



High quality justice for all member states of the Council of Europe



CEPEJ STUDIES No. 22

European Commission for the Efficiency of Justice (CEPEJ)



**EUROPEAN COMMISSION
FOR THE EFFICIENCY OF JUSTICE
(CEPEJ):
HIGH QUALITY JUSTICE FOR
ALL MEMBER STATES OF
THE COUNCIL OF EUROPE**

**Jean - Paul Jean
Ramin Gurbanov**

Strasbourg - 2015

Jean - Paul JEAN,

Chairman of the Working Group on evaluation of judicial systems (CEPEJ-GT-EVAL), Associate Professor at the University of Law, Poitiers, Court Section President of the Court of Cassation, Paris, France

Ramin GURBANOV, PhD in law,

Member of the CEPEJ Bureau and the CEPEJ-GT-EVAL, Scientific expert of the Institute of Philosophy and Law/Azerbaijan National Academy of Sciences, Judge, Baku, Azerbaijan

Scientific advisors:

Jacques BÜHLER, doctor of law

Chairman of the Steering Group of the SATURN Centre for judicial time management (CEPEJ SATURN), Deputy Secretary General, Federal Supreme Court, Lucerne, Switzerland

François PAYCHÈRE, doctor of law

Chairman of the Working Group on quality of justice (CEPEJ-GT-QUAL), President of the Court of Auditors of the Republic and Canton of Geneva, Switzerland

CONTENT

Introduction

Chapter 1. The European Commission for the Efficiency of Justice is the consultative body of the Council of Europe granted with the responsibility of developing and implementing guidelines and common standards in the sphere of the delivery of justice

- 1.1. Nature and organisational bases of the European Commission for the Efficiency of Justice.....8
- 1.2. Functions of the European Commission for the Efficiency of Justice.....9

Chapter 2. The evaluation of the court systems of the Member States of the Council of Europe is one of the main activities of the European Commission for the Efficiency of Justice

- 2.1. Evaluation tools of the European Commission for the Efficiency of Justice..20
 - 2.1.1. CEPEJ Guidelines on judicial statistics (GOJUST)20
 - 2.1.2. Objectives and methodology for a pilot peer review co-operation process on judicial statistics22
- 2.2. Main documents drafted by the European Commission for the Efficiency of Justice in respect to all Member States of the Council of Europe: reports on the evaluation of European judicial systems23
 - 2.2.1. Experimental Report on European judiciary 2004 (according to the data of 2002)23
 - 2.2.2. Report on European judicial systems 2006 (according to the data of 2004)27
 - 2.2.3. Report on European judicial systems 2008 (according to the data of 2006)30
 - 2.2.4. Report on European judicial systems 2010 (according to the data of 2008)33
 - 2.2.5. Report on European judicial systems 2012 (according to the data of 2010) and Report on European judicial systems 2014 (according to the data of 2012)37

Chapter 3. The activity of the European Commission for the Efficiency of Justice relating to the management of judicial time in the European court systems

- 3.1. Time management checklist: SATURN working document.....44
- 3.2. Framework-Programme “A new objective for judiciary: the processing of each case within an optimum and foreseeable timeframe”46
- 3.3. Compendium of ‘best practices’ on time management of judicial proceedings.....50
- 3.4. Revised SATURN Guidelines for judicial time management.....50
- 3.5. Report on the Implementation of SATURN time management tools.....53

Chapter 4. The activity of the European Commission for the Efficiency of Justice aimed at improving the quality of the European court systems

4.1.	Checklist for promoting the quality of justice and the courts	58
4.2.	Checklist for court coaching in the framework of customer satisfaction surveys among court users	64
4.3.	Report on the conducting of satisfaction surveys amongst court-users in the Member States of the Council of Europe	65
4.4.	Court-user satisfaction reports prepared by the national courts of the Member States	70
4.5.	Guidelines on the creation of judicial maps to support access to justice within a quality judicial system	75
4.6.	Questionnaire for collecting information on the organization and accessibility of court premises	79
4.7.	Guidelines on the organization and accessibility of court premises	81
4.8.	Questionnaire on the role of experts in the judicial systems of the Council of Europe Member States	82
4.9.	Guidelines on the role of court-appointed experts in judicial proceedings	86

Chapter 5. The activity of the European Commission for the Efficiency of Justice related to the implementation of alternative methods of resolving disputes and the difficulties in the enforcement of court decisions

5.1.	The European Commission for the Efficiency of Justice activity in relation to mediation.....	88
5.1.1	Analysis of the assessment of the impact of Council of Europe Recommendations on mediation	89
5.1.2	Guidelines on the implementation of the Council of Europe Recommendations on mediation	94
5.2	The European Commission for the Efficiency of Justice activity in relation to the implementation of the Council of Europe enforcement standards.....	98
5.2.1	Enforcement of court decisions in Europe	100
5.2.2	Guidelines for a better implementation of the existing Council of Europe's Recommendations on enforcement.....	101

Chapter 6. The co-operation activities of the European Commission for the Efficiency of Justice with Member States

6.1.	Joint Programme on enhancing judicial reform in the Eastern Partnership countries as example	104
6.1.1.	Report on efficient judiciary	104
6.1.2.	Report on the profession of lawyer	110
6.1.3.	Report on judicial training	113
6.2.	Targeted co-operation process with Member States.....	117
Conclusion		123
Attachments		124

FOREWORD

It's a great honour and pleasure almost starting the Presidency of the CEPEJ by such a comprehensive unique book, drawing a marvellous and concise picture of what the CEPEJ is standing for today and where it came from.

The creation of the CEPEJ on 18 September 2002 more than a decade ago demonstrated the will of the Council of Europe to promote the rule of law and fundamental rights in Europe, on the basis of the European Convention on Human Rights, especially its Articles 5 (Right to liberty and security), 6 (Right to a fair trial), 13 (Right to an effective remedy) and 14 (Prohibition of discrimination). Driven by the substantial number of cases at the European Court of Human Rights dealing with overly long proceedings in front of courts in European states, the Council of Europe has initiated a reflection on efficiency of justice and adopted recommendations which contain ways to ensure both its fairness and efficiency.

The aim of the CEPEJ is the improvement of the efficiency and functioning of justice in the member States, and the development of the implementation of the instruments adopted by the Council of Europe to this end. Implementing this practically we started with a successful series of Evaluation Reports, providing not only comprehensive information but identifying trends, followed by developing tools and methods to identify gaps and needs of judiciary.

But the Statute of the CEPEJ emphasizes not only the comparison of judicial systems and the exchange of knowledge on their functioning. The scope of this comparison is broader than 'just' efficiency in a narrow sense: It also emphasizes the quality and the effectiveness of justice. We quickly understood that learning from the past is not giving answers for tomorrow at all: so the CEPEJ and its experts became interested to develop the models and methods further, providing court presidents, stakeholders and managers with the relevant information and to learn about what's going on, before systems get out of trim.

To serve Art. 6 of the European Convention and the increasing expectations of parties and society, timeliness will always be an ongoing demand. While new techniques and innovative solutions are around to help to improve the courts performance further and quicker, it needs the dedicated expertise of the CEPEJ-SATURN Centre to give an idea of proper time-frames, their monitoring and their limits to ensure justice properly done.

But all these quantitative approaches have to be balanced by the quality of judiciary, having its special role in society and independence in mind. It is even more important, if resources are cut, to be aware of the impact on quality. The ongoing development of quality criteria, measures, tools and even indicators to some extent are therefore a priority to highlight effects of politics and draw limits at the judge's independent desk.

During the former Presidencies and due to the excellent commitment of all members and experts, the CEPEJ, its work and knowledge got widespread among the judicial community, politicians and institutions, interested to cooperate and share ideas to improve the rule of law in efficient manner. The CEPEJ nowadays is well respected and its practical knowledge requested to cooperate in projects to improve judiciary in a win-win scenario of anybody involved in building the future.

At this point it is not only to mention and thank the former Presidents Eberhard Desch, Fausto de Santis and John Stacey for their enthusiasm, but all the National Experts, Members of Working Groups, the Bureau and the Secretariat as well as colleagues like Jean-Paul Jean and Ramin Gurbanov as the authors, and Jacques Bühler and François Paychère as the scientific advisors of this study for their continuous engagement and dedication to enable to be what the CEPEJ always was best and is standing for: A friendly and dynamic market place for best-practises of judicial professionals having one thing in common: Improving the quality and efficiency of judiciary to strengthen the court users' trust and confidence.

