one that will best fit the specificities of their national context. The working group will continue to work on this topic by developing guidelines to facilitate the implementation of such a system.

20. The CEPEJ-SATURN continued its work on the scoreboards for courts, the modification of the existing guidelines for judicial time management<sup>3</sup> in order to include lawyers, non-judicial administrative and judicial staff, court-appointed experts and enforcement agents, as well as on the development of a tool to better analyse the different timeframes according to the different stages of the proceedings. The Group also decided to examine the issue of court management in times of crisis.

### **2.3. Promoting the quality of justice**

21. In 2018 the CEPEJ adopted the "European Ethical Charter on the use of artificial intelligence in judicial systems and their environment" which provides, for the first time in Europe, a framework of principles to guide

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<sup>3</sup> [Document CEPEJ\(2018\)20](#).

public policy makers, legislators and legal professionals in managing the rapid development of artificial intelligence in national judicial processes.

22. CEPEJ members and experts, as well as its Secretariat, participated in several (online) meetings in 2020, in Europe and beyond, to promote the application of the Charter. In order to rise to the challenges posed by artificial intelligence and predictive justice, the CEPEJ-GT-QUAL worked in particular on the elaboration of operational standards on the basis of the principles of the Charter.

23. Until the end of 2019 the CEPEJ-GT-QUAL Group worked on topics related to cyberjustice (in particular through the development of the Guidelines for change management towards cyberjustice) and artificial intelligence (with the Charter). While these topics will now fall under the responsibility of the CEPEJ-GT-CYBERJUST working group, newly set up in January 2020, the work on the follow-up of the Charter remains under the responsibility of the CEPEJ-GT-QUAL.

24. This is also the case for the Feasibility study on the establishment of a certification mechanism for artificial intelligence tools and services, adopted at the plenary meeting of 8 December 2020<sup>4</sup>. Its first part contains the different options for the deployment of such a certification mechanism. It will constitute a basis for the development of a Roadmap prepared by the CEPEJ-GT-QUAL to be submitted in 2021 to the Committee of Ministers. This study confirms that such a certification mechanism for artificial intelligence tools and services is one of the possible follow-ups to the European Ethical Charter on the use of artificial intelligence in judicial systems and their environment.

25. The document "Guidelines for the implementation of the Charter on AI applied to judicial decision modelling technologies"<sup>5</sup>, elaborated jointly by the experts of the European Institute of Expertise and Expert (IEEE) and the CEPEJ, was discussed and approved. The members of the Working Group consider them as an important work which could constitute a relevant follow-up to the Charter. These Guidelines are however put on hold, at least until a clear approach on the issue of certification is adopted, due to the risks and challenges related to their implementation. These imply an intense follow-up and a high training need given the constant evolution of this field.

26. The CEPEJ-GT-QUAL is also continuing its ongoing work on diversity in the careers of judges, the centrality of the user in judicial procedures in civil matters, the simplification and clarification of language with litigants and in mediation.

## **2.4. Cyberjustice**

27. The Conference of European Ministers of Justice, organised in the framework of the French Presidency of the Committee of Ministers of the Council of Europe in October 2019 on the theme "Justice in Europe facing the challenges of the digital age" demonstrated the interest of the Council of Europe and the Ministers of Justice of its member states in the increasing inclusion of cyberjustice and artificial intelligence techniques in the reforms of judicial systems. The sanitary crisis has further increased this need. However, it is crucial to ensure that these innovations do not compromise the rights and guarantees of litigants.

28. It is in this context that the new CEPEJ working group on cyberjustice and artificial intelligence, the CEPEJ-GT-CYBERJUST, was set up in January 2020 and met twice, on 27 April and 24-25 September 2020.

29. The CEPEJ-GT-CYBERJUST is entrusted by the CEPEJ to "develop tools in order to provide a framework and guarantees for member states and legal professionals wishing to create or use Information and Communication Technologies and/or artificial intelligence mechanisms in judicial systems in order to improve the efficiency and quality of justice". This work should be carried out in co-ordination with the work of other Council of Europe bodies in this field, in particular the European Committee on Legal Cooperation (CDCJ) and the *Ad Hoc* Committee on Artificial Intelligence (CAHAI), recently set up by the Committee of Ministers, with a view to examining more generally the feasibility and potential elements of a legal framework for the development, design and application of artificial intelligence.

30. In 2020, the Working Group prepared its own roadmap and work plan, which were adopted by the CEPEJ at its plenary meeting on 8 December 2020 (CEPEJ(2020)14REV). It decided, during its first mandate, to develop the following topics: digitisation of court files, online dispute resolution, online enforcement of court decisions as well as the use of videoconferencing during hearings. The Group also decided to create the European e-Justice Network and to set up a directory of good practices in the field of e-Justice.

