

# EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

## FINAL REPORT ON THE IMPLEMENTATION OF SELECTED CEPEJ TOOLS IN PILOT COURTS OF THE REPUBLIC OF MOLDOVA



based on the cooperation between CEPEJ experts and six national pilot courts

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### Programmatic Cooperation Framework for Armenia, Azerbaijan, Georgia, Republic of Moldova, Ukraine and Belarus

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## 1. Introduction

Between June 2015 and March 2017, judicial authorities of the Republic of Moldova and the European Commission for the Efficiency of Justice (CEPEJ) co-operated actively in the framework of the Project “Strengthening the efficiency of justice and support to lawyers’ profession in the Republic of Moldova” (hereinafter “the Project”), which was part of the Council of Europe and European Union Eastern Partnership Programmatic Co-operation Framework 2015-2017 (PCF)<sup>1</sup>. The main objective of this cooperation was to support a better efficiency of courts and improved quality of judicial services in Moldova. The means for attaining this objective were based on optimisation of court management through implementation of CEPEJ tools in pilot courts, analysis of their results and formulation of proposals for dissemination of the best practices to the national level.

As part of the project, a team of CEPEJ experts visited the six pilot courts designated by the Superior Council of Magistracy (SCM) of the Republic of Moldova, and conducted an in-depth evaluation of their efficiency, time and quality management, explaining and applying the specific methodology and tools promoted by the CEPEJ. Subsequently, detailed court coaching reports were presented by the CEPEJ team and discussed with the pilot courts. As a result, an agreement was reached with them on the most relevant recommendations and the corresponding priority measures to be implemented during the second phase of the project. The team of CEPEJ experts developed and submitted to the pilot courts a detailed Guide for the implementation of selected CEPEJ tools in the courts of the Republic of Moldova. Throughout 2016 the Project continuously supported the six pilot courts by organising roundtable meetings and trainings, study visits (to Slovenia and Croatia or at the Council of Europe in Strasbourg), and by providing other expert support.

The focus of CEPEJ recommendations and successive actions of the pilot courts was on improved use of judicial statistics, application of efficiency indicators such as the clearance rate and disposition time for courts’ evaluation and management purposes, along with an increased transparency and communication with court users and the public. The statistical reporting in line with the CEPEJ methodology was approved by the SCM in September 2016, as proposed by the Agency for Court Administration of the Ministry of Justice. Thus, starting with 2017, all the national courts should submit their statistical reports in line with CEPEJ guidelines on judicial statistics. Under the guidance of CEPEJ experts the pilot courts conducted projects and activities to apply the SATURN tools for better time management in their daily work. Following a number of capacity building activities, the pilot courts also introduced satisfaction surveys for users, lawyers and staff. The results of these surveys were analysed and action plans to improve the quality of services and user satisfaction were developed. These reports are to be published on pilot courts’ web sites.

In parallel to the work conducted with the pilot courts, the Project launched the process of integrating the CEPEJ tools in the training curricula for judges and court staff. A pool of selected trainers of the National Institute of Justice was coached to deliver courses on efficient court management and quality of justice to their peers. Between March 2016 and March 2017 the National Institute of Justice delivered a series of trainings on this topic. The target groups represented mainly candidate and acting judges, court chairpersons and the senior court personnel.

***The present report reflects an assessment on the part of the CEPEJ team of the activities conducted by the pilot courts in response to the Court Coaching Programme and their results. It contains a description of the achievements and eventual challenges which the pilot courts had to overcome, the final conclusions of a successful and intense cooperation as well as the recommendations for next steps. As such, this final report should become the basis for taking further actions in view of a comprehensive implementation of CEPEJ tools at national level, in all court of the Republic of Moldova. CEPEJ aims to further support the Moldovan partners and stakeholders in this process, so as to promote a better access to justice for all citizens.***

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<sup>1</sup> <http://pjp-eu.coe.int/en/web/eap-pcf/home>

## **2. Court management.**

### **2.1. The modern concept of court management**

#### **2.1.1 What is court management?**

Court management can be described as a compilation of activities and measures that enhance the efficiency and quality of delivering justice. The goal of such a combination of actions is creating the conditions for a fair procedure of an independent and impartial tribunal without unreasonable delay.

Court management can be conducted at different levels – at national level, at the level of the court or even at the level of an individual judge. It is important that the activities at these levels remain in line, producing synergetic effects. An efficient and qualitative administration of justice is therefore not only in the hands of top level management and presidents of courts, but it is essential that the goals and objectives of the judicial system reach each and every employee within the system. Best results can be achieved only by combining endeavours and activities of different individuals within the system – from managers to presidents of courts, heads of departments, judges, clerks and other judicial staff.

The basic activity of court management concerns the efficiency of a judicial system. The efficiency can be observed through different performance indicators that describe the functioning of the system – how many cases it solves within a given period of time, how quickly these cases are resolved, how many people are needed for the solution of a case, how much does it cost. These are all questions that are the main concern of court presidents and court managers - the productivity of judges and personnel, time and cost efficiency.

In order to be able to conduct effective court management a good information system is needed that enables decision makers a good insight into the functioning of the court. Reliable and consistent data on the work of courts is essential and a basic starting condition for court management. Qualitative analysis and decisions on the organisation of business procedures can only be decided upon reliable data on the work of courts. Without hard data on incoming, solved and unresolved cases for different case categories, the court and its management are not enabled to address the problems they are faced with.

Once a reliable case management system is in place, court management can start building on the information provided with different types of statistical analyses. These analyses help stakeholders to have a better understanding of the work of courts and reach better decisions. Decisions on the allocation of human resources, on the organisation of work, on time management – all these decisions are much better and successful when made on informed grounds.

The data on the work of courts can always be even more detailed, fine-tuned and expanded. The duration of a judicial procedure can be divided into steps and measuring the duration of these steps helps court management to get a better insight into the procedure and improve it. Similarly, a clear division between legal fields and work on separate data for different legal fields allows a better understanding of the specifics of each legal field. Court management is an ongoing process, it can always be improved and adjusted.

While the aspect of efficiency remains central for court management, judicial systems and international organisations focus more and more on the quality of the judiciary. The notion of quality includes different fields and areas of concern – from court premises to the work of judges and court staff, from procedural fairness to the quality of judicial decisions, from the organisation of hearings to the publication and dissemination of the work of courts, from public relations to the satisfaction of users. The areas of judicial quality can be organised in different systems and frameworks, but what seems central to all approaches is the focus on the user of justice. Justice is seen not only as the

exercise of a constitutional role and power, but first and foremost as a service to citizens. As such, it aspires to be effective, accessible and understandable.

Constructive and successful court management therefore builds from different sources. On the one hand it provides top level management with the data on the work of courts needed to make strategic decisions. On the other, it helps translate these strategic decisions and goals into concrete actions and projects for courts. This combination of top down and bottom up approach serves as a catalyst of progress. The search for excellence should include both – ideas from individual courts, judges and court staff as well as visions and strategies from the leadership. The role of court management is to be the communicator, to try to link and involve all pieces of the judicial system into a constructive and effective relationship with common goals and values.

### **2.1.2 International and European trends.**

Court management is becoming increasingly important. Technological innovation and the use of big data systems allow all sorts of analyses, but without a clear strategy a lot of hard work of individuals can be lost or not valued appropriately. The state devotes funds to the functioning of the judicial system and the judiciary is more and more held accountable for these funds and their spending. The efficiency and quality of different judicial systems is more and more debated and compared through different organisations and models.

Different models deriving from quality management have been developed, helping judicial organisations understand their working procedures better and improve them. These models help to see the work of courts from different perspectives, allowing more focused work on specific issues. They underline the need for communication and collaboration among different stakeholders in the judicial system.

CEPEJ experts have prepared various guidelines that can help court management in specific fields: from the organisation of the judicial map and court premises to the role of court experts, from judicial time management to court statistics, from quality management to court user satisfaction surveys. These documents are described briefly in this Final Report. The single most important document developed by the CEPEJ as an instrument of introspection for court managers is the Checklist for promoting the quality of justice and the courts (CEPEJ (2008)<sup>2</sup>). It includes a vast arrange of questions and areas of work that courts can focus on. The list is not exhaustive and it can be consulted over and over again as an excellent source of ideas. Combining questions from this document to best practices from different states in the fields of judicial management, also prepared by the CEPEJ, can help any judicial system to improve its quality.

The idea of comparison and benchmarking is essential to an important tool created by the CEPEJ. In October 2016 the 6<sup>th</sup> edition of the report "European judicial systems - Efficiency and quality of justice" was published. It is a collection of information on the functioning of national judicial systems, gathered from member states of the Council of Europe. Its contents are very diverse and the data include judicial statistics, the budget of the judicial system, the position of judges, court staff, prosecutors, lawyers, notaries, experts, etc. Also in the autumn of 2016, for the first time, the CEPEJ-STAT<sup>2</sup> database was set up on-line, allowing an easy comparison of justice-related data between countries. Some examples from the CEPEJ-STAT for the Republic of Moldova, providing data for the year 2014, are shown in the Appendix 8.3.

There are substantial differences among European countries in how the courts and the judiciary operate. However, especially in the last decade, there have been many common, positive developments and trends in Europe:

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<sup>2</sup> <https://www.coe.int/t/dghl/cooperation/cepej/evaluation/2016/STAT//default.asp>.

- Judicial budgets increased;
- In most European countries judges and prosecutors themselves are directly involved in the selection, appointment and promotion of their peers;
- The salaries of judges and prosecutors have risen significantly;
- Judicial backlogs are being addressed and measures are taken so that cases are disposed more quickly etc.

It should be noted that the effects of the financial and economic crisis in 2007-2008 still have a serious impact on many countries. So, the courts' budgets and performance, once more, require our full attention. How can we administer justice with reasonable amounts of money and also strengthen the rule of law?

Although it is not for the CEPEJ at this stage to define the proper level of financial resources to be allocated to the justice system, in general a correlation can be noted between the lack of performance and efficiency of some judicial systems and the weakness of their financial resources. However, the opposite is not always true: high financial resources do not always guarantee good performance and efficiency of judicial systems. It is not only a question of more money; it is also a matter of spending the money efficiently. In order to realise this, the main elements to be considered are:

- efficient organisation of judicial system;
- relevance of the procedures;
- professional management of the human and financial resources;
- responsible stakeholders of the judicial system;
- quality training.

The CEPEJ experts understand quite well that efficiency is not an aim in itself, but one of the means to deliver better justice and to improve the rule of law. A transparent and efficient way of organising the public service in general - and more specifically the judiciary - contributes to less corruption and more public trust. The efficiency and the quality of the courts or of the judiciary should be analysed simultaneously. If this is not the case, one makes the same mistake as is often made by legal professionals: by focussing only on quality, in the long run the access and public trust is threatened because of ever increasing costs and delays. Quality and productivity of the judiciary should be in balance.

Based on CEPEJ *"Monitoring and Evaluation of Court System: A Comparative Study"*<sup>3</sup>, produced by Gar Yein Ng, Marco Velicogna and Cristina Dallara, five different stages of development for the operation of monitoring and evaluation systems have been identified. Those are:

### **1. Bureaucratic Data Collection**

Bureaucratic data collection takes place outside of monitoring and evaluation purposes. Examples for courts include the registration of cases in paper and electronic registers, data collected in case tracking systems. These basic forms of data collection are ingrained in traditional court procedures and regulations. Such data is usually collected according to standards and procedures individual to the court or according to data entry methodologies which are also individual to the court. Such data can be adapted for internal monitoring and evaluation purposes at court level.

Measures have been taken in many countries to standardize this data and adapt it for national monitoring and evaluation, however, such efforts have required normative and institutional developments. In Moldova efforts were made to generalise the practices and introduce the CEPEJ-

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<sup>3</sup> CEPEJ *Monitoring and Evaluation of Court System: A Comparative Study*, available at [https://www.coe.int/t/dghl/cooperation/cepej/series/Etudes6Suivi\\_en.pdf](https://www.coe.int/t/dghl/cooperation/cepej/series/Etudes6Suivi_en.pdf).

recommended indicators at least since 2009, especially in connection to the development of case categories and statistical functions of the Integrated Case Management System.

## **2. Normative Framework**

Due to the complex relationship between judicial independence and accountability a normative framework has had to be developed in order to operate monitoring and evaluation systems within the principles of constitutional law. This element could also be conceived of as part of ordinary political accountability.<sup>4</sup> The normative framework may relate to different aspects, e.g.: the number of judges in a court, the number of cases a judge should handle, the cost price per case, the length of proceedings, the appeal ratio or the maximum of disciplinary sanctions against a judge. In this Project we will concentrate on setting timeframes for cases and exploring benchmarks for results of satisfaction surveys.

## **3. Institution Building**

Institution building has characterized the first stage of implementation of the normative framework. From the data this has varied widely from the adaptation of already existing offices, to the creation of new units or even institutions such as the Council for the Judiciary in the Netherlands. In Italy, for example, there has been a transfer of competences from the National Institute of Statistics to a Statistics Directorate General within the Ministry of Justice and the creation of special unit within the Ministry of Justice for the evaluation of costs' performance and management. In France, two approaches have been taken. On the one hand, a special court service was set up to assist in court management and on the other hand judges work as policy makers in the Ministry of Justice. In Moldova the relation between the Agency for Courts' Administration (currently under the aegis of the Ministry of Justice), the Superior Council of Magistracy and the Supreme Court of Justice, concerning the efficiency and quality of courts should be further clarified.

## **4. Monitoring and Evaluation**

Only having established a normative framework and institutional setting can one start looking at operating an effective evaluation and monitoring system. In order to be effective, it must operate transparently and with trustworthy standards. This can be broken down to various factors: trust in the monitoring and evaluating institution, perception of usefulness of the exercise, methodology for data collection. On the issue of methodology for data collection, specific organisation characteristics such as size of the court, case typology, number of cases, court procedures make it difficult to create reliable indicators and standards by which to monitor and evaluate court activities in a generic way. The use of data collected with tools designed for bureaucratic data collection can sometimes lead to a false picture of court activity. What is also needed is that the mechanisms built into the system try to ensure more objective, accurate and reliable results. This is something that they are attempting to do in the Netherlands, Italy and France through ICT and constant development of criteria for indicators and standards. This Project tries to explore the first steps on this road for the Moldovan courts.

## **5. Accountability and Action**

The final stage for creating an effective monitoring and evaluation system is in the mechanisms for actions and accountability based on the use of the data collected. According to research "Monitoring and Evaluation of Court System: A Comparative Study" - CEPEJ, there are three main uses of the data. On the one hand, some countries collect data but do nothing with it. On the other hand, countries like France, the Netherlands and Italy use it in differing degrees to hold courts to account for spending or to allocate resources as well as to make the organisation more transparent. Finally,

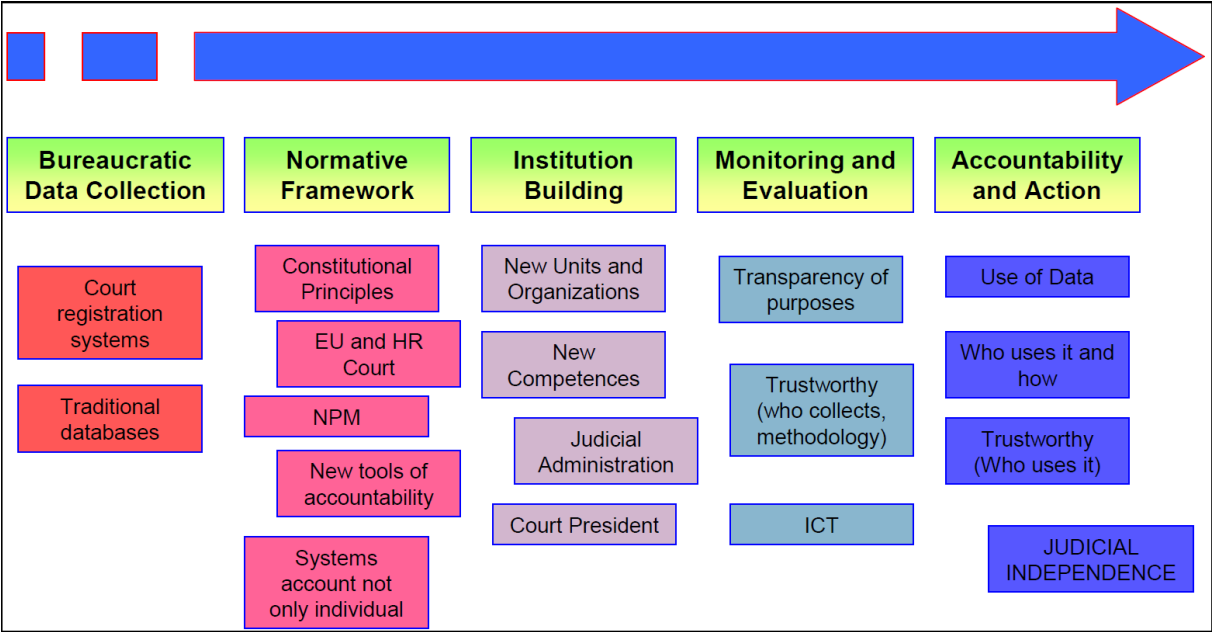
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<sup>4</sup> G. Y. Ng, 'Quality of Judicial Organisation and Checks and Balances', Law, Utrecht 2007 pp.17-18



countries like Slovenia use it to mark progress in the judicial organisation and to adapt policies accordingly.

**Graph 1. Monitoring and evaluation model**



In essence, strengthening policy making capacities is like building the road to Rome, is a process that will take more than one day. It is not simply a matter of setting up units and tasking them with the job of monitoring and evaluating courts. There is a matter of having a scientifically substantiated concept and a strong normative basis, of training personnel, building trust within the respect of balance of powers.

**2.1.3 Court management in the Republic of Moldova from a European perspective.**

By the Law no.153, of 5 July 2012, the competences of the SCM were strengthened in regard to the administration of the judicial system. The SCM was granted the competence to determine the number of judges per court. This is an important step towards strengthening the role of the SCM for a more efficient administration of the judicial system. The SCM has developed and approved the Regulation on the criteria for determining the number of judges in courts. Among the criteria to guide a decision on the number of judges are: the workload of judges (case per judge) for the last three years; the annual average workload per judge in the country; case complexity; the number of judges per capita (in the court district); the number of inhabitants per court district; the number of cases specific to the respective court and district etc. Thus, the SCM can track the workload in various courts and respond more quickly to the needs to appoint judges in a court where the workload is higher.<sup>5</sup>

Management thinker Peter Drucker is often quoted as saying that "you can't manage what you can't measure." It is meant that you can't know whether or not you are successful unless success is defined and tracked.

