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EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

BACKLOG REDUCTION TOOL

Document adopted at the 40th plenary meeting of the CEPEJ[1]

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CONTENTS

INTRODUCTION

A. Purpose and beneficiaries of the tool

Article 6 of the European Convention on Human Rights states that “everyone is entitled to a fair and public hearing within a reasonable time”. The full enjoyment of this right can be hindered by various types of inefficiencies stemming from an inadequate legal framework, inappropriate court network, increasing complexity of cases and insufficient court resources to deal with incoming cases. As a result, the accumulation of pending cases over time leads to delays in court proceedings, creating a **backlog** of cases and a potential violation of the “reasonable time requirement”. Moreover, these delays increase the cost of court proceedings, contribute to legal uncertainty, and have a negative impact on public perception and trust in judicial systems.

Many judicial systems continue to grapple with a backlog of cases, necessitating prompt action by the authorities to remedy the situation and ensure delivery of justice within a reasonable time. This document is intended for state and judicial authorities and courts as a tool to reduce backlogs and prevent their recurrence. It outlines a **step-by-step methodology** for the development of strategies aimed at backlog reduction. By identifying areas where backlogs accumulate, understanding the underlying causes, and proposing measures to address backlogs across different levels of court systems, this tool offers adaptable approaches tailored to the specific circumstances of a judicial system, rather than a fixed set of solutions.

To ensure effective implementation of this tool, it is recommended to draw on the know-how of the CEPEJ and its experts in order to make necessary adjustments and create concrete solutions tailored for the specific needs of a judicial system. Its implementation will also require close co-operation with courts and judicial institutions in generating, testing and applying solutions to problems identified at both the system and local levels. Lastly, it should be noted that this tool is intended to evolve based on the experiences gained from its practical implementation, making it a dynamic resource that will be updated accordingly.[2]

B. The essentials of successful backlog reduction and prevention

For the purposes of this document, **backlog** should be understood as pending cases at the court concerned, which have not been resolved within an established timeframe. **Timeframe** is an established period of time (in the laws, regulations, court procedures or among the courts and parties), within which cases are expected to be solved. Each judiciary has its own timeframes, and they are usually different for different case types. For example, if the timeframe has been set at 24 months for all the civil proceedings, the backlog is the number of pending civil cases longer than 24 months.

The existence of backlog usually indicates that courts face challenges regarding their efficiency and that the right to a fair trial within a reasonable time might be hindered. For this reason, the authorities are urged to address the existing backlog and prevent the further accumulation of cases of

[2] This document was drawn up by the *ad hoc* Working Group on fighting backlogs (CEPEJ-GT-BACKLOGS), assisted by Dimitrije Sujeranovic (Serbia), scientific expert.

longer duration. However, it should be underlined that **fighting backlog should not result in a decrease of the quality of judicial decisions**[3] and services provided to court users.

Two preconditions are fundamental to achieving successful backlog reduction and prevention. First, there must be recognition that a problem exists and requires attention. Second, the authorities must reach a comprehensive agreement to resolve the backlog issue, demonstrating **their commitment** at the highest level. These preconditions should be followed by a step-by-step development of a strategy that guides the entire process. It is imperative to allocate sufficient resources and allow time to ensure cooperation and buy-in from all stakeholders involved.

The process should include the designation of a **lead institution** responsible for activities related to backlog reduction. This institution can be an existing body, such as the High Council for Judiciary, Supreme Court, or Ministry of Justice, or a newly created body like an ad hoc backlog reduction working group or backlog reduction committee. The designated institution should oversee the whole process starting from analysis and identification of the scope of the problem, through defining targets and measures to reduce backlog, and concluding with the creation of monitoring mechanisms and ensuring sustainability to prevent future backlog accumulation. In addition, it should be responsible for coordination, implementation, and monitoring of backlog reduction activities at the central level, as well as facilitating effective communication with court users and the public. This institution may be complemented by backlog reduction teams consisting of judges, court managers, and/or non-judge court staff established at the local levels. Finally, it is important to provide the lead institutions with appropriate instruments and resources in order to perform its tasks effectively.

A comprehensive methodology should include **analysis** to identify the problem, **measures** to solve the problem, **monitoring** implementation and ensuring long-term **sustainability** to prevent the recurrence of the problem (PROBLEM – SOLUTION – MONITORING - SUSTAINABILITY). The CEPEJ considers the following steps to be crucial in any backlog reduction process:

- **ANALYSIS: The first step is to *identify backlog and analyse its causes.*** This involves identifying the backlog and comprehensively analysing the reasons behind its creation. Understanding the scale of the problem requires collection and rigorous analysis of quantitative and qualitative data. **Statistical data** should be collected in different areas (e.g. case-flow, length of proceedings, and human and material resources) and at different levels (e.g. system, court, and court department). The collection of data must go hand-in-hand with a **comprehensive analysis** of the factors contributing to the backlog. This analysis is essential for the design of appropriate remedial measures. It may include the assessment of legislation, availability of human, financial and material resources, court organisation and functioning, and the quality and availability of training for judges and non-judge court staff, lawyers, prosecutors, and other relevant stakeholders. The identification of backlog and the analysis should be coordinated by the above-mentioned lead institution.

- **MEASURES: The second step involves *the development of a strategy to effectively address backlog*.** While addressing backlog is part of the day-to-day operational management of judicial systems, there are situations that require focused efforts to address more serious accumulation of backlog cases. This is where **development of a strategic document** becomes necessary. Any strategic document should be based on reliable statistical and qualitative data and respond to identified problems and causes behind backlog. It should also contain solutions towards backlog reduction, with **context-specific measures** designed to be implemented at different levels and in different time periods. **Realistic targets** should be set as an indispensable part of the strategy to serve as benchmarks for evaluating court performance. Institutional arrangements should be made for the development and implementation of the strategy, clearly defining leadership and division of responsibilities.

[3] Please see opinions of the Consultative Council of European Judges, in particular Opinion No. 6 on “fair trial with a reasonable time” and Opinion No. 11 on "the quality of judicial decisions"

- **MONITORING: The third step entails *monitoring the implementation of the strategy.*** This step includes establishing a regular monitoring mechanism to track the fulfilment of the targets and the implementation of the defined measures. This **monitoring** should fall within the remit of the institution leading the backlog reduction process. Statistical data and indicators are indispensable for monitoring, as they provide insights into the progress achieved and serve as the basis for necessary adjustments in the strategy.

- **SUSTAINABILITY:** Although **the creation of sustainability** comes towards the end, it is of paramount importance to conclude backlog reduction activities and ensure that the backlog does not reoccur. This involves defining directions for future effective performance of judicial systems based on lessons learned, analysis of anticipated case-flow and future trends.

STEP 1: IDENTIFYING BACKLOG AND ANALYSING ITS CAUSES

To identify the extent of backlog, specific statistical data and indicators should be collected and analysed. These **data** and **indicators** play a crucial role in **diagnosing** the situation. However, the analysis of statistical data and indicators by itself is not sufficient to identify causes of backlog. It is important to conduct parallel analysis of the functioning of judicial systems, legal framework, and court business processes. The **legal** and **operational analysis** helps identify systemic deficiencies. Therefore, it is recommended to combine methodologies for identification of potential backlog issues through the use of *Data Driven Methodology* (based solely on the research and analysis of statistical data) with the *Delphi Method* (also known as the "Expert's Panel" method). This combination ensures a comprehensive and accurate understanding of the situation. While *Data Driven Methodology* provides objective information, the "*Delphi Method*" provides more subjective and experienced-based insights into the court's daily performance and potential weaknesses.

A. CEPEJ efficiency indicators

There are certain indicators defined by the CEPEJ that can serve as a starting point for conducting the efficiency analysis in a judicial system.

Clearance Rate (hereinafter "Clearance Rate" or "CR") is a ratio obtained by dividing the number of resolved cases by the number of incoming cases in a given period, expressed as a percentage:

$$\textit{Clearance Rate}\ (\%) = \textit{Resolved cases in a period} / \textit{Incoming cases in a period} \times 100$$

Clearance Rate equal to 100 % indicates the ability of the court or of a judicial system to resolve as many cases as the number of incoming cases within the given time period. A Clearance Rate above 100 % indicates the ability of the system to resolve more cases than those received. Finally, a Clearance Rate below 100 % appears when the number of incoming cases is higher than the number of resolved cases. In this case the number of pending cases will increase.

Essentially, the Clearance Rate shows how the court or judicial system is coping with the in-flow of cases.

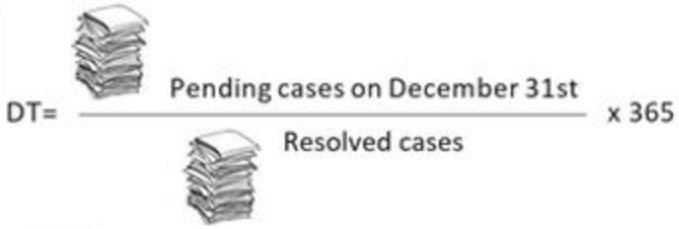
CR > 100%

Court is able to resolve more cases than it received → **backlog is decreasing**

CR < 100%

Court is able to resolve fewer cases than it received → **backlog is increasing**

Calculated Disposition Time (hereinafter "Disposition Time" or "DT") is obtained by dividing the number of pending cases at the end of a given period by the number of resolved cases within that period, multiplied by 365 (days in a year):



This indicator estimates how many days should be required to resolve the pending cases based on the court's current capacity to resolve cases. It is used as a forecast of the length of judicial proceedings. This indicator is not a calculation of the duration of the proceedings, but a theoretical estimate of the time needed to process pending cases.

