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WORKING GROUP ON THE QUALITY OF JUSTICE (CEPEJ-GT-QUAL)

GUIDELINES ON THE QUALITY OF THE JURISDICTIONAL DEBATE IN CIVIL AND ADMINISTRATIVE MATTERS

These Guidelines have been adopted by the CEPEJ at its 44th Plenary meeting (4-5 June 2025).[*]

[*] These guidelines are based on a document prepared by Mr. Wim David (Belgium), member of the CEPEJ-GT-QUAL.

Introduction

1. The jurisdictional debate[1] takes place, in the framework of a trial, between the parties to the proceedings and the judge. In civil[2] and administrative cases[3], it generally consists of a document initiating proceedings, an exchange of written procedural documents, in certain judicial systems in witness hearings, and, possibly, an oral explanation (in the form of oral pleadings). The judicial decision closes the proceedings.

2. In the majority of cases, the jurisdictional debate has two main functions:

(i) a preparatory function for the jurisdictional decision: the aims are to present the dispute and to provide evidence for the allegations in order to get the judge to rule in a particular way;

(ii) a cathartic function: the aim is for the parties to express and channel their antagonisms and to use the court's time, namely the duration of the proceedings, to reflect on the dispute between them and approach it from a rational angle.

3. Qualitative justice necessarily requires qualitative jurisdictional debate, which in turn requires close cooperation between the various participants in that debate, foremost among them judges and lawyers. Judges and lawyers should strive to improve the quality of that debate at every stage of the proceedings.

4. Written pleadings must be clear and well-structured and of a length that allows both the parties to develop high-quality arguments and the judge to read and respond to them in full, taking into account the workload of each and the right of litigants to obtain a decision within a reasonable time.

5. Oral pleadings' hearings provide an opportunity for a direct exchange between the parties or their representatives, on the one hand, and the court, on the other. Where national law provides for such an exchange, it is important that it allows the judge to put questions to the parties and for the parties to clarify an important point or briefly express their feelings.

6. The quality of jurisdictional debate can be improved at five levels:

(i) in terms of the administration of the trial;
(ii) in terms of the written pleadings;
(iii) in terms of the clarity of the legal language;
(iv) in terms of the hearing;
(v) in terms of the court decision itself and the court's communication with litigants.

7. These Guidelines are in line with the right to a fair trial, as guaranteed by Article 6 of the European Convention on Human Rights (ECHR), and the principles derived therefrom, in particular the adversarial principle, and may not be interpreted in a manner that would undermine them.

[1] The term "jurisdictional debate" is used rather than "judicial debate" because this document is intended to apply to both judicial and administrative justice.
[2] The term "civil" also includes commercial and social cases.
[3] The document does not deal with penal matters because of the many specific features of the penal trial: oral hearings, the specific role of the public prosecutor, the predominant place of fundamental rights at each stage of the trial, etc.

1. The administration of the trial

GUIDELINE 1: The judge should have an active role in procedural matters: the judge should prepare the hearings, ensure that due process and fundamental freedoms (in particular the right to defense and the adversarial principle) and rules of procedure are respected, and ensure that the procedure proceeds with fairness as quickly and efficiently as possible.

8. In civil or administrative matters, proceedings are generally initiated by one party. The parties may also terminate the proceedings, either because they have reached an agreement or because the plaintiff waives his claims. They therefore have control over the start and end of the proceedings.

9. When a party has initiated proceedings and wishes to bring them to a conclusion, it is the judge's responsibility to ensure, whenever it is possible, that the proceedings are conducted expeditiously and that the quality of the jurisdictional debate is maintained, with respect to due process, fundamental freedoms and the applicable procedural rules.

10. If national procedural rules allow, the judge ensures that the proceedings continue and that the adversarial principle is respected and to this end, the judge draws up a procedural timetable that is binding on the parties (including dates for the exchange of written pleadings and, where appropriate, the date of the oral pleading's hearing).

11. It is preferable that sanctions exist for non-compliance of the procedural timetable, such as the dismissal of late procedural documents (which does not prevent the procedure from continuing) or a financial penalty.