The starting point for the current Project was the 2014 Report Efficient Judicial Systems in five countries: Armenia, Azerbaijan, Georgia, Republic of Moldova and Ukraine, published within the

<sup>5</sup> Legal Resources Centre from Moldova, "Achievements and faults in reforming the justice sector of the Republic of Moldova: 2012 - July 2014", p. 12-13, available at <http://crjm.org/wp-content/uploads/2014/09/LRCM-Achievements-Just-sector.-Translated-chapters.pdf>.

framework of the European Union and Council of Europe Joint Project entitled "Enhancing Judicial Reform in the Eastern Partnership Countries".<sup>6</sup> In this report the efficiency, court management and policy making capacities of five Eastern Partnership countries were analysed. The pilot courts from Moldova that participate in the current Project were selected partially because of the results of the analysis from 2014.

Given the developments of available financial and personal resources, the existing workload (in terms of cases per 100.000 inhabitants), the ability to handle the annual inflow of cases (clearance rate) and the calculated length of proceedings (disposition time) in Moldova (see appendix 8.4) and from a European perspective, the judicial system of the Republic of Moldova displays the following characteristics:

*Less than average available resources*

Taking into account input indicators (court budget per capita in relation to average gross annual salary; gross salary of a judge in relation to average gross annual salary; professional judges per 100.000 and non-judge staff working in courts per 100.000) the judicial system of the Republic of Moldova operates with less than average resources. The situation has partially improved between 2010 and 2014 as the funds for the court system have grown. Nevertheless, the budget for courts per inhabitant is far below the median value of CoE Member States (2014 data: 5,36 EUR per inhabitant for the Republic of Moldova with a median value of 30,30 EUR for all CoE countries).

*Better than average non-judge staff per professional judge*

In 2014 the number of non-judge staff per professional judge increased to 4,9, compared to 3,5 in 2010 and 3,4 in 2012. When compared with the average of the CoE Member States of 3,9 in 2014 and, respectively, 3,8 in 2010 and 3,9 in 2012. Data for 2014 shows that Moldova is in the top 7 countries by number of non-judge staff per professional judge, ahead being Malta (9,5), England and Wales (9,4), Spain (9,1), Scotland (8,0), Ireland (5,8), and Israel (5,5). The following countries have the lowest rate – Finland (2,2), Romania (2,2), Monaco (1,3), Norway (1,5), Luxembourg (0,9).

*Less than average workload (or inflow of cases)*

The annual inflow of cases (or workload) is below the average in 2010, 2012 and 2014, when compared to the inflow of cases per 100 inhabitants in the judicial systems of the CoE Member States. In 2014 the figures were the following for incoming 1<sup>st</sup> instance cases per 100 inhabitants:

- Civil litigious and commercial cases:
  - o Republic of Moldova – 2,1
  - o Average in CoE member States – 2,6
- Criminal cases:
  - o Republic of Moldova – 1,1
  - o Average in CoE member States – 2,0
- Administrative cases:
  - o Republic of Moldova – 0,17
  - o Average in CoE member States – 0,30

*Average ability to handle the annual inflow of cases*

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<sup>6</sup> Report "Eastern Partnership: Enhancing Judicial Reform in the Eastern Partnership Countries - Efficient Judicial Systems Report - December 2014", available at [http://www.coe.int/t/dghl/cooperation/cepej/cooperation/Eastern\\_partnership/ENG\\_Efficient%20Judicial%20Systems%202014%20FINAL.pdf](http://www.coe.int/t/dghl/cooperation/cepej/cooperation/Eastern_partnership/ENG_Efficient%20Judicial%20Systems%202014%20FINAL.pdf).

While in 2010 all clearance rates were below 100%, the situation improved in 2012, when clearance rates were in line with average values and around 100%, apart from criminal cases. In 2014 the situation changed again, with clearance rates at first instance below 100% for both civil and commercial cases (97,1%) as well as criminal cases (95,1%), but above 100% (103,5%) for administrative cases. Clearance rates below 100% show that the judicial system does not cope with the amount of incoming cases, which leads to the increase in the number of unresolved cases and longer disposition times.

*Better than average case disposition time, though a negative trend may be noticed*

Even though the judicial system of the Republic of Moldova still has better than average disposition times, a negative trend was present due to the inability to handle the annual inflow of cases, which raises concerns. More specifically, the disposition time for civil and commercial cases at first instance slightly decreased from 110 days in 2010 to 106 days in 2012, rising to 127 days in 2014 (CoE median 177 days). The disposition time for criminal cases at first instance has changed substantially with 103 days in 2010, a high rise to 156 days in 2012 to return back to 102 days in 2014 (CoE median 113 days). Last, the disposition time for administrative law cases follows a similar pattern as civil and commercial cases – it has decreased from 165 days in 2010 to 126 days in 2012, but rose to 186 days in 2014 (CoE median of 202 days).

Based on the initial evaluation of the 6 pilot courts, the team of CEPEJ experts came to some conclusions which may describe the distinctive features of the entire court system of the Republic of Moldova, such as:

- A limited scope of pro-active, professional court management at the level of individual courts. This is certainly due to lack of institutional expertise and traditions and of appropriate professional training for court managers. The situation is obviously different in the case of the Supreme Court of Justice, which actively applies modern management techniques.
- Reduced understanding of the practical tools enabling the measurement of efficiency and quality of judicial services and taking informed decisions in view of improving court performance. In the case of the pilot courts this was remedied through the efforts of the Project to raise the awareness and improve the understanding of judges and employees of the court in regard to the CEPEJ tools and their practical application.
- The efficiency indicators are generally good and the court system of the Republic of Moldova is not facing serious problems with the judicial timeframes or with backlogs of cases. On the other hand, there exists a misbalance in the workload of courts/judges of the same level. Among the pilot courts of the Project the Chisinau Appellate Court and the Riscani District Court of Chisinau Municipality (hereinafter Riscani District Court) are the busiest, scoring cases per judge several times higher than in similar courts outside the capital. It seems that this misbalance is characteristic also for other courts, which were not assessed as part of the project, and it is the role of the administrators and decision makers at the national level, mainly the Superior Council of Magistracy, to take actions in view of restoring a healthy balance between the input, resources and the output requested from each court. The CEPEJ tools implemented in the pilot courts are very useful, not to say indispensable, for achieving this objective.
- The concept of “reasonable time” is predominant in the procedural law of the Republic of Moldova, but there are also many categories of cases for which strict timeframes of 1 or 3 months and/or short legal delays for certain procedural steps are established. The interpretation of the judicial celerity/timeliness is based on the doctrine and case-law of the European Court of Human Rights. This approach is supported by the CEPEJ experts, while for

the purpose of offering a more detailed guiding to judges and promoting uniform timeframes throughout the system, it would be sufficient to approve corresponding targets and monitor the compliance of courts and judges with such targets, in line with the recommendations of the SATURN Centre for judicial time management.

- In line with European and international trends as well as the public demand, concerns for the quality of justice and courts gain ground also in the Republic of Moldova. There is a vague understanding of what could be done in this regard, apart from improving the professionalism of judges or staff and increasing the quality of judicial decision making. Strategies for better quality of services are lacking at the level of courts and/or individual judges. At the same time, it is especially at the level of courts where the measures to improve quality should be rooted, and there they prove to be the most efficient. Therefore, without an intention to diminish in any way the value of “qualitative decisions”, CEPEJ promotes measures to increase the quality of services offered by courts and implicitly user satisfaction.

## **2.2. The role of different stakeholders**

### **2.2.1 Judicial self-governing and the Ministry of Justice**

The Superior Council of Magistracy and the Ministry of Justice (MoJ) are the main institutions to ensure the optimisation of court management through implementation of CEPEJ tools, data collection, judicial statistics, adoption of relevant indicators and measures to improve time management in view of ensuring access to justice within reasonable time, the proper functioning of the Integrated Case Management System (ICMS) and the quality management. Also these institutions are the main authorities responsible for ensuring public accountability and communication. Some common efforts are covered by the policy documents adopted at the national level, such as Strategy for Justice Sector Reform (2011-2016)<sup>7</sup> and the Government Action Plan for 2016-2018<sup>8</sup>.

The Superior Council of Magistracy and the Ministry of Justice should have a good cooperation to ensure that the reforms are implemented in line with the best practices and empower the judiciary to deliver quality justice, inspiring higher trust in justice by the general public. Contrary to this, according to the Barometer of Public Opinion survey conducted by the Institute for Public Policy, the level of trust of Moldovan population in the judiciary is decreasing, with 74,5% of the population not trusting judiciary in November 2011 up to 89,6% in October 2016. More intensive and better communication with the public at all levels of the judiciary (including the court level) and periodic decentralised public debates are to be considered. The SCM has started an interesting campaign, explaining at local level the latest developments in the justice sector, with participation of the general public, students, local public administration, judges, prosecutors, civil society representatives, etc. This communication is welcomed and should be made part of the communication strategies of both the SCM and MoJ.

By its decision no. 634/26 of 29 September 2016,<sup>9</sup> the SCM took note of an address by the Agency for Courts' Administration and approved the indicators for the purpose of modernisation of judicial statistics. The decision envisages developing an information system to collect, analyse and report data, as well as to set some specific efficiency and quality indicators. The respective activity is connected by the Ministry of Justice to implementation of the Government's Action Plan for 2016-

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<sup>7</sup> [http://www.justice.gov.md/public/files/file/reforma\\_sectorul\\_justitiei/srsj\\_pa\\_srsj/SRSJen.pdf](http://www.justice.gov.md/public/files/file/reforma_sectorul_justitiei/srsj_pa_srsj/SRSJen.pdf).

<sup>8</sup> Government Action Plan for 2016 – 2018, available at

[http://www.gov.md/sites/default/files/document/attachments/government\\_of\\_republic\\_of\\_moldova\\_-\\_action\\_programme\\_of\\_the\\_government\\_of\\_republic\\_of\\_moldova\\_for\\_2016-2018.pdf](http://www.gov.md/sites/default/files/document/attachments/government_of_republic_of_moldova_-_action_programme_of_the_government_of_republic_of_moldova_for_2016-2018.pdf).

<sup>9</sup> <http://csm.md/files/Hotaririle/2016/26/634-26.pdf>. (available only in Romanian).

2018<sup>10</sup>. This decision is certainly the result of and a follow up to the CEPEJ Court Coaching Programme and of the implementation of CEPEJ tools in the pilot courts. It envisages the implementation of most of the indicators recommended by the CEPEJ expert team, including the disposition time, age of pending case, case per judge, staff per judge, appeal ratios, and cost per case. Application and integration of the CEPEJ judicial indicators and tools into the ICMS should be further developed. The Superior Council of Magistracy, the Supreme Court of Justice and the Agency for Courts' Administration are encouraged to further develop the rules on application the CEPEJ guidelines on judicial statistics in courts.

As mentioned already, since 2012 the mandate of the SCM was strengthened. It can decide on the number of judges and staff per court. This allows ensuring a certain balance of the workload and, as a consequence, a better quality of adjudication, effects which were already observed in some courts. In this respect, any change to the ICMS shall ensure a balance for judges' workload and take into consideration the case complexity.

Several important reform steps were conducted in last few years: new laws with regard to the strengthened mandate of the SCM and judge's carrier; optimisation of the judicial map; increased judges' and court staff salaries, etc. For the coming years capital investments in the infrastructure of new courts and equipment will be need. Thus, the SCM and MoJ have to ensure keeping the costs of justice within reasonable limits, based on efficient court management and implementing mid-term priorities of justice sector reforms.

All data collection and analysis should be undertaken in a transparent way. The main results should not only be delivered to all direct stakeholders of justice administration, but also to all actors involved in the functioning of the judicial system. The opinions of researchers should be taken into account to improve this mechanism.<sup>11</sup>

The CEPEJ expert team highly appreciates the efforts of the Agency for Courts' Administration to publish on its web site<sup>12</sup> periodic and annual reports on the random assignment of cases. The Agency is encouraged to disseminate to the public any relevant information also by courts' web sites and the media.

### **2.2.2 Courts**

The efficiency of the judicial system depends on each and every court. The court management can influence and reduce the court staff's workload and ensure that employees can face their daily obligations by being well trained. The results of recent staff surveys in pilot courts show that, in some cases, court administration have to be concerned with and act to improve the internal working environment.

Courts are also responsible to make their work more visible and explain to the relevant stakeholders and the public their performance (both efficiency and quality) and the challenges they are faced with. Formal and periodical meetings between court management, local prosecution service and lawyers are highly recommended, to ensure a coordination and balanced workflow, examination of cases within reasonable time, a lower percentage of quashed or modified decisions by higher lever courts etc. The stakeholders' involvement is necessary for at least three reasons: 1) it helps to build the commitment among all the key players, 2) it creates a proper environment for the development

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<sup>10</sup> Government Action Plan for 2016 – 2018, p. 35, available at [http://www.gov.md/sites/default/files/document/attachments/government\\_of\\_republic\\_of\\_moldova\\_-\\_action\\_programme\\_of\\_the\\_government\\_of\\_republic\\_of\\_moldova\\_for\\_2016-2018.pdf](http://www.gov.md/sites/default/files/document/attachments/government_of_republic_of_moldova_-_action_programme_of_the_government_of_republic_of_moldova_for_2016-2018.pdf).

<sup>11</sup> CEPEJ guidelines on judicial statistics (GOJUST), available at [http://www.coe.int/t/dgh/cooperation/cepej/textes/Guidelines\\_en.pdf](http://www.coe.int/t/dgh/cooperation/cepej/textes/Guidelines_en.pdf).

<sup>12</sup> <http://aaij.justice.md/ro/rapoarte/rapoarte-generale>.

of innovative policies, 3) it points out that the responsibility for timely case processing is not just in the court operations but also includes other players, first and foremost the lawyers. Therefore, if the issue at stake is to tackle length of proceedings, it seems more appropriate to talk of “timeliness of case processing” rather than “timeliness of court processing”.<sup>13</sup>

Courts are mainly responsible for providing the statistics on their activity. Thus, any work in this respect should be based on the presumption that court staff can produce quality data and easily understandable reports for court users and the general public.

Well-managed courts make good use of information technologies. The automation systems and processes currently introduced in courts requires from them and other actors to work more closely and at new levels of detail. This sometimes creates tension and requires superior management, delegation, and communication. The quality of technical staff is critical and the market for them makes it difficult for courts to compete. But for even highly qualified court technologists to be effective, court leaders must manage the technologists. Talented court leaders know how to blend technical staff into the court and justice system, achieve common understandings and, very importantly, ensure that technical staff service and support those who do the court's work. Budget, staff, equipment, and caseload and other business processes must be aligned.<sup>14</sup>

### 2.2.3 Judges and court staff

The basic and most important elements in delivering justice are judges and the court staff. They are those who can determine the perception of the court users or the general public that the judiciary is independent, that a judgement was delivered with no influence, in a timely and professional manner, and contribute substantially to a better justice. At the same time, judges and court staff should improve their communication and be created opportunities for continuous professional development. It is important that judges and judiciary as a whole can contribute to the development of policy documents, an objective that should be ensured by the Superior Council of Magistracy.

## 3. Judicial statistics.

### 3.1. Judicial statistics as a tool to evaluate and improve the performance of courts' recourses, caseload and related CEPEJ-recommended indicators.

Official statistics play a central role in democratic societies as they provide public authorities, policy makers, citizens and users with objective and impartial information to support taking evidence-based decisions and engaging in open debate.<sup>15</sup>

All producers of official statistics shall develop, produce and disseminate statistical data according to the following main principles of official statistics and other agreed statistical principles:

(a) **Professional independence**, meaning that producers of official statistics shall decide, independently and free from any pressures or interference from political or other external sources, on the development, production and dissemination of statistics, including the selection of data sources, concepts, definitions, methods and classifications to be used, and the timing and content of

<sup>13</sup> Compendium of “best practices” on time management of judicial proceedings CEPEJ(2006)13,

<sup>14</sup> Curriculum Guidelines, National Association for Court Management, USA.

<sup>15</sup> Please see “Generic law on official statistics for Eastern Europe, Caucasus and Central Asia”, by United Nations Economic Commission for Europe, p. vii: [https://www.unece.org/fileadmin/DAM/stats/publications/2016/ECECESSTAT20163\\_web.pdf](https://www.unece.org/fileadmin/DAM/stats/publications/2016/ECECESSTAT20163_web.pdf)

all forms of dissemination. Producers of official statistics, in their respective areas of competence, may comment publicly on statistical issues and any misuse of official statistics;

(b) **Impartiality and objectivity**, meaning that official statistics must be developed, produced and disseminated in a neutral, reliable and unbiased manner according to professional standards and free from any political statements or considerations. All users must be given equal and simultaneous access to official statistics;

(c) **Accuracy and reliability**, meaning that official statistics must reflect as faithfully, accurately and consistently as possible the reality and be based on scientific criteria used for the selection of sources, methods and procedures;

(d) **Coherence and comparability**, meaning that statistics are consistent internationally and comparable over time and across regions and countries;

(e) **Clarity and transparency**, meaning that official statistics must be presented in a clear and understandable way, and the methods and procedures applied must be transparently communicated to users to facilitate proper interpretation;

(f) **Statistical confidentiality and exclusive use for statistical purposes**, meaning that individual data collected or obtained by producers of official statistics that refer to natural or legal persons are to be strictly confidential and used exclusively for statistical purposes;

(g) **Relevance**, meaning the degree to which official statistics meet current and emerging user needs and honour citizens' right to public information.

The users of official statistics are defined as the general public, the media, researchers and students, businesses, national and local authorities, non-governmental organizations, international organizations and authorities of other countries who receive or access official statistics.

### **3.1.1. Collection of data and the implementation of CEPEJ standards and methodologies at the pilot courts**

Within the scope of the Project, one of the main focuses was put on improving the collection and analysis of judicial statistics at the six designated pilot courts, as well as using it for the overall improvement of the performance of these courts. Based on the data provided by the courts during the implementation of the Project, the experts concluded, both in the *Court Coaching Reports* and in the *Guide for the implementation of the selected CEPEJ tools in the courts of the Republic of Moldova*, that little analysis concerning the key statistical indicators on their functioning is done by the courts (e.g. staff-judge ratio, productivity of judges, clearance rate and disposition times for the main types of cases) as well as little external reporting/accountability concerning the performance of the court was carried out.

