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## **Towards a better evaluation of the results of judicial reform efforts in the Western Balkans – phase II “Dashboard Western Balkans II”**

**BENEFICIARY CORRESPONDENTS’ MEETING: “Dashboard Western Balkans: results of case-flow data collection and the use of case-flow data to enhance efficiency”**

**REPORT AND CONCLUSIONS**

**Location/Date: Budapest (Hungary) - 21, November 2023**

*The Project "Towards a better evaluation of the results of judicial reform efforts in the Western Balkans – phase II Dashboard Western Balkans II" (DWB) organized a regional workshop, entitled "Results of Case Flow Data Collection and the Use of Case Flow Data to Enhance Efficiency." 10 beneficiary correspondents and participants from partner institutions attended this Workshop on November 21, 2023 at the Youth Centre in Budapest, Hungary.*

*The event aimed to foster sustainability and ownership within the case-flow data collection process through discussion with beneficiary correspondents, additional officials from beneficiary institutions, the CEPEJ DWB Secretariat, and experts specialized in relevant topics. The primary focus of the event was to identify and address common challenges encountered in data collection and analysis.*

*After the presentation from the DWB Secretariat and thorough discussions on topics such as “Case flow data - Challenges in collection and data quality control” and “Analyses on the case flow and beneficiary good practices”, the Workshop resulted in several conclusions which should play a pivotal role in shaping the future of data collection within DWB Project and analysis procedures.*

**The course of the workshop and the conclusions are presented below:**

**During the introductory, the Secretariat presented** the goal of the Workshop, which was to improve the data collection process but also to discuss efficiency issues related to the case flow. Participants were invited to share deliverables from the previous report within relevant local institutions.

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## Part 1 – Case flow data - Challenges in data collection and quality control

**DWB project team (CEPEJ Secretariat)** presented the methodology used in the data collection process and the role of the beneficiary correspondent, underlining the main challenges within the process, such as the availability of data on time (having in mind that data from 2023 are requested although the year 2023 is not over yet), categorization, inconsistencies in data.

**Each Beneficiary Correspondent presented specific challenges in the data collection process, as follows:**

### **Montenegro (Nađa Nenadović, Blagoje Gledović)**

The judicial information system in Montenegro is PRIS, which is a centralized system for all courts except for misdemeanour courts. Misdemeanours data are filled based on manual records. Statistical reports are automatically generated from the information system on an *ad hoc* basis. The categorization is being conducted at the level of courts, and then according to registers based on the Judicial Rules.

The Annual Report on the work of the courts, a statistical overview, is prepared according to the instructions and standards of the CEPEJ. At the beginning of the year, the ICT department of the Judicial Council generates and sends data to all courts, which they compare with their manual registers. After that, the report is submitted to the Judicial Council for adoption. The data are not being submitted to the Ministry of Justice, before the Judicial Council adopts the annual report.

Discrepancies occur from year to year, often due to an increased number of cases and a recent decrease in the number of judges. Also, certain difficulties in the data collection process are related to data on redistribution of cases, free legal aid, employment disputes and robbery (*listed in PPT 1 from Montenegro participants*).

The further development of PRIS (version 2 which is ongoing) by the Judicial Council could optimize the collection process as it aims to facilitate the data collection and it could provide easier access to currently unavailable data.

Besides this, participants from Montenegro underlined the importance of the network of the people who work in the institutions which provide data.

### **Kosovo\*<sup>1</sup> (Fatmir Rexhepi, Albulena Uka)**

Representative of the ICT Department of Kosovo Judicial Council presented CMIS (Case Management Information System) as the basis for the data collection process. It is task-based oriented system, which provides most of the data required for the DWB collection process. The CMIS has incorporated reports that contain basic CEPEJ indicators (such as Clearance rate

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<sup>1</sup> \*This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

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and Disposition time<sup>2</sup>) and it provides the possibility of reporting on most of the data from the judiciary (*Kosovo PPT on CMIS available*).

### **North Macedonia (Lazar Tasev)**

A specific challenge for North Macedonia is the fact that the new CEPEJ beneficiary correspondent was recently nominated (N. Macedonia has two CEPEJ correspondents – one for the biannual CEPEJ Evaluation cycle and a second one for DWB).