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<sup>4</sup> [Document CEPEJ\(2020\)15](#).

<sup>5</sup> Document CEPEJ-GT-QUAL(2020)4.

## **2.5. Promoting the use of mediation**

31. The CEPEJ-GT-MED Group has seen its activities suspended in 2020, but mediation remains an area actively supported by the CEPEJ through the CEPEJ-GT-QUAL, as a means to give more choice to the parties and to unclog the courts in order to improve their efficiency and the quality of the decisions rendered. In this framework, the Toolkit for the development of mediation remains important, in particular in cooperation projects.

## **2.6 Supporting States in their judicial reforms**

32. The CEPEJ continues to make a substantial effort to put its methodology, tools and the experience of its members and experts at the service of capacity building and cooperation programmes, thereby enabling the Council of Europe to bring strong added value to beneficiary states in the context of judicial reforms. Very good synergies have been developed between the intergovernmental work of the CEPEJ and the direct and in-depth use of this work to support national judicial reforms. This cooperation is addressed both to national bodies in charge of justice policies (Ministries of Justice, Parliaments, High Councils of Justice) and to individual courts.

33. Specific cooperation programmes co-financed by the European Union and the Council of Europe have been implemented by the CEPEJ to support judicial reforms:

- in Albania: "Strengthening the quality and efficiency of justice in Albania" (HF II - SEJ III Programme) (May 2019 - May 2022)
- in Azerbaijan: "Strengthening the efficiency and quality of the judicial system in Azerbaijan" (PGG II Programme) (1 March 2019 - 31 August 2021)
- in Spain: "Promoting e-Justice in Spain through change management and improved data collection (DG REFORM Programme) (November 2018 - January 2020)
- in Egypt and Morocco: "Ensuring the sustainability of democratic governance and human rights in the Southern Mediterranean (South Programme III)" (March 2018 - December 2020)
- in Georgia: "Strengthening the accountability and efficiency of the judiciary and the professionalism of lawyers" (PGG II Programme) (January 2020 - November 2020)
- in Kosovo<sup>6</sup>: "Strengthening the quality and efficiency of justice in Kosovo\*" (HF II Programme - KoSEJ II) (May 2019 - May 2022)
- in Latvia: "Strengthening access to justice in Latvia through the consolidation of mediation and legal aid services, as well as supporting the development of judicial policies and improving the quality of court management" (DG REFORM Programme) (September 2019 to June 2021),
- in Malta: "
  - "Supporting the Efficiency of Justice in Malta", (DG REFORM Programme) (December 2018 - December 2020)
  - "Establishing a digital strategy for the Maltese judiciary" (DG REFORM Programme), (May 2020 - November 2021)
- in Morocco: "Neighborhood partnership with Morocco 2018-2021" (November 2020 - December 2021)
- in the Republic of Moldova: "Support for strengthening the efficiency and quality of the judicial system of the Republic of Moldova (PGG II Programme)" (November 2019 - October 2021)
- in the Slovak Republic: "Continuous support for a well-functioning Slovak judicial system" (DG REFORM Programme) (September 2019 - November 2021)
- in Tunisia: "Improving the functioning, performance and access to justice in Tunisia (AP-JUST Programme)" (January 2019 - December 2021)

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<sup>6</sup> This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence".

## **2.7 Strengthen relations with users of the justice system and national and international bodies**

### **2.7.1 *Bringing specific expertise to the debate on the functioning of the judicial system: providing the legal and judicial community with a space for reflection and proposals and bringing the judicial systems closer to their users***

34. The CEPEJ has continued to develop privileged working relations with other Council of Europe committees, such as the consultative bodies on justice (CCJE, CCPE), the standard-setting committees (CDPC, CDCJ, CDDH) and other bodies dealing with justice issues, such as the Department for the execution of judgments of the ECHR.

35. The European Day of Justice was celebrated around 25 October in 17 Member States through 23 events, despite the difficult conditions caused by the health crisis.

### **2.7.2. *With certain member States and other international partners***

The CEPEJ has been represented by its members or by its Secretariat in Europe and in the world, at online Conferences which have dealt with questions of direct interest to the functioning of justice. Moreover, many European media regularly refers to the work of the CEPEJ. This confirms the great interest that the European and international judicial communities attach to its work.

## **3. Communication methods**

35. The "CEPEJ Newsletter" presenting the winning projects of the 2019 edition of the Crystal Scales of Justice Prize was published and sent electronically to nearly 3500 recipients. This newsletter included articles written by personalities from the judicial or political world and experts, as well as information on the activities of the CEPEJ.

36. The CEPEJ website continues to be a confirmed success, with an average of almost 10,000 visitors per month. The website remains a reference within the European judicial community. The CEPEJ's Facebook page has nearly 1800 subscribers.