As a consequence of a discussion of the findings of CEPEJ experts, the representatives of six pilot courts agreed to consider the implementation of a statistical analysis method in line with CEPEJ guidelines on judicial statistics.

In order to provide statistics, analyses and reports in line with the *Court Coaching Reports* and recommendations, the following tables have been implemented by the pilot courts:

- Table 1: General information concerning the court (the actually implemented budget and human resources in full time equivalent – judges, judicial assistants and non-judicial staff).
- Table 2: Workflow information per case category (the number of: cases pending on 1 January of the year; cases registered during the year; cases resolved during the year; cases pending on 31

December of the year; appealed decisions; quashed or modified decisions). Based on this data a table can be generated with the actual structure of the caseload – weighting the pressure exercised by different categories of cases on the court.

- Table 3: Age of the pending cases.

Based on the tables described above, the following court performance indicators and other important information on the timeliness have been calculated or drawn up:

- General information concerning the court:
  - a. Judicial assistants per judge ratio;
  - b. Non-judicial staff per judge ratio;
  - c. Total number of staff per judge ratio;
  - d. Incoming, Resolved, Pending per judge ratio;
  - e. Incoming, Resolved, Pending per staff ratio;
  - f. Cost per case.
- Workflow information per case category:
  - a. Clearance Rate;
  - b. Disposition Time (in days);
  - c. Ratios regarding the structure of incoming, resolved, pending cases.
- Information on appeals per case category:
  - a. Appeals ratio;
  - b. Quashed or modified decisions ratio.
- Age of pending cases:
  - a. Cases the examination of which risks to incur unreasonable delays.

All the above described efforts showed that the six pilot courts started to improve their statistical tools in line with the CEPEJ methodology, which is giving them new insights in the actual problems of the functioning of the courts, as well as the possibility to cope with these problems, address them more promptly and improve the overall performance of the courts and monitor the results.

One challenge faced by the pilot courts was related to the classification of cases for the purpose of analysing the courts' performance. Selecting the categories and sub-categories of cases to be monitored in a long-term perspective and uniformly for all courts is difficult from two points of view. First of all, both the court management and the leadership of judicial system should have the fullest possible picture in regard to the overall workload of courts and judges. At the same time, the number of categories of cases monitored for the purpose of analysing the courts' performance cannot be too big, because the objective of undertaking a feasible and useful analysis is decreasing with the number of less important details added to this exercise. The pilot courts selected 7 main categories, including 12 sub-categories of cases, which is viewed as reasonable by the CEPEJ experts. It should be mentioned that in regard to the sub-categories of cases such indicators as CT, DT, AR are QMD were calculated, but further analysis was not performed, contrary to the in-depth analysis in regard to the main categories. The pilot courts did not reach a final agreement on the opportunity to gather data on such sub-categories as "7.5 Distributed requests for legal action" and "7.6 Requests for legal action left without further examination, refused or returned to the plaintiff". These requests, although examined and acted upon by judges, are not considered as "cases" (but may eventually become) and therefore the current official statistical reporting disregards them. Nevertheless, they make part of the courts' judicial workload at a certain moment of time and some of the pilot courts proposed to take them into account. This matter deserves consideration by the MoJ and SCM.



### **3.1.2. The Supreme Court of Justice**

According to the new statistical data for the years 2015 and 2016, the Supreme Court of Justice (SCJ) is continuing with the good trends that have been already noted by the experts in the Court Coaching Report from February 2016 (in which the statistical data from 2010 to 2014 has been analysed).

The slight decrease in the number of judges has continued, as well as the slight increase of the judicial assistants and non-judge staff.

In 2012 several legislative changes with regard to the Supreme Court of Justice resulted in most of the proceedings being conducted without hearings with the participation of parties. The institution of inadmissibility was strengthened and the number of judicial assistants was increased to three per judge (in comparison to judges of first instance and appeal courts who have only one judicial assistant). All these measures contributed to positive trends with regard to the courts' performance indicators such as the number of solved and pending cases, the clearance rates and disposition times.

Regarding the caseload, the total number of both incoming (2015: 11.696, 2016: 11.956) and solved cases (2015: 11.481, 2016: 12.097) increased slightly, while the number of pending cases decreased (2015: 1.140, 2016: 999). Looking at the longer period of five years, the number of pending cases was cut down almost in half (in 2012: 1.849!).

Clearance rate has also improved from 98,2% in 2015 to 101,2% in 2016.

Disposition time decreased from 36 days in 2015 to 30 days in 2016. Again, the trend is even better if we look at the wider timespan: DT was 63 days in 2012.

Regarding the specific categories of cases, the trends are again positive. The only noticeable variance is the increase of the pending insolvency cases in the 5-period-time (42 in 2012 to 85 in 2016), but this increase is insignificant compared to the almost 10 times increase of the incoming insolvency cases (142 in 2012 to 1140 in 2016) which has been the result of the legislative changes. Additionally, the structure of the pending cases changed: in 2012 just 18% of the overall number of pending cases were criminal, while in 2016 criminal cases have contributed with 40% to the overall volume of the pending cases.

Although the experts were assured of the consistency and the accuracy of the provided statistical data, there is still the issue of the modality of data collection. All the data from the Supreme Court of Justice (as from most of other pilot courts!) have been extracted manually, because the functionalities of the judicial case-management system (ICMS) would not allow for an automatic extraction of the CEPEJ-recommended indicators or of the data on the basis of which they are calculated. There is also a problem with the categorisation of the cases within the ICMS, which is not fully compatible with the CEPEJ approach. As a consequence, the precious time of the staff of the SCJ, as well as of all the other pilot courts, had to be committed for the required data collection. This was worth the result, but there is a better way to save these resources in the future, by enabling a few functions within the ICMS.

### **3.1.3. The Appellate Courts**

While implementing the CEPEJ tools and methodology as part of this Project, the trends at the appellate courts were changing and the situation with regard to court management was generally moving in the right direction. Due to the increased number of judges and court staff, and to other undertaken measures, the efficiency of the Chisinau Court of Appeal is improving, while, surprisingly enough, the Cahul Court of Appeal revealed signs of distress.

When comparing the statistical data for the years up to 2014 (for the Chisinau Court) and up to 2015 (for the Cahul Court), that were provided to the experts at the beginning of 2016 (and which were

included in the Court Coaching Reports) with the data that was provided at the beginning of 2017 (and which are included in this final report), numerous discrepancies and inconsistencies were noted. This fact was explained by the fact that the collection tools and methodologies have improved in the last two years; the knowledge of statistics and the understanding of the CEPEJ indicators and tools also improved at both courts, while at the Chisinau Court new and well-trained staff was collecting and analysing statistical data for the latest exercise. This was acknowledged by the experts and the newly provided data were taken into consideration as more accurate for this report. Still, the problem with the manual data collection and the lack of the ICMS' functionalities for extracting the data, as already noted above, is occurring at both appellate pilot courts.

### **The Chisinau Appellate Court**

At the Chisinau Appellate Court, especially after the court moved from two premises to the new single location, the trends showing the performance of the court were improving. Although this is still the biggest and among the most overburdened courts in the Republic of Moldova, the experts noted that the usage of CEPEJ standards and methodologies is already showing results. The new and more accurate statistical data show which are the most critical issues that have to be addressed for a better performance of the court. The annual report, that has been developed in line with the recommendations of the experts from the Court Coaching Report and the Implementation Guide, is acknowledged as a good practice and a big step forward. The experts are encouraging its publication and the continuation of a regular (annual) drafting of this report.

Regarding the concrete statistical data, only the last three years were taken into consideration as being consistent and relevant, although, as already noted, still being collected at least partially in a manual way, or through numerous manipulations of the ICMS.

The budget and the number of employees (judges and staff) were increasing in the last 3 years, which must be encouraged because of the number of cases coming before the concerned court and the case per judge indicator which is two times higher compared to other Appellate courts (in 2016 Chisinau Appellate Court had 548 resolved cases per judge (CPJ), Balti Appellate Court had 297 CPJ, Comrat Appellate Court had 245 CPJ cases and Cahul Appellate Court had 189 CPJ).

The total number of incoming (2014: 27.506, 2015: 28.752, 2016: 29.336), solved (2014: 23.753, 2015: 28.222, 2016: 29.094) and pending cases (2014: 5.845, 2015: 6.405, 2016: 6.647) was increasing, but two most important CEPEJ indicators are showing encouraging trends: the Clearance Rate is improving (2014: 86%, 2015: 98%, 2016: 99%) and the disposition time is decreasing (2014: 90, 2015: 83, 2016: 83).

Regarding the specific categories of cases, the trends are generally positive. It was noted by the experts that the categories that were mentioned as critical ones in the Court Coaching Report (civil, commercial, insolvencies) are showing good trends. All showed improvement in regard to the Clearance Rate (civil – from 80,5% in 2014 to 99,8% in 2016, commercial – from 88,3% in 2014 to 101,2% in 2016, insolvency – from 70,3% in 2014 to 86% in 2016), while the Disposition Times are stable for the civil (2014 – 104 days, 2015 – 100, 2016 – 103) and is increasing for the insolvency cases (2014 – 276, 2015 – 220, 2016 – 302). Criminal cases must be paid more attention because of the negative last year's results (CR in 2015 – 107,2%, in 2016 – 96,6%, DT in 2015 – 84 days, in 2016 – 98 days).

### **The Cahul Appellate Court**

On the other hand and as mentioned already, the Cahul Appellate Court is showing negative trends. In the Court Coaching Report it was stated that the Cahul Court is a small, well-functioning court which can handle its workload, "but is not taking any additional efforts to further increase solving

and speed up the proceedings. The judges were solving precisely the same amount of cases (in percentages) to stay at almost the same level of efficiency each and every year (if the annual inflow is bigger, they were solving more, if it was an “easier” year, they were solving less); from that fact one can easily conclude that there is a lot of potential to increase the overall performance of the court”. Unfortunately, the Cahul Appellate Court hasn’t taken that additional effort to increase efficiency, but, on the contrary, has worsened its performance.

Although the budget increased in the last two years (from 4.8 in 2015 to 6 million in 2016), as well as the number of judges (from 6 to 7), judicial assistants (from 13.2 to 16.4) and staff (31.6 to 35.6), and the inflow of cases has decreased (from 1812 to 1679), less cases have been solved (1540 in 2016 compared to 1752 in 2015). This resulted in the increase of the pending cases (362 in 2015, 501 in 2016).

The Clearance Rate was rapidly decreasing (2014: 100,1%, 2015: 96,7%, 2016: 91,7%!) and the Disposition time in 2016 (119 days) almost doubled compared to 2014 (66 days).

Trends are negative in all categories of cases (except for insolvencies): civil cases were in just one year lasting almost twice as long (61 days in 2015, 110 in 2016) and the CR has fallen from 105,3% to just 91,8%. The longer lasting of proceedings and less solving of cases is a trend for all other categories of cases: commercial (DT 57 to 98 days, CR 115,6% to 93,4%), administrative (DT 81 to 110 days, CR 100% to 95,1%) and criminal cases (DT 77 to 103 days, CR 100% to 92,4%).

Apparently, among the objective reasons for the overall poor performance of the court in the last 1-2 years are judges’ movement (replacements, transfers) and sick-leaves. At the Cahul Court they are aware of the negative trends and will work hard to turn the trends to positive ones. The CEPEJ methodology gave them a better insight into the problems and an important step forward would be to have the possibility to extract the data from the ICMS.

#### **3.1.4. The First Instance Courts<sup>16</sup>**

As well as already noticed with the appellate courts, the first instance pilot courts have shown a great improvement in implementing the CEPEJ standards and tools. The main concerns remain the same as the ones already detected in regard to the SCJ and the appellate courts (e.g. improving of the ICMS’ functionalities), and also some of the trends share similarities (like the improvement of the performance indicators of the biggest and one of the most overburdened first instance courts after the start of the implementation of the CEPEJ methodology). It must be mentioned that at all the three first instance pilot courts the same discrepancies occurred regarding the data provided to the CEPEJ experts in the beginning of 2016 and 2017, as already detected at the appellate courts.

##### **The Ialoveni District Court**

The Ialoveni Court is another relatively small court which is showing negative trends. In the Court Coaching Report the increasing of the inflow of cases (both overall and per judge) has been stated, as well as the slight decreasing of the Clearance Rates and the stability of the Disposition Times. Unfortunately, the latest data are rising more concerns, especially the data for 2016.

There were less employees at the court in 2016 than in 2015 (judges from 6 to 5, judicial assistants from 37 to 34, other staff from 25 to 24).

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<sup>16</sup> On 1 January 2017, entered into force the Law no. 76 on reorganization of national courts of, 21 April 2016. Based on it, the Centru, Buiucani, **Riscani**, Botanica and Ciocana courts from mun. Chisinau merge, forming the new Chisinau Court; Floresti court merges with **Soroca** court, forming the new Soroca Court; **Ialoveni** court merges with Hincesti court, forming the new Hincesti Court. Thus, the expert team used the pilot court’s names before entering into force the Law no. 76.

The inflow of cases is relatively stable (in 2014: 3.136, 2015: 2.881, 2016: 2.903), but the solving has decreased (in 2014 – 3015 cases, 2015 – 2.821, 2016 – 2.578). Accordingly, the number of pending cases has increased (in 2014 – 970, 2015 – 1.120, 2016 – 1.341 cases).

Clearance Rates dropped significantly in 2016, both overall (from 97,9% in 2015 to just 88,8% in 2016) and for the majority of the specific categories of cases (civil – from 104,3% to 88,5%, commercial – from 99,4% to 95,3%, administrative offences – from 105,1% to 89,3%). CRs for criminal and administrative cases slightly increased, but overall also performed poorly (criminal – 84,7% to 88,2%, administrative – 90,4% to 91,8%).

The situation with the Disposition Times is even more worrying. For the total of cases it increased from 117 days in 2014 and 145 in 2015 to 190 days in 2016 (even more worrying when compared to just 92 days in 2012!). Looking at the specific categories of cases, the Disposition Times are higher in all of them: civil (2015: 195, 2016:248), commercial (2015: 121, 2016: 159), administrative (2015: 108, 2016: 349), criminal (2015: 233, 2016: 295).

### **The Riscani District Court of Chişinău**

The Riscani Court of Chişinău was, while gathering data and writing the Court Coaching Report, together with the Chisinau Appellate Court, one of the courts with the most obvious problems within the Moldovan judiciary. The most illustrative example is the number of cases per judge; in the Riscani Court this number was for both new and solved cases exceeding 1000! (for comparison, in most of the other Moldovan courts this number was varying from 200 up to 500).

Although still coping with numerous issues, the Riscani Court implemented the CEPEJ tools and indicators, improved its statistical analysis and is generally moving towards better overall court management.

The number of staff is permanently increasing (just in 2016, compared to 2015, the number of judges has increased from 23 to 26, assistants from 46 to 52 and other staff from 40 to 41).

Both the inflow and solving of cases have significantly declined (inflow – 2014: 21.113 cases, 2015 – 21.268, 2016 – 16.609; solving: 2014 – 20.068, 2015 – 21.836, and 2016 – 17.898 cases), but solving is higher than the inflow for the same year, so the number of pending cases is decreasing (2014 – 8.554, 2015 – 7.986, and 2016 – 6.697 cases).

The Clearance Rate is constantly increasing (2014 – 95,1%, 2015 – 102,7%, 2016 – 107,8%), while the Disposition Times are stable, with the tendency of slight decrease (2014 – 156 days, 2015 – 133, and 2016 – 137 days).

Regarding the specific types of cases, all the categories are showing improvement regarding both CR and DT indicators, except for the civil cases, which have a negative result in 2016, but still solving more than the inflow.

Although there is the same problem with the accuracy of data provided by the Court in 2016 and 2017 (in this case, for the year 2014), if we assume that the newly provided data is accurate (and the methodology of its collection, although still manual, has improved significantly), the general conclusion is that the performance indicators of the Riscani Court have improved since the beginning of the Project. Nevertheless, the CEPEJ expert team cannot affirm firmly that the performance itself improved. The CPJ decreased and the improvements seems to be due to increased human resources and decreasing inflow of cases in the last years. On the other side of the coin, this court has the second lowest ratio of solved cases in 2016 as compared to its overall caseload for the same year – 57%, and is the second court by the number of quashed and modified criminal decisions in 2016.

### **The Soroca District Court**

At the Soroca District Court, the implementation of the CEPEJ methodology has also proven useful. Some abnormalities were detected, but since they are easily explainable, the situation is not worrying.

The overall number of court employees is decreasing (from 40,5 in 2014 to 35 in 2016). There are less judges and assistants (2014: 9 of each, 2016: 8 of each) and staff (2014: 22,5, 2016: 19).

The inflow is stable (2014 – 3.786 cases, 2015 – 3.772, 2016 – 3.791), less cases were solved (2014 – 3.857, 2015 – 3.713, 2016 – 3.417), so the number of pending cases increased significantly (2014 – 335, 2015 – 394, 2016 – 768).

This is also shown at the two main indicators: the Clearance Rate decreased (2014 – 101,9%, 2015 – 98,4%, and 2016 – 90,1%) and the Disposition Time for the total of cases increased (2014 – 32 days, 2015 – 39, and 2016 – 82 days).

Still, the situation is not alarming at all. When looking at the specific types of cases, good trends are shown for all of the categories except for “the other cases”, where the number of pending cases increased significantly in 2016 (2014 – 24 cases, 2015 – 19, 2016 – 304 cases) and the CR and DT have accordingly negative figures (CR from 100% to 82%, DT from 4 days in 2015 to 86 days in 2016). The explanation is quite simple: at the end of 2016 there was a huge inflow of amnesty-related cases which are examined only by one judge and which fact has worsened the annual statistical report.

### **3.1.5. Conclusions and recommendations**

#### ***Continuation of implementing the CEPEJ methodology in statistical reporting***

After having been provided with the relevant statistical data, gathered in line with the CEPEJ methodology, and after this data was, according to the previous recommendations from the Court Coaching Reports and the Implementation Guide, incorporated within the annual statistical reports of all of the six pilot courts, the general conclusion is that all courts have shown improvement in collection, analysis and reporting of the relevant statistical indicators. This demonstrated good tendencies regarding the better overall court management and performance.