The main institution dealing with the collection of data is the Judicial Council, which has a system for the collection of data on the work of the courts. There are only a few things which the current IT system cannot collect and present to the questionnaire, and these are mostly cases older than two years. Also, the data on the length of the procedure are not easily available since no system is tracking the case from the beginning to the end.

Also, certain complications are present regarding the collection of the data on free legal aid since there is a complicated dual system of free legal aid: first one in the Ministry of Justice according to the Law on Free Legal Aid, and second one is within civil and criminal procedure like legal aid for the poor and mandatory representation.

### **Albania (Baisa Sefa)**

The data from the judiciary in Albania are being processed by each court separately and manually. Case categorization is done by the High Judicial Council (HJC) and it refers to universal case categories (civil, criminal, administrative), general types and selected subtypes of cases that are relevant to most court systems in Europe and beyond different HJC reporting needs.

The main challenges within the process derive from the fact that data are manually entered and human error due to overload is possible. Therefore, time processing depends on the size of the court and its workload and CMS is locally installed in each court, meaning that a centralized system to monitor the activity of the courts by the HJC is missing.

Courts submit reports to HJC once a year. HJC receive quarterly reports from courts, but these are not judicial performance reports.

Room for improvement lies in standardizing the data collection processes to ensure consistency across different cases and exploring automation options to streamline data collection processes.

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<sup>2</sup> More info on basic CEPEJ indicators presented in Annex 1 to this report

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### **Bosnia and Herzegovina (Rusmir Šabeta, Radinka Lučić)**

The High Judicial and Prosecutorial Council of Bosnia and Herzegovina (HJPC BIH) prepares an annual report describing the state of the judiciary. The annual report of HJPC BIH includes various information on cases in courts.

For the CEPEJ questionnaires (CEPEJ biannual Evaluation cycle and DWB), the HJPC BIH uses the Case Management System in courts to generate most of the statistical data on the functioning of the courts (civil cases, enforcement cases, criminal cases, administrative cases). The exception from this are the first instance courts which send data annually to HJPC BIH on some categories of non-litigious cases (land-registry cases, enforcement/utility cases, registry cases) and litigious small claims utility cases which are not registered in CMS.

NA („data is not available“) is not used for any of the CEPEJ questions regarding the statistics for courts.

HJPC BIH (CEPEJ Beneficiary correspondent) is responsible for quality check of data before it is entered into the CEPEJ Questionnaires.

### **Serbia (Ivana Todorović)**

The Annual report on the work of the courts of the Republic of Serbia is prepared based on individual statistical reports of all courts on their work, which are collected and processed by the Supreme Court, as the highest court in the Republic of Serbia.

Automatic case management system in courts is at conditional acceptance, which means that the donor has accepted the developed software, but that the performance should be verified or confirmed under operational conditions in the agreed period. The draft Law on Data Processing in the Judiciary (PIS Law) is being drafted.

Having in mind the deadline for the DWB data collection, and the fact that the Supreme Court publishes its report in March of the previous year, there are always certain delays with this data, which present challenges for the DWB data collection process. Categorization of cases is carried out by the Supreme Court, that is, by the institution that collects data on cases for the previous year. It is certainly important that the correspondent is familiar with CEPEJ methodologies and criteria for categorisation of cases so he/she could recognise if the institutions, which submit data, did not categorise cases as requested and presented in CEPEJ explanatory notes.

After the representatives of the CEPEJ Secretariat conducted an organized visit to present the results of data collection in Serbia and enhance institutional commitment, a meeting with the Supreme Court clarified the categorization of cases for accurate counting. Following this clarification, Serbia experienced a smooth process in providing data on case flow, involving data from received, resolved, and pending cases, organized according to the CEPEJ

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methodology in judicial registers.

Certain data are registered as NAP, due to the transfer of competences from courts to different agencies (such as non-litigious land registry cases and non-litigious business registry cases).

Also, in Serbia, no system allows measuring the length or duration of cases in third instances.