12. If the national procedural rules so permit, the written pleadings and exhibits should be communicated to the judge before the oral pleadings and within a period of time that allows the judge to prepare the hearing properly.

2. The written pleadings

GUIDELINE 2: To enable the judge to deal with the case quickly and efficiently, the procedural documents should be (i) structured and clear and (ii) of a limited size, taking into account the specifics of the dispute.

13. The widespread use of IT tools and, more recently, artificial intelligence, can result in a significant increase in the size of procedural documents, particularly due to the use of the "copy and paste" option; without this being accompanied by a systematic effort to structure, summarise or clarify, which is necessary as the volume of writings increases.

14. This situation has an impact on the work of judges and, more specifically, on the number of cases they are able to handle within a given time frame, and thus on the speed with which a case is processed, the latter being a factor in the quality of justice.

15. The parties defend their case as they see fit, with due respect for fundamental freedoms and the laws in force. The following proposals therefore do not deal with the content of the parties' arguments, but only with the structure and length of their written pleadings.

a. Written pleadings should be structured and clear

16. Following the example of the European Court of Human Rights[4] and the Court of Justice of the European Union[5], several Council of Europe member States have taken initiatives to regulate the structure of written pleadings, either directly in law[6] or in procedural rules[7] or in non-binding protocols between courts and lawyers[8]. The aim is to improve the readability of written pleadings for the judge, the opposing lawyer(s) and the parties themselves (especially individuals not represented by a lawyer). A clearer and more uniform structure for written pleadings makes the judge's work easier (and therefore increases the number of decisions the judge is likely to hand down) and limits the risk of error and therefore of appeal (for example, an appeal to the Court of Cassation due to the absence of a response to a plea lost in voluminous and poorly structured pleadings).

17. Several measures concerning written pleadings are likely to improve the quality of jurisdictional debate:

- Standardised page layout: standardising the layout of written pleadings (font, font size, line spacing, margins, maximum number of words per page, etc.)[9] not only ensures that the documents in question are legible, but also enables the limits on the length of these documents, which will be discussed below in point b, to be applied uniformly;

- Final written pleadings in the form of a summary pleading: where a party files several successive written pleadings, its final pleading should be drafted in the form of a summary pleading, setting out all of its arguments in such a way as to enable the judge to refer only to the final written pleading;

- Exhibits and inventory: the exhibits filed in support of the written pleadings should be numbered and an inventory attached to the written pleadings. The written pleadings should expressly refer to the exhibits to enable the judge and opposing parties to easily verify the allegations contained in the written pleading;

- Structure of written pleadings :

  (i) the main subdivisions of written pleadings should be preceded by a title and the sub-subdivisions by sub-titles;

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[4] See in particular the part “Practice Directions” of its rules of 28 March 2024 (pages 68, 69, 72, 85 and 92 (https://www.echr.coe.int/en/web/echr/rules-of-court).

[5] See, in particular, the section on “Form and structure of procedural documents” of the Practice Directions for Parties relating to cases brought before the Court, pages 11 et seq. (L_202402173EN.000101.fmx.xml).

[6] By way of example, the Austrian, Belgian, Croatian, French, Hungarian, Italian, Norwegian and Dutch Codes of Civil Procedure contain provisions on this issue.

[7] https://www.legislation.gov.uk/uksi/2024/949/made and https://supremecourt.uk/how-to-appeal/practice-directions

[8] For example:

- France:https://www.courdecassation.fr/toutes-les-actualites/2023/01/30/la-charte-de-presentation-des-ecritures-signee-la-cour-de
- Italy :https://www.consiglionazionaleforense.it/documents/20182/219809/Schema+per+la+redazione+dei+ricorsi+per+cassazione+in+materia+civile+e+tributaria.pdf/dd6a4a0d-23a4-4235-be01-6432ac449ebd?t=1473079160000

[9] The European Court of Human Rights already requires such harmonisation, notably on page 68 of its ruling of 28 March 2024, cf supra. This is also the case of the Spanish Supreme Court (only in civil matters, decision published in the official bulletin of 21 September 2023) and of the Supreme Court of the United Kingdom (https://supremecourt.uk/how-to-appeal/practice-directions#practice-direction-5 – article 5.9).