Sure we once started to share problems. But we've already continued in this spirit to share our solutions!



Georg Stawa
President of the European Commission for the Efficiency
of Justice (CEPEJ)

INTRODUCTION

This work is devoted to one of the institutions of the Council of Europe – the European Commission for the Efficiency of Justice (CEPEJ). For the first time in the 12th years history of CEPEJ it was decided to draft a comprehensive study on the CEPEJ activity and this privilege was given to Jean-Paul Jean (France) and Ramin Gurbanov (Azerbaijan) as authors. The scientific consultants are Jacques Bühler (Switzerland) and François Paychère (Switzerland).

The task of this institution includes the development of the effectiveness of justice systems of the Member States, which is implemented in the framework of its analytical and advisory activities. In other words, despite the advisory and analytical nature and functions of this institution of the Council of Europe the purpose of its creation is ambitious. Moreover, the consultative nature of the Commission did not prevent its widespread acceptance and growth in authority.

The main activities of the Commission are set in the framework of the preparation of reports on the assessment of judiciary of the Member States when the Commission has to analyse the statistical data submitted by the representatives of the Member States. This activity became possible through the close contacts of Commission staff with representatives of the Member States, as well as the development of guidance documents for the collection, processing and analysis of statistical data on judiciary, as well as their transfer by the Member States to the Commission for further processing. Thus, the successful analysis of the judiciary of the Member States and making advices were preceded by the intense work of the Commission on the development of tools, instruments, guidelines and methods for collecting and processing the statistical data, as well as complex work with representatives of the Member States who were responsible for the collection and processing of statistical data on their judiciary.

Today, the activities of the Commission are at the stage of specialisation. In other words, it is interested in not only the efficiency of justice in general, but in certain aspects of the judiciary of the Member States. Thus, in the framework of this authority of the Council of Europe the profile structures have been created, which were aimed at the study of certain aspects of the judiciary of the Member States, as well as drafting non-regulatory documents on various aspects of their judiciary. Among these activities we can identify: the Commission for assessing the quality of the judiciary of the Member States; the activities of the Commission in the matter of the length of proceedings; and the activities of the Commission in respect of the use of alternative methods of resolving disputes and issues related to the execution of judgments.

The objective of this study is to give a global overview to interested people of the role and the activities of the Commission, from the creation of the CEPEJ until now. It is not the intention of the authors to analyse through the reports and the other documents the evolution of the judiciary during the last 15 years within the Council of Europe area.

Chapter 1.

The European Commission for the Efficiency of Justice is the consultative body of the Council of Europe granted with the responsibility of developing and implementing guidelines and common standards in the sphere of the delivery of justice

1.1. Nature and organisational bases of the European Commission for the Efficiency of Justice

The European Commission for the Efficiency of Justice (Commission européenne pour l'efficacité de la justice) (hereinafter: the CEPEJ, or Commission) is an analytical and advisory institution of the Council of Europe, which activities include providing assistance to Member States of the Council of Europe to improve their justice systems. The establishment of this institution¹ was intended to increase the efficiency and improve the quality of justice in the Member States in order to bring their judiciary up to the standards and norms of the Council of Europe. The question is primarily about the activities on compliance of the judiciary of the Member States with the requirements related to the quality of justice established by Art. 5, 6, 13 and 14 of the European Convention on Human Rights (the European Convention), which concern the quality of the resolution of legal disputes within the national systems of justice. In other words, the CEPEJ is one of the specialised institutions (its activity is restricted by the administration of justice in the Member States), which has the features of an analytical and advisory authority, and promotes the

¹ Resolution Res(2002)12 on *establishment of the European Commission for the Efficiency of Justice (CEPEJ)*, adopted by the Committee of Ministers on 18 September 2002 at their 808 meeting.

implementation of the requirements ensuing from the European Convention and the case-law of the European Court of Human Rights (hereinafter: the ECHR), in matters of justice².

In particular, the establishment of this authority of the Council of Europe, according to the words of the first President of the CEPEJ³, “was due to excessive workload of the ECHR suits, and reducing the load of the latter, by the idea of the creators of the Commission, should be achieved by improving the efficiency and the quality of the judiciary of the Member States, and the offset of the load on litigation from the supranational to the national level”. Having regard to the fact that most of the cases under consideration of the ECHR mainly concern violations of fundamental procedural rights – in particular violations of the guarantees of judicial protection enshrined in Art. 6 of the European Convention - it became urgent to establish a Commission.

The activity of the Commission is at the junction of two main activities of the Council of Europe, which, in accordance with the Statute⁴, deal with the fundamental rights and freedoms, democracy and the rule of law, namely, the rights of citizens, which are protected directly by the national systems of justice, as well as the rule of law, which is implemented by the enforcement bodies, under the supervision of the judicial authorities. Achievement of these objectives is carried out including by improving the efficiency and the quality of the judiciary of the Member States that is realized in the framework of the Council of Europe through analytical, expert and advisory activities of the CEPEJ.

It should be noted that, despite the impression left by the CEPEJ establishment documents, in our opinion, its activities should be characterised rather analytical and advisory than recommendatory. Indeed, if we look at the main activities of the Commission, which consist in compiling evaluation reports on European judiciary, in improving the quality of the judiciary as well as the management of judicial time in European court systems, it becomes obvious that its main activity is the assessment of various aspects of the functioning of judiciary on the basis of statistical data and expression of advices to Member States. Of course, positive or negative opinions of the Commission on a particular aspect of the functioning of a given court system could be perceived as a kind of advices addressed to member States, but the core missions of the Commission remain its analytical and research functions. Thus, the activity of the Commission is less invasive in terms of international law and international policies than the activities of other authorities of the Council of Europe, which explains the less public awareness despite the knowledge of specialists of international law about the CEPEJ activities. Against this background, the present study proves to be more than relevant.

As one of the many institutions of the Council of Europe⁵, the CEPEJ is a structure which interacts with other authorities of the Council of Europe with the assistance of the Justice and Legal Co-operation Department of the Council of Europe, as well as the European Committee on Legal Co-operation (CDCJ). Among the specialised structures of the Council of Europe, which are directly and closely linked with the CEPEJ in view of their profile specialty, which is also aimed at improving the quality of questions about the national systems of justice, can be mentioned: the Consultative Council of European Judges (CCJE) and the Consultative Council of European Prosecutors (CCPE).

² See more in details: the opening Speech of Mr. Guy De Vel (Director General of legal affairs, Council of Europe) at the study session on “*Justice serving citizens: how to improve the functioning of the judicial system for the benefit of users*”, preceding the second plenary meeting of the CEPEJ.

³ E. Desch, *Foreword in European Judiciary 2002*, Council of Europe Publishing, p. 5.

⁴ Statute of the Council of Europe, ETS №1.

⁵ See in more detail the organisation of the Council of Europe, for example F. Benoît-Rohmer, H.Klebes, *Le droit du Conseil de l'Europe: vers un espace juridique européen*, Council of Europe Publishing, 2005, p. 267.

In contrast to the CEPEJ, the last bodies mentioned are distinguished by their membership, as well as the specificity of their competence. Indeed, in contrast to the CEPEJ, their work does not focus on issues of improving the efficiency and the quality of national court systems in general, and their corresponding profile orientation issues are: the status of judges in the case of the Consultative Council of European Judges (CCJE); and the status of prosecutors in the case of the Consultative Council of European Prosecutors (CCPE).

The CEPEJ Statute clearly indicates the auxiliary nature of the institution within the Council of Europe, which seeks to promote the main authorities of the latter. Thus, in particular, it specifies that the CEPEJ “Forms advisory opinions at the request of:

- the Parliamentary Assembly of the Council of Europe (hereinafter - PACE),
- the European Court of Human Rights (the ECHR),
- the European Committee on Legal Co-operation (CDCJ),
- the European Committee on Crime Problems (CDPC),
- the Steering Committee for Human Rights (CDDH),
- the Consultative Council of European Judges (CCJE) and
- the Secretary General”.