All of the data presented in the annual report on the judiciary is available on the Supreme Court web [www.vk.sud.rs](http://www.vk.sud.rs)

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## Part 2 – “Results on the case flow data collection – Analyses and use of the case flow data”

The CEPEJ Secretariat presented an overview of the case flow based on statistical data from DWB report 2022 in total and also presented data per beneficiary.

In parallel to the presentation, through a discussion moderated by Mr Georg Stawa, CEPEJ expert, the beneficiary correspondents presented some of the main issues impacting the efficiency of justice (such as an unfavourable legal framework for an increasing number of administrative cases in Serbia and Montenegro, than utility cases issues in Bosnia and Herzegovina.).

### **Following the presentation of the results, each beneficiary correspondent presented case flow, duration of proceedings and beneficiaries’ good practices (all available in Annex 3 )**

The correspondent from **Serbia** presented the ongoing legal framework changes which could impact the case flow efficiency (changes in the number and structure of the courts, Human Resources strategy in judiciary etc.), and certain activities in that regard, such as the promotion of ADR and training for judges on mediation.

The correspondent from **Bosnia and Herzegovina** pointed out the biggest challenge that the judiciary is facing, which is the large number of pending cases. The largest backlog is regarding the utility cases since the enforcement procedure is considered extremely inefficient. Several activities are aimed at reforming these processes, which are still not bringing results, due to a lack of political will to accept and implement changes.

In the absence of the correspondent, the participant of the workshop from **Albania** presented the vetting process and general lack of human resources as one of the main obstacles when it comes to the efficiency of justice in Albania. Legal amendments to simplify the court



procedures, adopting strategic documents, and increasing the number of judicial staff were some of the measures mentioned as being implemented to impact efficiency. Albania is one of the countries that prescribed timeframes in the law (Article 399/2 of the Code of Civil Procedure).

The correspondent from **Macedonia** presented that the CEPEJ tools are being used as a tool in reform processes and he pointed out that the judicial map is one of the leading processes aimed at improving judicial efficiency. As one of the problems, he stressed the slow appointment process for the judges, which is the consequence of the procedure being conducted by the judicial academies.

The correspondent from **Kosovo** addressed challenges related to court efficiency and pointed out high Disposition Time<sup>3</sup>, backlog and high number of incoming cases as the main ones. Factors that are affecting this are insufficient resources (recruitment processes), too many cases inherited and also productivity of judges.

Kosovo Judicial Council is addressing these issues through new regulations on judges' quota, the development of a strategic plan for improvement of access to justice and through establishment of a Commission on monitoring and reporting on the strategy.

Law on trial within a reasonable time was proposed which should contribute to shortening the length of court proceedings.

Further discussion showed that also in Bosnia and Herzegovina, a Rulebook on timeframes was introduced but did not bring significant results. There is a Law on trial on reasonable time in Serbia as well, and a correspondent from Serbia elaborated on its stipulation. An example of "Pinto law" was presented by the Project manager, which is applicable in Italy.

The correspondent and the participant from **Montenegro** also pointed out that the huge number of incoming administrative cases is one of the main challenges when it comes to case flow (more than 90% increase of incoming cases from 2021 to 2022). Also, the lack of judges is one of the problems that negatively impacts the efficiency of the judiciary. The strikes of the lawyers that occurred in 2021/2022 had a negative impact on the case flow.

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<sup>3</sup> More info on Disposition Time as one of basic CEPEJ indicators provided in the Annex 1

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**Conclusions from the Workshop were oriented in line with two main topics of the event, as follows:**

### **Part 1 - Case flow data - Challenges in data collection and quality control:**

Within participants' presentations and after thorough discussion, certain challenges for beneficiary correspondents regarding the collection and quality control of data were identified. Having in mind regional synergies, some conclusions are listed to present good practices and to recognize potential measures which are necessary to be undertaken in order to ensure the smooth collection of data. The following conclusions should serve as a guide with measures and recommendations to beneficiary correspondents in order to establish or maintain basic conditions for optimal data collection process:

- **Significant Reduction in "Not Available Data":** in 2022, the beneficiaries managed to provide more data on the case flow than in the previous cycles. Indeed, from 2019 to 2022, the total number of cells filled out with NA ("data not available") within the case flow questions was reduced by over 30%. This improvement is a commendable achievement and is crucial for the transparency and efficiency of the beneficiaries' judicial system.
- **Responsibility for Data Quality:** Beneficiaries must ensure a high level of data quality across various judicial systems. The responsibility for accurate data registration and submission to CEPEJ lies with the institutions providing the data, necessitating vigilant monitoring. This ensures that the data accurately reflects the state of judicial affairs and supports informed decision-making at both national and European levels, allowing comparisons among beneficiaries. Additionally, maintaining data integrity enhances transparency and accountability within the justice system, fostering public trust and confidence.
- **Addressing Technical Limitations:** Acknowledging that technical limitations in different software can impede the data collection process, continuous efforts should be made to improve and standardize these processes. Implementing uniform data collection platforms or software across jurisdictions can streamline the process and minimize discrepancies arising from incompatible systems. Moreover, investing in technological upgrades and providing training to personnel can enhance their proficiency in utilizing data collection tools effectively. This approach ensures that technical constraints do not hinder the accurate and efficient collection of judicial data, thereby facilitating comprehensive analysis and reporting.
- **Network Maintenance and Capacity Building:** Sustaining the network of individuals involved in data collection and enhancing the capacity of staff engaged in this process

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is imperative for ongoing success. By investing in continuous capacity-building initiatives, such as specialized training programs and mentorship opportunities, institutions can ensure that personnel are equipped with the necessary expertise to collect and manage data effectively. This proactive approach contributes to maintaining a robust data collection network capable of meeting evolving demands and challenges in judicial data analysis.

- **Standardizing Data Collection:** Establishing standardized protocols and guidelines for data collection is paramount to ensuring consistency and reliability in the gathered information. By implementing uniform methodologies and criteria across all participating institutions, discrepancies and inconsistencies in data reporting can be minimized. Standardization facilitates comparability and enhances the overall utility of the collected data, enabling more accurate analysis and interpretation.
- **Informed Decision-Making:** Informed decision-making is paramount in ensuring the effectiveness of the judicial system. By making collected data accessible and actionable for decision-makers at all court levels, including judges and court administrators, informed decisions can be made to enhance overall efficiency and effectiveness. This utilization of data enables stakeholders to identify areas for improvement, allocate resources effectively, and implement targeted interventions to address challenges within the justice system. Ultimately, leveraging data for decision-making empowers judicial authorities to optimize processes, streamline operations, and uphold the principles of justice and fairness.
- **Adequate Categorization of Data on Cases:** The continuous categorization of cases within the collection process is essential for maintaining data comparability and reliability. Consistent categorization facilitates effective tracking of case trends and patterns, aiding in the identification of areas for improvement within the judicial system. Additionally, providing training sessions on categorization for court staff responsible for this task can greatly enhance the accuracy and consistency of data collection.



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## **Part 2: “Results on the case flow data collection – Analyses and use of the case flow data”**

During this part of the Workshop, participants presented certain measures taken by local authorities, aimed at improving of efficiency of justice. Measures were mostly implemented on the basis of analyses and use of the case flow data or they were implemented in order to improve the process of collection of data as such. This list could serve as an exchange of knowledge and experience for future endeavours.