(ii) written pleadings should be structured as follows:

(i) the introduction of pleadings should include: (i) an indication of the competent court and the chamber hearing the case, the identification number of the case within the court (docket number) and, where applicable, the date of the oral pleading's hearing, (ii) precise identification of the parties (with contact details updated each time a new written pleading is filed) and their procedural status (plaintiff, defendant, appellant, respondent, etc.);

(ii) a table of contents listing the various headings and subheadings with an indication of the pages concerned (the pages are therefore numbered) and a summary of the case;

(iii) a list summarizing the procedural documents (the document initiating the proceedings, any interlocutory decisions, written pleadings, etc.) to give the court a brief overview of the progress of the proceedings; in the case of an appeal, the contested decision should also be indicated;

(iv) a concise and precise statement of the facts, documented by exhibits, containing only those facts that are relevant to understanding and resolving the dispute;

(v) any procedural history and the parties' claims (claims at first instance, decision at first instance, claims on appeal, etc.);

(vi) the discussion: the parties' pleas[10] should be clearly identified, dealt with one after the other and arranged in a logical order, with an indication of whether they are principal, subsidiary, more subsidiary, etc. Pleas relating to procedure should precede those relating to the basis of the claim. Each legal argument should state the legal basis on which it is based. References to case law and legal writings should be limited to those that are relevant to the resolution of the dispute;[11]

(vii) the operative part sets out the parties' precise claims. It is not a summary or synthesis of the pleas in law (which must not appear in the operative part).

18. The outline suggested above can be applied in most civil and administrative cases. In certain specific cases, it may however be justified to depart from it and the parties must be free to do so. In addition, it should be considered that these suggestions might not be adapted to cases where parties represent themselves.

[10] See the definition contained in the French Court of Cassation's Charter on the Presentation of Written Submissions, p. 4: "*The pleas in law are the considerations of law or fact put forward by a party which contribute to the success of his claim (...). They consist of the invocation of a fact or an act (accompanied by an offer of proof) from which, by legal reasoning, the party claims to deduce the success of its claim*" Microsoft Word - Charte de présentation des écritures 30-01-23.docx (courdecassation.fr)/

[11] Ideally, the case law and legal writings cited should be sent to the judge at the same time as the exhibits, to avoid unnecessary research.

b. Written pleadings should be limited in scope

19. Written pleadings tend to be increasingly lengthy, which has a significant impact on the number of cases that can be argued in a hearing and the number of cases that can be dealt with by a judge in a given period. While it is essential that the parties are able to put forward their points of view, it is equally important that their pleadings are no longer than necessary so that cases can be dealt within a reasonable time[12].

b.1 The practice of European courts

20. In its Rules of 28 March 2024[13], the European Court of Human Rights limits the size of written pleadings filed with it, in particular:

- the individual applications (20 pages, article 47, 2. b));
- the claims based on Article 43 (10 pages);
- the requests to intervene (2 pages);
- the written observations of third parties (10 pages).

21. This is also the case for the Court of Justice of the European Union:

- in the Rules of Procedure of the Court of Justice (amended in 2024)[14], in particular Articles *170a* (7 pages), 175 and 180 (which specify that the President may limit the number of pages of written pleadings);
- in the practical instructions to parties relating to cases brought before the Court, in particular[15]:
  (i) on the written phase of the procedure for references for preliminary rulings (max. 20 pages in principle);
  (ii) on the written phase of the procedure in direct appeals (max. 30 pages in principle);
  (iii) about the statement of defence (max. 30 pages in principle);

b.2 The practice in certain Council of Europe member and observer states

22. The Netherlands: the Dutch courts have decided to limit the size of pleadings filed with appeal courts in civil and commercial cases. The Supreme Court of the Netherlands, was asked to give a preliminary ruling on 3 June 2022, in which it ruled that court rules may, under certain conditions, limit the length of pleadings in civil and commercial cases and that pleadings exceeding this limit may be disregarded (the party whose pleading has been set aside then has two weeks to file a new written pleading in accordance with the rules of procedure)[16]. The limitation on the length of written pleadings was the subject of an evaluation in 2024 which was generally positive.[17]