Number of incoming cases per judge by all courts of the same type, by instance, individual court or by court department: number of cases received within a given period of time divided by the number of judges. ***Example*:** If a court has 600 incoming civil cases during the calendar year and 6 judges having worked on them, the number of incoming cases per judge is 100.

Number of resolved cases per judge by all courts of the same type, by instance, individual court or by court department: number of cases resolved within a period of time divided by the number of judges. ***Example:*** If a court has 1000 resolved civil cases during the calendar year and 5 judges having closed them, the number of resolved cases per judge is 200.

Number of pending cases per judge by all courts of the same type, by instance, individual court and by court department: number of pending cases at the end of a given period of time divided by the number of judges assigned to them. ***Example:*** If a court has 600 pending civil cases at the end of the calendar year and 4 judges handling them, the number of pending cases per judge is 150.

B. Statistical data on court cases

To determine more precisely the presence, scope, and location of backlog, it is necessary to collect data on the number of cases and assess the current situation at different court levels. However, relying solely on the number of cases does not provide a complete assessment of the court's situation. Therefore, it is also important to examine the age structure of pending cases and compare that data with the number of incoming and resolved cases, as well as CEPEJ indicators explained above.

The data collection and analysis can be conducted at the following levels:

i) national level (total amount of cases that are processed in all courts);
ii) type of courts (courts of general jurisdiction and specialised courts);
iii) court instance (first, second, and third instance);
iv) case-type (e.g. civil, criminal, and administrative cases) or more detailed types of cases (e.g. litigious divorces, dismissal cases, robberies, bankruptcy, enforcement, gender-based violence, etc.).

The following statistical data on cases can be collected and analysed:

i) Case-flow

Total number of pending cases at the beginning of the reporting period: a pending case refers to a case which remains unresolved by the court concerned at a given point of time (e.g. 1 January). It is important to note that cases appealed to higher instance courts should not be counted as pending in the court that rendered the appealed decision.

Number of incoming cases in the reporting period: an incoming case refers to a case received by the court concerned within a defined period of time. Please note that any case which has previously been filed in and is remitted to the same instance level (e.g. after an appeal) should be treated as a new incoming case.

Caseload: total number of pending cases at a given time (e.g. 1 January 2019) plus the incoming cases in a given period (e.g. from 1 January 2019 to 30 June 2019). It serves as an indicator of the total number of cases that a court or a judge is required to resolve.

Number of resolved cases during the reporting period: a resolved case refers to a case which was adjudicated/resolved in the court concerned, either through a decision rendered by the court, or through any other procedural step which brought the case to a conclusion (e.g. a discontinuance of the case or a settlement) within a defined period of time. The termination date of a case will generally be the date of: i) signing or issuing of the decision/judgment; ii) approval by the court of a settlement; and iii) formal discontinuance.

Total number of pending cases at the end of the reporting period: Similar to the total number of pending cases at the beginning of the reporting period, this refers to cases that remain unresolved by the court concerned at a specific point in time (e.g. 31 December).

Table 1- General overview (system level)

Reporting period January 1 – December 31 (or any other period)

1	2	3	4	5	6	7	8	9
Court instance	Number of pending cases at the beginning of the reporting period	Number of incoming cases during the reporting period	Caseload (2+3)	Number of resolved cases during the reporting period	Number of pending cases at the end of the reporting period	Percentage of increase/decrease of pending cases at the end of the reporting period compared to the beginning of the reporting period	Clearance Rate[4]	Disposition Time
3rd instance								
2nd instance								
1st instance								
Any other type of specialised courts…								
Total								

[4] For more information on Clearance Rate and Disposition Time, please see the below section B on CEPEJ indicators.

Table 2 - Court instance overview (by courts of the same type and instance / system level)

Reporting period January 1 – December 31 (or any other period)

1	2	3	4	5	6	7	8	9
Court	Number of pending cases at the beginning of the reporting period	Number of incoming cases during the reporting period	Caseload (2+3)	Number of resolved cases during the reporting period	Number of pending cases at the end of the reporting period (total)	Percentage of increase/decrease of pending cases at the end of the reporting period compared to the beginning of the reporting period	Clearance Rate	Disposition Time
Court 1								
Court 2								
Court 3								
Court 4								
Court 5								
Total number of cases								
Average for all courts of this type and instance								

Table 3 - (Individual) Court overview (by case types within one court of any court level)

Reporting period January 1 – December 31 (or any other period)

1	2	3	4	5	6	7	8	9
Case Type	Number of pending cases at the beginning of the reporting period	Number of incoming cases during the reporting period	Caseload (2+3)	Number of resolved cases during the reporting period	Number of pending cases at the end of reporting period	Percentage of increase/decrease of pending cases at the end of the reporting period compared to the beginning of the reporting period	Clearance Rate	Disposition Time
Criminal								
Civil								
Labour								
Family								
Bankruptcy								
Enforcement								
Administrative								
Other types of cases								
Total								
Average per case type								

Table 4 - (Individual) Court overview (by judges in the same department / court level)

Reporting period January 1 – December 31 (or any other period)

1	2	3	4	5	6	7	8	9
Judges within the same court department	Number of pending cases at the beginning of the reporting period	Number of incoming cases during the reporting period	Caseload (2+3)	Number of resolved cases during the reporting period	Number of pending cases at the end of the reporting period	Percentage of increase/decrease of pending cases at the end of the reporting period compared to the beginning of the reporting period	Clearance Rate	Disposition Time
Judge 1								
Judge 2								
Judge 3								
Judge 4								
Judge 5								
Total								
Average per judge								

How to use tables 1 to 4

The tables above may be used for preliminary analysis and detection of the problem. It is recommended to conduct "top-down" analysis (using tables 1 to 4) in the way described below.

Table 1 analyses the whole judicial system, since it requires data from all different court types and instances to be collected and reviewed. Where the figures in columns 7, 8 and 9 indicate that performance of a particular court level is not satisfactory, further and more detailed analysis of that level should be undertaken. Performance is regarded as unsatisfactory where the value in column 7 shows an increase in the number of pending cases. Such accumulation of pending cases implies potential existence of backlogs. Related to that, any value below 100% in column 8 is regarded as unsatisfactory, since it indicates that the court received more cases than they resolved, resulting in the mentioned increase in the number of pending cases. However, even if the Clearance Rate (column 8) is equal or above 100%, this does not necessarily mean that courts are resolving enough cases to significantly reduce the number of pending cases. For this reason, the Disposition Time (column 9) should be taken into account as this indicator shows the relation between the number of pending and resolved cases. A higher value of this indicator shows that courts do not resolve a sufficient number of cases and that consequently, estimated duration of cases will be long. For more information on Clearance Rate and Disposition Time, please see the section on main CEPEJ indicators above.

For more detailed analysis of a particular court instance, refer to Table 2. This table highlights courts with unsatisfactory performance. The "average" row allows for performance comparisons between courts and helps identify which court is below or above "average" performance. This information can guide further in-depth analysis.

Table 3 serves as a monitoring tool for internal-court level analysis. It acknowledges that the high number of pending cases, which implies the existence of backlog, may occur in one or several case types, rather than across all case-types. Based on that indicator, Table 4 can be used in order to analyse performance of individual judges in various court departments, which can highlight low-performing judges.

This "top-down" analysis should be used as a basis for locating potential backlog in individual courts, down to particular court departments and individual judges.

Once low performing courts, court departments in individual courts, or judges within particular departments are identified, it is often necessary to conduct further analysis to determine the underlying reasons for their situation. Related to this it might be important to track the **number of overruled cases, remanded cases, and confirmed cases**[5], at the second instance (or eventually the third instance) level. Distinguishing among these second instance cases can be useful for understanding the quality of a court's performance and could indicate the number of repetitive incoming (already adjudicated, but remitted back) cases, at the first instance level.

The following sections will present additional data and indicators that can aid in identifying potential causes of backlog in specific courts.

[5] Overruled cases are cases that have been adjudicated by a higher court instance (usually a second or third instance court). These cases are not remitted back to the first instance court. Their decisions are therefore final. Remanded cases are cases involving a modification of the decision made by the court of first instance. They can be considered final decisions or can be remitted back to the court of first instance for re-adjudication. Confirmed cases are cases in which the second (or eventually the third instance court) affirm the decision rendered by the first instance court. These cases are usually considered final.

ii) Age of cases

Age of pending cases: unresolved cases at the end of each reporting period separated by age groups (years in which cases were initiated).

Table 5 - Age of pending cases (calendar year)

1		2	3	4	5	6	7	8
Case Type		Total number of pending cases	Pending cases from 2023 (up to 1 year)	Pending cases from 2022 (between 1 and 2 years)	Pending cases from 2021 (between 2 and 3 years)	Pending cases from 2020 (between 3 and 4 years)	Pending cases from 2019 (between 4 and 5 years)	Pending cases from 2018 and prior years (over 5 years)
Criminal	Number of cases							
	Percentage of total							
Civil	Number of cases							
	Percentage of total							
Labour	Number of cases							
	Percentage of total							
Family	Number of cases							
	Percentage of total							
Bankruptcy	Number of cases							
	Percentage of total							

Age of resolved cases: resolved cases in a given reporting period separated by age groups (years in which cases were initiated).