#### ***Publishing of the statistical reports made in line with the CEPEJ methodology on courts' websites***

The CEPEJ experts encourage all the pilot courts to continue with this good practice and to publish performance reports on their websites at least on an annual basis.

#### ***Dissemination of the project's results and the CEPEJ methodology among the Moldovan court system***

The Superior Council of Magistracy and the Ministry of Justice are encouraged to spread the knowledge gathered within the Project's implementation at the six pilot courts and the methodology they used while drafting the annual reports in the described manner, within the whole Moldovan court system.

The challenges faced by the pilot courts and the answers adopted by them need to be analysed in detail by the decision makers of the judicial system in order to propose definitive solutions, which will be applied consistently and uniformly throughout the national court system.

#### ***Improving of the human resources for collection, analysis and reporting of statistical data***

The Superior Council of Magistracy and the Agency for Courts' Administration are encouraged to take measures for improving the human resources responsible for collection, analysis and reporting of statistical data. It turned out that a lot of functionalities already offered by the ICMS cannot be implemented because of low quality of data inputting on the part of the often changing court staff.

The court system lacks experts in statistics and, respectively, the coordination and data analysis capacities are very basic. At the same time, it is recognised that a specialised training of court managers and staff is required in areas of court management, statistical data analysis and court performance evaluation, organisation of satisfaction surveys etc. The National Institute of Justice of Moldova started the implementation of such training as part of its curricula for initial and continuous training and it should be encouraged and provided with the necessary means to continue these efforts and further fine-tune its training methods and resources.

### ***Discontinue the manual registration and collection of statistical data***

At the moment court staff and the Agency for Courts' Administration are duplicating the work for data collection – doing it both manually and electronically. A single method of data input and collection (electronic) shall ensure the proper collection of the court's statistics, registration of cases in the ICMS and delivery of statistics in electronic version. Therefore, developing or amending the existing rules on court's statistics in line with CEPEJ guidelines is recommended. Adjustments should be made to the ICMS, to ensure the full electronic completion of the case index card. Training of the court staff and improving the functionalities of the ICMS should be considered.

### **3.2. Specific improvements needed to the Moldovan Integrated Case Management System.**

Starting in 2006, case files have to be assigned to judges or court panels randomly, through the Integrated Case Management System (ICMS). This rule was instituted through Law No. 247, of 21 July 2006, which supplemented the Law on the Organization of the Judiciary. The purpose of this measure was to combat irregularities in the process of assignment of cases in courts rather than increasing the efficiency of the courts. The use of the ICMS became mandatory starting 1 October 2009. Dedicated reports on random assignment of cases were published only by the Agency for Courts' Administration. Since 2014, a separate chapter in the SCM's annual report is dedicated to ICMS / random assignment of cases.

At the moment the ICMS is used for creation of electronic casefiles, appointing court hearings, random distribution of cases among judges, etc. New modules and changes are currently being developed to expand the functionalities of the ICMS.

In 2016, the National Anticorruption Center issued an Analytic study on registered deficiencies in the electronic system of distribution of cases for ICMS 4.0 version.<sup>17</sup> The National Anticorruption Center found out several vulnerabilities of the ICMS and developed relevant recommendations such as to: review the SCM Rules on random assignment of cases, exclude the possibilities to block the court staff for a certain period of time, exclude technical possibilities of multiple distribution of cases, etc. At the moment in all the courts is used a more advanced version of the ICMS – the 4.1 version.

Following the implementation in the six pilot courts of activities to improve the methodology of data collection, the CEPEJ experts concluded that some changes and improvements to the ICMS are required. A summary of recommendations based on the pilot courts' experience with regard to the methodology of data collection and CEPEJ guidelines on judicial statistics is available bellow. A more detailed text of conclusions and recommendations is available in the Appendix 4.

### ***Improving the ICMS functionalities to enhance the automatic statistical data extraction***

The Superior Council of Magistracy and the Agency for Courts' Administration are encouraged to work closely with the six pilot courts on improving the methodology of data collection and the related functionalities of the ICMS for automatically extracting the relevant statistical data and

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<sup>17</sup> Analytic study on registered deficiencies in the electronic system of distribution of case files, available only in Romanian at [http://www.cna.md/public/files/studiu\\_pigd.pdf](http://www.cna.md/public/files/studiu_pigd.pdf).

indicators (which should not pose any technical challenge). In this way the relevant statistical data would be collected without wasting time and human resources and would be easily incorporated in the annual<sup>18</sup> court efficiency and quality reports made for individual courts and/or for the entire system.

Although the subcategorization within the ICMS has been very exhaustive (around 800 (!) different categories of cases are registered in its database), it still has to be modified to allow full implementation of the CEPEJ methodology and to offer clear and comprehensive information for the evaluation of courts' performance and of the institutional "health". The results of the pilot courts clearly show that implementation of the CEPEJ tools produce a positive effect and can further improve the performance of the Moldovan courts, and this should be taken into consideration while adapting the functionalities of the ICMS.

### ***Distribution of case files***

Since 2014, cases are randomly distributed only in an electronic way. The ICMS does not permit manual assignment of cases by the court president. Moreover, the cases are distributed to a judge not on the basis of the number of cases but based on the case complexity. Still, at the moment some judges have under examination more cases with a higher level of complexity comparing with other judges from the same court. Thus, the algorithm of distribution of cases has to be improved. It has to consider the distribution of cases for a panel of judges (especially in higher level courts or if certain type of cases shall be examined by a panel of three and more judges).

### ***Operational changes***

Since it is operational, the ICSM was adapted periodically to the needs of the judiciary. Although some modules or tools have to be further improved, it is recommended that they are aligned to the selected CEPEJ tools, to ensure the balance between data protection and the public access to information.

At the moment, the ICMS offers the possibility to generate approximately 80 pre-defined electronic statistical reports. It should be adjusted to give the possibility of combining parameters and indicators based on the information from the database. For this functionality to work well, the court staff shall input/update timely and correctly all the data. The SCM should make sure the court staff is well trained. A webinar system of trainings can be designed in this respect.

In March 2017 the SCM designated a pilot court for implementation of the judiciary e-Case information subsystem. The pilot project will enable the participants to coordinate the agenda of hearings in an electronic format, will create and manage the online casefile by enabling the parties to have access to it, to present evidence and distribute materials. The parties in a case will be summoned electronically. A successful implementation of the e-Case information subsystem may become a tool to reduce the workload of the court staff and the time for case examination (e.g. by reducing the currently frequent postponement of hearings).

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<sup>18</sup> Courts and the Agency for Courts' Administration are collecting data each 3, 6, 9 and 12 months. Unfortunately, the SCM or ACC don't develop any reports or analysis for 3, 6, and 9 months data.

## 4. Time management.

### 4.1. Relevant indicators and measures to improve time management in view of ensuring access to justice within reasonable time.

#### 4.1.1. Disposition Times and the Age of the Cases

As already stated, the judicial system of the Republic of Moldova has better than (European) average case Disposition Times. Although a negative trend occurred between 2006 and 2010, it stopped in 2012 and the situation is improving since. These conclusions, which are general for the entire Moldovan judicial system, can be just partially drawn on the basis of the data from the six courts that were piloted within this Project. The Supreme Court of Justice, as well as the two biggest courts (the Chisinau Appellate Court and the Riscani District Court of Chişinău) show tendencies of decreasing the overall courts' Disposition Times for the total of cases, while the smaller courts' (the Cahul Appellate Court and the Ialoveni and Soroca District Courts) data for 2015 and 2016 show the increasing of the total cases' Disposition Times. Still, the situation is not very worrying. On one hand, looking at the absolute numbers, the majority of the cases are on the biggest courts, which show positive trends, and, on the other hand, the CEPEJ methodology gives to the courts with negative trends a tool to detect where the deficiencies are, and they have already started to work to eliminate them.

Another important indicator which may show that better time management is needed within specific courts (or within the whole judiciary) is the age of pending cases. The data for the Moldovan judiciary under this aspect are not troublesome, and the same conclusion applies to the six pilot courts. When we compare their data with the ECtHR's jurisprudence regarding the violations of Article 6 of the Convention (as stated in the Calvez/Regis Report<sup>19</sup>), the situation is rather positive and improving.

The age of pending cases at the SCJ was not identified as a problem in the Court Coaching Report, but still improved further in 2016. Therefore, at the beginning of 2017 there were no cases at the SCJ longer than one year.

At appellate courts the data is quite similar. At the Cahul Appellate Court, 86,63% of cases are pending for less than 1 year, another 12,97% are pending for up to 2 years, which leaves just 0,4% (2 cases!) that are older than 2 years. At the Chisinau Appellate Court there are more older cases (which is in accordance with the inflow and the overburdening of this court). Still, 85,65% are pending for less than 1 year and 7,96% for less than 2 years. There are 420 cases (6,32%) which are older than 2 years, and just 5 cases (0,08%) which are older than 5 years.

At the level of first-instance courts, the situation is as follows: at the Ialoveni Court a little bit worrying (62,33% younger than 1 year and 20,47% between 1 and 2 years old, which leaves, the unlikely for the Moldovan judiciary high percentage of 17,21% (37 cases) pending between 2 and 5 years), at the Riscani Court quite average (81,93% up to 1 year, 10,75% from 1 to 2 years, 6,57% from 2 to 5 years and 0,75% (50 cases) older than 5 years), at Soroca Court even better than average (95,70% up to 1 year, 3,65% from 1 to 2 years, 0,65% (5 cases) from 2 to 5 years). The pilot courts understood the risks posed by the oldest cases in regard to the breach of Article 6 of the ECHR and monitor these cases closely, taking measures for clearing them.

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<sup>19</sup> The Report "Length of court proceedings in the member states of the Council of Europe based on the case-law of the European Court of Human Rights", by Ms Françoise Calvez, Judge (France), updated in 2012 by Mr Nicolas Régis (CEPEJ(2012)16E).



The abovementioned data on the age of pending cases show that the recommendations given in the Court Coaching Reports regarding the usage of SATURN Guidelines for a better time management proved to be most suitable for the two biggest courts.

#### **4.1.2. The collection of data and the measuring of the length of proceedings**

Regarding the collection of data relevant for the measuring of the length of proceedings and possible improvements of the judicial time management by using the relevant CEPEJ indicators (e.g. Disposition Times), the same problems occur that were already mentioned in the previous chapter. The data collection is primarily manual and the ICMS doesn't have the functionalities to compute the CEPEJ indicators or to easily extract the statistical data needed for their calculation.

Regarding specifically the age of pending cases, this was a novelty established in the course of this Project and, although, as already stated, there are no major problems with both the long-lasting proceedings and the older pending cases, the measurement of the age of the cases was welcomed by the pilot courts.

In the Court Coaching Reports it was already recommended to improve the functionalities of the ICMS in this regard. Currently, at all of the pilot courts there is just *ad hoc* attention for the lengthy proceedings, because the ICMS is not set to flag up individual cases whenever the length of proceedings is getting too long. This is an important precondition for establishing timeframes, which was one of the major recommendations of the Court Coaching Programme.

#### **4.2. The use of targets by the pilot courts (best practice).**

The CEPEJ Plenary meeting adopted on 7 December 2016 the Implementation Guide "Towards European Timeframes for Judicial Proceedings", CEPEJ(2016)5. The Guide proposes indicative timeframes for civil, criminal and administrative cases. Timeframes are regarded as a tool for better time management in courts.

It stresses that: "Timeframes should be set not only for the three major areas (civil, criminal, administrative), but they should progressively be set for the different "Case categories" dealt with by the court. Timeframes should be tailored to each case category (e.g. family matters, bankruptcy, labour etc.), and local circumstances, depending on procedural issues, resource available, and legal environment". These indicative timeframes of the Implementation Guide are described in Appendix 1: Updated version of the Guide for the implementation of selected CEPEJ tools in the courts of the Republic of Moldova.

The overall objective for all the Council of Europe member States should be to reach progressively Timeframe A for all the proceedings.

The Implementation Guide describes three steps needed to implement the timeframes within a court: 1) Diagnosis of the current situation, 2) Setting Timeframes for the court 3) Monitoring the Timeframes.

In the past, all the pilot courts implemented certain SATURN guidelines for judicial time management, but did not use targets in the context of timeframes. In the course of the Project the pilot courts have been encouraged to develop timeframes and have had a practical exercise to be able to do so. Although the disposition times are good, as is described in chapter 4.1.1., the courts became convinced that timeframes can be an important management tool and have worked enthusiastically on developing timeframes and monitoring the courts' compliance.

The pilot courts consulted each other on the timeframes to be applied and, as a result, viewed the following as appropriate:

**Tables 1-3. Timeframes proposed by the pilot courts in Moldova after testing this CEPEJ tool**

**The Supreme Court of Justice:**

Category of cases		Phase 1 70%	Phase 2 95%	Buffer zone 5%
Civil, commercial and administrative cases	A	2 months	3 months	
	B	3 months	6 months	
Insolvency cases	A	2 months	3 months	
	B	3 months	6 months	
Criminal cases	A	2 months	3 months	
	B	3 months	6 months	

**Courts of Appeal:**

Category of cases		Phase 1 70%	Phase 2 95%	Buffer zone 5%
Civil and commercial cases	A	3 months	6 months	
	B	4 months	9 months	
Administrative cases	A	4 months	12 months	
	B	6 months	18 months	
Insolvency cases	I	36 months	60 months	One set of targets for the main litigation
	II	4 months	8 months	One set of targets for litigation related to accounts receivable
Criminal cases	A	6 months	12 months	
	B	9 months	18 months	
Administrative offences case	A	1 months	3 months	
	B	2 months	4 months	

**First Instance Courts:**

Category of cases		Phase 1 70%	Phase 2 95%	Buffer zone 5%
Civil, commercial and administrative cases	A	4 months	12 months	
	B	6 months	18 months	
Criminal cases	A	6 months	12 months	
	B	9 months	18 months	
Administrative offences case	A	1 months	3 months	
	B	2 months	4 months	

These timeframes seem to be realistic given the present performance of the courts. The pilot courts monitored the age of their pending cases by categories and came to the following conclusions. The Supreme Court of Justice achieves A timeframes for all categories of cases, except criminal cases,

where B timeframes are complied with. The monitoring result in regard to this category of cases is reflected in the table below.

**Table 4. Example of applying the CEPEJ monitoring tool by the pilot courts in Moldova**

<b>Supreme Court of Justice – Criminal cases pending on 01.01.2017</b>						
	<b>Less than 2 months</b>	<b>Between 2 and 3 months</b>	<b>Between 3 and 6 months</b>	<b>More than 6 months</b>		<b>Total pending</b>
<b>Pending cases</b>	261	37	37	11		403
<b>Percentage</b>	65	9	23	3		100
<b>Timeframes A</b>	70%	95%	backlog %			
<b>Monitoring</b>	-5	-21	26			
<b>Timeframes B</b>		70%	95%	backlog %		
<b>Monitoring</b>		4	2	3		

In the Chisinau Appellate Court timeframes A are complied with for criminal cases, insolvency cases, as well as for phase 2 (95%) of administrative and administrative offences cases. Neither timeframe A nor B is achieved for both phases in regard to civil and commercial cases. This is where the Chisinau Appellate Court should respond with enhanced efforts.

In the Cahul Appellate Court timeframes A are fully respected in insolvency and administrative offences case, while phase 1 (70%) of timeframes A are also respected in civil and commercial case (with only a very small deviation for phase 2). In criminal cases timeframes B are complied with.

In the Riscani District Court timeframes A are not respected. For administrative offences timeframes B are fully respected and for commercial and administrative cases only phase 2 of timeframes B are complied with. In the Soroca District Court timeframes B are respected for all categories of cases, while timeframes A are respected as regards the second phase (95%) for commercial, administrative and criminal cases. The Ialoveni District Court did not perform yet the monitoring of timeframes.

It is obvious that the ICMS does not currently monitor the compliance with the timeframes presented above. Instead it has a function which monitors the “in time resolution of cases”. The concept of monitoring this indicator is very close to that of timeframes proposed by CEPEJ, therefore it is suggested to analyse further their theoretical substantiation and practical use, as well as the “approval and adaptation” procedures, and to opt for the clearest and them most beneficial solution for the courts.

In the pilot courts cases older than 24 months started to receive special attention. According to the figures in chapter 4.1.1 in some appellate and first instance courts the percentage of cases older than 2 years is more than 5%. These cases have to be dealt with as soon as possible, even though the timeframes may have been achieved. One possible explanation for the large number of old cases, that was given by representatives of the pilot courts, is that the ICMS distributes the cases among judges randomly and without exceptions. If a judge foreseeably will not be able to continue to handle the case - because of retirement or a departure from the court on a short notice – this would not be taken into account by the system of random distribution. At the same time no one is authorised to overrule ICMS, even if the situation is known and it would be possible to anticipate an unnecessary re-distribution of cases when the anticipated circumstances hold true. It is understood that the procedure embedded into the ICMS serves a major objective of preventing corruption in the court

system, so as a human factor would not influence the random distribution of cases among judges of a court. Therefore, the CEPEJ expert team, without studying in detail the functioning of the ICMS and its development, would not propose immediate solutions, but would like to highlight some areas where improvements are desirable.

The courts are advised to monitor their compliance with the timeframes at least once a year. It would be very useful to monitor the situation more often, preferably every three months. In this way it would be possible to detect problems earlier and to take measures (see in particular the SATURN Guidelines for judicial time management (CEPEJ (2014)16)) to achieve the timeframes. Based on this monitoring process the courts should assess and if possible adjust their performance at least once a year, possibly moving towards Timeframe A, putting in place policies and actions to pursue the reasonable time clause stated by Article 6 of the ECHR, without jeopardising the quality of the decision making process.

## **5. Quality management.**

### **5.1. Introduction.**

Timeliness is an important feature of the performance of a court: “Justice delayed is justice denied”. At the same time, the quality of court decisions is also very important, because: “Justice rushed, is Justice ruined”. In the pilot courts two sets of efforts have been made to get a picture of the quality of services:

- by collecting statistics on the appeal/cassation ratios and on the ratio of quashed and modified decisions – often conjointly referred to as “appeal ratios” (*see paragraph 5.2*)
- by organising satisfaction surveys among users of the court (*see paragraph 5.3*)

### **5.2. Review of the six pilot courts on the appeal ratios.**

#### **5.2.1 Good practices in the review of appeal ratios**

The appeal ratios are indicators to be “handled with care”, as in some circumstances it may be taken as an indirect measure of the quality of decisions, assuming that poor quality decisions would be more likely to bring an appeal.