**Some of the measures undertaken or ongoing in the region, with the aim to impact case flow efficiency, are:**

- Improvements in the legal framework and relevant strategies, such as the HR Strategy in Serbia, have been implemented to impact case flow efficiency. Namely, the HR Strategy proposes a special law to regulate the distinct status of court and prosecutorial staff, acknowledging their unique responsibilities and knowledge compared to other civil servants. A specialized law would differentiate their status, potentially leading to increased salaries, attracting more qualified individuals to pursue careers in the legal sector and improving judicial efficiency.
- Promotion of Alternative Dispute Resolution (ADR) and intensive mediation training for judges. Implementing ADR and offering comprehensive mediation training for judges would expedite certain types of case resolution, reduce court workload and backlog, and lead to more efficient justice delivery by fostering timely and appropriate settlements outside the traditional court proceedings.
- Proposed legislative and operational changes to enforcement procedures, incorporating good practices from the region, for example, transferring them to other institutions or bodies outside of court (private bailiff agencies etc.).
- Reducing unjustified delays in court proceedings through enforcing disciplinary measures against judges for unwarranted delays in court proceedings, would likely improve overall court efficiency by fostering a culture of accountability and expediting the resolution of cases.
- Increased “quotas” for judges, meaning an increased number of cases (by type) that the single judge is expected to finalize during a certain period, which is prescribed within an internal legal framework that regulates the quantity and quality of work of judges.
- Enhancements of the case management system (CMS) in courts, which significantly enhance efficiency by streamlining processes, facilitating better organization of case-related information, and expediting the overall judicial workflow. As beneficiaries have different levels of development of software in the judiciary, the exchange of knowledge in this regard could be highly beneficial.
- Training and specialization of judges in specific areas to speed up proceedings and ensure the quality of decisions.

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- Establishment of specialized courts with the potential to enhance the quality and efficiency of the judiciary by allowing for focused expertise, streamlined processes, and more effective resolution of specific legal issues.
- Judicial map reform aims to equitably distribute the workload among courts, which at the same time necessitates meticulous analyses to ensure a well-informed and effective restructuring process.
- Introduction of provisions on timeframes in the Laws on trial within reasonable time.
- Development of annual plans and programs for resolving backlog cases in order to provide a systematic and strategic approach to dealing with an existing backlog of oldest cases.
- Impact of Procedural Code Changes: Recognizing the potential positive impact, changes to procedural codes are highlighted as a significant factor in improving the efficiency of the judiciary.

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## Annex 1: CEPEJ Efficiency Indicators Overview

There are certain indicators defined by the CEPEJ that can serve as a starting point for conducting the efficiency analysis of a particular court:

**Clearance Rate** 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:

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

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.

**Example:** If in a calendar year 500 new cases were submitted to the court, and the court completed at the same time 550 cases, the CR is 110%. If the court completes 400 cases, the CR would be 80%.

**Calculated Disposition Time** 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):

$$\text{Disposition Time} = \text{Pending cases on December 31}^{\text{st}} / \text{Resolved cases} \times 365$$

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.

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## Annex 2: LIST OF PARTICIPANTS

### Representatives of the Council of Europe

Ms Federica VIAPIANA Project Manager Dashboard Western Balkans, CEPEJ Secretariat, Strasbourg  
Ms Daniela ZOL Statistician, Dashboard Western Balkans Project, CEPEJ Secretariat, Strasbourg  
Mr Enes ŠEHIĆ Senior Project Officer, Dashboard Western Balkans, Council of Europe Office in Sarajevo  
Ms Lejla BEGOVIĆ Project Assistant, Dashboard Western Balkans, Council of Europe Office in Sarajevo  
Mr Georg STAWA Expert, Judicial Attaché for the Western Balkans at the Austrian Embassy in Belgrade and former President of the CEPEJ

### Albania

Ms Baisa SEFA Advisor of HJC Chairperson, High Judicial Council of Albania

### Bosnia and Herzegovina

Mr Rusmir ŠABETA Chief of the Department for Judicial Analytics and Reporting, Secretariat of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina  
Ms Radinka LUČIĆ Deputy Chief of Department for Judicial Analytics and Reporting, Secretariat of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina

### Montenegro

Mr Blagoje GLEDOVIĆ Senior Advisor, Ministry of Justice of Montenegro  
Ms Nadja NENADOVIĆ IT Department Officer, Secretariat of the Judicial Council of Montenegro

### North Macedonia

Mr Lazar TASEV Junior Associate for Criminal Legislation, Ministry of Justice of North Macedonia

### Serbia

Ms Ivana TODOROVIC Ministry of Justice

### Kosovo

Ms Albulena UKA Senior Legal Officer, Ministry of Justice of Kosovo  
Mr Fatmir REXEPI ICT Department Director, CMIS Project Manager, Kosovo Judicial Council Secretariat

**Annexe 3: Available PowerPoint presentation from beneficiaries in a separate folder**