Table 6 - Age of resolved case (calendar year)

1		2	3	4	5	6	7	8
Case Type		Total number of resolved cases	Resolved cases from 2023 (up to 1 year)	Resolved cases from 2022 (between 1 and 2 years)	Resolved cases from 2021 (between 2 and 3 years)	Resolved cases from 2020 (between 3 and 4 years)	Resolved cases from 2019 (between 4 and 5 years)	Resolved cases from 2018 and prior years (over 5 years)
Criminal	Number of cases							
	Percentage of total							
Civil	Number of cases							
	Percentage of total							
Labour	Number of cases							
	Percentage of total							
Family	Number of cases							
	Percentage of total							
Bankruptcy	Number of cases							
	Percentage of total							

How to use tables 5 and 6

Tables 5 and 6 serve as an analytical tool for detection of potential problem areas, regarding the number of cases in the courts. Specifically, attention should be paid to columns with older cases (e.g., columns 5, 6, 7 and 8) to identify where backlog cases are located and what is their volume. Table 5 is particularly significant, as the duration of pending cases can serve as a reliable indicator of court performance.

By comparing the data in Table 3 with those in Table 5, it is possible to analyse the Clearance Rate in conjunction with the age of pending cases. If the Clearance Rate is positive (above 100%), it is important to examine the age of pending cases in order to determine whether judges consider the age balance when resolving cases. Alternatively, if the Clearance Rate is below 100%, this indicates that the performance is not satisfactory and further analysis should be conducted at the court/department level. For more information on Clearance Rate, please see section on main CEPEJ indicators above.

Finally, it is important to track percentages in Table 6 and observe if the proportion of the oldest groups of cases within the total number of resolved cases is increasing (which would indicate that judges are focusing on "newer" cases) or decreasing (which would indicate that judges are focused on resolving backlog cases).

iii) Backlog cases

Number of backlog cases at the beginning of the reporting period: a backlog case refers to a case which has not been resolved within an established timeframe at the beginning of the reporting period.

Number of received backlog cases in the reporting period: an incoming case that has been previously pending longer than the established timeframe (e.g. in some other court or instance) before being received by the court concerned.[6]

Number of pending cases that became backlog in the reporting period: pending cases whose duration exceeded the established timeframe during the reporting period.

Number of backlog cases resolved during the reporting period: resolved backlog case refers to a case which has been resolved after the established timeframe during the reporting period.

Number of backlog cases at the end of the reporting period: this represents cases unresolved within an established timeframe at the end of the reporting period.

[6] It is possible that courts receive backlog cases during the reporting period, in situations where some cases have been remanded at the higher instances and remitted back to the lower instance for re-adjudication. These cases may have already exceeded "timeframes" and are therefore considered backlog cases at the time of registration.

Table 7 - Number of backlog cases during the reporting period (system level)

1	2	3	4	5	6	7	8
Court instance	Number of pending backlog cases at the beginning of the reporting period	Number of backlog cases received during the reporting period	Number of pending cases that became backlog during the reporting period	Total number of backlog cases during the reporting period (2+3+4)	Number of resolved backlog cases during the reporting period	Number of pending backlog cases at the end of the reporting period (6-5)	Percentage of increase/decrease of pending backlog cases at the end of the reporting period compared to the beginning of the reporting period
3rd instance							
2nd instance							
1st instance							
Any other type of specialised courts…							

Table 8 - Number of backlog cases during the reporting period (by court level / system level)

1	2	3	4	5	6	7	8
Court	Number of pending backlog cases at the beginning of the reporting period	Number of backlog cases received during the reporting period	Number of pending cases that became backlog during the reporting period	Total number of backlog cases during the reporting period (2+3+4)	Number of resolved backlog cases during the reporting period	Number of pending backlog cases at the end of the reporting period (6-5)	Percentage of increase/decrease of pending backlog cases at the end of the reporting period compared to the beginning of the reporting period
Court 1							
Court 2							
Court 3							
Court 4							
Court 5							
Total							
Average for all the courts							

Table 9 - Number of backlog cases during the reporting period (by case type – court level)

1	2	3	4	5	6	7	8
Case type	Number of pending backlog cases at the beginning of the reporting period	Number of backlog cases received during the reporting period	Number of pending cases that became backlog during the reporting period	Total number of backlog cases during the reporting period (2+3+4)	Number of resolved backlog cases during the reporting period	Number of pending backlog cases at the end of the reporting period (6-5)	Percentage of increase/decrease of pending backlog cases at the end of the reporting period compared to the beginning of the reporting period
Criminal							
Civil							
Labour							
Family							
Bankruptcy							
Enforcement							
Administrative							
Other types of cases							
Total							
Average per case type							

Table 10 - Number of backlog cases during the reporting period (by judges – court level)

1	2	3	4	5	6	7	8
Judge	Number of pending backlog cases at the beginning of the reporting period	Number of backlog cases received during the reporting period	Number of pending cases that became backlog during the reporting period	Total number of backlog cases during the reporting period (2+3+4)	Number of resolved backlog cases during the reporting period	Number of pending backlog cases at the end of the reporting period (6-5)	Percentage of increase/decrease of pending backlog cases at the end of the reporting period compared to the beginning of the reporting period
Judge 1							
Judge 2							
Judge 3							
Judge 4							
Judge 5							
Total							
Average per judge							

How to use tables 7 to 10

The analysis should start from column 8 in Table 7 to see if the number of backlog cases is rising or not during the reporting period. If an increase in the number of backlog cases is identified, a similar “top-down” approach described for Tables 1 to 4 should be applied. The analysis should start from the system level (all court types) and should continue to the level of individual underperforming court, court department, or individual judge.

At the end of this analysis, it is important to acknowledge that the specific reasons for the creation of backlog cases may still remain unidentified. However, the competent authorities conducting the analysis will have gained valuable insights into the areas where further investigation and in-depth analysis are needed.

Table 11 - Aggregated General overview (system level – comprehensive overview)

Reporting period January 1 – December 31

1	2	3	4	5	6	7	8	9	10	12	13	14
Court Level (different courts) or **courts from the same instance** or **different case types in one court** or **judges within the same court department**	Number of pending cases at the beginning of the reporting period	Number of pending backlog cases at the beginning of the reporting period	Percentage of pending backlog cases in the number of pending cases at the beginning of the reporting period	Number of incoming cases during the reporting period	Caseload (2+5)	Number of resolved cases during the reporting period	Number of resolved backlog cases during the reporting period[7]	Number of pending cases at the end of the reporting period	Number of pending backlog cases at the end of the reporting period[8]	Percentage of pending backlog cases in the number of pending cases at the end of the reporting period	Clearance Rate	Disposition Time
#1												
#2												

How to use Table 11

Table 11 serves as a consolidated report, aggregating the calculations and data from the previous tables in a single format. This type of report is usually used for annual (or 6-month) reporting. It gives a broad overview of the particular court system or segment of the court system (court level), departments within an individual court, or judges within court departments. One of the key advantages of this report is the ability to compare different periods of time, allowing for the measurement of performance and progress over time.

Embedding this table with the case management system is highly recommended as it enables automated and accurate data collection, eliminating the possibility of human error in the process.

[7] During the reporting period some cases may become backlog cases, even though they were not considered as backlog cases at the beginning of the reporting period (see above for the explanation for the number of pending cases that become backlog in the reporting period).

[8] This number does not necessarily represent the result of column 9 minus column 7, for the reason described in footnote 6 above.

iv) Duration of proceedings

Average duration of pending cases: the duration of a pending case (in days) is the period from the date of filing of the initial act until the date when the report is generated. The average is obtained by adding the duration of all pending cases (in days) divided by the number of pending cases. The figures on the average duration of pending cases are generated for a specific date, not for a reporting period. To effectively analyse court performance, it is advisable to compare the values for different dates, allowing for tracking and comparison of data. By doing so, it becomes possible to identify trends and determine whether the average duration of pending cases is increasing (indicating a decline in court performance) or decreasing (indicating an improvement in court performance).

Table 12 - Average duration of pending cases

The date of the report creation

1	2	3	4	5	6
Case type	Number of pending cases on the date of creation of the report (beginning of the reporting period – e.g. on 1 January)	Average duration of pending cases on the date of creation of the report (beginning of the reporting period – e.g. on 1 January)	Number of pending cases on the date of creation of the report (end of reporting period – e.g. on 31 December)	Average duration of pending cases on the date of creation of the report (end of reporting period – e.g. on 31 December)	Difference in days between 3 and 5 – longer duration (+ days) or shorter duration (- days)
Criminal					
Civil					
Labour					
Family					
Bankruptcy					
Enforcement					
Administrative					

Average duration of resolved cases: The duration of a resolved case (in days) is the period from the date of filing of a case until the date of resolution. The average is obtained by adding the duration of all resolved cases in days, divided by the number of resolved cases. There are two options for creation of this report: 1) the duration of resolved cases can be calculated from the date of the initial filing to the date of the final decision, regardless of which instance renders the final decision; 2) from the date of the case registration at a particular court instance, regardless of the date of the initial filing, to the date of the decision in that instance (calculation by court instances/phases of the court proceedings, such as first instance, second instance, third instance). Both options are recommended for analysing the duration of cases, as they offer different perspectives. Option 1 provides a holistic view of the overall proceedings. Option 2 allows for a more detailed analysis of case duration within specific instances or phases of the court proceedings.