Moreover, in accordance with the Statute of the Commission (par. 3 Art. 5), the president of the Parliamentary Assembly of the Council of Europe (PACE) and the president of the European Court of Human Rights (ECHR), as well as chairmen of the relevant committees of the Council of Europe, in particular the European Committee on Legal Co-operation (CDCJ), or their representatives can participate in the work of the CEPEJ without the right to vote⁶.

It should be noted that this institution has not received regulatory and administrative competence, similar to those granted to such authorities of the Council of Europe as, for example, the Committee of Ministers or the Parliamentary Assembly. Basically, as a subsidiary authority of the Council of Europe and according to par. 2 of Art. 2 of its Statute, “the CEPEJ shall not be a supervisory or monitoring body”. A former senior representative of the Council of Europe, Mr. Roberto Lamponi, in the best way possible paid attention to the nature of this institution: ‘The CEPEJ is a really interesting institution because it has no regulatory authority, but rather it is limited in its organisation to assist States in the implementation of existing rules’⁷.

According to article 5 of its Statute, the CEPEJ authority lies in the principle of parity (one expert from each of the States, but each State should also nominate a substitute member). Accordingly, all the (47) members of the Council of Europe are represented, which ensures, in our opinion, the Commission’s representativeness and credibility, as opinions of different Member States are taken into account by the representatives of the various States. The CEPEJ shall be composed of experts who are best able to contribute to its aims and functions, and who have in particular an in-depth knowledge of the administration, functioning and efficiency of civil, criminal and/or administrative justice.

⁶ In turn, representatives of the European Union, which may also participate in the work of the Commission, are not included in its composition in legal terms, as they are handed down abroad and applied by the Commission Statute (Art. 6) to the category of observers.

⁷ Interview with R.Lamponi, 12th September 2005, quoted by J. Petaux in *L'Europe de la démocratie et des droits de l'homme: l'action du Conseil de l'Europe*, Council of Europe Publishing, 2009, p. 126.

The principle of parity takes on a particular importance since, in the framework of its work, the Commission aims to formulate guidelines to Member States to improve their judiciary with regard to the key requirements of the European Convention. Moreover, regard being had to the fact that the Commission has to organise meetings with representatives of the judiciary of the Member States; carry out activities intended to promote the authorities in reforming their judiciary and assess the quality of their work: it becomes obvious that the composition of this authority is of primary importance.

It is an interesting fact that representatives of non-Member States are associated to the work of this institution, being granted the status of observers. The question is specifically about the representatives of Israel, Canada, Mexico, the United States of America, the Holy See, Morocco and Japan. The Commission is also working with international non-government organisations and even the authorities of the European Union (the Council of the European Union and the European Commission). It is the co-operation with the authorities of the latter that elicits our greatest interest, as we know that the accession of the European Union to the European Convention, announced under the additional Protocol N14, will require a close collaboration between the two regional organisations (and especially between their judicial authorities). As a consequence, the European Union will have to take into account the principles of the ECHR case-law, including principles relating to court systems and procedural safeguards based on Art. 5, 6, 13 and 14 of the European Convention. Taking into consideration the fact that the European Commission for the Efficiency of Justice has to analyse the daily implementation of these principles in the judiciary of the Member States, the request of the European Union for advice on these issues from the CEPEJ should be natural and the participation of the EU in the work of this authority is necessary.

The Commission operates on the basis of an internal document⁸, developed on its own initiative that indicates the existence of a certain functional autonomy within the authority. This act specifically clarifies that the rules of Resolution Res76(3) governing the activities of all the committees of the Council of Europe set up by the Committee of Ministers, or with its authorisation, apply to the CEPEJ. By inference, the nature of this Commission proves to be comparable to that which is inherent in the data working authorities of the international organisation.

The CEPEJ elects from amongst its members, by secret ballot and by a majority of the votes cast, a president and a vice-president (Art. 2 of the CEPEJ Procedural Rules), as well as two members of the Bureau, which also indicates the existence of a functional internal autonomy. Moreover, the election for these positions in the Commission is carried out quite liberally, as in derogation from the rules of unanimity widely used in international law; the election of the management of the CEPEJ is based on the simple majority (par. 3 Art. 2 of the Procedural Rules)⁹.

The institutional structure of the CEPEJ – Bureau – is endowed with administrative and executive functions (Art. 3)¹⁰:

⁸ *The Rules of Procedure of the European Commission for the Efficiency of Justice*, 19 March 2003, CEPEJ/GENERAL(2003)3.

⁹ Curiously enough, a similar rule applies in respect of the requirement for quorum. Namely, there shall be a quorum if a majority of the delegations are present (Art. 5 of Procedural Rules).

¹⁰ The four members of the CEPEJ Bureau are experts elected by the representatives of the 47 Member States. Currently they are: President Georg Stawa (Austria), vice-president Irakli Adeishvili (Georgia), Ivana Borzova (Czech Republic) and Ramin Gurbanov (Azerbaijan).

-
- the co-ordination of the activities of the working groups, appointment of chairmen and experts of the CEPEJ working groups;
 - the distribution of work between the members of the Commission and the working groups;
 - it is entitled to nominate candidates for the positions of experts;
 - as well as to perform any other function required by the Commission.

The Secretariat is established as a part of the CEPEJ and is provided by the Secretary General of the Council of Europe (par. 3 Art. 7 of the Statute).

The Commission also consists of working groups (Art. 6 of the Procedural Rules), which are responsible for the implementation of concrete actions related to the compilation of official documents of the institution. These working groups are of a profile type:

- the Working Group on the evaluation of judicial systems (CEPEJ-GT-EVAL);
- the Centre for judicial time management or Study and Analysis of judicial Time Use Research Network (SATURN Centre);
- the Working Group on quality of justice (CEPEJ-GT-QUAL);
- the Working Group on execution (CEPEJ-GT-EXE);
- the Working Group on mediation or alternative methods of resolving disputes (CEPEJ-GT-MED).

It should be mentioned that the workload is distributed unevenly among these structures of the CEPEJ, since, in our opinion, the first three of them are of a general profile and are permanent (since their creation), while the others are of a narrow-profile and non permanent. At the same time, there is a contradiction in the fact that each of the working groups is made up of an equal number of members (experts) in the CEPEJ. As a result, in practice, the workload imposed on the Commission is distributed evenly mainly among the first three mentioned working groups.

1.2. Functions of the European Commission for the Efficiency of Justice

As an advisory institution of the Council of Europe, the role of the CEPEJ in developing and consolidating the Council of Europe law is limited to setting up guidelines, and even (as noted above) carrying out analytical work. However, the impact of its activities extends to both the authorities of the Council of Europe and these of the Member States. Thus, in accordance with the founding act of the CEPEJ¹¹, its competence consists in the following functions:

- the analysis of the judiciary systems in their compliance with the requirements and standards of the Council of Europe;
- the study of problems related to the judiciary and proposals for the resolution of the former and the improvement of the latter;
- the organisation of exchange of information on the judiciary;
- the provision of legal aid to Member States;
- giving assistance to other specialised committees of the Council of Europe in the framework of their standard-setting activities in preparation for the official instruments of the Council of Europe in the area of justice (in particular the European Committee on Legal Co-operation).

¹¹ Resolution Res(2002)12 on *establishment of the European Commission for the Efficiency of Justice (CEPEJ)*, adopted by the Committee of Ministers on 18 September 2002 at their 808 meeting.

Over time, the analytical and advisory functions of the CEPEJ relating to the administration of justice have evolved. Thus, with the adoption of the Action Plan at the Third Summit of Heads of State and Government, which was held in Warsaw on 16-17 May 2005, the wish to expand the functions of the Commission has been expressed. Indeed, the Action Plan reflected the commitment of Heads of State "...to develop the function of analysis (evaluation) and the assistance of the European Commission for the Efficiency of Justice, as well as the proper use of the views of the Consultative Council of European Judges to assist Member States in ensuring a fair and timely administration of justice, and also for the development of alternative methods of resolving disputes..."¹². Nevertheless, as a result of the adoption of this act, the main functions of the CEPEJ did not change in the frame of the legal regulation of its activity. Changes appeared only on the inter-organisational level, and were expressed in particular in the development of the legal regulation of the CEPEJ analytical work, which had led to the strengthening of the evaluation function of the judiciary¹³.