This principle has ignited a debate among those who expressed strong criticisms on all forms of quality measurement based on numerical relations between the judgments of different levels and those who consider it as a valid objective criterion. The opponents argue that in many cases the appeal is not based on matters of error or poor quality of first instance decision, but that an appeal may be the result of a tactical behaviour, independent from the quality of the decision.<sup>20</sup> The numerous cases of appeals instituted only in order to cause delays are an example of that.

For a correct interpretation of **appeal ratios**, one has to realise that several aspects influence them. Parties in a lawsuit want a reassessment of the case by another judge. In that respect the appeal has an important function in the development, monitoring and promotion of the legal uniformity. In this

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<sup>20</sup> See in this regard Opinion n°11 (2008) of the CCJE, namely its paragraph 74, in which it is stated that “Both the limited number of appeals and the number of successful appeals can be objectively ascertainable and relatively reliable quality indicators. However, the CCJE stresses that neither the number of appeals nor their rate of success necessarily reflects on the quality of the decisions subject to appeal. A successful appeal can be no more than a different evaluation of a difficult point by the appeal judge, whose decision might itself have been set aside had the matter gone to a yet higher court”.

sense, the appeal percentage indicates the acceptance of judgments by the parties. It should not be concluded that it automatically reflects the quality of administering justice in the first instance or an inadequate functioning of the judiciary. The annulment of a sentence by an appellate court does not automatically mean that a wrong judgment has been given. It can imply that the higher court has reached another answer to a question concerning which *ex ante* clarity has not existed in the case law. This is inherent to the development of the law and ensuring the legal uniformity function of the appeal (and cassation).

Although we agree that the ratio of appeals is not in itself an indicator of quality, on the other hand it must be recognised that a strong difference of this value between comparable areas of measurement is at least an indicator of anomaly. For example, two sections in a court of two comparable courts that deal with the same kind of matters, showing very different ratios of appeals in the same period of time, do represent a situation that requires further investigation. It should not be forgotten that the difference in treatment is in itself an element of poor quality of the system, as it undermines the principle of fairness of the trial.

Two indicators were analysed: the first measures the percentage of initiated appeal/cassation proceedings against the total number of decisions adopted by the court, a calculation to make taking into consideration that the denominator of the fraction will be the number of those only decisions for which the appeal is possible. In addition, it is recommended taking data of several years as a reference, as the results of a single year could be influenced by external or temporary factors having a strong impact on the indicator.

It may be noted that the judgments of a second instance, both in civil and criminal law, are often structured so as not to determine with certainty if it is a full confirmation of the decision of the first instance or a full or partial reform of it. It is evident that the indicator refers to full confirmations or even partial reforms that confirm the substance of the decision of the previous degree. This concept, which would require the establishment of additional criteria, is not simple for its application to concrete cases.

It also appears significant to use both indicators together, since the interpretation of only one of them could lead to inappropriate conclusions. In this regard, the observation of the values relating to the number of appeals together with the outcome of the appeal proceedings - whether of revision or confirmation of the decision taken the first instance - appears to offer more useful elements for the analysis of the quality. Therefore, both the appeal ratio and the ratio of quashed and modified decisions should be considered in conjunction to be really useful, and not in an isolated fashion. To avoid any unfortunate misunderstanding, it is important to clarify the scope of the method. The method proposed to the pilot courts did not intend to enter into the merits of decisions and did not try to invent strange algorithms that would pretend to measure the intrinsic quality of the decisions taken by a judge. This does not however exclude the possibility to measure what are the contours of the decision and could help lower the risks of a poor quality of the latter.

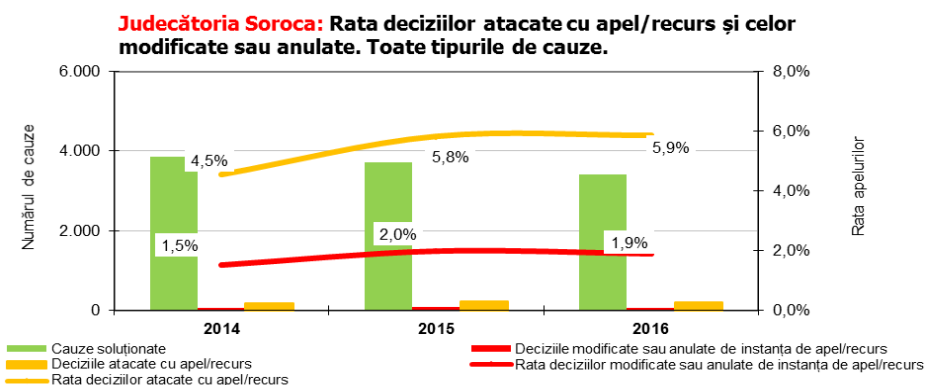
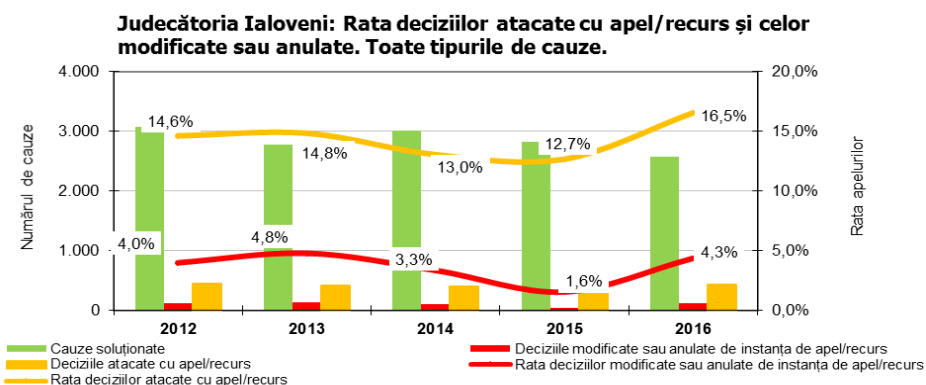
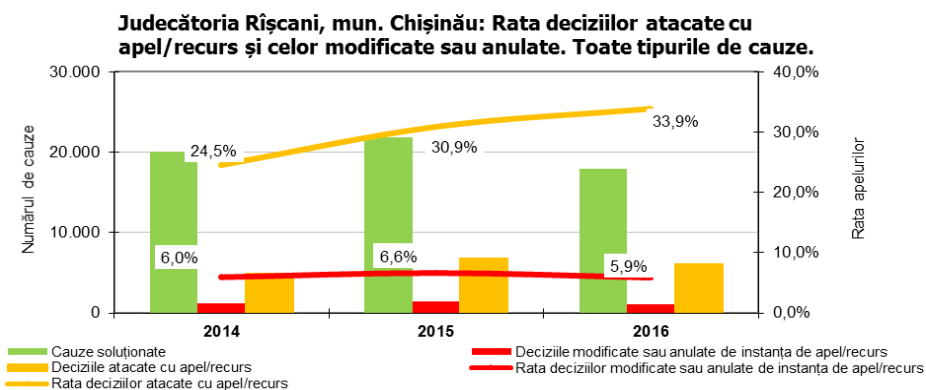
Several graphs are presented below reflecting the general appeal ratios at the first instance courts and cassation ratios at the appellate courts. The Supreme Court is missing in this overview because its decisions are not subject to appeal or cassation proceedings.

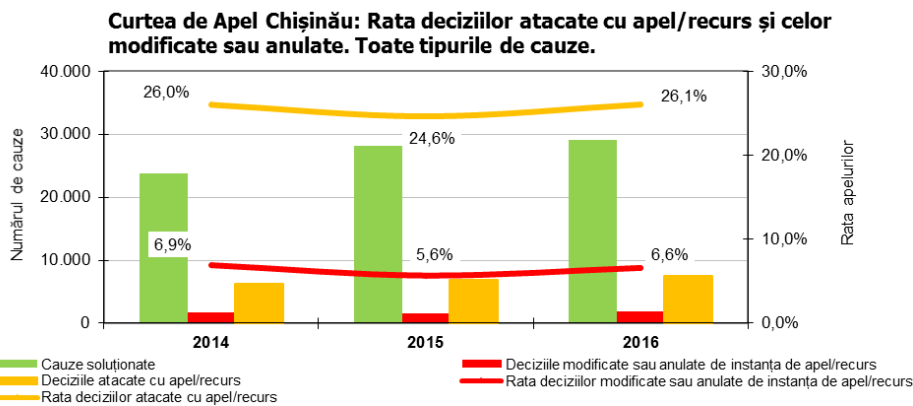
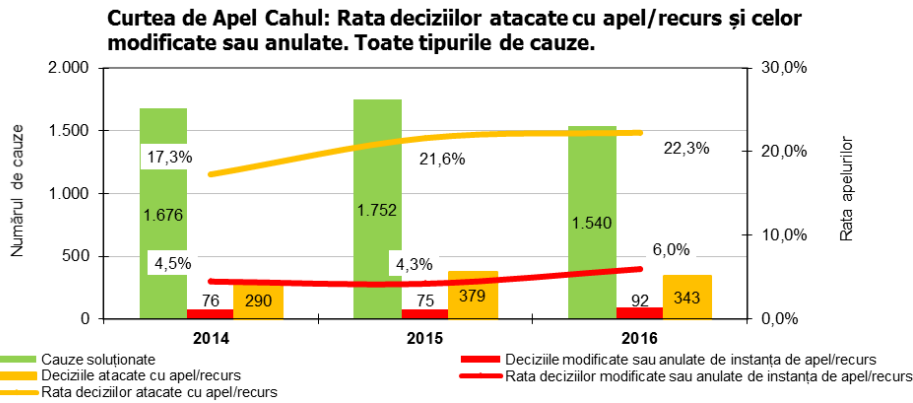
### **5.2.2 The appeal ratios of the Moldovan pilot courts**

Graphs which contain the general appeal ratios for the six pilot courts are inserted below. The yellow line in each graph represents the appeal/cassation ratio and the red line represents the ratio of quashed and modified decisions. It can be easily noted that the appeal ratios in the Riscani District court is two times higher than in Ialoveni court, while the same ratio in Soroca is almost three times

lower than in Ialoveni. Therefore the difference between Riscani and Soroca district courts is huge and hardly acceptable in a court system which pursues to provide a uniform level of access to justice and quality of judicial services. Of course, the difference may be explain by some subjective circumstances, like the higher level of judicial culture (and, as a result, a higher demanded quality of adjudication) or the closer and easier access to the superior courts in the capital city of the country, but these reasons do not fully explain the gap. It is suggestive that the main cause of the difference lays in the variance of the workload of a judge and staff in the two compared courts.

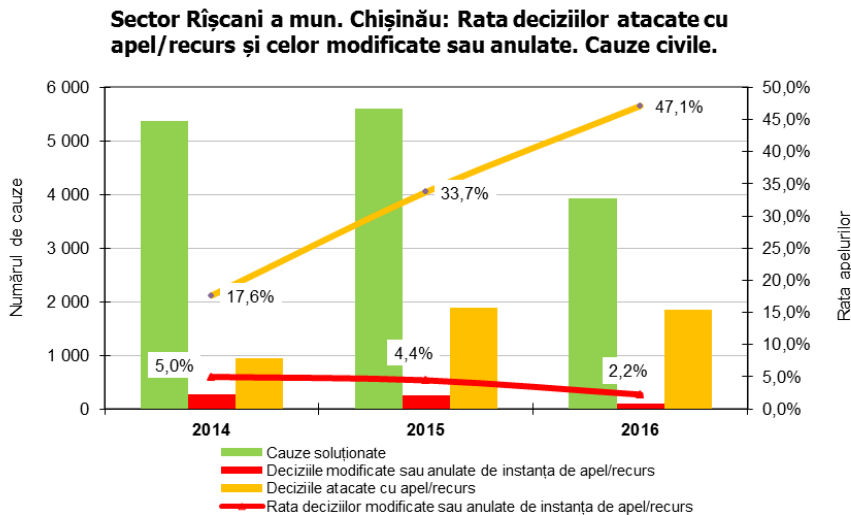
**Graphs 2-6. Examples of appeal ratios of the Moldovan pilot courts (the yellow line represents the appeal ratio and the red one the ratio of quashed and modified decisions)**





The analysis is further refined by looking into the appeal rates of different categories of cases. At most of the courts significant differences between the appeal rates for specific categories of cases can be noted and their analysis, combined with a chronological perspective of several years, offers valuable information to judges and the court management. For example, from the graph below it can be concluded that the appeal ratio for civil cases has more than doubled in the Riscani District Court in the course of the years 2014-2016. Rather strange is that, at the same time, the ratio of quashed and modified decisions has decreased more than two times. What may be the reasons for such developments which seem inconsistent at the first glance? This question deserves an analysis by the concerned subjects. It may be that parties in civil cases discovered the strategy of delaying the final conclusion of judicial proceeding and execution of judgements by abusing the appeal system. The cause may well be different, but, in any case, numerous and varied response measures are possible.

**Graph 7. The appeal ratios for civil cases in the Riscani District Court**



### **5.2.3 Conclusions and recommendations**

#### ***Disseminate the analysis of appeal ratios throughout the court system, especially at court level***

The pilot courts regarded the collected statistics on appeal ratios as a valid indicator for the quality of the courts. The identified general trends reflect a rise in the appeal ratios. This rise might be regarded as an indication for decreasing trust of the public. In a discussion the pilot courts stated that this rise may also be related to a more assertive attitude of the Moldovan population and the incentive lawyers have in pursuing the judicial proceedings throughout all levels of jurisdiction.

There is a relatively stable level of the ratio of successful appeals (quashing or modifying the decisions by the higher courts). This is an indication that the quality of decisions has remained largely the same during last several years.

Of course the picture is more diverse at a less aggregated level. Every type of cases (criminal, civil, administrative) has its own levels and dynamics, which need special attention from the courts and the judicial administration.

#### ***Analyse the relationship between the appeal ratios and the workload of individual courts, as well as the impact of the specialisation of judges on these ratios***

The appeal ratios seem to be higher in the overburdened Riscani District Court, which was recently able to decrease the percentage of its quashed and modified decisions by specialising judges along the lines of criminal, civil and administrative proceedings. This stimulates both efficiency and quality of judicial decision-making.

#### ***Integrating the appeal ratios in the regular internal and public reporting***

In the Moldovan court system, the appeal ratios are reported to the Superior Council of Magistracy and the Ministry of Justice / Agency for Courts' Administration, and are discussed on a yearly basis in the context of the evaluation of individual judges. It is recommended to publish the data collected on appeal ratios in the annual reports of the courts and on their websites. It is also recommended to summarise the general conclusions (not on the level of individual judges) in a more qualitative way in the annual reports and on the websites.

It is noticeable that the Superior Council of Magistracy publishes the appeal ratios and those of quashed and modified decisions in its statistical reports. It is recommended to go a big step ahead and proceed now with a comparative overview of these ratios on the main types of cases. The Superior Council of Magistracy should analyse the differences in these ratios among all the Moldovan courts for the purpose of highlighting the best results (identify the underlying reasons and eventually disseminate the related good practices) and remedying the situation in courts seriously lagging behind the averages (by training, specialisation, increasing the judicial support and its quality, awareness raising, and, where it will be deemed necessary, disciplining).

## **5.3. Review of the six pilot courts on user surveys (best practice).**

### **5.3.1 Introduction on satisfaction surveys carried out by the pilot courts**

A workshop on conducting court user satisfaction surveys was carried out by the CEPEJ on 17-18 March 2016, at the Council of Europe in Strasbourg, as part of the co-operation project with the Republic of Moldova. The participants in the workshop, representing CEPEJ pilot courts and other justice stakeholders, were introduced to the objectives and prerequisites of the dialogue with court users, primarily through satisfaction surveys. Conducting surveys and taking measures to improve the satisfaction of court users as well as court staff (due to the high turnover of staff in the pilot courts, which seems to be characteristic to most Moldovan courts) was recommended as part of the Court Coaching Programme. The workshop allowed an extensive exchange on good practices and lessons



learned from implementation of court users' and staff satisfaction surveys in a number of countries represented by CEPEJ experts.

On 18-19 May 2016 a two-day working group on conducting satisfaction surveys in the pilot courts of the Republic of Moldova was held in Chisinau. Together with the participation of the six pilot courts, the Superior Council of Magistracy, the Agency for Courts' Administration, the National Institute of Justice and the National Bureau of Statistics of the Republic of Moldova, the working group discussed in detail both the questionnaires and the methodology for conducting satisfaction surveys among court users, lawyers and court staff.

Following these training sessions and working group meetings, the national pilot courts adjusted the questionnaires to their specific objectives and started the implementation of surveys, in cooperation with the National Institute of Justice and CEPEJ experts in the second part of 2016.

On 26-27 October 2016, members of the national courts representing all levels of jurisdiction, as well as representatives from the ministries of justice, high judicial councils and national judicial training institutions of the Republic of Moldova and Azerbaijan attended a further training in Strasbourg on how to analyse and report the results of court satisfaction surveys.

### 5.3.2 Satisfaction surveys aimed at court users, lawyers and staff

Satisfaction surveys aimed at court users, lawyers and staff were conducted in the second part of 2016 in all pilot courts, except Soroca District Court<sup>21</sup>, as shown in the table below.

**Table 5. Satisfaction surveys conducted in the pilot courts in Moldova**

Court	Target group	Sample size	Methodology	Period
Supreme Court of Justice <sup>22</sup>	Staff	111	Self-administered	August 2016
Chisinau Appellate Court	Lawyers	123	Face-to-face	November 2016
Chisinau Appellate Court	Staff	131	Self-administered	May 2016
Cahul Appellate Court	Staff	29	Self-administered	October 2016
Ialoveni District Court	Court users	118	Face-to-face	October 2016
Riscani District Court	Court users	119	Face-to-face	November 2016

All the above surveys were conducted under the control of the national expert, except the survey aimed at court staff in Chisinau Court of Appeal. For those surveys where the questionnaire was administered by an interviewer (i.e. face-to-face), the interviewing was carried out by trainees and staff of the National Institute of Justice.