Table 13 - Average duration of resolved cases

Reporting period January 1 – December 31 (or any other period)

Case type	Number of resolved cases in the reporting period	Average duration of resolved cases at the end of reporting period	Clearance Rate
Criminal			
Civil			
Labour			
Family			
Bankruptcy			
Enforcement			
Administrative			

How to use tables 12 and 13

Average duration of pending cases is among the most important indicators for detection of reasons for creation of backlog cases. If these indicators are used on different dates (e.g. on 1 January 2021 and on 31 December 2021), they can give valuable insights on court performance.

To gain deeper insights, it is beneficial to compare information on duration of pending cases with the Clearance Rate. It is important to note that even if the Clearance Rate indicator is below 100% in a particular period, this does not necessarily indicate an ongoing backlog issue at that point in time. However, if such performance continues over a longer period, it will eventually lead to creation of backlogs. This is why it is important to compare the Clearance Rate level with the average duration of pending cases.

If the duration of pending cases decreases during the observed period, it suggests that judges are likely prioritising the resolution of “older” cases over newly received ones. Conversely, if both indicators show negative trends across compared periods (Clearance Rate below 100% and an increasing duration of pending cases), further analysis is necessary to understand the underlying reasons for the underperformance and backlog creation.

In situation where the Clearance Rate is above 100%, which is usually a positive sign in courts, it is important to compare that data with the average duration of pending cases. If the second indicator is increasing, it implies that judges are resolving “newer” cases and there is a risk of creation of backlog cases, even though they resolve more cases than they receive.

Average duration of resolved cases is another vital indicator for identifying backlogs and excessive duration of cases. If this indicator is increasing in the previous reporting periods, this may signal not only longer case durations but also a potential violation of the right to trial within a reasonable time. Therefore, the courts should prevent excessive duration of cases through proper planning and case management at the individual judge and court system levels.

It should be noted that the value of this indicator may increase when certain backlog reduction measures are implemented. Such an increase should be interpreted positively as an indication that judges are prioritising the resolution of older cases.

v) Human and material resources

Among various factors, case backlogs may be caused by an insufficient number of judges and/or non-judge court staff. The latter includes staff that assist judges and handle administrative tasks in courts in accordance with procedural requirements (e.g. managing financial aspects of cases, case registration, case filing, preparation of reports, correspondence between court and parties, etc.).

Number of judges: refers to individuals who exercise judicial power of the state in determining civil, administrative, criminal, and other types of cases.

Number of non-judge court staff: non-judge court staff, including but not limited to *Rechtspfleger,* directly assist judges in case adjudication, handle administrative matters, manage the court, and provide technical support. This definition excludes the staff that are not involved in any way (directly or indirectly) in dealing with cases (such as drivers, security guards, cleaners, etc.).

Table 14 - Ratio between supporting (administrative staff) and judges

1	2	3	4	5	6
Case type	Number of judges	Number of supporting (administrative) staff	Ratio of supporting (administrative staff) per judge	Average number of resolved cases per judge	Clearance Rate per judge
Criminal					
Civil					
Administrative					
Other types of cases					

How to use Table 14

The ratio of supporting (administrative) staff per judge can help to understand the level of direct support that one individual judge has in the case processing. This table can be used to compare the courts of the same type and instance or different departments within one court or judges within one department. It is recommended to compare the ratio with the average number of resolved cases per judge and the Clearance Rate. It is important to investigate whether entities or individuals achieving below-average values have a lower ratio of supporting (administrative) staff per judge. If this is the case, this may indicate that understaffing is one of the main reasons for their underperformance.

Average number of hearings per case / Average number of postponed hearings per case:

Table 15 - Ratio between the number of scheduled and cancelled / postponed (not held) hearings, including remote hearings

1	2	3	4	5	6
Case type	Number of scheduled hearings in a reporting period	Number of held hearings which were scheduled in a reporting period	Number of cancelled hearings which were scheduled in a reporting period	Ratio of cancelled hearings in scheduled hearings (%) – 4/2	Average duration of resolved cases
Criminal					
Civil					
Administrative					
Other types of cases					

How to use Table 15

If the average duration of resolved cases is lengthy, the competent authorities should examine potential reasons behind this delay. Cancelation of hearings is one of the frequent causes of delays in judicial proceedings that might lead to backlogs. If the ratio of cancelled (not held) hearings in the total number of hearings is high, this might be an indication that further analysis is needed to determine the reasons for such frequent cancellations. Further analysis may include, but is not limited to, examination of case management practices, procedural rules regarding scheduling of hearings, respect for procedural discipline, the availability of courtrooms, etc. (see C. Legal and operational analysis).

C. Legal and operational analysis

The authorities should conduct a legal and operational analysis of their judicial systems. This analysis can help to identify reasons for backlog and provide the basis for preparation of a focused and effective strategy. This analysis can be carried out in one or multiple areas and at different levels depending on the problems identified. This can be a time-consuming exercise requiring expertise and resources as well as involvement of multiple stakeholders.

Examples of areas where analysis can be performed:

- **LEGISLATION**: Complex and/or vague legislative framework and procedural rules can contribute to backlog cases. **Assessment of existing legislation** can help to identify loopholes that create difficulties in their application. Conducting an analysis of procedural laws and court rules can help to identify potential areas for improvement (e.g. how to prevent misuse of procedural rights or achieve more efficient case resolution). It is also advisable to thoroughly assess any proposed **legislation** before its adoption, ideally through an impact assessment to evaluate its potential effects on the judicial system. This proactive approach can help avoid adverse effects on courts and court users that may contribute to backlogs.

- **RESOURCES**: The allocation of sufficient **human, financial, and material resources** as well as their effective use is a precondition to prevent and reduce the backlog.

  To assess **human resource needs**, the competent authorities can analyse the ratio between the number of judges and supporting (administrative) staff in courts (see step 1 – section on human and material resources), number of lawyers compared to the number of judges, and the ratio of prosecutors to judges in criminal proceedings.

  For **financial resource** assessment, information on the total implemented budget for the judiciary, budget per court, per judge, or per citizen(s) can be valuable. Comparing budgetary data with other comparable judicial systems could indicate any insufficiencies in budgetary efforts by the state that may lead to inefficiencies within the system and backlog creation. The CEPEJ dynamic database of European judicial systems (available at https://www.coe.int/en/web/cepej/cepej-stat) can be consulted for making such comparisons.

  Analysing the availability and condition of **material resources** is crucial. This includes assessing the infrastructural environment in which courts operate, such as court buildings, courtrooms, offices, ICT tools, and other equipment. It is also important to assess the availability of infrastructure and the deployment rate of tools (e.g. percentage of courtrooms equipped with necessary ICT tools). Deficiencies in this domain can significantly contribute to backlog creation. The lack of courtrooms or equipment can delay proceedings and resolution of cases. For example, it may be necessary to identify the ratio between the number of judges in connection with the number of courtrooms on the system-wide level or per court or per judge. Some systems establish standards that should be followed (e.g. 0.5 courtrooms per judge). Up-to-date ICT equipment, such as case management systems, e-filing, and videoconferencing tools, is necessary for full and adequate digitalisation of court processes, which can lead to efficiency gains and reduced case durations.

- **ORGANISATION/OPERATION:** The increase in human and other resources may not be the sole response to reducing backlogs. The **internal organisation and management of courts** can also contribute to backlog accumulation. For this reason, it may prove necessary to examine court management practices and business processes to identify inefficiencies stemming from shortcomings in the organisation

of work. It is also important to note that this type of analysis may rely on **workload measurement tools** that quantify the work outputs of judges and staff. Measures such as the number of cases per judge in relation to monthly "quotas", volume of case files, or case-weighting used to measure the complexity of cases can help set up objective and realistic targets for judges and supporting staff.

- **TRAINING**: Justice professionals should keep their legal and judicial knowledge and professional skills up to date by participating in a system of **compulsory continuous training**. The training should include aspects related to the duration of proceedings, including the principles developed by the European Court of Human Rights. Examples of topics covered in the training include the rules governing civil, administrative and criminal proceedings, individual case management etc. Training could also include CEPEJ guidelines and tools relevant to judicial time management. Where possible, it may be appropriate to provide common training to the various legal professions. This joint learning may promote mutual understanding of the respective roles which would help to avoid setbacks that could cause delays in proceedings. To assess the situation, it may be helpful to collect quantitative and qualitative data on training relevant for addressing backlogs.

STEP 2: DEVELOPING A STRATEGY TO ADDRESS BACKLOG

Following identification of backlog and analysis of reasons for its creation, the second step involves development of a strategy to effectively address the backlog. Such a strategy may take different forms. The nature of the document could be at the strategic level (an overall backlog reduction strategy) or at the working level (an action plan for backlog resolution). It is also possible to have in place both types of documents (strategic and working one). The strategy serves as the overall (umbrella) document while the action plan serves as a practical guide for the strategy's implementation. The strategy is intended to cover the situation in the whole judiciary while an action plan is a flexible document, allowing for periodic adjustments to adapt to changing circumstances and the needs of the judiciary. An action plan should outline specific measures, benchmarks, timelines for their implementation, and allocation of tasks to different stakeholders and team members.

Any strategy and/or action plan should contain realistic targets and measures to be implemented in the short, medium, and long-term periods. These targets and measures will form the basis for addressing backlogs and increasing court efficiency. When drafting the strategy, referring to the evaluation reports of judicial systems by the CEPEJ can be valuable. These reports provide data and analyses that can be used to advocate for necessary changes.

It might be beneficial to pilot a strategy or, parts of it, in a limited number of courts for a limited period of time before its full, system-wide roll-out. Such a piloting phase is beneficial for determining realistic and effective targets and measures, and gives the possibility to make any adjustments needed for their implementation in all courts.