23. Greece, Spain and United Kingdom. The Greek Council of State (presidential decree 18/1989, articles 17 §6, article 19 §2, 20 to 30 pages; Council of State regulations, article 10, 30 pages), the Spanish Supreme Court (only in civil matters, decision published in the official

[12] The CEPEJ also recommends limiting the size of pleadings on page 29 of its Backlog Reduction Tool (https://rm.coe.int/backlog-reduction-tool-fr/1680b2ca5f).
[13] https://www.echr.coe.int/en/web/echr/rules-of-court
[14] Https://curia.europa.eu/jcms/upload/docs/application/pdf/2024-08/rdp-cour-en.pdf
[15] L_202402173EN.000101.fmx.xml
[16] https://www.hogeraad.nl/actueel/nieuwsoverzicht/2022/juni/hoge-raad-limiet-lengte-processtukken-toelaatbaar-lange-stukken-mogen/
[17] Regeling voor kortere processtukken in hoger beroep werkt goed (rechtspraak.nl)

bulletin of 21 September 2023, 25 pages) and the Supreme Court of the United Kingdom[18] also limit the size of procedural documents filed with them.

24. It should be noted that the Spanish Supreme Court has ruled that limiting the length of pleadings in civil proceedings does not violate the rights of the defence if certain conditions are met[19].

25. Israel: in Israel, the size of pleadings is also regulated (section 9(d) of the Israeli Code of Civil Procedure).

b.3 Limiting the size of written pleadings

26. Limiting the size of pleadings to a certain number of pages per party (for example, the Netherlands has opted for a maximum of 25 pages per party) is likely to improve the quality of the jurisdictional debate (notably for reasons mentioned in point 9), both at first instance and on appeal, provided that the following conditions are met:

(i) limiting the size of pleadings should be reasonable and allow the parties to develop an argumentation of quality;

(ii) limiting the size of written pleadings should be accompanied by a standardised layout (font, font size, line spacing, margins and maximum number of words per page);

(iii) some pages should not be included in the maximum number of pages (e.g. pages on which the parties are identified, beyond the first page[20], or the parts inventory);

(iv) each party should be able to ask the judge to draft a longer written pleading, in particular because of the complexity or scale of the case; this possibility should be effective and likely to result in a favourable outcome from the judge, which means that the judge must examine on a case-by-case basis whether it is appropriate to allow longer documents to be submitted. The judge's decision on this request should be reasoned and, ideally, delivered within a very short time frame;

(v) each party should have the same number of pages for its written pleadings, which means that if the judge authorises one party to file a longer pleading, this authorisation will automatically apply to the other parties.

27. Failure to comply with the limitation on the length of written pleadings may be sanctioned, but the sanction should be reasonable and should not result in the case being dismissed. For example, in the Netherlands, written pleadings that are too long in relation to the prescribed limit may be disregarded by the judge, and the party whose procedural document has been disregarded then has 15 days to file a new document that complies with the rules of procedure. Similar rules exist before the Greek Council of State.

28. Complex disputes (for example due to (i) the subject matter and/or the number of parties involved, (ii) the length of the preceding decision or (iii) the complexity of the administrative act in question) and/or those involving fundamental issues (e.g. human rights violations) may require written pleadings that are longer than the standard length. It is preferable to allow for a larger maximum number of pages for this type of litigation from the outset (with the possibility

[18] https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part52/practice-direction-52c-appeals-to-the-court-of-appeal
[19] STS 2206/2021 - ECLI:ES:TS:2021:2206
[20] This is to ensure that the parties are not prejudiced in multi-party cases.

of always asking the judge for authorisation to file a longer written pleading depending on the needs of the case in question).

3. The clarity of the legal language

GUIDELINE 3: Insofar as justice is dispensed by the State for the benefit of litigants, legal professionals - judges and lawyers - should ensure that they use clear and simple legal language, and States should provide litigants with glossaries defining the main terms used. It is essential that the parties to the proceedings understand what is happening during the proceedings.

