

## Round table on the Strategy for the development of judicial administration in Kazakhstan, Astana, Kazakhstan, 4 October 2024

Dear participants and colleagues,

May I start by thanking the judicial authorities of Kazakhstan for giving me, as President of the European Commission for the Efficiency of Justice (CEPEJ), the opportunity to address this round table which is discussing the Strategy for the development of court administration in Kazakhstan.

The guiding principle in our work at the CEPEJ is the European Convention on Human Rights which guarantees, amongst other things, the right to a fair trial within a reasonable time by an independent and impartial tribunal. To accomplish its mission, one of the tasks given to the CEPEJ is that of examining the situation in the different judicial systems, highlighting problems and areas of possible improvements, and identifying concrete ways to improve their functioning.

I would like to highlight some of the main principles which guide the work of the CEPEJ, referring to various tools and guidelines we have developed throughout the years based on recent trends in the judiciary in Europe that may be useful for you to be considered when finalising the strategy.

- i) *Digitalisation can contribute to the efficiency of justice but must retain the human participation and involvement.*

One of the most prominent challenges being faced by the judiciary today is the digital transformation of justice. Digitalisation brings with it a fundamental question: How are we to ensure that justice retains its human control and involvement in an increasingly digitised and automated world?

It needs to be stressed that digitised justice must be independent and of high quality. Efforts must be made to ensure that digital tools do not compromise the core human elements of justice. It is of paramount importance that the judge must remain at the heart and in control of the judicial proceedings. While digitisation may speed up procedures and make justice more transparent, the involvement of a human judge remains irreplaceable in delivering justice, so as to ensure that justice is both equitable and fair.

Digitising the justice system plays an important role to enhance transparency and access to justice. New technologies can help court users to better understand procedures which might be difficult to comprehend. Courts may also benefit from transparency of their proceedings by using dashboards. Dashboards connected to case management systems are effective means for managing case-flow and distribute workloads efficiently. The CEPEJ has developed the Handbook on Court Dashboards which provides suggestions and guidelines for its implementation.

According to the data you have provided us, it appears that, in 2020, the time needed to process pending cases – so-called Disposition Time - in all matters and at all instances of Kazakhstan's courts is very short in comparison to European medians. This is indeed a positive indicator. Nevertheless, Disposition Time on its own is not sufficient for evaluating the efficiency of judicial system. Many other aspects enter into account when evaluating the efficiency, such as the number of judges, prosecutors and lawyers, the number of non-judge staff, the existence of alternative dispute resolution proceedings, specificities of national statistics and the legal culture. We understand that these elements may need further examination, and we hope that further cooperation with Kazakhstan will give us more information to better understand and analyse your judicial system and to enhance the comparability of such data with the Council of Europe member States.

ii) *Efficiency cannot come at the expense of the quality of justice.*

Efficiency through digitalisation cannot come at the expense of the quality of justice and the independence of the judiciary. As a matter of fact, the CEPEJ is currently developing qualitative indicators to evaluate judges, focusing not only on statistics but on the qualitative aspect of their work. In fact, guidelines on the quality of judicial debate are being currently discussed at the Working Group level.

Court users are at the centre of the CEPEJ work because justice is a key public service. We have, as a result, published the Guidelines on a Better Integration of the users in the Judicial Systems, which provide for measures conducive to ensuring the trust of the users in the judiciary.

Statistics has shown that for several years now, in Europe there appear to be more female judges than male. Notwithstanding this, it appears that this is not the case as one goes up the hierarchical level. The glass ceiling is still a reality to be overcome in the judiciary too. The CEPEJ has published the Guidelines on Gender Equality in the Recruitment and Promotion of Judges, where we propose measures that can support the efforts of national authorities to achieve gender equality in the profession of judge.

iii) *Integration of Artificial intelligence in judicial proceedings is the main challenge for justice in the future.*

Following developments which have affected all society in recent years, one of the most exciting and transformative developments in the digitalisation of justice at present is the emergence of Artificial intelligence's tools (AI). While their use may support judicial professionals in certain tasks, one must keep in mind that they are not entirely suitable for the adjudication of justice. They can pose significant risks. As a matter of

fact, studies have shown that such systems, at present, may produce incorrect answers, discrimination, lack of reliable sources and breaches of data protection, all these being of grave concern when applied in the judicial sphere. Problems of transparency and reliability in the answers given have raised much concern.

We believe that one should be open but critical and cautious towards these developments. Way back in 2018, the CEPEJ adopted the Ethical Charter on the use of AI in justice setting up five basic principles which need to be adhered to when implementing such systems. These principles are intended to help the judiciaries deliver justice in compliance with human rights guaranteed by the European Convention on Human Rights whilst availing of new systems being developed.

To promote reasonable digitalisation, the CEPEJ also adopted other tools and guidelines on E-filing, Remote Hearings, or E-auctions. The CEPEJ also strives to look qualitatively at judicial digitisation initiatives with the help of the Resource Centre on Cyberjustice and AI.

Furthermore, aware of the developments taking place in various member States, the CEPEJ has integrated the AI aspect in its latest questionnaire for the Evaluation of judicial systems, being also aware of its potential in terms of efficiency but also of the risks concerning the individual fundamental rights. The new Report based on 2022 data shows interesting findings on the already existing tools based on AI. We will continue collecting relevant information, so as to enrich our knowledge through data collection and the creation of new indicators. In respect of ICT and AI, the CEPEJ approach is based on a very simple principle: “The digitalisation of judicial systems has enormous potential to improve efficiency .... if it's done right!”.

iv) *Involvement of justice professionals in CEPEJ work*

Any of the above tools and guidelines as well as the Evaluation Report would not have been able to be developed without contribution from justice professionals. Their

involvement in the CEPEJ's work is an essential element to ensure that the tools respond to the needs of the judiciary and the users.

Throughout the years, CEPEJ has developed close co-operation with various organisations of justice professionals. These associations of different professions participate in the plenary sessions and working groups. This is in line with the principle

which we promote, namely that it is important to involve justice professionals in developing any strategic document pertaining to the justice sector.

Finally, we also manage three different networks, one being composed of courts from different member States and observer countries who discuss the implementation and development of the various tools under discussion by various working groups in their realities as courts, one being composed of statistical correspondents who help in collecting all the necessary information for our evaluation process, and one being composed of specialists in information technologies who help us develop further the Resource Centre on Artificial Intelligence (AI). All these networks play an important role in developing CEPEJ's tools and guidelines.

Kazakhstan participates as observer state in all these networks and draw upon expertise and experiences from these exchanges from other countries and organisation representatives. We look forward to seeing you to participate actively in these networks.

I wish you the best of luck with the implementation of the judicial strategy in Kazakhstan.