A. Targets

The strategy should define realistic targets using different methodologies in the types of cases where indicators fall below satisfactory levels and where there is a risk of further deterioration, such as the creation of backlogs and prolonged duration of proceedings. Targets should represent points of reference to evaluate whether the courts' performance meets standards and if the goals for desired change are being achieved.

Setting targets is a crucial step that defines the direction the organisation, whether it is the whole court system or an individual court, aims to reach in the near future. It guides all stakeholders towards that goal. The process of identifying the target is equally important as the target itself. The involvement of members of the organisation (court system / individual court) in this process is crucial. They should share their perspectives on the current situation, envision the desired state in the near future, and reach a consensus on realistic targets and the actions required to attain them.

In cases where there are measurable and easily calculated indicators, it is possible to set related targets. For example, if the court monitors indicators such as the Clearance Rate, Disposition Time, percentage of decrease of the number of pending backlog cases etc., the following targets can be set: reach and maintain a Clearance Rate above 100%, decrease the Disposition Time each year by a certain percentage, decrease the number of pending backlog cases by 20% each year etc.

Another aspect of target setting involves setting **timeframes** in which cases should be resolved. Timely resolution of cases per court type/court instance/ case type can be set as a target. The indicator used is the case processing time. The target may be set at, for example, 90% of the cases have to be handled within a certain number of months (e.g. nine or twelve months). Timeframes can be considered as a practical operational tool since they are concrete **benchmarks** helping to measure to what extent each court, and more generally the whole judicial system, adheres to the

timeliness of case processing and the principle of a fair trial within a reasonable time. It should be noted that the timeframes are not the main cure for reducing the length of judicial proceedings, but they have proven to be a useful tool to assess the courts' functioning and policies, leading to improvements in the duration of proceedings.

The CEPEJ Implementation Guide "Towards European Timeframes for Judicial Proceedings" (available at: https://rm.coe.int/16807481f2) offers a number of conditions and measures for properly establishing targets and standards. It emphasises that, in addition to the standards and targets set at the higher level (national, regional), there should be specific targets at the level of individual courts. Court management should have sufficient authority to actively set or participate in the setting of these targets.

In setting up realistic timeframes, court management may take into account (maximum and minimum) legally defined deadlines for different procedural steps (e.g. serving documents, filing a response to the legal action by the defendant, setting up hearings and issuing written judgment) in order to calculate minimum and maximum statutory duration of the proceedings. In addition, the average duration of the actual proceedings for the given case type should be taken into account (e.g. criminal, civil, and administrative). The result may provide the basis for determining the **desired duration** of proceedings that may constitute the framework for setting the timeframes. When calculating the desired duration of proceedings, court management must respect the principles of Article 6 ECHR and criteria provided by the European Court of Human Rights (ECtHR) in relation to the protection of the right to a hearing within a reasonable time.

Some examples of targets relating to increasing efficiency, reducing the backlog, and shortening the duration of the resolution of cases are displayed below.

- Increase the number of resolved cases in the next reporting period (e.g., pending more than one or two years) to achieve better efficiency indicators (CR >100% and DT<300)

Example 1: Projection of the case-flow by case type in year _____ with an approximately equal influx of cases as in previous year and a proposal to increase the number of resolved cases in problematic types of cases

1	2	3	4	5	6	7	8	9
Court 1	Monthly increase in resolved cases	Number of pending cases at the beginning of reporting period = number of pending cases at the end of the previous reporting	Number of incoming cases during the reporting period (with the assumption of the approximately equal influx of cases as in the previous periods)	Caseload (3+4)	Number of resolved cases (increased by targeted percentages in comparison to the number of resolved cases in the previous period)	Number of pending cases at the end of the reporting period (estimated taking into account the targeted number of resolved cases)	Targeted CR (>100%) (taking into account the targeted number of resolved cases)	Targeted DT (<300 days) (taking into account the targeted number of resolved and pending cases)

		period						
Civil cases	25%							
Criminal cases	10%							
Commercial cases	35%							

- Decrease the number of pending backlog cases in the reporting period (starting with the oldest pending cases in the system)

Example 2: Resolving all cases older than five years by the end of year _____

1	2	3
Court 1	Total number of backlog cases pending at the beginning of the reporting period	Number of pending cases older than five years
Civil cases		
Criminal cases		
Commercial cases		

Examples of calculating timeframes

The timeframes can be defined in two ways:

1. A percentage of the cases disposed of in a certain timeframe, usually a year (e.g., 75% of cases should be disposed of in 12 months from the date of filing);

1	2	3	4	5	6
Case Type	Resolved up to 12 months (up to 1 year)	Resolved between 12 and 24 months (between 1 and 2 years)	Resolved between 24 and 36 months (between 2 and 3 years)	Resolved after 36 months (after 3 years)	Total resolved cases in the reporting period
Criminal	Number	Number	Number	Number	
	% of total	% of total	% of total	% of total	100%
TIMEFRAME (targets for criminal cases)	75%	15%	5%	5%	
Civil	Number	Number	Number	Number	
	% of total	% of total	% of total	% of total	
TIMEFRAME (targets for civil cases)	75%	15%	5%	5%	
Labour	Number	Number	Number	Number	
	% of total	% of total	% of total	% of total	
TIMEFRAME (targets for labour cases)	80%	15%	10%	0	
Family	Number	Number	Number	Number	

	% of total	% of total	% of total	% of total	
TIMEFRAME (targets for family cases)	30%	40%	20%	10%	

2. A percentage of the cases still pending on a certain date (e.g., 75% of all pending cases should not be older than 12 months from the date of filing).

1	2	3	4	5	6
Case Type	Pending up to 12 months (up to 1 year)	Pending between 12 and 24 months (between 1 and 2 years)	Pending between 24 and 36 months (between 2 and 3 years)	Pending after 36 months (after 3 years)	Total pending cases on a certain date
Criminal	Number	Number	Number	Number	
	% of total	% of total	% of total	% of total	100%
TIMEFRAME (targets for criminal cases)	75%	15%	5%	5%	
Civil	Number	Number	Number	Number	
	% of total	% of total	% of total	% of total	
TIMEFRAME (targets for civil cases)	75%	15%	5%	5%	
Labour	Number	Number	Number	Number	
	% of total	% of total	% of total	% of total	
TIMEFRAME (targets for labour cases)	80%	15%	10%	0	

Family	Number	Number	Number	Number	
	% of total	% of total	% of total	% of total	
TIMEFRAME (targets for family cases)	30%	40%	20%	10%	

B. Measures to address backlog

Based on the results of the analysis described in step 1, the strategy should outline measures to achieve the determined targets. This tool offers a list of proposed measures for stakeholders at different levels of the judicial system (see the table below). These measures should serve as an inspiration and guidance to the competent authorities.[9] A combination of the proposed measures is usually needed to clear backlog and prevent its reoccurrence. It should be noted that some proposed measures will not be applicable to all judicial systems. Therefore, they need to be tailored to the specific judicial system and context based on identified problems.

For ease of reference, the measures in the table are grouped in different sections based on the main area of intervention: legislative framework, organisation of judicial systems, legal education, resource allocation, digitalisation of judicial systems, interaction with justice actors, court management, and case management. To provide additional information, the table also includes columns that specify the level, domain, implementation period, and whether additional resources are needed for the implementation or not.

The measures can be implemented at different **levels**: system-level (usually taken by the authorities that have competences at the national level such as high judicial council, supreme court, parliament, ministry of justice etc), court-level (measures that can be implemented by an individual court) and judge-level (measures that can be implemented by an individual judge).

Depending on the **domains** of application, the measures in this document are qualified as: legislative (require changes in legislation), operational (require changes to the organisation of court work and business processes), resources (require providing additional human or material resources, including ICT[10]), and training (require development and organisation of trainings for judges and/or non-judge staff).

Measures can be designed to respond to different **implementation periods**. Short-term measures should be measures that can be implemented immediately or within one year. Mid-term should be understood as measures requiring one to three years of implementation. Long-term period implies that measure require more than three years for full implementation.

In terms of **resources**, there are two types of measures: those measures taken with additional financial resources and those taken without substantial

[9] Further ideas on potential measures can be found in the CEPEJ document "Compendium of "best practices" on time management of judicial proceedings" (available at: https://rm.coe.int/16807473ab#_Toc153700518).

[10] For information on key cyberjustice tools and AI systems, please consult the CEPEJ Resource centre on Cyberjustice and Artificial Intelligence (https://www.coe.int/en/web/cepej/resource-centre-on-cyberjustice-and-ai).

additional financial resources. However, it is sometimes difficult to assess whether the implementation of a measure will require additional resources or not, and in this case the measure is marked as “undetermined”.

Please note that the indicated features of the measures are provisional, and the exact level, domain, implementation period, and need for additional resources will depend on the specific circumstances of each system.

The measures listed below, though not exhaustive, should always be considered within the scope of the principles of rule of law and rights and guarantees as enshrined in the European Convention on Human Rights. Basic principles such as independence of judges and assuring high quality of judicial decisions should never be jeopardised. Therefore, when selecting the appropriate measures for addressing or preventing backlogs, the competent authorities must exercise caution and take into account all possible consequences that implementation of the selected measures might have in their judicial system.