Providing assistance to Member States of the Council of Europe in improving their systems of justice is, without exaggeration, one of the main functions of the CEPEJ¹⁴. This assertion stems directly from the Procedural Rules of the Commission. For example, the latter specify that the activities of the Commission in respect of a Member State may be initiated by the concerned Member State, and that such activities are based on mutual legal aid (Art. 8). Groups, consisting of the CEPEJ members (experts), which activity will include one or another mission on providing legal aid to an individual State, will be drawn up on the initiative of the CEPEJ Bureau (Art.9).

Specifically, the activities that the working groups perform for the given State are carried out in the framework of expert visits, when the members of the expert group go to a place in the State for the purpose of gathering the information necessary for the implementation of legal aid *in situ* (Art. 10 of the Procedural Rules). On-site interaction is organised with the authorities of the State, and all the actions of the working group are conducted with the permission of the latter. The final documents of the working group in respect of one or another State are based on the results of the activities accomplished during the visit. The established reports should be discussed in the Secretariat of the Commission before becoming official (par. 5 and 6, Art. 10).

The Commission performs the analysis of statistical data and legislative acts on justice systems of the Member States not only on its own initiative – that during its short-term activities resulted in the acceptance of reports on the condition of the justice system of the concerned States – but it can also provide its assistance to a given country if the latter makes a request in this respect (Art. 4 of the already cited resolution).

The Commission also interacts directly with the authorities of the Council of Europe, and in particular encourages them, if necessary, to develop and adopt a particular legal normative act, contributing to the development of the judiciary of the Member States. Thus, the work of the CEPEJ is not limited to the collection of information relating to the judiciary of the Member States, its analysis, and the provision of assistance to Member States (in particular legal), but is characterised by a concentrated work with the authorities of the Council of Europe.

¹² Action Plan adopted at the Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005).

¹³ So, for example, an act relating to the methodology of the analytical work of the Commission - guiding rules for statistics related to the judiciary - was passed (CEPEJ, *Guidelines on judicial statistics*, CEPEJ(2008)11, adopted by the CEPEJ at 12th plenary meeting (Strasbourg, 10-11 December 2008)).

¹⁴ This opinion is shared, for example, by J. Petaux, *L'Europe de la démocratie et des droits de l'homme: l'action du Conseil de l'Europe*, Council of Europe Publishing, 2009, p. 126.

In accordance with the above-quoted Resolution Res(2002)12 of the Committee of Ministers on the establishment of the CEPEJ as of 18 September 2002, the Commission's activities are specifically aimed at the implementation within the domestic legal order of the Member States of the European Convention obligations relating to the functioning of the judiciary, namely: Art. 5, 6, 13 and 14 of the European Convention, as well as articles of the protocols relating to the access to justice; the efficiency of judicial procedures; the enforcement of judgments; the status and role of judges, prosecutors, lawyers and other members of the judiciary; as well as the management and implementation within courts and their operating of modern communication technologies. In practice, the main activity of the CEPEJ was the publication of the Commission's reports on evaluation of the Member States judicial systems. Today, they go out on a regular basis¹⁵, aggregate a huge amount of statistical material, possess the analytical value and are quite voluminous, suggesting that their authority will only increase. These reports relate to all Member States of the Council of Europe, and are devised using data collected by the national representatives (correspondents) in the place (in the Member States). They enable the creation of a full picture of the judiciary of the Member States on the basis of uniform criteria, and present disadvantages/advantages of each of them on the basis of comparative analysis.

The reports are to be submitted to the Committee of Ministers of the Council of Europe. Moreover, Procedural Rules require from the President of the CEPEJ the orally submission of the reports before the Committee of Ministers.

Another area of co-operation between the Council of Europe and the Member States are reports of the Commission prepared at the request of one or more countries. For example, the Commission analysed the policies and procedures for the selection of judges in the Republic of Azerbaijan, questions on territorial jurisdiction in the Netherlands, dematerialization and the use of ICT in Portugal, mediation in Switzerland¹⁶. Moreover, several reports concerning in particular the most painful problem of the Russian justice system, namely the execution of court decisions, as well as the report related to practical ways of combating delays in the justice system, excessive workloads of judges and case backlogs in Malta had been already implemented¹⁷. Thus, the Commission has been repeatedly called upon to carry out an analysis of national judiciary for compliance with the regulatory arch of the Council of Europe.

¹⁵ See, for example, the report for 2012: CEPEJ, *European Judicial Systems: Edition 2012*, Council of Europe Publishing, 2014, 422 p.:

http://www.coe.int/T/dghl/co-operation/cepej/evaluation/2012/Report_eng.pdf

¹⁶ *CEPEJ Report on assessment of policy and procedures for the selection of judges in Azerbaijan*, Strasbourg, 10 January 2012, CEPEJ-COOP(2011)1; *CEPEJ Report on territorial jurisdiction in Netherlands*, 05 December 2003; CEPEJ(2003)18(D3); *CEPEJ Report on dematerialization and the use of ICT in Portugal*, 11 June 2009, CEPEJ-COOP (2009)4; *CEPEJ Report on mediation in Switzerland*, CEPEJ(2003)25(D2)E, 5 December 2003.

¹⁷ *CEPEJ Report on examination of problems related to the execution of decisions by national civil courts against the state and its entities in the Russian Federation*, Strasbourg, 9 December 2005, CEPEJ(2005)8; *CEPEJ Report on non-enforcement of court decisions against the state and its entities in the Russian Federation: remaining problems and solutions required*, Strasbourg, 31 October 2006, CEPEJ (2006)1; *CEPEJ Report on practical ways of combating delays in the justice system, excessive workloads of judges and case backlogs in Malta*, 8 April 2004, CEPEJ(2005)7E.

We can't not pay attention to another area of activity of the Commission, which is to issue the so-called 'Lignes directrices' – or 'Guidelines'. We are talking about the advisory and framework documents that are designed to provide guidance to States to implement relevant reforms of their judiciary. Thus, for example, one of the guidelines of the Commission encompasses advices on the territorial location of courts and on the organization and the accessibility of court premises of the Member States, aimed at ensuring the availability of justice and the access to courts and at improving the quality of these services¹⁸. Likewise, the SATURN guidelines for judicial time management are aimed at monitoring the judicial timeframes¹⁹ and preventing the violations of the right to a fair trial within a reasonable time enshrined in Article 6 of the European Convention on Human Rights.

One of the other significant areas of the CEPEJ work is the drafting of studies on different fields of justice. During the recent years the CEPEJ working groups drafted more than twenty studies, for example, the Working Group on the evaluation of judicial systems (CEPEJ-GT-EVAL) - Study №19 on judicial systems of the European Union countries, Study №21 on judicial systems of the Eastern Europe countries²⁰; the Centre for judicial time management (SATURN Centre) - Study №3 on length of court proceedings in the Member States of the Council of Europe based on the case-law of the European Court of Human Rights²¹, Study №17 on Council of Europe Member States Appeal and Supreme courts' lengths of proceedings²²; the Working Group on quality of justice (CEPEJ-GT-QUAL) - Study №15 on conducting satisfaction surveys of court users in Council of Europe Member States, Study №16 on the situation of the contractualisation and judicial process in Europe²³, etc.

According to the already quoted Resolution Res(2002)12 of the Committee of Ministers on the establishment of the Commission, the activity of the latter is focused on the organisation of co-operation between Member States (see Preamble). However, in our opinion, its activity deals, to a greater extent, with indirect co-operation within not only the Council of Europe as a whole, but in particular between the ECHR and the judicial authorities of the Member States. Indeed, if we take into account that the analysis and evaluation of the functioning of the judiciary of the Member States are based on the principles established by the European Convention which are dynamically

¹⁸ *CEPEJ Guidelines on the creation of judicial maps to support access to justice within a quality judicial system*, 6 December 2013, CEPEJ(2013)7Rev1; *CEPEJ Guidelines on the organization and accessibility of court premises*, 12 December 2014, CEPEJ(2014)5.

¹⁹ *CEPEJ SATURN Guidelines for judicial time management*, 12 December 2014, CEPEJ(2014)16.

²⁰ *Study №19 on judicial systems of the European Union countries*, drafted by Mr. Jean-Paul Jean (former Advocate General at the Court of Cassation, Associate Professor at the University of Poitiers, France), and Ms. Hélène Jorry (Expert on European Union law, Associate expert in the CEPEJ), 2013; *Study №21 on judicial systems of the Eastern Europe countries*, drafted by Mr. Jean-Paul Jean (Court Section President of the Court of Cassation, Associate Professor at the University of Poitiers, France), and Mr. Ramin Gurbanov (Scientific expert of the Institute of Philosophy and Law/Azerbaijan National Academy of Sciences, Judge, Azerbaijan), 2015.