<sup>21</sup> The Soroca District Court attempted a survey of its users by self-administered questionnaires made available at the premises of the court. The response rate was very low and the quality of submitted replies was also low (many users formally evaluated the quality, using the same response (level of satisfaction) to all questions).

<sup>22</sup> The Supreme Court of Justice attempted also a survey for lawyers which failed because of a low participation rate, despite the involvement of the National Union of Lawyers and an information campaign undertaken by the court. Only 18 filled in questionnaires were returned by lawyers. Although the Supreme Court of Justice examined the results of these questionnaires no comprehensive reporting could be drawn up on their basis.

The results of the surveys were analysed at the end of 2016 and each court prepared a report that illustrates both the methodology adopted and the key findings. These reports are presently under scrutiny of the court management in order to develop a productive action plan in response to the findings of the surveys. The court administration assured the expert team that the survey results will be published on court's web site, except the SCJ report on the survey of staff which will be shared and discussed internally.

### ***Satisfaction surveys aimed at court users.***

Satisfaction surveys aimed at court users were conducted at both Ialoveni and Riscani courts where respectively 119 and 121 respondents took part in the research. Both surveys were conducted under the supervision of the national expert and the interviews were conducted face-to-face by trainees and staff of the National Institute of Justice who were trained in advance for this purpose. The paper questionnaires were eventually loaded into Google Forms and they were analysed through Microsoft Excel according to the training provided in Strasbourg.

In both surveys, the resulting target group was quite heterogeneous. As a matter of fact, the sample consisted of: parties, witnesses, translators, family members, judicial experts and also lawyers. In Ialoveni and Riscani courts, the number of lawyers in the sample accounted for 27% and 18% respectively. Lawyers, due to the nature of their profession and the role that they play in the proceeding, would better require a survey of their own, based on a specially adapted questionnaire. For the time being, it is recommended to run specific surveys aimed at lawyers, as per the experience in Chisinau Appellate Court.

On a scale from 1 to 5 (where 1 means "not satisfied at all" and 5 means "very satisfied"), the overall satisfaction is above the central point (3.0) in both courts. In Ialoveni District Court the overall satisfaction is 3.7 while in Riscani District Court it is 3.5.

In **Ialoveni District Court** the satisfaction level was above the neutral score (3 on a scale from 1 to 5) for all aspects except for "Trust in the Judiciary" (2.9). This reflects an overall negative attitude of the public towards the judiciary. However, when people get in contact with a concrete court, they are more objective and put their beliefs and prejudice aside. In other words, they evaluate the functioning of the court (under different aspects) based on their experience on the spot.

Respondents positively assessed the accessibility of the website of the court (4.6), the content and the clarity of summons (4.5), the time allocated to examine the case (4.5), the time allocated to the parties to present their arguments during the hearing (4.5), the furniture and the equipment of the court (4.4), the politeness and the correctness of court staff (4.4). On the other hand, the aspects with a lower degree of satisfaction (but still above the neutral central point of the scale) come as follows: the examination of cases within a reasonable time (3.2), signs within the court (3.3), the fairness of cost to access justice (3.3), reasonable time periods of the hearings (3.4).

The Ialoveni District Court management reacted promptly to these results and is presently working on an action plan to address the issues raised by the court users.

In **Riscani District Court** the average satisfaction level is above the average (3.5/5.0) but satisfaction levels vary depending on specific aspects of court's activity and services. The respondents positively assessed the content and the clarity of summons (4.6), the time allocated to the parties to present their arguments during the hearing (4.3), the fact that summons are transmitted without delay (4.3), the clarity of the language used by the judge (4.2), the information provided on the website (4.1). On the other hand, the aspects with a lower degree of satisfaction come as follows: waiting conditions within the court (2.2), signs within the court (2.3), the reasonable time of the proceeding (2.9), and trust in the judiciary (2.8).

Respondents often mentioned that neither the furniture of the court nor the building itself are appropriate for a court facility. The management of the court is presently investigating these findings in order to react to the issues raised by the court users.

### ***Satisfaction surveys aimed at lawyers.***

Satisfaction surveys aimed at lawyers represent a powerful tool to identify some hidden issues of a court. Lawyers are experienced court users, compared to the parties, and for this reason their feedback is somehow more meaningful when it comes to assessing the good functioning of a court. Generally speaking, lawyers have a deeper understanding of the court functioning compared to their clients who often see only the “surface of the iceberg”.

Interviewing lawyers is sometimes more daunting compared to other target groups. The Supreme Court of Justice tried to conduct a survey amongst lawyers but the response rate was extremely low. Only 18 lawyers took part in the survey. Learning the necessary lessons from this negative experience, the management of the Supreme Court of Justice is planning to conduct a new survey aimed at lawyers in 2017. A simplified version of the questionnaire and also alternative methods for collecting data will be considered together with the Bar Association, in order to get a better response rate. The goals and objectives of the survey will be clearly stated before the launch of the initiative. It is also recommended that good practices in regard to surveys aimed at lawyers (see the one conducted at the Chisinau Appellate Court) are spread across the other pilot courts.

A successful satisfaction survey aimed at lawyers was conducted at the Chisinau Appellate Court, under the supervision of the national expert. Interviews were conducted face-to-face by trainees and staff of the National Institute of Justice and they noticed that it was easier for them to approach lawyers who were alone in the court. Conversely, lawyers were more reluctant to be interviewed when they were in groups (two and more). The sample was composed of 123 lawyers. The interviews were conducted in the corridors or in a separate room; the paper questionnaires were eventually loaded into Google Forms and they were analysed through Microsoft Excel. A direct question regarding the overall satisfaction was not asked despite the recommendation of CEPEJ experts and the Guide illustrating both the standard questionnaire and the methodology.

Around two thirds of the respondents stated that, in their opinion, over the last five years the workload of the court has increased faster than its means. Moreover 43% of the respondents said that over the last five years the functioning of the court has improved, while 14% said it has deteriorated and the remaining 43% said it has remained unchanged.

Lawyers showed their appreciation for the audio recording of the hearings (score 4.2), the solemnity of the court proceedings (3.9), the competence of judges (3.5/5.0), the access to court decisions and other documents (3.5), the coordination between the court and the lawyers to determine the time of hearings (3.5), the courtesy of judges and their compliance with the Code of Ethics (3.4).

On the other hand, lawyers were less satisfied with the lack of a proper space for confidential consultations with their clients within the court (1.7), communication between the court and lawyers by email (1.7), waiting conditions in the court (1.9), the punctuality of the hearings (2.0), the suitability of the building to the activity of the court (2.6) and the equipment and the furnishing of court (2.6). The Chisinau Appellate Court completed recently an important project to renew and enlarge its building and related infrastructure. Therefore it may be expected that a repeated survey of lawyers (recommended to be conducted after one year since the first survey) will illustrate this change and positively influence the satisfaction of lawyers with the services of the court.

### ***Satisfaction surveys aimed at court staff***

Satisfaction surveys aimed at court staff are an extremely valuable tool aimed at introducing a quality culture in public institutions, analysing the aspects of employees' tasks, workload and other aspect of the efficient administration of the court. The objective of this kind of surveys is to ascertain and analyse the level of satisfaction amongst employees. Another important goal is to collect proposals that can contribute to the improvement of working conditions, overall satisfaction and eventually the quality of services provided by the court. Paying attention to the working conditions of employees is paramount, especially when considering the high turnover levels experienced in the last few years by the Moldovan courts.

Three court staff satisfaction surveys were conducted by the Supreme Court of Justice, the Chisinau Appellate Court and the Cahul Appellate Court. To encourage honest responses, the questionnaires contained no personal information that might have raised confidentiality issues. Responses were collected with the participation of the CEPEJ national expert, to ensure the utmost anonymity for the respondents. These surveys adopted the same methodology - self-administered paper questionnaire – while the questionnaires were agreed in advance by all pilot courts and slightly adapted according to specific needs of each court.

At Cahul Appellate Court 29 employees took part into the survey. Even though the sample size was not large enough to perform an in-depth quantitative analysis, a qualitative approach can still give useful insight into employees' work conditions.

In general all these surveys proved that – despite the high level of turnover among court staff in the Republic of Moldova – the overall appreciation of working condition is quite high: Supreme Court of Justice (4.1), Cahul Appellate Court (4.2) while in Chisinau Appellate Court satisfaction is a bit less (2.9). It is worth mentioning that in Chisinau Appellate Court was used a 4-point scale to rate the overall satisfaction, while all other courts used a 5-point scale.

Employees at the **Supreme Court of Justice** appreciate both the importance of their job (4.6/5.0) and the fact that the job is interesting to them (4.4). They also stated that it is very clear what belongs to their sphere of responsibility (4.6). Employees also appreciated the information at their disposal that allow them to fulfil their tasks (4.4), the results-oriented management of the court (4.2), the fact that the court is innovative (4.1) and that employee are treated fairly (4.0).

On the other hand, they indirectly complain about the fact that they often need extra efforts to complete their tasks on time (2.2), plus they complain about a non-completely fair remuneration compared to equivalent positions in the court. Remuneration system does not motivate people to do more and the employees often need extra time to complete their tasks.

When asked what they would change if they had the opportunity to improve the functioning of the court, the respondents answered as follows: 32% would increase the salary, 10% would increase the number of exchanges of experience with other countries, 7% would improve training and increase the number of judicial assistants.

SCJ has already prepared the final report on satisfaction surveys and they are presently discussing the results internally to develop a proper action plan. The management of the court was expecting a more proactive attitude from the employees who seem concerned predominantly about the low level of their remuneration. It is recommended to investigate the data a bit further in order to find the real causes of discontent of some respondents.

Differently from other surveys conducted by the pilot courts, the survey aimed at court staff at **Chisinau Appellate Court** was not conducted under the control of the national expert. It was conducted independently and different standards in terms of response scales and questions were used. Overall satisfaction was asked on a 4-point scale (while other courts used a 5-point scale) and satisfaction on specific aspects was asked on a 6-point scale (while other courts used a 5-point scale). Even though an alternative scale is an option, it is not clear why they didn't use the same scale across

all questions (overall satisfaction and satisfaction on specific aspects). Moreover this is the only survey where a double scale satisfaction-importance was implemented. This led to the possibility to perform a satisfaction-importance diagram, which was not possible to run otherwise.

In the Chisinau Appellate Court the general satisfaction level amongst employees reached a score of 2.9 on a scale from 1 to 4. Respondents express their satisfaction for a series of aspect such as: clearly defined responsibility (5.3/6.0), results-oriented court management (5.2/6.0), importance of their work (5.0/6.0), opportunity to learn new things (5.0/6.0).

Conversely, respondents were quite dissatisfied with the remuneration system that does not motivate people to do more (2.2/6.0); the salary which is not fair, if compared to similar positions in the court (2.2/6.0); the need of extra efforts (2.4/6.0) and extra time (2.8/6.0) to meet deadlines; a sense of lack of appreciation from the management of the court (2.7/6.0).

As already said, the questionnaire also investigated what aspects do matter more when assessing the working environment (i.e. the importance score). Once again, the data show that salary plays an important role both in terms of fairness compared to similar position (5.6/6.0 - importance scale) and in terms of instrument to motivate people to do more (5.6/6.0). Other aspects that employees consider highly important in a working environment are: the ability of superiors to settle conflicts (5.6/6.0), a respectful attitude of the administration towards the employees (5.6/6.0) and the equal treatment of employees (5.6/6.0).

These findings are still under investigation of the court management and they will eventually be discussed with the employees in the nearest future in order to find satisfactory solutions for better working conditions.

### **5.3.3 Conclusions and recommendations on the satisfaction surveys**

***Satisfaction surveys are important tools in order to evaluate the quality of services and drive positive changes.***

The satisfaction surveys conducted in the second half of 2016 were designed to picture court users' or employees' expectations, identify strengths and potential critical aspects of services delivered by the court. In this respect, the pilot courts all achieved their goals.

In general, the courts are invited to use the satisfaction surveys as a management tool to investigate specific issues. For instance, the reluctance of some court staff to properly populate the Integrated Case Management System (ICMS). Is that a problem of willingness or of workload, or maybe a deficiency in terms of training? A few well-posed question at the court staff might give useful indications regarding the real cause of the problem. Another example: courts that experience high appeal ratios might want to investigate this phenomenon by asking specific questions to the parties and their lawyers.

***The satisfaction surveys of different target groups and conducted in different courts should be properly adjusted to their objectives, but it is important to apply a consistent methodology and to regularly repeat the surveys.***

The pilot courts took the CEPEJ standard questionnaires and adjusted them according to their specific needs. However, for the time being it is recommended to share the best practices and try to make the questionnaire uniform across all courts, to the extent possible. The questionnaire should consist of two different sections: the first section should contain the core questions (the same across all courts); the second section should contain add-on questions that address specific issues of certain courts. In addition, methodologies should be consistent across the courts in order to allow comparison between courts.

This first experience of the pilot courts with satisfaction survey has proved that each target group (users, lawyers and staff) require specific methodology (e.g. face-to-face, self-administered questionnaire, etc.) in order to either get a better response rate and/or to guarantee the privacy of the respondents. As far as the surveys aimed at court users, the face-to-face approach is considered more appropriate compared to self-administered paper questionnaire for two main reasons: it guarantees a higher response rate and better quality of the data collected. In terms of quality of the data, it is recommended to keep an eye on those self-administered questionnaires where the respondents gave the same score across all items and eventually discard such responses.

For the time being, the courts are also encouraged to increase the number of interviews in order to make the sample more reliable. A sufficiently large sample size would allow more in-depth analysis and the possibility to read the results across different target groups (e.g. parties involved in civil procedures vs criminal procedures etc.).

***The satisfaction surveys should facilitate the dialogue with the court users and the public. Therefore their conduct and follow up shall be discussed with the target groups and transparent.***

The pilot courts have already drawn up the final reports on satisfaction surveys and they are presently discussing the results internally to develop meaningful action plans. In line with the CEPEJ recommendations, they are also planning to publish the reports and the follow up measures on their websites. Pilot courts have all expressed their appreciation for these satisfaction surveys as a tool of investigation/evaluation of the quality of their services and they expressed the intention to carry out similar surveys periodically to track the performance of the courts across time.

***The satisfaction surveys should be preferably held in cooperation with independent partners***

The CEPEJ Guide and any standards for conducting surveys require ensuring independence and confidentiality of data collection and interpretation. The courts of Moldova are advised to continue the partnership with the National Institute of Justice in view of conducting and providing interpretation to the results of court satisfaction surveys. This will ensure more credibility to the surveys and will bring closer the INJ students (future judges and prosecutors) to the court users. According to the comments of INJ students involved in the conduct of surveys as part of the Project, this experience offered them a better understanding of the institutional management, the users' demands towards courts and the public interest in justice. Involvement, for example, of sociologic faculties in conducting the surveys is also to be considered.

## **6. Public accountability and communication**

### **6.1 The public need for external accountability and related communication**

Since the late 1980s, achieving "reasonable time" expectations of parties and the related standards developed by the European Convention on Human Rights became a serious concern for many European countries. In addition, the growing caseload of the European Court of Human Rights dealing with cases against member States for unreasonable delays in the courts, based on Article 6(1) of the ECHR justifies this concern. Consequently, nowadays the traditional Western constitutional framework is expanding to include requirements of organisational quality and efficiency to meet the demands on justice in Europe. The legislation in various countries has been directed towards efficiency of justice. Monitoring and evaluation are achieving an ever increasing position as tools that allow the measuring of situations, assessing policy implementation outcomes and allocating the shrinking resources.

For the judiciaries in the European countries it will be in the near future more and more necessary to make the efficiency and quality of their work more visible. The budgets for the judiciary have to compete with other political priorities like investments in defence or education. The discussions with ministries of finance put pressure on the efficiency of the judiciary. Financial and economic context indicators like clearance rate, disposition time, backlog, turnover ratios, cost per case and productivity are relatively easy to measure and will therefore automatically become dominant. Therefore, in order to avoid undue emphasis on only efficiency and productivity, the judiciary will need to develop a more transparent quality system. In addition, both the quantity and quality of the performance have to be externally accounted for. From the CEPEJ study of the actual development of court quality systems in several European countries, two strategic lessons can be drawn. Lesson 1: In order to develop a successful and working quality system, judges in the courts have to take the lead. Lesson 2: Individual judges and courts cannot introduce quality management systems that last. The central governments or high councils of the judiciary should stimulate and facilitate court improvement projects by adapting the financing, regulations and introducing agreements on distribution of tasks and prerogatives.

The overarching objective of court communication is to create, strengthen, and preserve support for the court system by demonstrating the court's commitment to its mission, vision and values. This support is achieved through meaningful communication between the courts and its audiences.

People do not trust what they do not understand. Therefore, the judiciary and courts' administration have to educate, inform, and teach the public about courts. They have to organise and present the collected data in forms which are comprehensible for judges, court staff, but also for the partners of the judicial system and the public. Each of these target audiences require special attention. The goal of a communication plan is to make information accessible and understandable to everyone. The key to effective court communication is to identify and understand each target audience and surround them with effective messages.

The communication directed to citizens should be structured and presented in a way that allows them to understand the issues, the difficulties, efforts, but also the achievements of the courts. The public must also find in this information the elements that interest it particularly, e.g. how much time will the court be considering my case (how long averagely this category of cases are being under examination), why does it take so long to the Court to summon me, if the decision is not in my favour, what are my chances to win an appeal?

How people receive information and communicate with each other changes continuously and rapidly. New media such Facebook, YouTube, and Twitter are transforming the way people seek out information and understand the world. These communication tools provide opportunities for courts to promote openness and accountability, and can encourage conversation between the courts, journalists and citizens. Most importantly, they present opportunities for courts to listen to public concerns. Courts have a responsibility towards citizens and should endeavour to meet the changing expectations of their audience, provide transparency in operations, and install public trust and confidence in the court system.

The means of communication must be adapted to the target audiences. Thus, the information that the leadership of a court wishes to transmit to judges and staff may be the subject of a presentation meeting or even sent by email. Justice partners, such as lawyers, local authorities and administrations, may receive information sent to them through a printed report or by mail. It is also possible to organize more solemn meetings at fixed intervals, for example once a year.

With respect to the public, the use of the courts' website seems the most appropriate. It is necessary to be extremely careful to ensure that information is provided in a form that is understandable for a person with no special skills in statistics.