Measure	**Level**	**Domain**	**Implementation period**	**Additional resources required**
LEGISLATIVE FRAMEWORK				
Amend the regulatory framework to improve the efficiency of court proceedings: the amendments may include, but are not limited to: i) introduce time limits (e.g. duration of a proceeding in one instance); ii) shorten the deadlines for different steps in procedures; iii) simplify procedures by excluding unnecessary procedural steps; iv) introduce stricter rules for ensuring the respect of procedural discipline; v) limit the possibility of submitting new evidence after the first hearing (or pre-trial) hearing; vi) introduce legal basis for video-conferencing in certain types of cases or jurisdictions; vii) introduce legal basis for mandatory e-filing for certain types of cases, jurisdictions or parties (e.g. parties represented by lawyers); viii) limit the number of pages for attorneys’ briefs and court decisions; and vix) limit appeals to cases exceeding a particular sum; etc.	System	Legislative	Mid-term Long-term	No
Amend the regulatory framework to limit repetitive adjudication of the same cases: the amended legislative framework should limit the possibility of repetitive remanding of the same lower instance court’s decisions by higher instance courts, to the extent possible, in order to avoid adjudication of the same cases several times (e.g. higher courts can remand a case to the first instance once, but if the case returns again to the second instance it will have to be decided upon at that level).	System	Legislative	Mid-term Long-term	No

Introduce an effective remedy in line with Article 13 in relation to Article 6 of the European Convention on Human Rights (ECHR) , to reduce excessively lengthy proceedings: there are two types of remedies under Article 13: a "preventive" remedy designed to expedite the proceedings in order to prevent them from becoming excessively lengthy and a "compensatory" remedy to provide for redress for delays already occurring, whether the proceedings are still pending or have come to an end. When establishing these remedies, it is essential to take into account the criteria provided by the European Court of Human Rights (ECtHR) in relation to the protection of the right to a hearing within a reasonable time guaranteed by Article 6 of the ECHR.	System	Legislative Operational Resources	Mid-term Long-term	Undetermined (additional resources are required in case of the introduction of a compensatory remedy)
ORGANISATION OF JUDICIAL SYSTEMS				
Rationalise court network: carrying out court mapping and, if necessary, redefine judicial maps, to ensure that the optimum level of efficiency and quality is achieved. The process should take into account the creation of backlog in courts. The objective is to maximise the service level of justice while optimising operational costs and investments.	System	Legislative Operational Resources	Long-term	Undetermined (depends whether the new map decreases or increases the number of court geographic locations)
Introduce and/or promote appropriate use of ADR, such as arbitration, court-annexed mediation, or conciliation: i) **arbitration** is a procedure by which the parties select an impartial third person known as arbitrator to determine a dispute between them, whose decision is binding; ii) **mediation** is a structured and confidential process in which an impartial third person, known as a mediator, assists the parties by facilitating communication between them for the purpose of resolving issues in dispute. Mediation may be mandatory, either as a pre-requisite to the institution of proceedings, or as requirement of the court during proceedings; and iii) **conciliation** is a confidential process by which an impartial third person, known as a conciliator, makes a non-binding proposal to the parties for the settlement of a dispute between them.	System	Legislative Operational	Long-term	Yes
Relieve judges from certain (non-judicial) tasks: the authorities are encouraged to reflect on the possibility of transferring some tasks from judges to non-judge court staff or other institutions (e.g. notaries,	System	Legislative Operational	Mid-term Long-term	Undetermined (the transfer of tasks might incur additional costs

mediators, etc.). The right balance must be struck in this process taking into account the importance of the division of powers in the democratic society. Recommendation (86)12 of the Committee of Ministers to the member States concerning measures to prevent and reduce the excessive workload in the courts and its annex can provide some guidance in this matter. Furthermore, where *Rechtspfleger* or similar bodies exist, the remit of *Rechtspfleger* / similar bodies can be extended to allow them to autonomously conduct minor cases (e.g. misdemeanour, registry proceedings, and decisions on costs of proceedings).				for establishing a new profession/institution, for training of non-judge staff, and similar)
Transfer trials in all appropriate matters from panels of judges to the competence of a single judge: the measure aims to alleviate the excessive burden on judges and provide them with more time to handle cases assigned to them. Panels of judges should remain competent for the most complex, voluminous, or sensitive cases, noting that collegiality is a factor that can strengthen the quality of decisions.	System	Legislative Operational	Mid-term Long-term	No
Temporary or permanent transfer of judges to overburdened courts: this measure may include the following actions: i) introduce a "flying brigade of judges" representing a group of judges designated specifically to be temporarily engaged in overburdened courts to clear backlog; and ii) encourage a temporary or permanent voluntary redeployment or transfer of judges from less burdened to overburdened courts (with possible incentives, such as bonuses to salaries and/or compensation of costs). Frequent transfer of judges between courts should be, however, avoided to prevent a lack of sustainability, potentially resulting in prolongation of duration of court proceedings. In any case and under no circumstances, should this measure affect the principle of immovability of judges.	System	Legislative Operational	Mid-term	Undetermined (additional resources required if costs of transfer are incurred)
Transfer of cases to less burdened courts: this measure can apply in cases where there is no requirement for physical presence of the parties and a system of videoconferencing/online hearings is put in place. In addition, the courts may consider using electronic submissions of cases (e-filing) in order to automatically assign newly received cases to less burdened courts, when the circumstances allow adjudication of cases	System	Legislative Operational	Mid-term	No

without physical presence of the parties or the relevant courts are located within a reasonable distance. One possibility might also be to introduce the "single territorial jurisdiction" for the whole territory of a state (for example, any appellate court might accept cases from any part of the state).				
LEGAL EDUCATION				
Provide adequate initial and continuous education for judges and court staff: the initial and in-service judicial educational programmes and coaching should cover aspects related to the length of proceedings, effective court and case management, as well as the case law of the ECtHR under Article 6(1) of the ECHR. The in-service training should also include the use of digital tools and case law databases.	System	Training	Mid-term	Undetermined (additional resources might be required if this type of education is not already provided within the existing institutions).
Share good practices among the courts: sharing practices among peers working in similar circumstances can help to strengthen the work of the judiciary. Practice sharing can be organised through regular exchanges among courts, or more structured exchanges through collection of good practices at the central level (e.g. High Council of Justice, Ministry of justice, Supreme Court). Best practice sharing could also form part of in-service training.	System	Operational Training	Short-term	No
RESOURCE ALLOCATION				
Allocate appropriate human resources: the authorities should assess the number of judges and non-judge court staff needed to enable the courts to timely handle incoming and pending cases. Case weighting or other workload measurement tools can help to determine the required number of judges having regard to the volume and complexity of cases.	System	Resources	Mid-term Long-term	Yes
Allocate appropriate material resources: the material infrastructure should be provided to the judiciary in accordance with recent developments and up-to-date standards. The material infrastructure covers the existence of new courtrooms and modern buildings and the provision of adequate technical equipment to judges (e.g. computers, laptops, scanners, etc.). The provision of adequate resources contributes to faster processing of cases.	System Court	Resources	Mid-term Long-term	Yes

DIGITALISATION OF JUDICIAL SYSTEMS				
Ensure full and adequate digitalisation of judicial systems: the introduction or progress in digitalisation can have a positive impact on the timely processing of cases, more efficient court proceedings, as well as the reduction of costs. Examples are: electronic filing systems (e-filing) that can facilitate communication between court users and the courts and improve internal workflows; ensuring interoperability of ICT systems between the judiciary and other bodies (e.g. prosecution) which may save time in obtaining documents and information needed for efficient handling of court proceedings; introducing a unified and automatized reporting system leaning on electronic case management system, with daily refreshing and access to relevant data needed for decision-making.	System	Legislative Operational Resources	Mid-term Long-term	Yes
Introduce and provide free access to case-law databases to judges and court staff: access to case-law databases leads to faster and unimpeded collection and analysis of previous court decisions relevant for judges work on current cases. The introduction of case-law databases helps judges to resolve disputes more efficiently and in a harmonised manner. It also informs lawyers and litigants about relevant legal precedents, in particular concerning repetitive cases, which could make them consider resorting to alternative dispute resolution.	System Court	Operational Training	Mid-term	Yes
COURT MANAGEMENT				
Streamline court internal procedures and organisation: this measure implies more effective organisation of the business process in the courts (e.g. organising document flows or scheduling courtrooms) and avoid repetitive actions).	Court	Operational	Short-term Mid-term	No
Reorganise arrangements for hearings: tracking the number of hearings and cancelation/postponements of hearings can enable courts to identify reasons for delays and take steps to improve efficiency of proceedings. It is important to provide flexibility in scheduling the hearings in situations where the number of courtrooms is not adequate.	Court	Operational	Short-term	No

Reinforce specialisation in judiciary: specialisation introduced for courts, judges and court staff can reduce the time needed for processing cases. This measure could ensure a better quality of the work of a single judge specialised in resolving a certain type of cases. Similarly, specialised departments may be introduced in larger courts, where the number of judges is sufficient to ensure that specialisation will not be detrimental to the resolution of other cases. Finally, a court can be specialised for all cases of a certain type in a region (e.g., federal unit) or entire state.	System Court Judge	Legislative Operational Training	Mid-term Long-term	Yes
Introduce and/or improve the measurement of workload: the introduction of case weighting[11] or other workload measurement tools generally improves the efficiency of handling of cases. Case weighting aims to assess the complexity of cases to measure the workload in courts taking into account the fact that one case type may differ from another case type in the amount of judicial time required for processing. The case weighting methodologies are designed for determining the required number of judges, court staff, prosecutors and/or public defenders; supporting funding and budgetary requests; allocating justice system personnel within the different work units; assigning cases within the courts to ensure balanced allocation among judges within the same court department; setting quotas and evaluation standards; and planning the merger or reduction of work units. There are also other workload measurement tools based, for example, on "quotas" attributing the number of cases the judge should resolve within a certain period of time.	System	Legislative Operational	Mid-term	Yes
CASE MANAGEMENT				
Improve case management in courts: measures to improve case management systems in courts may include, but are not be limited to: i) sort cases at the earliest possible stage to determine the track to follow (so called "early triage"); ii) set up timeframes for the different types of cases (e.g. criminal, civil, and administrative); iii) assign a timeframe in each case upon filling of an initial act and notifying both judge and the	Court Judge	Operational	Short-term Mid-term	Undetermined (setting-up new features in the electronic case management system might require additional