²¹ *Study №3 on 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*, drafted by Ms. Françoise Calvez (Judge), France, and updated by Mr. Nicolas Régis (Judge), France, 2011.

²² *Study №17 on Council of Europe Member States Appeal and Supreme Courts' lengths of proceedings*, drafted by Mr. Marco Velicogna (IRSIG-CNR, CEPEJ expert), 2013.

²³ *Study №15 on conducting satisfaction surveys of court users in Council of Europe Member States*, drafted by Mr. Jean-Paul Jean (former Advocate General at the Court of Appeal of Paris, Associate professor at the University of Poitiers, France), and Ms. Hélène Jorry (Teaching and research expert of the University of Versailles-Saint-Quentin-en-Yvelines, France), 2010; *Study №16 on the situation of the contractualisation and judicial process in Europe*, drafted by Mr. Julien Lhuillier (Institute of Criminology and Criminal Law, University of Lausanne, France), 2010.

construed by the ECHR, it becomes obvious that the ultimate criterion of the justice system quality of one or another State lies in the interpretations of the Convention given by this supranational judicial authority. In other words, the advices on improvement of judiciary, which the Commission has to formulate in the framework of its activities, are based on the provisions of the European Convention and the clarification of their content within the ECHR case-law, bearing in mind that all the Commission's activities are aimed at improving the judiciary of the Member States. This assertion is confirmed by the first President of the CEPEJ, Mr. Eberhard Desch, who in particular argued that the establishment of this authority was intended to provide the assurance of compliance with European standards in the area of justice²⁴.

Moreover, this conclusion stems directly from the Resolution on the establishment of the Commission. Thus, the preamble to the Resolution, considering the purpose of the Commission, provides for that, in particular, it should take into account the 'Requirements of the European Convention on Human Rights', and more specifically its Art. 5, 6, 13 and 14, as well as the relevant provisions of the protocols and the case-law of the European Court of Human Rights...²⁵. Accordingly, it can be stated that the Commission activity is indirectly aimed at the implementation of the ECHR case-law within the judiciary of the Member States, which implies the existence of a certain level of co-operation between the supranational judicial authority and the national authorities (including courts).

²⁴ E. Desch, *Foreword*, in *European Judiciary 2002*, Council of Europe Publishing, p. 5.

²⁵ Resolution Res(2002)12 on *establishment of the European Commission for the Efficiency of Justice (CEPEJ)*, adopted by the Committee of Ministers on 18 September 2002 at their 808 meeting.

Chapter 2.

The evaluation of the court systems of the Member States of the Council of Europe is one of the main activities of the European Commission for the Efficiency of Justice

The evaluation of the judiciary of the Member States is, beyond question, the main competence of the Commission, or rather the most visible to the outside world activity. It is expressed in particular in the regularly compiled reports of the CEPEJ on European judicial systems. In accordance with the Statute of the Commission²⁶ this function is carried out locally, by representatives of Member States on the basis of common indicators and tools of evaluation (Art. 2.1.a). Moreover, Art. 3.1.a of the Statute requires from the Commission to identify indicators (criteria) and tools to evaluate judiciary of the States.

In accordance with the data requirements of the Statute, the Commission has developed instructional materials intended to frame the daily work of the Member States responsible for the collection and processing of statistical data on which basis are assessed subsequently their court systems, as well as the activities of the Commission itself. The results of the comparative legal evaluation of the national judicial systems, carried out by the Commission every two years, are the subject of the report that is entitled "*European judicial Systems*". Within these biannual reports, the CEPEJ conducts comparative legal analysis of the judiciary of the Member States, identifying on the one hand potential shortcomings of some of them, in order to contribute to their remedy, and drawing the attention on the other hand on "good practices" to be generalized.

²⁶ Committee of Ministers Resolution Res(2002)12.

The first method of comparative legal assessment of the judiciary of the Member States has been applied on the occasion of the CEPEJ report on European judicial systems of 2002²⁷. At that time, normative instructions on carrying out such analysis did not exist, and the CEPEJ had to develop methods of collecting and evaluating statistical data on judiciary. Indeed, it is within the frame of the work on this report, that the so-called “*evaluation scheme*” has been developed: it is a tool of comparative analysis of judiciary. This evaluation scheme had its own set of special methods and assessment tools enabling the Member States to determine the level of perfection their judicial system, was at, or to identify the advantages and disadvantages of the latter.

In order to devise a single document encompassing a unified scheme of evaluation of the Member States judicial systems, as well as the entire information stemming from data submitted by national representatives, the CEPEJ created a working group on the evaluation of judiciary. The latter had to develop methodologies for the collection and processing of statistical data²⁸. So, it was admitted that the study carried out on the basis of the collected and analysed statistical data should contain information on courts and judges, as well as on the administrative and civil laws of each State, on the one hand, and relevant resolutions and recommendations adopted by the Council of Europe in the area of efficiency and fairness of justice, on the other hand. In other words, the parameters of assessing the level of quality and efficiency of judiciary are founded henceforth on actual data on national judicial systems and beyond that, on a common understanding of the quality and efficiency of judiciary.

The evaluation of judiciary is based on a questionnaire²⁹, which consists of questions on various topics related to the judicial system. Replies to these questions are provided by national correspondents acting on behalf of their respective Member States. The latter are free to choose their representatives. Comparative analysis of judiciary became possible owing to the uniform and consistent application of the evaluation scheme – unique reference – to all of the States and the Working group adopted a cautious way in using data in a comparative way. This improved method of analysis has been regulated by the Commission through the adoption of the guiding rules on statistical data relating to the judiciary³⁰ and the establishment of a mechanism of experimental/pilot co-operation in assessing the quality of data collection and analysis of statistical data (Objectives and methodology for a pilot peer review co-operation process on judicial statistics CEPEJ(2007)25)³¹.

The development of a common tool of assessing judiciary has been assigned to a working group of the CEPEJ which competences and goals are set out in the document ‘Terms of reference of the Working Group on the evaluation of judicial systems (CEPEJ-GT-EVAL)³². In the frame of its mission, this working group is responsible for:

²⁷ CEPEJ, *European Judicial Systems 2002*, Council of Europe Publishing, 2005, 139 p.

²⁸ On the development of this tool, see, for example: P. Albers, *Evaluating Judiciary – A balance between variety and generalization*, CEPEJ (2003)12.

²⁹ CEPEJ, *European Judicial Systems*, Council of Europe Publishing, 2002, pp. 80 and sq.

³⁰ *CEPEJ Guidelines on judicial statistics*, CEPEJ(2008)11, adopted by the CEPEJ at its 12th plenary meeting (Strasbourg, 10-11 December 2008).

³¹ *CEPEJ Objectives and methodology for a pilot peer review co-operation process on judicial statistics*, CEPEJ(2007)25.

³² 2014-2015 Activity Programme of the CEPEJ, adopted at its 22nd plenary meeting (Strasbourg, 5-6 December 2013), CEPEJ (2013)12.

- the collection of data on national judiciary and their processing in order to prepare draft evaluating reports;
- the promotion of the dissemination of the evaluation reports on judiciary and the assessment of their impact on Member States;
- the submission of proposals for using the results of the analysis contained within the reports, in particular with regard to the performance indicators; the identification of trends and recurring shortcomings in the judiciary of Member States;
- the conduct of researches based on data provided within the reports and intended to be subsequently published;
- the co-operation with national representatives in order to assist them in collecting data and the organisation of specific activities in matters of data collection and processing;
- the co-ordination of the CEPEJ activities in connection with the biannual publication of the report on European judiciary;
- the organisation of the review of data collected on the judiciary and the expression of advisory opinions in order to:
 - support Member States in improving the quality of statistics on judiciary;
 - facilitate the exchange of experience between national statistical systems conducting analyses of judiciary;
 - improve the exchange of data between Member States in order to transfer knowledge from one of them to others;
 - promote the transparency and accountability in the evaluation of judiciary;
- the stimulation of representatives of Member States to use the *CEPEJ Guidelines on judicial statistics* (GOJUST) in order to obtain comparable data on the judiciary of the Member States;
- organization of peer-evaluation visits to Member States;
- and, finally, the development of indicators and tools intended to assess court performance, by means of co-operation with other divisions of the CEPEJ such as the Working Group on quality of justice (CEPEJ-GT-QUAL) and the Centre for judicial time management or Study and Analysis of judicial Time Use Research Network (SATURN Centre).