29. If judges and lawyers obviously master the legal language and its intricacies, this is not necessarily the case for the parties, especially when they are natural persons which are not represented by a lawyer. Precision in the terms used is essential in law but lawyers and judges should avoid using "professional jargon" that may be difficult to understand for litigants[21]. Litigants must understand written pleadings as well as possible if they are to be able to participate fully in the jurisdictional debate and for it to fulfil its cathartic function (see paragraph no. 2). It should be remembered that under no circumstances can the simplification of legal language undermine the freedom of the parties to defend themselves as they see fit.

30. Simplifying legal language involves:

- abandoning outdated expressions that add no value to the procedural document or court decision;
- abandoning Latin phrases or at least translating them when their use is desirable;
- including a glossary of the main legal terms used in court decisions. The drafting of such a glossary should not be the responsibility of individual judges but should be undertaken by a central authority so that the same glossary is used uniformly by all courts of the same type. There could be different glossaries depending on the type of case (criminal, family, commercial, etc.).

31. Both judges and lawyers should be made aware of the need to simplify their language during their initial training.

32. The simplification of legal language should not only concern the written pleadings of the parties and court decisions but also the communications of the courts with the litigants (for example summons to a hearing) that should be adapted to the target audience (for example minors)[22].

[21] See CEPEJ(2021)1, For a better integration of the user in the judicial systems: Guidelines and comparative studies on the centrality of the user in legal proceedings in civil matters and on the simplification and clarification of language with users
By way of example, in Spain, a protocol aimed at promoting modern legal language that is accessible to citizens was signed on 11 March 2021 between the Ministry of Justice, the highest courts, the bar association and the universities. A commission for the clarity and modernisation of legal language has also been set up.
In addition, the Belgian High Council for the Judiciary has carried out an in-depth study of this issue, available in French, Dutch, German and English: https://csj.be/admin/storage/hrj/projectflavour.pdf

[22] For example, a "plain legal language" unit has been set up within the Belgian Judicial Training Institute. This unit has adapted the summons for minors to appear before the family court judge in such a way as to make it understandable to the public concerned. The adapted summons has been published in the Moniteur belge (https://www.ejustice.just.fgov.be/mopdf/2024/08/28_2.pdf#page=41).

4. The hearing

GUIDELINE 4: Being the only time when a direct exchange is possible between the parties, their lawyers and the judge, the oral pleading's hearing should add value to the jurisdictional debate, in particular by allowing the parties to express themselves. It should be prepared and organised in such a way as to be as effective as possible.

33. Oral pleading's hearings are not held in all legal systems and for all types of proceedings, but where they are held, they should add real value to the jurisdictional debate. The value of the oral pleading's hearing lies at three levels:

(i) without repeating the entirety of their written pleadings, the parties and/or their lawyers can highlight the important elements of the case;

(ii) the judge may question the parties and/or their lawyers, as well as any witnesses;

(iii) the parties can express their experiences and feelings. This may involve discussing issues that go beyond the strictly legal framework (a balance needs to be struck here). This phase should not be neglected. It is essential for the litigant and reinforces the legitimacy of the court's decision.

34. For the oral pleading's hearing to fulfil its function, it is essential that:

- its participants (the parties or their lawyers as well as the judge) have prepared the case file, which implies that the judge has the last procedural documents and exhibits before the hearing;

- sufficient time is allowed for each case to be argued orally, and that the allocation of the time for oral argument be agreed at the beginning of the hearing and that time be set aside for questions from the judge and for the parties to speak if they so wish.

35. Where procedural rules and the organisation of the court allow, it is preferable to summon the parties and lawyers at a fixed time and to inform them in advance of the duration of the pleading in order to avoid unnecessary waiting and to allow them to prepare for the hearing in the best possible way.

36. It is also possible to organise oral pleading's hearing, for example:

- by replacing "traditional" pleadings with an interactive debate between the judge and the parties' lawyers, during which the judge asks the lawyers questions on points that, in his or her opinion, deserve or require clarification (such a debate can also be combined with traditional pleadings)[23];

- by first organising a phase of amicable settlement of the case during which a judge - who will generally not be the one hearing the merits of the case - tries to get the parties to find an amicable solution to their dispute, and then, if the parties have not reached an agreement, a traditional oral hearing;

- by dividing up the debate and organising, in the first instance, a hearing at short notice on issues that need to be decided quickly (jurisdiction of the court, admissibility of the claim,

[23] This is less easy if the parties are not represented.

statute of limitations, etc.) and, in the second instance, a hearing on the merits of the case (if this is still necessary).