[11] For more information, please see "Case weighting in judicial systems - CEPEJ Studies No. 28" available at https://rm.coe.int/study-28-case-weighting-report-en/16809ede97

party/ies on the timeframe set for that type of cases; iv) introduce an automatic reminders of deadlines (so called “warnings”) in the case management system; and v) label old pending cases or identify cases with special covers to provide a clear overview of all these cases at the court or judge level (e.g. red coloured covers for physical case files and special marks for such cases in the case management system to provide for “warnings” when the cases are approaching a certain age.				resources)
Improve case allocation: the court presidents and management teams have several means of improving the case allocation in courts to handle backlog cases: i) in the periods of intensive work on backlog reduction, they can introduce mechanisms for monitoring of the volume of cases assigned to different judges to ensure balance between the resolution of incoming cases and “old” cases to avoid creation of a new backlog. When in place, this measure needs to respect the principle of random allocation of cases; and ii) in some systems, they can determine a certain minimum of cases to be resolved by judges or introduce weekly, monthly, or quarterly “quotas”. They can also monitor the non-judge performance and outputs of non-judge court staff (e.g. legal officers/advisers) related to preparation of cases for consideration.	Court Judge	Operational Resources	Short-term	No
Temporarily reorganise the court organisation to handle backlog cases: if the court determines that there is large backlog of cases that may put at risk timely proceedings in new cases, the court can temporarily set up sections in the courts responsible for processing backlog cases. Such sections should be limited in time until the backlog is cleared. If the system permits, the sections may include retired judges to limit the impact on the length of pending cases.	Court	Operational	Short-term	Undetermined (hiring retired judges might require additional resources)
Strengthen processing of repetitive cases: there are several measures to handle repetitive cases in a more efficient way: i) thematic hearings could help the participants of proceedings to be informed of the particularities of a specific litigious matter and the approach by the court; and ii) case law databases set up at the court level to improve access to relevant decisions.	Court Judges	Legislative Operational Resources	Short-term Mid-term	Undetermined (setting up a case-law database might require additional resources)

Analyse backlog cases: each judge should analyse the last action taken in each backlog case and identify the remaining steps for efficient case resolution. Based on this analysis, judges may decide to prioritise scheduling hearings in backlog cases, revise procedural calendars in individual cases, organise "status" (case management) conferences with the parties, or take other organisational measures to speed up proceedings in these cases.	Judge	Operational	Short-term	No
INTERACTION WITH JUSTICE ACTORS				
Improve co-operation and communication with stakeholders in court proceedings: this measure applies mainly to justice actors, such as bar associations, public prosecution, notaries, enforcement agents, and expert-witnesses, to raise awareness of the new measures to be taken to reduce and prevent backlog.	System Court	Operational	Short-term	No
Strengthen pre-trial preparation: the establishment of more frequent and stricter procedural calendars in new cases can help to adhere to pre-defined deadlines and resolving cases within reasonable time. Insisting on procedural discipline through dissuasive sanction, if this calendar is not respected by the parties, may accompany the establishment of procedural calendars. General framework agreements with Bars and other lawyers' professional associations concerning timeframes and deadlines could provide a basis for determining the procedural calendar for each case.	Court Judge	Legislative Operational	Mid-term Short-term	No
Improve management of expert witnesses/court-appointed experts: centralised/regional/court level registers can be introduced to provide better overview of the availability of judicial experts. This could also ensure a better allocation of tasks among existing experts, thus avoiding delays. Signing protocols with experts (e.g. universities, scientific institutes etc.) may contribute to prevention of delays in producing expert witness opinions.	System Court	Operational Resources	Short-term Mid-term	Undetermined (setting-up a register might require additional resources)

STEP 3: MONITORING IMPLEMENTATION

Following the development of the strategy, the third step is to **monitor its implementation**. The successful elimination of court backlog heavily relies on effectively implementing backlog reduction measures, which often proves to be the most challenging phase. Monitoring goes hand-in-hand with implementation of the strategy, with a focus on the quality, timeliness, and relevance of various backlog reduction activities for achieving the desired outcomes.

Monitoring is the process of tracking progress towards achievement of targets and implementation of measures over a period of time. It includes identification of shortcomings and challenges, lessons learned, and collection of good practices identified during the implementation phase. Monitoring helps to identify adjustments needed to achieve desired results.

In order to set up effective monitoring mechanisms, the following questions should be considered:

i) **WHO** is responsible for monitoring the strategy's implementation?
ii) **WHAT** data, indicators, targets and measures should be monitored?
iii) **WHEN** should monitoring be performed?
iv) **HOW** should the strategy be monitored?

WHO - A lead institution should be appointed to be responsible for monitoring the implementation of the overall strategy. Usually, the designated lead institution responsible for backlog reduction activities will also oversee monitoring (see the above section B of the Introduction). This lead institution can be assisted by other institutions entrusted with monitoring the strategy's implementation on their level and in their respective fields of competences. For example, the Supreme Court monitors the implementation of the overall strategy at the system level, while each court and judge monitors implementation of the measures within their own jurisdiction. It is important that all institutions take ownership of the implemented measures and results achieved. The lead institution should also be responsible for **communication** within the judiciary and with other justice professionals and actors (e.g. bar associations, enforcement agents, judicial experts, etc.), court users, and the public at large. Communication should focus on the actual results stemming from backlog reduction activities, presentation of implemented measures, and potential benefits for court users. Communication is particularly important in gaining support for the strategy's implementation. For more details on how to effectively organise communication with the public and the media, you may refer to the CEPEJ Guide on communication with the media and the public for courts and prosecution authorities (available at: https://rm.coe.int/cepej-2018-15-en-communication-manual-with-media/16809025fe).

WHAT - The first step is to identify statistical data and indicators which should be monitored to determine if **targets** have been reached. Creating statistical reports and following data and **indicators** can give an initial picture of the progress achieved. The data and indicators to be monitored are in the first place those corresponding to set targets in the strategy (e.g. number of pending cases, number of backlog cases, CR, DT, and percentage of cases resolved within set timeframes). As the targets will usually be set for different levels (e.g. system -, court -, and judge - levels), the monitoring should also be performed at each defined level. In addition, the responsible institutions can also monitor qualitative indicators in order to periodically evaluate whether the quality of judicial decisions and services has not decreased during the strategy's implementation.

The tables presented in this document may be used for the monitoring of backlog reduction activities. The tables can be adjusted and integrated in the case management system. They can be automatically generated to facilitate collection of statistical data.

The following table can also be used for **data-based monitoring.** This example consolidates some of the most important data and indicators mentioned in Section 1, providing a comprehensive overview of case-flow and the backlog.

COURT PERFORMANCE REPORT – PER CASE TYPE or AT THE JUDGE LEVEL

Table 16: Comprehensive report on court performance

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
Case type	Number of judges by case type	Number of pending cases at the beginning of the reporting period	Number of pending backlog cases at the beginning of the reporting period	Percentage of pending backlog cases in the number of pending cases at the beginning of the reporting period	Number of incoming cases during the reporting period	Number of received backlog cases during the reporting period	Percentage of received backlog cases in the number of incoming cases	Average number of incoming cases per judge	Caseload in the reporting period	Number of backlog cases in the caseload	Average caseload per judge in the reporting period	Average number of backlog cases per judge in the reporting period	Percentage of backlog cases in the caseload	Number of resolved cases during the reporting period	Number of resolved backlog cases during the reporting period	Percentage of resolved backlog cases in the number of resolved cases	Average number of resolved cases per judge	Average number of resolved backlog cases per judge	Clearance rate	Number of pending cases at the end of the reporting period	Number of pending backlog cases at the end of the reporting period	Percentage of pending backlog cases in the number of pending cases at the end of the reporting period	Percentage of increase/decrease of pending backlog cases at the end of the reporting period compared to the beginning of the reporting period
1																							
2																							
3																							

How to use Table 16

Table 16 represents a compilation of the statistical information collected during the backlog reduction analysis and serves as a monitoring tool for the evaluation of the effects of implemented measures for backlog reduction. It is recommended to integrate this table in the existing case management system to automate data collection, ensuring data quality and saving time.

Table 16 should be used for specific periods (from/to), and it can be generated at any significant time interval for monitoring courts and judge performance. The data from the table should be compared with the previous period to observe trends in court and judge performance.

If certain parameters in the table exhibit negative trends, it is crucial to isolate those parameters and further investigate the reasons for the decline in performance. It is recommended to conduct detailed analysis of all possible reasons for inefficient implementation of the measures from the general level and narrowing down to the individual judge level. Tables 1 to 15 can be helpful in this analysis process.

