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(CEPEJ)

TIME MANAGEMENT CHECKLIST FOR PUBLIC PROSECUTION SERVICES

Checklist of indicators for the analysis of the duration of proceedings in public prosecution services

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Background and purpose of the Checklist

In order to prevent the excessive duration of proceedings, the prosecution services should collect data relevant to cases that enables them to monitor and analyse their functioning.² This could empower them to take appropriate measures to prevent delays and reduce timeframes, allowing proper and more efficient case management and better allocation of human and financial resources. By a regular monitoring of their activity, prosecution services are more able to produce data to sustain the attainment of their objectives, justify their priorities and increase their accountability and transparency before other branches of government, other judicial authorities and the general public. The regular evaluation of judicial systems and prosecution services by the European Commission for the Efficiency of Justice (CEPEJ) enables analysis of the situation in the member States of the Council of Europe as regards both the judiciary and the prosecution service.

The European Convention on Human Rights and the case-law of the European Court of Human Rights provide for the effective implementation of the right to a fair trial within reasonable time. The Court assesses the excessive duration of proceedings in light of the circumstances of the case, having regard in particular to the complexity of each case, the conduct of the applicant and of the relevant authorities, including the prosecution service, and the importance of what was at stake for the applicant in the litigation. The overall duration of court proceedings in criminal matters has to be monitored and measured from the filing of the proceeding before a law enforcement agency, other competent body, the prosecution service and the court, to the enforcement of the final judicial decision, namely the execution of the criminal sanction.

The CEPEJ took into account the work of the Consultative Council of European Prosecutors (CCPE). This relates in particular to the Opinion N° 7 of the CCPE on the management of the means of prosecution services, Opinion N° 9 on European norms and principles concerning prosecutors (the Rome Charter), Opinion N° 10 “on the role of prosecutors in criminal investigations, Opinion N° 11 on the quality and efficiency of the work of prosecutors, including when fighting terrorism and serious and organised crime, Opinion N° 13 “on independence, accountability and ethics of prosecutors”, Opinion N° 14 on the role of prosecutors in fighting corruption and related economic and financial crime and Opinion N° 16 on implications of the decisions of international courts and treaty bodies as regards the practical independence of prosecutors.

The Time Management Checklist for Prosecution Services is a first diagnostic and management tool for prosecution services and prosecutors. It provides an initial set of questions with the purpose of helping in collecting appropriate information about the cases and to analyse relevant aspects of duration of judicial proceedings where the prosecution service intervenes. Based on the collected information and outcomes of the analysis, its purpose is to support prosecution services and prosecutors to take measures to assist resolving cases within a reasonable time, set feasible timeframes and make their intervention in criminal proceedings more transparent and predictable to court users.

² This document was drawn up by the Working group on judicial time management (CEPEJ-SATURN), assisted by José Manuel Santos Pais (Portugal), scientific expert and member of the Consultative Council of European Prosecutors (CCPE).

CHECKLIST OF TIME MANAGEMENT INDICATORS

INDICATOR ONE: EVALUATING THE TOTAL DURATION OF THE PRELIMINARY INVESTIGATION AND THE SANCTION AND SETTLEMENT PROCEDURES UNDER THE SUPERVISION OF THE PROSECUTOR

Proper time management requires not only the ability to assess the duration of the different stages of the proceedings, but also the total duration of these proceedings from their initiation to the final decision and, if applicable, to the enforcement of the decision.

#	Question	Answer	Comment/NA/NAP
1.a.	Does the prosecutor/prosecution service track the duration of the case from the opening of an investigation, through the different case events, until the end of the intervention of the prosecution in the judicial proceedings (e.g. judgment, execution of the judgment, execution of an alternative prosecution, etc.)?	Yes/No	
1.b.	Does the prosecutor /prosecution service track the duration of the case from the opening of an investigation until the end of the prosecution, even if a case is transferred to another prosecutor with different material or territorial jurisdiction?	Yes/No	
1.c.	Does the prosecutor assign a unique case number from the initial act (case filed with the prosecutor for the first time) to the final court decision, including enforcement procedures?	Yes/No	
1.d.	Is the original date of filing of the case still used for calculating the duration of the proceedings, when cases are merged or separated?	Yes/No	

INDICATOR TWO: ELABORATING CASE CATEGORIES AND CASE WEIGHTING

Realistic and appropriate planning of the timeframes and the total duration of proceedings requires that cases be grouped in case categories.

#	Question	Answer	Comment/NA/NAP
2.a.	Is there a categorisation of cases according to the nature of the legal dispute? If yes, which categories are used?	Yes/No	
2.b.	Is there a categorisation of cases according to their complexity? If yes, how is the degree of complexity defined?	Yes/No	
2.c.	Is there a categorisation of cases according to their estimated duration? Which criteria are used for defining such duration?	Yes/No	
2.d.	Does the public prosecution service use any form of case weighting methodology to evaluate the complexity of cases?	Yes/No	
2.e.	Does the public prosecution service use information and communication technology (ICT) to implement the case weighting methodology?	Yes/No	
2.f.	If such ICT tools exist, whether at a central, regional or local level, are they interconnected or even centralized?	Yes/No	

INDICATOR THREE: MONITORING PRELIMINARY INVESTIGATION PROCEDURES AND TRIAL PHASE

Proper time management needs to take into account the duration of each singular stage of the judicial proceedings. For this purpose, the duration of the various stages of the proceedings in which the prosecution intervenes should be tracked and analysed.