5. The judicial decision

GUIDELINE 5: For the justice system to fulfil its role of pacifying social relations, it is essential that those subject to the law understand the decision that concerns them and the reasons that led the judge to make that decision. Jurisdictional decisions should be intelligible, structured, clear and of a reasonable scope given the size and complexity of the case.

37. The laws of the member States often determine the structure of jurisdictional decisions or the elements that must be included in them. The relevant provisions are sometimes detailed. The following recommendations may not be interpreted in a way that would undermine these provisions.

38. It is essential that the parties to the proceedings understand not only the jurisdictional decision that concerns them, but also the reasons that led the judge to take this decision, as can be seen from the reasons given for the decision. The credibility and legitimacy of the Justice system depend on this.

39. Judges should therefore pay attention to the way in which they draft and ensure that their decisions are structured and clear. The length of court decisions should also be reasonable (taking into account the obligation to respond to the parties' pleas and the length of their written pleadings), as a decision that is too long risks not being read or being misunderstood. When appropriate, it could be considered to develop and provide templates of judicial decisions to judges[24] that should remain free to use it or not depending on the circumstances of each case.

40. Both basic and in-service training for judges should include a module on the drafting of judicial decisions and, more specifically, on their structure, clarity and conciseness. A compendium of good practices could be drawn up and submitted to all judges.[25]

41. The question of the structure, clarity and scope of judicial decisions could also be addressed when evaluating judges, to encourage them to pay particular attention to this.[26]

6. Implementation of the Guidelines

42. These Guidelines fit into the framework of the necessary cooperation between the various actors involved in the jurisdictional debate, foremost among whom are judges and lawyers. Some of these proposals may require legislative changes. In any event, the implementation of these proposals should be preceded by discussions between the various actors involved in the judicial debate, in particular to take account of specific national circumstances.

[24] For example: Norway

[25] For example:

- The Belgian Judicial Training Institute gives novice judges a book on this subject during their initial training (in French: ‘Dire le droit et être compris. Comment rendre le langage judiciaire plus accessible. Guide pour la rédaction des actes judiciaires’, Anthémis, 2017; in Dutch: ‘Juridisch Nederlands’, Acco, 2024);
- The High Judicial and Prosecutorial Council of Bosnia and Herzegovina published a handbook on this issue in 2021.

[26] See CEPEJ(2024)5, Guidelines on the evaluation of the quality of work of judges .

APPENDIX - MODEL WRITTEN PLEADING[27]

This document is presented as example only.

Court seized
Room
Role number
If applicable: date of the oral hearing

Indication of the type of written pleading (application, pleading, submissions, etc.)

FOR:

Full identification of the party drafting the written pleading;

Procedural quality;

AGAINST:

Full identification of the opposing party(ies);

Procedural quality;

IN THE PRESENCE OF:

Full identification of the party or parties involved;

Procedural quality;

I. TABLE OF CONTENTS

II. SYNTHESIS

III. DECISION APPEALED (in degree of appeal)

IV. PROCEDURE

V. STATEMENT OF THE RELEVANT FACTS

VI. PROCEDURAL ANTECEDENTS AND CLAIMS OF THE PARTIES

[27] See the French examples:
Modèle_Trame_Première_instance.pdf (courdecassation.fr)
Appeal_Treatment_template.pdf (courdecassation.fr)

VII. DISCUSSION

1st plea in law (main plea): summary description of the plea in law

2nd plea in law (in the alternative): summary description of the plea in law

3rd plea in law (in the alternative): summary description of the plea in law

etc.

VIII. DECISION (DISPOSITIVE)

APPENDICES :

(i) EXHIBITS INVENTORY
(ii) LIST OF CASE LAW AND DOCTRINE CITED AND COMMUNICATED