These and other statistical data and indicators can be visually presented in the form of dashboards. which are valuable monitoring tools providing consolidated statistical data on court performance. They can be set up at the national, court, or judge levels. In the context of backlog reduction, dashboards can give an overview of the situation by tracking relevant indicators and identifying areas of concern, such as an increasing number of backlog cases. (Link to the Handbook on court dashboards which provides examples of dashboards and guidelines for their establishment: https://rm.coe.int/cepej-2021-8-handbook-on-court-dashboards-en/1680a2c2f6).

WHEN - Creating statistical reports and comparing values of the data and indicators in **regular periods** is an efficient way of tracking results of backlog reduction efforts. Although the targets will usually be set as annual, the strategy can define shorter monitoring periods (e.g. six-months). Regular monitoring will give the institution in charge an opportunity to timely identify whether the implementation has progressed towards fulfilment of targets or not.

HOW - At the end of each stage of monitoring of the strategy's implementation, the responsible institution(s) should determine if its implementation is satisfactory or not. If the statistical data and indicators show **expected progress towards fulfilment of the targets**, it will be a signal that its implementation is proceeding according to plan, requiring no further intervention in most cases. However, in some instances, the responsible institution(s) may consider adjusting the targets to a higher level if they appear to be too low.

In the event **of insufficient progress in the strategy's implementation, indicating setbacks and unmet targets,** the responsible institution(s) should examine if any adjustments are needed. First, the responsible institution(s) should assess the implementation of the individual measures (column 1 of Table 17) and whether all the planned stages for their implementation have been carried out within the specified deadlines (columns 2 and 3 of Table 17). If the deadlines were not met, an analysis should be carried out of the reasons for the delays and how to accelerate further implementation. The institution(s) responsible for implementation of the delayed measures may have to provide further explanation on the reasons for delays and give proposals on how to remedy the situation.

Table 17 - **Checklist for monitoring implementation of measures**

The following table gives an example of a checklist that might be used for monitoring implementation of measures

MEASURE (1)	STAGES OF IMPLEMENTATION OF MEASURES (2)	DEADLINE (3)	INSTITUTION RESPONSIBLE FOR IMPLEMENTATION (4)	ACCOMPLISHED (5)
Measure 1 – Transfer of cases to less burdened courts	Adopting plan of transfers based on statistical analysis	31.03.2024	Supreme Court	
	Communicating the plan to the parties and public	30.06.2024	Supreme Court	
	Transferring cases and commencement of trials	31.12.2024	Individual courts	
Measure 2 -				

Second, it is possible that all the measures were implemented as initially planned but the results achieved are still falling short. In such cases, the responsible institutions should investigate if proposed measures are adequate and relevant for achieving the set targets. It might prove necessary to adjust the measures by revising them or adding **further measures** to the already applied ones. Organising a broader discussion with all involved stakeholders may contribute to finding the most suitable solutions. **Regular meetings/conferences** provide an opportunity to discuss the effects of the implemented measures on the courts and the whole judicial system. They can serve to create a list of “lessons learned”, which should be used for future planning.

If it is determined that implementation of measures is progressing as planned and no further adjustment of measures are needed, it is suggested to re-examine **the targets** defined in the strategy. It is possible that the targets are not achieved because they are no longer realistic. The following aspects should be taken into account: i) does the target serves its intended purpose, ii) is it in line with expectations, both internally within the judicial system/court and the general public. Similar to the process of setting the initial targets, is important to involve all relevant stakeholders that play a role in the process, in the form of small working groups from various parts of the entity (e.g. court, court department, etc.). If major adjustments of targets are planned, the process should continue with broader involvement of stakeholders.

Making adjustments of the measures and/or targets in light of the results achieved is often necessary to mitigate risks that may occur during the strategy’s implementation. **Risk mitigation** is an integral part of monitoring. It serves as a corrective measure in cases where the backlog reduction activities have negative effects on other parts of court performance. For example, if a particular court allocated a certain number of judges or non-judge court staff to support backlog reduction activities in another court department, creating difficulties in the original department, appropriate measures must be taken to remedy the situation. The court in question can decide to return those employees back to their initial posts or explore other remedial measures.

STEP 4: CREATING SUSTAINABILITY

Once the strategy is successfully implemented, the aim shifts towards ensuring **sustainability** to prevent future backlog occurrences. When all the above steps have been undertaken (identifying the problem, setting up the strategy, and monitoring its implementation), the lead institution should conduct the final analysis of the results achieved at the end of the strategy's implementation period. If **a significant percentage of backlog cases persists**, the lead institution should undertake problem analysis and set up a new strategy, thus repeating the above step-by-step methodology (analysis – measures – monitoring). An essential component of this new cycle is the analysis of the reasons for backlog persistence and lessons learned during the implementation of the previous strategy.

If the backlog is eliminated or significantly reduced, the competent authorities should continue not only to follow the situation, but also to study trends to identify potential events that might affect the efficiency of courts and cause accumulation of backlog cases in the future. The aim of this activity is twofold: i) to ensure that the implemented measures and embedded practices are sustainable, and ii) adopting new measures to proactively prevent backlog based on projections and trend assessments.

Proper planning plays an important role in preventing backlogs. Studying trends should be part of this process and use of statistical data is crucial for accurate **diagnosis** of potential risks. It serves to anticipate future flow of cases and potential creation of backlog. The judicial authorities, courts and judges may use the following report to predict the number of cases that might contribute to future backlogs. As previously indicated, this type of report could be developed and embedded in the existing case management system or any other digital tool for creation of statistical reports.

ANTICIPATED COURT PERFORMANCE REPORT – Per court department/case type/judge

Table 18 - Report on foreseeable backlog / backlog creation risk

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
Judge	Number of pending cases at the beginning of the reporting period	Number of pending backlog cases at the beginning of the reporting	Percentage of pending backlog cases in the number of pending cases at the beginning of the	Number of incoming cases during the reporting period	Number of received backlog cases during the reporting period	Percentage of received backlog cases in the number of incoming	Caseload in the reporting period	Number of backlog cases in the caseload	Percentage of pending backlog cases in the caseload	Number of resolved cases during the reporting period	Number of resolved backlog cases during the reporting period	Percentage of resolved backlog cases in the number of resolved cases	Clearance rate	Number of pending cases at the end of the reporting period	Number of pending backlog cases at the end of the reporting period	Percentage of pending backlog cases in the number of pending cases at the end of the reporting period	Anticipated backlog in next 3 months	Anticipated backlog in next 3 to 6 months	Anticipated backlog in next 6 to 12 months	Total anticipated backlog in next 12 months
1																				
2																				
3																				

How to use Table 18

This Table should be generated on a specific date (e.g., 31 December) and not on the reporting period (period “from/to”). The starting date for calculation of case duration should be the filing of the initial act (when the case was first received by the court of first instance).

The use of this report is recommended in shorter periods, so the judges may be timely informed about the status of cases.

Please take into consideration that the timeframes will be different for different types of cases, and therefore it might be necessary to generate different tables for each case type. If the report is created for each individual judge who works on different types of cases, it is important to take into consideration the different timeframes.

This report serves as a “prediction tool” for all the judges in the same court department or individual judge. If properly created, it is a useful backlog prevention tool, as well as an individual case management tool for judges. The judges may use it to properly plan their work in correlation with the number of existing and received cases.

Columns 1 to 17 in the report correspond to the same columns in the previous reports, and the same explanations apply.

Columns 18, 19, and 20 should outline the cases that are not backlog cases at the moment of creation of this report (column 21 represents the sum of figures presented in columns 18, 19 and 20). However, they show the number of cases that will become backlog in three-, six- and twelve-month periods if not resolved before the indicated period of time. This information should help competent authorities, court management, or individual judges to anticipate the potential flow of backlog cases in the upcoming period and try to resolve those cases before the expiry of the set timeframe. For example, it can help judges determine which cases should be prioritised in the future, or court management to reallocate resources to a particular department facing a large number of cases that are nearing backlog status.

Aside from analysis of the future case-flow, the competent authorities should also analyse other relevant aspects of the courts’ work. For example, **planning of future human and financial resources** might be needed to evaluate capacity of the court system to deal with expected inflow of cases or anticipated number of backlog cases in the future. It is important for example to track the number of judges and non-judge staff who will retire in the next time period and take steps to initiate timely recruitment. The **impact of new legislation** should also be scrutinised before the new rules enter into force. The introduction of new procedures or possibilities to appeal can sometimes lead to an expected increase in the number of cases or the duration of trials. Furthermore, **any other circumstances** that might contribute to the future increase in the workload of courts, such as certain developments in the society and economy, should be monitored. For instance, negative trends in the economy, such as a large number of business insolvencies and employment dismissals, can contribute to an expected increase in related court cases, potentially impeding judges' ability to process cases within established timeframes. In relation to that, competent authorities might also develop resilience plans to prepare courts for potential disruptions (such as epidemics, natural disasters and similar). **Resilience of courts** is the capacity to withstand the shock of unexpected circumstances allowing them to handle cases and provide services to court users without major disturbances.

Based on the analysis of the situation and expected future developments, the competent authorities should make **informed management decisions** to prevent recurrence of backlogs. Timely action is crucial to determine the specific preventive measures that should be carried out to prevent accumulation of pending cases and reduce the likelihood of lengthy trial durations. The inspiration for these measures can be found in the above section 2. For this reason, the CEPEJ recommends to all member States to use this tool not only as a guidance for tackling existing backlogs but also to prevent formation of backlogs whenever such developments are anticipated.