The CEPEJ Working Group on evaluation of judicial systems (CEPEJ-GT-EVAL) consists of 6 experts appointed by the CEPEJ Bureau who are proposed by the Member States³³. Participation of other experts in the work of this working group of the CEPEJ is not excluded. Representatives of the Council of Europe and the European Union can take part in the meetings of the group too, but they are not granted the right to vote. Experts from the NGOs may also take part in the working group as observers.

³³ 6 experts are appointed by the CEPEJ Bureau from the members of the CEPEJ. The Chairman of the Group is an expert from France professor Jean-Paul JEAN (Court Section President, Court of Cassation, Associate Professor at the University of Law, Poitiers, France). The Group consists also of the following experts – Ramin GURBANOV (Judge, Baku City Yasamal District Court, Head of Working group on establishment of E-court system, Coordinator of World Bank Project on modernization of Azerbaijan court system, CEPEJ Bureau member), Frans VAN DER DOELEN (Programme Manager of the Department of the Justice System, Ministry of Justice, Netherland), Stéphanie MOUROU VIKSTRÖM (Senior Judge, first instance court, Monaco), Adis HODZIC (Head of Statistics Secretariat of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina) and Simone KREß (Judge, Higher Regional Court of Köln, Germany).

2.1. Evaluation tools of the European Commission for the Efficiency of Justice

2.1.1. CEPEJ Guidelines on judicial statistics (GOJUST)³⁴

The *CEPEJ Guidelines on judicial statistics* are intended, among other instruments, to improve the efficiency, transparency and quality of statistics on judiciary of the Member States. This purpose is expressed in the preamble of the act, which sets out the pursued goals:

- the promotion of quality, transparency, accountability and accessibility of statistics that are collected and processed by Member States;
- the creation of opportunities to compare statistics from different countries in order to identify problems relating to certain aspects of the national judicial systems and contribute *in fine* to improve their quality;
- the promotion of transparency and accountability in the analysis of the CEPEJ, which it performs in respect of the Member States judiciary.

The Guidelines state that the main purpose of collecting statistical data is to create conditions for the most complete picture of the functioning of the judiciary in order to enable the relevant authorities of the Member States to possess information on efficiency and quality of the various elements of the court and the system itself overall. As a consequence, the establishment of a unified methodology for the collection and processing of statistical data on the court system is the key to a qualitative analysis of judiciary.

This document invites Member States to ensure under different institutional structures all conditions for the high-quality collection of information on various aspects of the court system. It has been devised to unify criteria and statistics, as well as to warrant a high quality data collection and analysis of judiciary. Put differently, it is a methodological tool of working with statistical data on the judiciary of the Member States, designed for the respective structures of the Member States.

Thus, this instrument is a guidance in respect of Member States on establishment of a system (or its improvement, if such a system already exists) of collection and evaluation of statistical data on judiciary. In particular, it seeks:

- to develop a scheme for the collection and processing of data and foster the resort by the relevant authorities to modern information and communication tools;
- to use previously collected statistical data, and not to overload the individual structures with an excessive number of requests of a minor nature for the purpose of conservation of the activity of these authorities;
- to ensure transparency in the collection and analysis of judicial statistics;
- to ensure the widest possible access to this information to all parties;
- to collaborate with professional organisations responsible for the protection of the rights of members of the legal profession in order to adjust the statistics to their wishes.

³⁴ *CEPEJ Guidelines on judicial statistics (GOJUST)*, CEPEJ(2008)11, adopted by the CEPEJ at its 12th plenary meeting (Strasbourg, 10-11 December 2008).

Finally, the Guidelines emphasize that statistical data submitted by the national authorities will be used for drawing up the CEPEJ report on the judicial systems of the Member States, which, as a result, requires uniform approach and criteria for the collection and evaluation of statistical data. Owing to this fact, the second part of the document – “*Specific principles*” – provides specific guidance on how the statistical data should be collected depending on the different fields of analysis. The latter namely include:

- the justice budgets;
- the human resources;
- the court activities and the procedural timeframes;
- the monitoring of breaches of Art. 6 of the European Convention.

For each of the enumerated categories, the Guidelines specify the aspects on which the statistics should be focussed. For example, with regard to justice budgets, statistics should be collected in respect of the salaries, the amounts allocated to legal aid, the investment in information and communication technologies, *etc.*

The most interesting part of the document is contained in the three appendixes which encapsulate the means of concrete application of the Guidelines. The first appendix concerns the *European Uniform Guidelines for monitoring of judicial timeframes* (EUGMONT). These guidelines include a number of requirements related to the establishment of a monitoring system of the duration of court proceedings, accompanied by specific instructions about what statistics should be collected. Accordingly, the following information should be provided:

- the number and types of courts and their jurisdiction;
- the number and types of proceedings in the courts;
- the proceedings considered as priority (urgent) cases;
- the number of incoming/filed cases;
- the number of resolved cases/judicial decisions;
- the number of unresolved cases, *etc.*

The second appendix concerns the execution of judgments and contains the formula intended to determine the efficiency of the courts by clearance rate, case turnover ratio and disposition time.

The last, third appendix concerns the type of information on courts, which Member States should collect (key data on justice in Europe). Here we refer to basic data that constitute the core of the CEPEJ reports on judicial systems of the Member States. Moreover, these reports are devised according to the exposed scheme.

Such detailed advices of the CEPEJ on what information is required and how it should be collected by representatives of the Member States are justified by the need to resort to a uniform representation of statistical data. Indeed, this centralised approach concerning the definition of the criteria of collection and the type of collected information ensures a high quality comparative analysis of data on judiciary. As a consequence, the *CEPEJ Guidelines on judicial statistics* (GOJUST) have become a major document contributing to the efficient operation of the CEPEJ and, in particular, of its Working Group on the evaluation of judicial systems (CEPEJ-GT-EVAL).

2.1.2. Objectives and methodology for a pilot peer review co-operation process on judicial statistics³⁵

The document of the Commission on the *Objectives and methodology for a pilot peer review co-operation process on judicial statistics* constitutes another tool of improving the quality and efficiency of the judiciary of the Member States by means of establishment of a general statistical data intended to identify comparative key problematic issues of judiciary. The goals pursued in the frame of this document are:

- the improvement of the quality of statistics collected on the judiciary of the Member States by improving the national statistical systems and bringing them up to the same level;
- the organisation of exchange of statistical data between States, as well as exchange of experience between them in order to improve their judiciary;
- and finally, the increase of the level of reliability of the data used by the CEPEJ in the assessment of judiciary.

Initially, its purpose was to determine how, in the so-called “pilot” countries or rather national courts, where individual documents of the CEPEJ are implemented on a pilot basis, the collection and analysis of statistical data should be carried out. Specifically, this objective is achieved by means of visits of experts of the CEPEJ and meetings with them on the spot. In this regard, the text provides for that:

- meetings of the CEPEJ experts are held with representatives of the relevant administrative and judicial State institutions;
- the methods of data collection applied in the concerned State are evaluated, as well as the methods of their submission to the Secretariat of the Council of Europe;
- the statistical data on specific aspects of the pilot courts are assessed and the manner in which the collection of statistical data is carried out in the concerned State are subject to verification;
- analysis of the way of filling the questionnaires in practice and the content of the replies are also carried out.

It is noteworthy that the final provision of this Act which concerns the expected outputs, clearly defines the pursued purpose, which is to draw up visit reports emphasizing *good practices* and including advices for improving the collecting of homogenous information on judicial systems among CoE's Member States. In other words, the act regulating this activity is directly aimed at improving the quality of data collection and the evaluation of statistical data on judiciary of the Member States.

Both of the abovementioned acts have become the basis of the activities of the CEPEJ and the national correspondents with regard to the assessment of judiciary. However, it should be noted that the actual merit of these documents consists in the codification of an already existing practice³⁶.

³⁵ *CEPEJ Objectives and methodology for a pilot peer review co-operation process on judicial statistics*, CEPEJ(2007)25.