Several references to the need and the importance of the court's communication can be found in different CEPEJ tools as, for example, the SATURN Guidelines for judicial time management or the Checklist for promoting the quality of justice and the courts (please see Appendix 1 for further details).

## **6.2 External accountability and communication of the Moldovan judicial system**

While working together with the pilot courts on potential areas of improvement, designing and implementation of actions directed at strengthening the external accountability in regard to court's efficiency, judicial timeframes and quality of judicial services emerged as a significant need. For example, CEPEJ experts came to the conclusion that little analysis concerning the key statistical indicators on their functioning is done by the courts, Superior Council of Magistracy and the Supreme Court of Justice (e.g. clearance rates and disposition times for the main types of cases, staff-judge ratio, productivity of judges). At the same time and as a logical consequence, little external reporting/accountability concerning the performance of the court is carried out. Similarly, relatively little knowledge on how users experience the quality of the services delivered by courts and little external accountability concerning the quality of the courts has been established by the experts.

Targets and benchmarks concerning timeliness and quality may be used by the organisation to make itself publicly accountable. They provide valuable information on the ambitions of the organisation. Targets and benchmarks can be published on the website of the organisation, possibly accompanied by monitoring results, showing the progress the organisation makes. Outside visibility may also boost the efforts by people inside the organisation.

There is an important disclaimer in this respect. In addition to being an operational or managerial tool, the publishing of the reporting on court efficiency, of the timeframes and of the results of courts surveys adds to the transparency of the work of courts, enabling other participants in the judiciary an insight in the business process of courts. The results concerning for example the achieved timeframes should be used mainly for managerial and general informative purposes and, due to the limitations of the method, should not be used for other purposes such as applying them as criteria for excessive length of individual proceedings or to evaluate the work of individual judges. This implies that the CEPEJ experts are not in favour of publishing the data on productivity, timeliness, appeal ratios or user satisfaction in regard to individual judges. This information should be published on a more aggregate level of, for example, the civil, criminal or administrative sectors of a court.

## **6.3 The Superior Council of Magistracy**

The Superior Council of Magistracy is an important actor for ensuring the efficiency of the Moldovan court system. The most recent yearly report (data of 2016) deals with several subjects concerning the management of the judicial system and contains tables where for each court are reported the budget, the number of judges, the number of cases and the caseload etc. On other pages one is dealing with clearance rate and backlog, without relating this to other indicators.

Starting from 2016, the statistical tables attached to the report contain more indicators recommended by the CEPEJ, like clearance rates, disposition times, appeal ratios, case per judge etc. Unfortunately, this information, although inserted in several statistical tables, is not analysed nor sufficiently explained in the narrative part of the reporting. Therefore, although the current presentation is broader compared to previous years and may serve the purpose to researchers capable of analysing and interpreting the data in line with the CEPEJ methodology, it was not brought yet to the level of a very easily accessible report on the efficiency and quality of the judicial system.

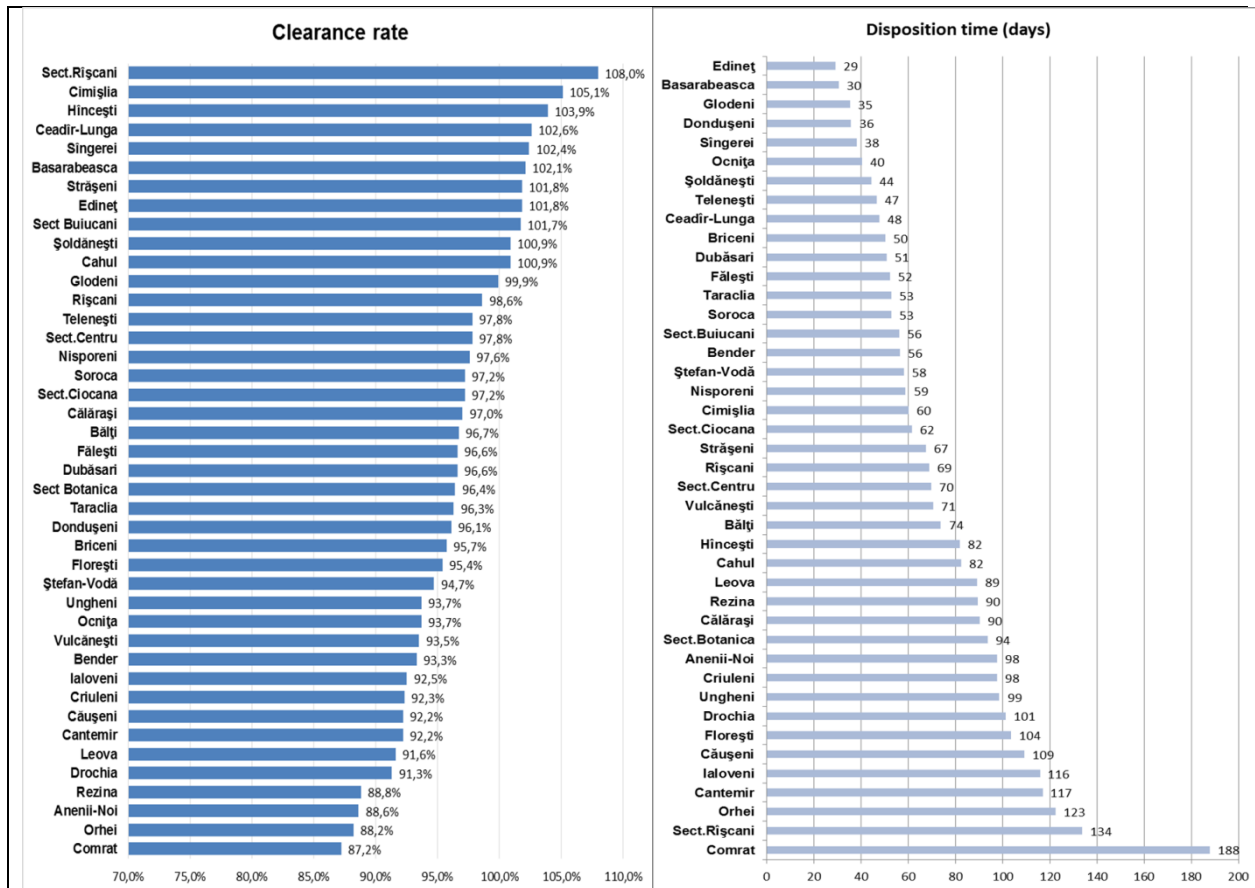
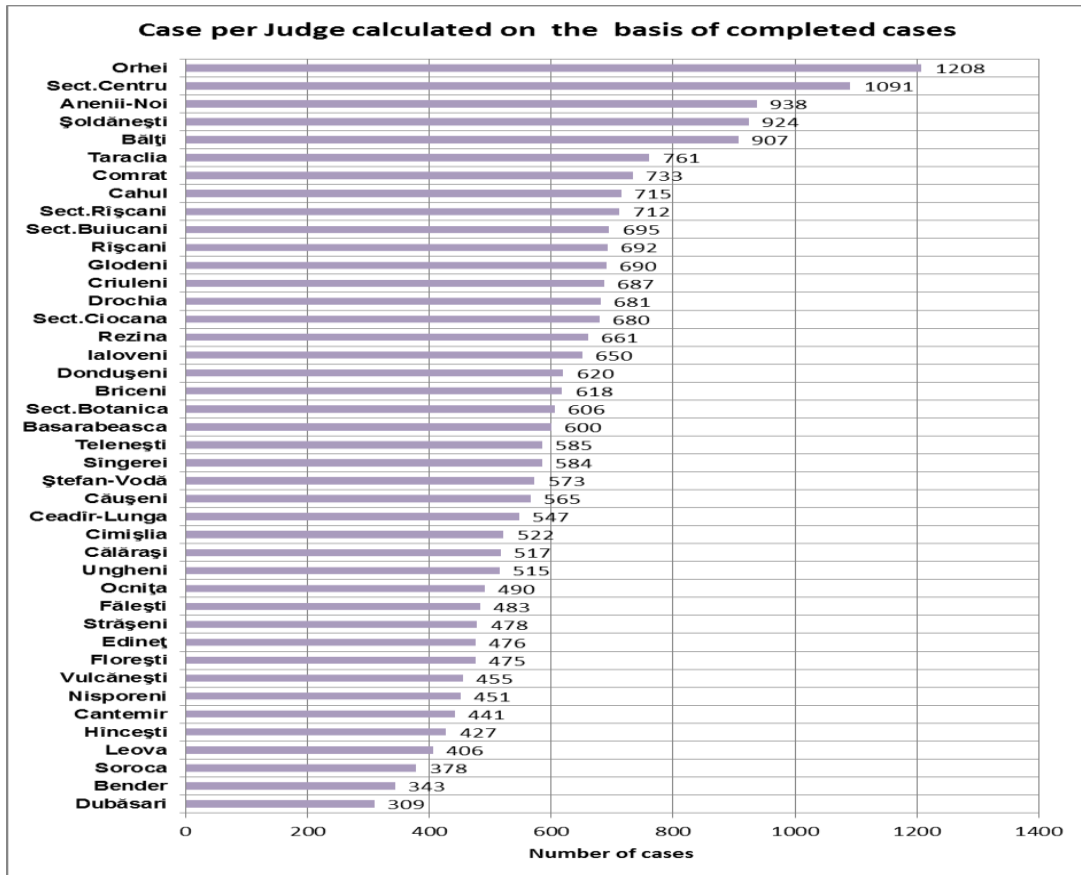


The table and graphs below were put together on the basis of the statistical data published for the year 2016 by the Superior Council of Magistracy. This example is an aggregation of data from several tables published by the Council and clearly illustrates that it possesses the necessary information and it only needs to systematise the data and conduct its in-depth interpretation and correlation with the judicial context and the real-life circumstances. The conditional formatting function was tentatively applied to the table, so that the performance indicators for different courts may be easily compared. The table also contains the averages, medians, maximal and minimal values of the concerned indicators for the first instance courts. Important elements related to the performance of each and any individual court may be drawn only from this table. For example, looking at the table, is it possible to say that the Cahul Court of Appeal was performing in 2016 worse than any other court of the same level? Is such a conclusion that the Orhei District Court was very efficient in 2016 (1208 CPJ, combined with rather low rates of quashed and modified decisions), but that its resources are insufficient for the purpose of coping in a long run with the caseload (88,2% CR) well substantiated? At the same time, putting this data in the context of other information known to the stakeholders of the court system would offer a significant basis for decision-making and court management.

**Table 6. Selected indicators from in the 2016 statistical tables published by the SCM of Moldova**

No	Court	Number of judges (FTE)	Total cases concluded	CPI from the total number of cases completed FTE for for indices	CR	% of resolved cases calculated from the total workload:	DT	Monthly CPI	Civil cases			Criminal cases					
									CR	DT	% QMD	CR	DT	% QMD			
A	B	5	8	10	12		13										
1	Supreme Court of Justice	29	11636	401	101.2%	92.1%	31	40.1									
<b>Appellate courts:</b>																	
2	Court of Appeal of Chişinău	53	29061	548	99.2%	81.4%	83	54.8									
3	Court of Appeal of Bălţi	21	6240	297	96.2%	79.9%	92	29.7									
4	Court of Appeal of Cahul	7	1389	198	91.9%	74.6%	125	19.8									
5	Court of Appeal of Comrat	4	980	245	110.9%	87.3%	53	24.5									
<b>First instance courts:</b>																	
6	Sect.Botanica	22	13322	606	96.4%	79.6%	94	60.6	94.2%	151	6.9%	93.0%	230	33.0%			
7	Sect.Buiucani	27	18771	695	101.7%	86.6%	56	69.5	103.3%	118	10.9%	105.7%	230	28.8%			
8	Sect.Centru	28	30556	1091	97.8%	84.0%	70	109.1	94.2%	214	11.3%	83.8%	416	41.0%			
9	Sect.Ciocana	14	9514	680	97.2%	85.6%	62	68.0	94.2%	107	6.4%	102.3%	122	29.4%			
10	Sect.Rîşcani	26	18505	712	108.0%	73.2%	134	71.2	103.5%	276	8.6%	101.8%	459	38.6%			
11	Bălţi	14	12695	907	96.7%	83.2%	74	90.7	96.7%	96	3.6%	91.9%	245	19.8%			
12	Bender	4	1372	343	93.3%	86.6%	56	34.3	99.8%	47	1.4%	110.9%	144	5.3%			
13	Anenii-Noi	5	4690	938	88.6%	78.9%	98	93.8	91.1%	123	4.2%	86.8%	204	19.0%			
14	Basarabasca	2	1199	600	102.1%	92.3%	30	60.0	103.2%	45	2.4%	105.6%	97	18.1%			
15	Briceni	5	3089	618	95.7%	87.9%	50	61.8	98.6%	91	2.6%	86.9%	139	9.1%			
16	Cahul	7	5008	715	100.9%	81.6%	82	71.5	102.0%	128	4.4%	100.0%	168	19.4%			
17	Cantemir	4	1765	441	92.2%	75.7%	117	44.1	89.1%	188	2.6%	93.6%	162	15.0%			
18	Călăraşi	5	2586	517	97.0%	80.2%	90	51.7	98.6%	111	2.5%	89.8%	235	12.9%			
19	Căuşeni	5	2827	565	92.2%	77.0%	109	56.5	87.6%	147	3.6%	96.2%	194	11.6%			
20	Ceadrî-Lunga	4	2186	547	102.6%	88.4%	48	54.7	106.7%	71	3.5%	109.8%	117	17.3%			
21	Cimişlia	4	2087	522	105.1%	85.9%	60	52.2	106.5%	100	4.3%	115.5%	128	12.1%			
22	Comrat	3	2200	733	87.2%	66.0%	188	73.3	83.1%	286	6.3%	87.2%	334	17.8%			
23	Criuleni	4	2747	687	92.3%	78.9%	98	68.7	97.6%	92	4.5%	93.6%	196	38.4%			
24	Donduşeni	3	1859	620	96.1%	91.1%	36	62.0	94.6%	46	2.7%	91.5%	78	12.0%			
25	Drochia	5	3406	681	91.3%	78.3%	101	68.1	84.1%	236	6.6%	78.4%	337	18.5%			
26	Dubăsari	4	1237	309	96.3%	87.8%	51	30.9	92.4%	97	3.1%	100.7%	80	8.3%			
27	Edineţ	6	2855	476	101.8%	92.6%	29	47.6	102.3%	38	5.2%	102.7%	72	24.2%			
28	Făleşti	5	2414	483	96.6%	87.5%	52	48.3	94.2%	94	3.6%	98.0%	57	10.3%			
29	Floreşti	5	2375	475	95.4%	77.9%	104	47.5	92.7%	149	1.8%	90.7%	215	15.3%			
30	Glodeni	3	2071	690	99.9%	91.2%	35	69.0	100.0%	63	2.4%	100.0%	81	20.1%			
31	Hînceşti	9	3845	427	103.9%	81.7%	82	42.7	104.3%	106	3.9%	120.2%	124	20.7%			
32	Ialoveni	6	3902	650	92.5%	75.9%	116	65.0	88.5%	207	4.6%	88.2%	295	33.1%			
33	Leova	4	1624	406	91.6%	80.4%	89	40.6	86.2%	150	2.9%	90.9%	135	14.0%			
34	Nisporeni	4	1805	451	97.6%	86.1%	59	45.1	101.5%	82	4.8%	98.2%	94	9.1%			
35	Ocnita	4	1960	490	93.7%	90.0%	40	49.0	93.3%	44	2.2%	73.7%	191	7.7%			
36	Orhei	5	6039	1208	88.2%	74.9%	123	120.8	94.0%	133	3.9%	93.2%	239	8.6%			
37	Rezina	4	2642	661	88.8%	80.3%	90	66.1	87.8%	110	1.5%	76.8%	277	13.7%			
38	Rîşcani	4	2769	692	98.6%	84.1%	69	69.2	99.9%	100	2.9%	87.7%	220	10.3%			
39	Sîngerei	5	2921	584	102.4%	90.5%	38	58.4	101.1%	85	3.2%	112.8%	75	18.1%			
40	Soroca	9	3402	378	97.2%	87.3%	53	37.8	96.4%	76	4.3%	93.9%	130	22.9%			
41	Străşeni	8	3825	478	101.8%	84.4%	67	47.8	103.3%	82	5.0%	111.0%	136	20.2%			
42	Şoldăneşti	2	1848	924	100.9%	89.1%	44	92.4	107.7%	54	1.3%	90.4%	126	23.9%			
43	Ştefan-Vodă	4	2290	573	94.7%	86.3%	58	57.3	91.7%	91	3.8%	88.7%	162	10.7%			
44	Taraclia	2	1522	761	96.3%	87.4%	53	76.1	90.3%	110	2.1%	87.5%	141	13.8%			
45	Teleşeni	4	2341	585	97.8%	88.7%	47	58.5	100.5%	72	3.8%	102.6%	76	12.6%			
46	Ungheni	8	4118	515	93.7%	78.7%	99	51.5	91.9%	156	2.8%	94.4%	108	13.2%			
47	Vulcăneşti	2	910	455	93.5%	83.8%	71	45.5	90.4%	128	7.7%	90.5%	122	25.5%			
<b>Average 1st instance courts</b>																	
	Median			616	96.6%	83.5%	74	61.6	96.2%	117	4%	95.6%	176	18.4%			
	Maximum			1208	108.0%	92.6%	188	120.8	107.7%	286	11.3%	120.2%	459	41.0%			
	Minimum			309	87.2%	66.0%	29	30.9	83.1%	38	1.3%	73.7%	57	5.3%			
48	Military court	3	156	52.0	94.0%		28										
49	Commercial court	3	256	85.3	102.4%		282										
	<b>TOTAL</b>	<b>418</b>	<b>248817</b>	<b>595,3</b>	<b>98,0%</b>		<b>90</b>										

Graphs 8-10. Moldovan district courts compared (CEPEJ-recommended indicators, data of 2016)



In the same context, the CEPEJ experts would like to remind the Moldovan authorities of the methods to evaluate and compare courts' performance proposed in the EPC report of 2014. The referred report suggested, in order to get a more informative overview, to put several indicators for all the courts in one table. Colouring the tables with "traffic lights" and shades from red (below benchmark) to green (better than the benchmark) helps presenting the data comprehensively and insightfully.