#	Question		Answer	Comment/NA/NAP
3.a.	Does the prosecutor have the competence to decide whether or not to prosecute?		Yes/No	
3.b.	Does the prosecutor have the competence to use alternatives to prosecution? Which ones are available?			
3.c.	Does the prosecutor collect data on the following procedural steps both at the preliminary investigation stage and during the trial phase:			
	1.	Date of the opening of preliminary investigations. Please indicate whether in your country a law enforcement agency is entitled to initiate preliminary investigations and whether such initiation is to be reported to the prosecution service or may be conducted independently. Please, also indicate whether such opening is immediately communicated to the defendant or whether there are exceptions (for instance, in money laundering, organised or white-collar crime cases).	Yes/No	
	2.	Date of request and receipt of expert reports (autopsy, ballistics, medical-psychological evaluations, etc.) as well as decisions of other authorities which condition the development of the criminal proceedings (e.g. decisions by other domestic courts, responses to requests for	Yes/No	

		international co-operation involving foreign or international judicial or law enforcement bodies).		
	3.	Date of opening of a formal criminal investigation (if applicable)	Yes/No	
	4.	Duration of police custody	Yes/No	
	5.	Duration of security measures (e.g. pre-trial detention, house arrest, etc.)	Yes/No	
3.d.	Do you organise meetings with the services responsible for investigations, other relevant agencies and/or the investigation judge? If yes, in which circumstances, in relation to what categories of cases and how frequently?		Yes/No	
3.e.	Does the prosecutor always represent their case in the court? If not, does this affect the length of the criminal proceedings?		Yes/No	
3.f.	Does the prosecutor use these data to calculate the duration of the various procedural steps for most categories of cases?		Yes/No	
3.g.	Does the prosecutor collect data on the date of the hearings of the parties and other participants to the proceedings (e.g., victims and witnesses). Is such data collected even in very complex cases involving the intervention of many individuals?		Yes/No	
3.h.	Are the data on the duration of the various procedural steps available to the parties of court proceedings and/or their representatives?		Yes/No	
3.i.	Are the data on the duration of the various procedural steps available to the public?		Yes/No	

3.j.	Is information related to procedural steps used by the prosecutor/prosecution service for planning purposes, in order to identify and prevent undue delays, accelerate proceedings, and improve their effectiveness?	Yes/No	
3.k.	Is there an estimate of expected or maximum time, defined by law, procedural rules or internal guidelines for the prosecution, that is needed to accomplish particular procedural steps?	Yes/No	

INDICATOR FOUR: MONITORING SANCTION AND SETTLEMENT PROCEDURES

Proper time management requires the duration of each stage of the proceedings to be taken into account. The involvement of the judge in the various stages of proceedings should be taken into account by the prosecution service in the monitoring of proceedings.

#	Question	Answer	Comment/NA/NAP
4.a.	1. Is there a guilty plea procedure?	Yes/No	
	2. If so, does this procedure involve a judge and within what time limit? If no guilty plea exists in your legal system, what are the possible consequences of a confession by the defendant?	Yes/No	
4.b.	1. Does the prosecutor have the competence to conclude a legal settlement?	Yes/No	
	2. If so, does this procedure involve a judge, for which purpose and within what timeframe?	Yes/No	
4.c.	1. Are there alternative procedures to prosecution? If so which alternative procedures to prosecution are available?	Yes/No	

	2.	Are they entrusted to bodies/staff subordinated to prosecution authorities (“délégués du procureur”)?	Yes/No	
	3.	Does this procedure involve a judge, for which purpose and within what timelimit?	Yes/No	
	4.	Is the victim entitled to bring the case before a prosecutorial office or court when a prosecutor refuses to pursue the case? In which circumstances?	Yes/No	
4.d.		Does the prosecution service receive a notification when a judgment becomes final? If so, when?	Yes/No	
4.e.		Does the prosecution service receive information from the court (or other entities, such as the probation service) regarding the enforcement of criminal sanctions or alternative sentences?	Yes/No	

INDICATOR FIVE: ESTABLISHING TIMEFRAMES / STANDARDS FOR THE DURATION OF PRELIMINARY INVESTIGATIONS AND SANCTION AND SETTLEMENT PROCEDURES

For the purposes of planning, transparency, predictability and evaluation of the duration of judicial proceedings, timeframes / standards are to be established and communicated to users of public prosecutors’ services.