³⁶ Basically, some methods of statistical data collection and assessment were already existing, bearing in mind that the first report of the CEPEJ on European judiciary appeared in 2002. These methods were formalized with the document for internal use, called “*Pilot Scheme for Evaluating Judiciary*”, developed in 2003.

From their content it is clear that the Commission is determined to contribute to the improvement of the quality and efficiency of judiciary through the analysis of statistical data on judiciary of the Member States and the comparisons that can be made between systems. This approach allows identifying the shortcomings of the court system of a given State so that this State could deal with them and serve as an example for other countries which judicial systems are affected by similar problems. The concrete expression of this activity we can find in the summary reports of the CEPEJ on the European judiciary.

2.2. Main documents drafted by the European Commission for the Efficiency of Justice in respect to all Member States of the Council of Europe: reports on the evaluation of European judicial systems

2.2.1. Experimental Report on “European Judiciary - Edition 2004 (2002 data): facts and figures on the basis of a survey conducted in 40 Member States”³⁷

The report “European Judiciary 2002” is the first in a series of reports, but at that time it was granted only an experimental or pilot character. It is worth recalling that at the time of the elaboration of this report the CEPEJ methodology for assessing statistical data was not clearly developed. Nor was the actual statistical data collected in a uniform scheme by the relevant authorities of the Member States. Indeed, part of the data on which this report was prepared, had been requested by the CEPEJ from the Secretariat of the Council of Europe, as well as from a number of universities and government agencies. Moreover, at that time the comparative legal method of work had not yet been established, that explains the participation of several representatives of the university environment among the persons involved in the work on this report.

All the complexity of such comparative analysis of judiciary is presented in the first chapter of this report. This approach of the CEPEJ, in our opinion, is justified by the need to give greater legitimacy to the analysis of statistical data on European judiciary carried out by the Commission. Indeed, since the report was a pilot of comparative study, and had an experimental character, the Commission had to prove the accuracy of its analysis by providing data processing techniques. Nevertheless, the subsequent reports of the Commission also contain individual explanations on the methodology for collecting and analysing statistical data, but it is rather connected with the evolution of the methodology of the Commission for the collection and processing of statistical data.

Chapter two of this report is devoted to the financial support of the court system, where the following issues are examined: appropriation of funds for financial support of courts, as well as legal aid provided to citizens and legal costs.

³⁷ CEPEJ, *European Judiciary 2002 - Facts and figures on the basis of a survey conducted in 40 State Members*, Council of Europe Publishing, 2005, 139 p.

The starting point for the study of public budgets of judiciary is the analysis of the expenditure on courts per inhabitant, where not only budgetary expenditures for proper operation of the courts, but also budgetary expenditures for legal aid provided to citizens are considered. It should be noted that the presenting of data on budgetary expenditures in a single table makes clear the serious difference between the levels of courts funding, which differ from one country to another by times³⁸. This testifies to the fact that the Council of Europe brings together countries with quite different levels of budgetary expenditures on the court system, which indicates a low level of integration between the countries within the framework of this regional organisation, as well as serious political and economic differences between them. The Commission's report diplomatically dissembles this fact appealing, apparently, to outwit the reader, mentioning only that the difference in the funding of courts is "a significant one".

Similarly the legal aid granted to citizens is investigated and studied by the CEPEJ according to the different categories of cases before the courts. Here, the trend is similar to the previous one, namely the funding received by the citizens is more substantial in Western Europe than in Eastern Europe. Moreover, the countries of Western Europe are ahead of Eastern Europe, not only in the number of allocated funds in general, but also the number of cases (particularly criminal) in the framework of which the financial support for legal aid is provided. Finally, the countries of Western Europe are also ahead of the countries in Eastern Europe in the amount of financial assistance provided to the average in each case before the judge, which is not surprising if we take into account the higher economic and social indicators in Western Europe.

The Commission also points out the issue of the need for reimbursement of claim costs and state fees paid by citizens for addressing the court (court fees). The Commission notes that, in principle, the approach of different States is almost identical on this issue. Thus, the administration of justice in criminal proceedings almost everywhere is free, whereas the civil proceedings most often involve payment of the state fee of at least one of the parties of the proceedings.

Chapter three of the report is devoted to analyses of the court and the judiciary, where in the framework of the four sections the following issues are considered: the number and size of courts; the number of members of the judiciary (*i.e.*, judges); vocational training, wages and the order of recruitment of judges; and, finally, the control over the functioning of the court (disciplinary action against judges, ways to challenge their actions, *etc.*).

In regard to the first aspect of the topic under consideration in this chapter, the Commission analyses the number of courts of first instance based on the number of inhabitants of the Member State. It addresses a variety of issues: the total number of first instance courts of a Member State and their number per capita, and the number of specialised first instance courts. The results of the analysis are rather contradictory, since even States with low-income and low socio-economic development (for example, Slovenia) have quite an impressive number of first instance courts per capita, while the individual countries of the Western Europe (for instance the Netherlands) have rather a small number of courts.

³⁸ For example, among the countries with the smallest budget of the courts (Armenia, Moldova, Georgia), where the court costs per capita are less than 1 euro and the countries with the highest budgets of the courts (Switzerland, Liechtenstein), where the court funding per capita is more than 100 euros, the difference is greater than 100 times.

Separately, this chapter of the report explores the number of (professional and non-professional) judges, and other court personnel. In particular, the data on their number per 100,000 inhabitants are represented. The results of counting the number of judges per capita also are controversial because in certain developed countries of Western Europe the number of judges per 100,000 inhabitants is quite low compared to the number of judges in developing countries in Central and Eastern Europe. A similar picture emerges with regard to the administrative personnel of the court who are not judges. It is worth noting that, in spite of all the contradictions of such data, the quality and efficiency in the administration of justice are not directly related to the number of courts, judges and administrative staff, but rather to effective policies of adaptation of the judicial services to the specific socio-economic realities and the needs of users of judicial services.

In this chapter of the report the issue of the employment and remuneration of judges is also considered, as, in the opinion of the Commission, it is directly linked with the problem of the quality of justice, the impartiality of judges and the independence of the judiciary. This problem, in the first place, is considered by the Commission on the example of the question of how independent the process of appointment of judges is (or how independent authority appointing judges to the post is). Thus, in particular, the Commission deals with the question of whether the appointment of judges by an authority composed of members of the judiciary is observed or not. Also the issue of refresher courses visited by judges are explored, which, according to the testimony of the Commission, did not become an indicator that detected the level of quality of the court. In its turn, the issue of judges' salaries reveals quite bright as an indicator of the socio-economic development of a country and the status of judges, which is identified by the Commission in comparison with the average salary in particular State. Thus, the ratio of salaries of judges with salaries of other persons in the same State allows us to conclude that in almost all Member States of the Council of Europe judicial salaries are above the average wage, which indicates the relatively high social status of judges.

Finally, the last issue to which the Commission grants attention in this chapter is the question of correcting faults in the performance of judges, namely the possibility of challenging their decisions, and imposing on them disciplinary responsibility. One of means of recovery of problems of judicial activity, which exists in almost all jurisdictions of the States of Europe, is the right to appeal against decisions taken by the judges. In Portugal and the Netherlands, certain categories of civil cases are excluded from the list of appeal. Similarly, almost in all countries there is a system, or disciplinary responsibility of judges, or at least the possibility of filing complaints against judges. Effectiveness of the system of liability of judges is evaluated by the Commission by means of counting the ratio of open disciplinary proceedings for every 1,000 judges, as well as the number of disciplinary sanctions imposed on them.

Chapter four of the report focuses on the effectiveness of the activities of courts, namely, the number of proceedings pending before them (caseload), as well as the timeframe of judicial procedures. The Commission's approach to these statistics is quite original, as it considers not the total number of cases within the framework of the court of a State, but only the number of cases of a certain category (e.g., robberies, murders, divorces, labour etc.). Statistical data, as in the previous cases, are calculated per capita (100,000 inhabitants). As we have already noted, in addition to the total number of cases per capita considered by courts of one or another State, the Commission keeps track of the number of cases per capita in certain categories of cases, both criminal and civil proceedings. Similarly, the Commission carries out the analysis of the number of decisions taken by the courts of a State as the rate per capita (per 100,000 inhabitants): a count is also made by categories of civil and criminal cases. Finally, calculations are also made with respect to the number of cases considered in the courts of appellate jurisdiction (appeals). The Commission itself notes that these statistical data are of limited interest, since they do not allow the identification of any specific trends and correlations.