The graph below clearly shows at a glance, for example, that in the Riscani court the clearance rate, the caseload, and the disposition time are not matching the benchmark between 2011-2013. Efficiency is better than the benchmark, while progress is made concerning productivity and cost efficiency between 2011 and 2013. The court of Stefan Voda, on the other hand, has a good score on several indicators and seems to perform rather well. Exchanging best practices in the judicial system between courts could help to improve both the efficiency and quality.

**Table 7. Clearance rate, caseload, backlog-change, disposition time, efficiency (budget/case), and productivity (case/judge) of all district courts of Moldova (source EPC 2014, data of 2011-2012).**

Court name	Clearance Rate			Caseload			Backlog-Change			Disposition Time			Efficiency (budget/case)				Cost Efficiency			Productivity (res. cases/judge)				Productivity			
	2013	2012	2011	2013	2012	2011	2013	2012	2011	2013	2012	2011	2013	2012	2011	Trend	2013	2012	2011	2013	2012	2011	Trend	2013	2012	2011	
Botanica Court, municipality of Chişinău	98%	98%	95%	17%	15%	14%	26%	12%	80%	55	54	54	28	19	23	-	-9%	35%	4%	802	875	838	-	-2%	2%	-9%	
Bulcoani Court, municipality of Chişinău	98%	101%	92%	21%	18%	19%	14%	-4%	60%	77	84	78	81	24	18	-	-40%	1%	2%	1,146	1,141	888	-	20%	21%	-3%	
Centru Court, municipality of Chişinău	97%	98%	92%	23%	28%	19%	15%	10%	68%	88	75	77	19	13	12	-	30%	-19%	0%	1,271	1,367	1,214	-	-7%	19%	1%	
Ciocana Court, municipality of Chişinău	101%	101%	94%	13%	15%	15%	-9%	-4%	68%	47	54	58	31	22	20	-	-24%	31%	14%	794	783	739	-	2%	-5%	-18%	
Riscani Court, municipality of Chişinău	93%	99%	85%	37%	35%	35%	22%	4%	76%	140	123	130	24	17	17	-	7%	48%	0%	1,176	866	756	-	14%	0%	-30%	
Balti Court	102%	98%	98%	17%	15%	18%	-11%	10%	28%	81	72	85	37	27	24	-	5%	30%	67%	887	823	860	-	-1%	-19%	-13%	
Bender Court	105%	97%	101%	10%	8%	6%	-35%	60%	-11%	35	31	23	179	85	85	-	-49%	-47%	-41%	196	341	284	-	-31%	-26%	-32%	
Anenii Noi	101%	100%	98%	18%	9%	9%	-5%	5%	21%	35	32	34	45	22	22	-	-8%	82%	49%	991	701	690	-	70%	21%	3%	
Basarabcea	102%	98%	102%	11%	11%	8%	-18%	26%	-19%	38	41	30	90	61	77	-	-15%	4%	-19%	325	302	395	-	-8%	-3%	-3%	
Boceni	104%	98%	102%	10%	10%	4%	-25%	59%	-38%	37	40	14	65	31	22	-	-32%	-7%	-20%	436	583	1,084	-	-12%	0%	-2%	
Calul	98%	94%	95%	23%	27%	28%	0%	29%	37%	109	103	77	52	48	27	-	0%	11%	68%	482	520	538	-	-15%	-8%	-12%	
Cantemir	100%	95%	98%	24%	24%	19%	1%	26%	30%	88	90	72	97	110	71	-	-24%	-27%	-1%	481	439	588	-	25%	24%	53%	
Calarasi	102%	100%	99%	14%	14%	14%	-12%	2%	5%	51	51	52	58	51	51	-	-8%	-24%	-28%	491	600	538	-	10%	5%	-8%	
Caşteni	100%	99%	98%	21%	24%	23%	-24%	8%	23%	71	87	87	73	49	30	-	-30%	-15%	48%	497	468	507	-	1%	-20%	-3%	
Ceafra-Lunga	97%	99%	98%	15%	11%	9%	23%	7%	83%	55	40	35	82	57	48	-	-22%	-8%	19%	452	410	543	-	15%	4%	15%	
Cimilia	99%	100%	100%	9%	11%	12%	19%	1%	-4%	35	41	45	49	88	40	-	-10%	-36%	43%	1,007	559	487	-	33%	17%	0%	
Comrat	103%	95%	98%	15%	15%	9%	-44%	49%	30%	56	59	34	64	47	33	-	7%	13%	34%	406	542	517	-	-11%	9%	-4%	
Crişleni	94%	103%	98%	19%	15%	16%	41%	-18%	15%	75	53	65	92	49	41	-	-22%	58%	33%	371	368	402	-	-13%	-5%	-14%	
Donduseni	102%	99%	98%	7%	9%	9%	-35%	12%	27%	23	32	33	77	70	84	-	8%	3%	-8%	406	386	342	-	21%	11%	5%	
Drochia	107%	98%	99%	22%	24%	22%	-23%	11%	26%	75	91	85	82	41	47	-	-20%	25%	2%	380	421	407	-	-15%	-15%	-20%	
Dubasari	100%	103%	98%	12%	11%	12%	0%	-21%	21%	45	38	44	183	74	58	-	-38%	23%	34%	234	273	240	-	-2%	-2%	-20%	
Edinet	102%	100%	99%	9%	11%	11%	-16%	-4%	9%	32	40	40	59	50	59	-	-10%	28%	32%	421	478	421	-	-11%	-11%	-4%	
Falesti	100%	100%	108%	12%	11%	12%	0%	4%	-10%	42	40	40	78	53	47	-	-22%	1%	19%	387	380	374	-	-11%	-8%	-14%	
Floreşti	108%	134%	69%	19%	25%	37%	-31%	-50%	53%	83	89	198	69	39	49	-	-30%	-26%	-37%	989	818	495	-	-17%	-21%	-12%	
Glodeni	94%	105%	97%	10%	4%	9%	132%	-51%	40%	40	16	35	193	82	81	-	-67%	-12%	-12%	335	381	338	-	-19%	-10%	-14%	
Grigoriopol																											
Hîrteşti	99%	98%	94%	15%	22%	18%	4%	24%	65%	70	84	82	81	84	57	-	-3%	-2%	-8%	427	388	478	-	-13%	-14%	-18%	
Ialoveni	100%	98%	97%	22%	15%	13%	0%	12%	28%	80	58	50	54	24	18	-	-2%	23%	42%	624	665	688	-	30%	28%	8%	
Ieşova	98%	100%	98%	21%	9%	8%	35%	3%	41%	80	35	31	118	37	75	-	-38%	-1%	-51%	326	800	608	-	-2%	17%	1%	
Nisporeni	100%	100%	100%	10%	8%	8%	2%	-2%	3%	38	28	31	84	45	61	-	-12%	28%	4%	314	421	378	-	-11%	-2%	-14%	
Orniţa	100%	102%	101%	9%	9%	6%	5%	-28%	-14%	18	17	23	99	50	42	-	-48%	8%	38%	387	465	379	-	-19%	18%	-7%	
Orhei	100%	98%	98%	14%	13%	10%	-2%	15%	28%	49	49	35	51	28	28	-	-11%	33%	7%	631	673	812	-	8%	-15%	11%	
Racina	100%	98%	100%	9%	4%	3%	5%	58%	-10%	20	17	15	60	34	30	-	-4%	32%	39%	452	528	551	-	10%	8%	3%	
Rîbniţa																											
Riscani	107%	91%	99%	13%	20%	12%	-35%	83%	9%	45	79	44	74	80	55	-	-22%	-9%	23%	524	460	389	-	28%	18%	-7%	
Sîngerei	100%	100%	98%	9%	10%	9%	2%	9%	23%	35	37	33	69	48	35	-	-15%	19%	35%	401	374	624	-	-4%	-8%	23%	
Slobozia																											
Soroca	100%	103%	100%	10%	9%	12%	-1%	-28%	-1%	37	32	45	68	58	43	-	-32%	-49%	1%	448	520	518	-	-18%	-8%	-19%	
Străşeni	100%	98%	97%	20%	18%	14%	0%	9%	46%	74	67	55	50	32	41	-	4%	31%	-28%	589	541	619	-	2%	-8%	-17%	
Soldaneni	100%	99%	98%	14%	7%	15%	-1%	9%	30%	53	24	38	118	22	58	-	-30%	38%	41%	406	507	343	-	24%	57%	8%	
Stefan Voda	101%	100%	99%	9%	7%	8%	-4%	-3%	12%	34	27	31	70	33	28	-	-8%	51%	87%	542	738	654	-	37%	38%	21%	
Taracea	99%	100%	98%	15%	13%	11%	10%	3%	79%	58	46	43	106	75	51	-	-22%	7%	54%	438	291	379	-	38%	-15%	11%	
Teleneşti	101%	99%	99%	8%	6%	7%	-18%	15%	11%	22	24	24	59	42	38	-	-23%	-5%	51%	435	479	405	-	-8%	-11%	-10%	
Ungheni	105%	104%	98%	15%	22%	20%	-30%	-19%	9%	63	82	76	50	31	23	-	9%	52%	94%	510	489	623	-	2%	-7%	0%	
Vulcăneşti	103%	90%	92%	19%	26%	14%	-15%	69%	133%	67	107	90	171	83	218	-	-44%	36%	-33%	588	288	501	-	97%	17%	68%	
District Commercial court	108%	220%	158%	53%	29%	12%	-14%	-81%	-32%	177	47	29	753	114	12	-	-87%	-54%	130%	43	118	93	-	-80%	-86%	-9%	
Military Court	103%	95%	102%	2%	0%	0%	-60%	-100%	-	8	21	0	0	0	478	-	-	-	-	-	-	-	-	-	-	-	1%
Avg	101%	102%	98%	15%	15%	13%	-1%	7%	34%	67	63	61	90	47	58	-				528	643	651	-				
Stdevp	3%	7%	5%	8%	8%	5%	18%	21%	43%	23	21	22	51	19	33	-				187	169	171	-				
Min	93%	90%	89%	2%	4%	0%	-80%	-91%	-100%	8	15	0	0	0	12	-				43	118	19	-				
Max	108%	220%	158%	65%	33%	37%	132%	88%	824%	177	123	198	763	114	478	-				1,271	1,367	1,214	-				

#### 6.4 The Supreme Court of Justice

The Supreme Court of Justice (SCJ) is one of the main actors in guarding the quality of justice: protection by the law, unifying the practice of courts and development of the jurisprudence.

On 20 February 2017, the Plenum of the Supreme Court of Justice adopted its annual report.<sup>23</sup> The SCJ is the first court which used the CEPEJ statistical tools in its annual report and published on its web site. The SCJ annual report uses the CEPEJ-recommended efficiency indicators such as the

<sup>23</sup> [http://jurisprudenta.csj.md/search\\_plen\\_csj.php?id=176](http://jurisprudenta.csj.md/search_plen_csj.php?id=176) (available only in Romanian).

clearance rate, disposition time, etc. A detailed analytical report on the above mentioned indicators is provided, including comparative data for 2012-2016. This report can be considered as a model report especially for the court of appeals.

### **6.5 The Ministry of Justice**

The Ministry of Justice also published its annual report for 2016.<sup>24</sup> The document provides detailed information on the implementation of the Government Action Plan for 2016. The document refers to the efforts of the Ministry and of the Agency for Courts' Administration to ensure a proper implementation of the ICMS, court optimisation, modernisation the judicial statistics by developing the information system to collect, analyse and report data, as well as to set some performance indicators, etc. The annual report published by the MoJ contains references to the stage of implementation of the Government's priorities for the justice sector. However, it contains no analytical information with regard to the court administration and no statistical data on time management, efficiency and quality of courts in line with the CEPEJ tools.

### **6.6 The pilot courts**

Although all the pilot courts developed performance reports, based on the results of 2016 and including the CEPEJ-recommended indicators as well as a detailed analysis, by the date of finalising the present report only the Supreme Court of Justice published its annual report. The team of CEPEJ experts understands the challenges the pilot courts are facing with the new type and format of reporting, statistical data collection and analysis. However, the pilot courts are encouraged to take further steps to publish the reports, present and discuss their findings and conclusions with judges, court staff and, to the extent possible with court users and the public.

## **7. Final conclusions and recommendations for implementation of CEPEJ tools in the courts of the Republic of Moldova**

As a result of the court coaching programme and after learning from the experience of the pilot courts in implementing the CEPEJ tools, the expert team highly appreciates the cooperation with the courts and other national partners as part of the Project "Strengthening the efficiency of justice and support to lawyers' profession in the Republic of Moldova" and would like to highlight the following recommendations:

### ***1. Implementing the CEPEJ methodology on statistical data collection, analysis and reporting in all courts.***

Collection, analysis and reporting on the relevant statistical indicators in line with the CEPEJ methodology will support the court management, decision-making based on objective data, and the policy of improving the efficiency and quality of courts.

The Superior Council of Magistracy and the Ministry of Justice are encouraged to analyse and spread the knowledge and good practices gathered during the Project's implementation. The challenges faced by the pilot courts and the answers adopted by them need to be analysed in detail by the decision makers of the judicial system in order to propose definitive solutions, which will be applied consistently and uniformly throughout the national court system.

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[http://justice.gov.md/public/files/file/rapoarte/2017/februarie/Raport\\_de\\_activitate\\_al\\_Ministerului\\_Justitiei\\_pentru\\_anul\\_2016.pdf](http://justice.gov.md/public/files/file/rapoarte/2017/februarie/Raport_de_activitate_al_Ministerului_Justitiei_pentru_anul_2016.pdf)

**2. *Publishing the performance reports made in line with the CEPEJ methodology on courts' websites.***

The CEPEJ experts encourage all the courts to continue with this good practice and to publish performance reports on their websites at least on an annual basis.

**3. *Constantly improving the human resources for court management.***

The Superior Council of Magistracy and the Agency for Courts' Administration are encouraged to take measures for improving the human resources responsible for collection, analysis and reporting of statistical data. The specialised training on court management, included already in the curricula of the National Institute of Justice, should be made available to all judges and senior court staff. It will be updated in line with the developments and include the new tools and methods introduced in the administration of courts.

**4. *Introducing indicators and functionalities aligned to the CEPEJ tools in the advanced Integrated Case Management System implemented in the Republic of Moldova.***

The results of the pilot courts clearly show that implementation of the CEPEJ tools produce a positive effect and can further improve the performance of Moldovan courts. The Superior Council of Magistracy and the Agency for Courts' Administration are encouraged to work closely with the pilot courts on improving the methodology of data collection and the related functionalities of the ICMS. Manual registration and collection of statistical data should be fully replaced by electronic registering and reporting procedures.

**5. *The court system of the Republic of Moldova has reached a good record regarding the timeliness of court procedures and should make efforts to maintain and possibly improve it.***

As the workload of national courts is constantly rising, it is necessary to take preventive measures and anticipate any deficit of capacities within individual courts. To this end, the analysis based on the CEPEJ indicators should be of help for the purpose of taking substantiated and sustainable decisions.

**6. *Dissemination of the use of targets and proposing "unified" targets for all national courts.***

The experience of the pilot courts in developing, setting and monitoring targets should be analysed in view of proposing such targets for all courts of the Republic of Moldova. This will be particularly relevant for the uniform interpretation and application by the national courts and judges of the concept of "reasonable time", in line with the doctrine and case-law of the European Court of Human Rights.

**7. *Disseminate the analysis and publication of appeal ratios throughout the court system, especially at court level.***

The appeal ratios reflect the limited potential of existing judicial statistics in view of assessing the quality of judicial decisions. Although the CEPEJ experts agree that the appeal ratios are not in themselves indicators of quality, it must be recognised that their evolution in time and strong difference of values between comparable areas of measurement may point out to anomalies in courts' functioning. The appeal ratios for different types of cases (criminal, civil, administrative) have their own levels and dynamics, which need special attention from the courts and the judicial administration. Furthermore, the relationship between the appeal ratios and the workload of individual courts should be analysed, as well as the impact of the specialisation of judges on these ratios.

**8. *Conducting court user satisfactions surveys regularly and through a consistent methodology.***

The satisfaction surveys are important tools in order to evaluate the quality of services and drive positive changes in courts. They should be conducted in all courts, at regular and sufficiently long intervals, in order to track down the “performance” of courts and to assess the impact of actions taken in response to particular issues pointed out by court users, lawyers or staff.

The satisfaction surveys of different target groups and conducted in different courts should be properly adjusted to their objectives, but it is important to apply a consistent methodology and to regularly repeat the surveys.

**9. *The satisfaction surveys should facilitate the dialogue with the court users and the general public.***

Transparency and proper communication are at the heart of conducting and following up on the results of satisfaction surveys. Ensuring openness with regard to this and other aspects of courts’ activity will contribute to higher public trust.

**10. *Improving the communication policies of courts and of the judiciary.***

In view of improving the communication policies of courts, they should, at a minimum:

- adopt decisions on the publication, at least once a year, of a report on the activity of the court (including efficiency and quality indicators);
- appoint a unit or person responsible for the institutional transparency and public relations;
- make presentations and discuss the draft activity reports within the court and, after their approval, with the target audiences;
- use extensively the Internet to inform operatively, efficiently and in a non-discriminatory way the public and stakeholders (parties, lawyers, etc.) on courts’ activity.

**11. *Providing guidance on the implementation of CEPEJ methodology and tools at the national level.***

The Superior Council of Magistracy, the Ministry of Justice, the Supreme Court of Justice and the National Institute of Justice are invited to take over the initiative and responsibility for the mission of disseminating the lessons learned and good practices of the pilot courts in view of implementing the CEPEJ methodology and tools. It is important that the central judicial authorities encourage and promote the proactive court management and the so-called “new paradigm” in court administration, which is based on ensuring the fullest access of the public to the information on courts’ performance.

CEPEJ stands ready to further support the efforts of the judicial authorities of the Republic of Moldova for the purpose of implementing the above recommendations.

## **8. Appendixes**

**8.1 Appendix 1: Updated version of the Guide for the implementation of selected CEPEJ tools in the courts of the Republic of Moldova**

**8.2 Appendix 2: The publication “Selection of CEPEJ tools on time management, efficiency and quality of justice” (in Romanian language only)**

**8.3 Appendix 3: Examples of data provided through the CEPEJ-STAT database in regard to the Republic of Moldova**

**8.4 Appendix 4: Recommendations on improving the Integrated Case Management System**