#	Question	Answer	Comment/NA/NAP
5.a.	Are there any national framework timeframes/standards established by law, procedural rules or internal guidelines of the prosecution that define the duration of preliminary investigations and other case events?	Yes/No	

5.b.	Do they cover all categories/stages of criminal proceedings, including in the enforcement of decisions and/or sanction and settlement procedures?	Yes/No	
5.c.	Is there a mechanism in place for the prosecutor/prosecution services to monitor the duration of preliminary investigations and criminal proceedings?	Yes/No	
5.d.	Is there an estimate of the time needed by the investigative authorities to process a case (time employed by investigators/judicial staff/other staff) for each category of case?	Yes/No	
5.e.	Is there a mechanism in place for the prosecutor/prosecution service to monitor the execution and duration of sanction and settlement procedures?	Yes/No	
Predictability of the length of proceedings			
#	Question	Answer	Comment/NA/NAP
5.f.	Are users and the general public informed of the expected duration of criminal proceedings?	Yes/No	
5.g.	Does the prosecution service provide the public with data on the type and duration of their intervention in criminal proceedings?	Yes/No	
5.h.	Does the prosecution service use any organisational or innovative methods to expedite case handling (e.g. making use of experts from various fields or establishing specialised departments)?		

INDICATOR SIX: DIAGNOSING DELAYS AND MITIGATING CONSEQUENCES

While monitoring the duration of procedures, public prosecution services must have mechanisms and dashboards for prompt identification of excessive durations (delays) and backlogs. These tools help the public prosecution services to immediately alert responsible persons and offices to act accordingly and remedy the situation, preventing further delays. Moreover, proper communication may significantly improve the efficiency of judicial proceedings and reduce their duration and costs, to the benefit of users, judges, prosecutors and law enforcement agencies, contributing to a proper and better administration of justice.

#	Question	Answer	Comment/NA/NAP
6.a.	Can delays be clearly determined by the person or department in charge of monitoring of the proceedings?	Yes/No	
6.b.	Does the prosecutor use electronic automatic notifications for deadlines and timeframes?	Yes/No	
6.c.	Are there any measures available to the prosecutor to mitigate the impact of situations in which significant delays occur?	Yes/No	
6.d.	Are there mechanisms available for the parties to complain during the proceedings regarding unreasonably lengthy durations of certain procedural steps of the responsibility either of prosecutors or judges?	Yes/No	
6.e.	Does a responsible person or office have a duty to inform the prosecutor, competent authority or office of undue delays of the proceedings?	Yes/No	
6.f.	Can the responsible person take steps to mitigate current delays or prevent future ones and speed up the proceedings?	Yes/No	

6.g.	Is it possible to impose sanctions against parties/lawyers/experts who delay proceedings (e.g. admonition, replacement, fines, cost decisions)? Which types of sanctions may be imposed (disciplinary, penal, other) and by whom?	Yes/No	
6.h.	Are the data on these sanctions collected?	Yes/No	
6.i	Does the prosecutor periodically review all cases and decide on the need to revive or terminate suspended proceedings?	Yes/No	
6.j.	Is there any communication strategy in place which supports internal, external, or crisis communication, namely in situations of significant delays in case resolution?	Yes/No	

INDICATOR SEVEN: USING INFORMATION AND COMMUNICATION TECHNOLOGIES (ICT) AS A TOOL FOR TIME MANAGEMENT OF JUDICIAL PROCEEDINGS

The prosecutor may best achieve proper time management by the use of ICT for the purpose of monitoring timeframes and procedures, data analysis, court performance and strategic planning.

ICTs as a tool for case registration, monitoring of duration and backlogs in judicial proceedings			
#	Question	Answer	Comment/NA/NAP
7.a.	Does the prosecutor/prosecution service use an electronic case-management system?	Yes/No	
7.b.	Does the prosecutor/prosecution service use electronic communication (e-filing) with courts and the parties to exchange documents?	Yes/No	
7.c.	Does the prosecutor/prosecution service collect data on the duration of the various procedural steps via the electronic case-management system?	Yes/No	
7.d.	Does the electronic case-management system collect data on pending cases?	Yes/No	
7.e.	Does the electronic case-management system collect data on backlogs? Is this data about backlogs available in electronic form to prosecutors?	Yes/No	
7.f.	Is information about the stages of the case available in electronic form to parties (for example, dates of hearings, location of the file)?	Yes/No	

ICT as a tool for statistical processing, improvement of efficiency and planning in the area of timeframes			
#	Question	Answer	Comment/NA/NAP
7.g.	Do ICTs enable production of statistical reports? If so, are such reports automatically produced?	Yes/No	
7.h.	Are the statistical reports available in electronic form to users?	Yes/No	
7.i.	Are statistical reports on the duration of proceedings and delays regularly used for case-management within the prosecution service?	Yes/No	
7.j.	Does the prosecutor use standard electronic templates for the drafting of prosecutorial documents?	Yes/No	
7.k.	Does the prosecutor use videoconferencing in judicial proceedings?	Yes/No	
7.l.	Is Artificial Intelligence (AI) used by the prosecutor/prosecution service?	Yes/No	