The average duration of cases hearing by the courts of a State, is of great importance for the work of the Commission³⁹, as we know that one of the main accusations before the ECHR related to compliance of the citizens' rights to a fair trial by the judicial authorities of States is too long review of cases. Approach to the statistical data to find out the duration of cases is also limited by the various categories of cases, among which the cases for robbery, dismissal from work and divorce became principal. If even in this case the Commission has not received consistent results with regard to the data on the duration of trials, it still found quite a positive trend in some countries on establishment of control and analysis of the length of proceedings. At the same time, the Commission notes that not all States keep records of the duration of cases carried out by the courts that makes its work difficult.

Chapter five of the report is dedicated to the public prosecutors and the public prosecution system, concerning which the Commission has collected the following data: budget and number of employees; guarantees of their high quality and efficient performance; and other data regarding the criminal prosecution under the criminal proceedings.

The Commission starts the examination of this issue from the number of public prosecutors per capita (100,000 inhabitants) in each Member State. Here, the trends suggest the growing number of public prosecutors in the countries of Central and Eastern Europe and the lesser number of public prosecutors in the developed countries of the Western Europe. This probably happens due to the increase of the performance level of public prosecutors. The other source of the evaluation of the Public Prosecution Service performance is the analysis of its budget. It should be noted that here the Commission also chose a per capita approach to the data representation in order to enable its comparative analysis. Indeed, this made it possible to discover the interrelation between the size of the Public Prosecution Service budget and the social and economic development of the State: the Public Prosecution Service budget in the countries of Western Europe is greater than in the countries of Eastern Europe. Another approach to the assessment of the sufficiency of funds allocated for the Public Prosecution Service is the evaluation of the Public Prosecution Service budget share in the overall budget of the State. The Commission also performs an assessment of the Public Prosecutors' remuneration level. It notes that in almost all States the remuneration of prosecutors is comparable to the remuneration of judges, and in any case, in almost all States it is equal or higher than the average remuneration in that country.

The issues of professional training, professional advancement, the appointment to the position of public prosecutor, and secondary employment are also examined by the Commission within this chapter. The Commission notes the significant similarity with the judiciary establishment in these issues. Besides that, the Commission also reviews the issue of the control of public prosecutors' actions, which is quite diverse, and varies from country to country. Finally, the report also addresses the issue of public prosecutors' disciplinary liability, which is examined by the Commission in terms of the following indicators: the overall number of disciplinary proceedings initiated against public prosecutors, the total number of disciplinary sanctions imposed against public prosecutors and the overall number of proceedings and sanctions per specific number of public prosecutors.

³⁹ This was mentioned, in particular, in the Commission's Framework Programme – "A new objective for judiciary: the processing of each case within an optimum and foreseeable timeframe" (CEPEJ(2004)19 Rev).

The comparison of the intensity of the public prosecutors' activity is a quite complicated task, since, in the Commission's opinion, the number of cases they review depends on the authority granted to them. Therefore, the statistics provided in the report show the great difference in the number of cases reviewed by the public prosecutors. On the other hand, the statistical data on the number of people condemned and acquitted after the criminal case had been initiated against them by the public prosecutor is a quite interesting indicator, examined by the Commission within the limits of such case categories as robbery and murder.

Finally, the last chapter of the report is dedicated to other legal professionals: defence lawyers, mediators and enforcement officers in the civil field.

Similarly to the previous chapters of the research, the Commission starts examination of the issue from the quantitative indicator: the number of the defence lawyers per capita. The results are quite diverse: the number of defence lawyers per 100,000 inhabitants varies greatly from one State to another. Therefore, the Commission also gives the other figures: the absolute number of defence lawyers and the number of defence lawyers per 100,000 inhabitants.

The Commission notes that almost in all countries there are professional Bar Associations that exist on the national level. It is their responsibility to determine the quality of legal service provided by the defence lawyers. The Commission also tries to determine the quality of legal service within the State through the number of disciplinary proceedings and disciplinary punishments in relation to defence lawyers.

Comparative analysis of the functions and nature of the activity of enforcement officers in the civil field has become the most complicated issue, because their status, functions and the nature of their activities are quite diverse. Besides the functions of enforcement officers in the civil field, the Commission also tries to reflect the separate aspects of the control of their activity.

Finally, the information regarding the mediators for alternative dispute resolution is also quite diversified, which makes the comparative analysis of data much more difficult to perform. The Commission can only confirm that in separate States there is a public financing of such legal professionals, and that in those States the registration and even licensing of such activity is carried out. Statistics regarding the number of mediators, and the budget allocated for the implementation of such procedures are given in the report.

2.2.2. Report on "European Judicial Systems - Edition 2006 (2004 data): efficiency and quality of justice"

Unlike the previous report, which was experimental, the present report is most up-to-date. Therefore, in this version of the report, all mistakes and gaps in the pilot project were taken into account, and the data on judiciary of the Member States were collected with the help of national correspondents working at the local level. The present report was approved on the 7th plenary meeting of the CEPEJ in July 2006, and is based on the Member States reports prepared by the national correspondents. Unlike the previous version, this report includes quantitative and qualitative data from the 45 Council of Europe Member States.

Similarly to the previous report, the first chapter is dedicated to the evaluation process, approach and working principles of the CEPEJ. In this respect, the main innovations concern the creation of the Working Group on the evaluation of judicial systems (CEPEJ-GT-EVAL), which operates under the CEPEJ since 2005, and the updated judicial system evaluation scheme. This working group drew up the new questionnaire sent to the Member States in order to collect the necessary information. The group is also responsible for preparing the draft version of the report on judiciary of the Member States. It should be noted that data collection was still carried out in limited terms, which had a negative effect on the quality of the report.

The second chapter also includes economic and demographic indices represented more modestly than in the previous report. It, like its experimental version in 2004, is dedicated to the financial support of the court system. Similarly to the previous report, the main question includes the budget expenses for the following: the courts, the Public Prosecution Service and legal aid.

Nevertheless, the 2006 edition of this chapter contains more full and complete analysis of financial indicators. Therefore, the chapter contains: information on the expenses for all bodies of public prosecution and judgement both represented in the tables; summary data on all aspects of the courts (including legal aid) financial support; and finally, data concerning the access to courts (including the budget allocated for the courts and legal aid). The distinctive feature of this version is a wide use of graphs and diagrams, which significantly facilitates the comparison of budgetary data.

The third chapter is dedicated to legal aid. The allocation of such a seemingly narrow topic into the separate chapter confirms the trends suggesting the complication of reports on the court system. The CEPEJ tries to substantiate such an approach by explaining the importance of the legal aid issue for the quality of justice in general and access to the legal services in particular.

This issue is considered using the differentiated approach where the different aspects of legal aid are examined separately, depending on the type of the proceedings (criminal and civil); the approach also addresses the budget allocated for legal aid (in particular, the average amount allocated for each case), the terms of funds provision (for example, consideration of the income level of a person seeking free legal aid), and the influence of existing legal duties and fees on provision of free legal aid.

The fourth chapter is dedicated to court users. This chapter is included only in the updated version of the report (2006 edition), and confirms the trend suggesting the consideration of rights and feedbacks of legal service consumers among the Member States' population. Therefore, this chapter focuses on the issue of how the court ensures the observation of citizens' rights, and the quality of service provided to them. Special attention is lent to the measures taken by governments in order to make the citizens aware of legal services (for example, the availability of courts' web-portals), the way the court ensures the guarantee of rights to the most vulnerable social groups (for example, children under the legal age, victims of rape, etc.). It is interesting that the data on satisfaction of the citizens about the court service are also included in this chapter, which allows a more accurate determination of their rights protection level under the legal proceedings.

The fifth chapter is dedicated to courts, in particular, it addresses such issues as the composition of courts in different countries; it provides data on using information and communication technologies in the courts; it considers the use of monitoring and evaluation tools in order to improve internal governance, and provides the community and supervisory bodies with all necessary information. This chapter uses the approach already tested in the previous version of the report. In particular the chapter examines such static data as: the number of courts per capita; the number of court buildings per capita, *etc.* At the same time, it also contains some new data, or extended information about the data previously collected: for example, the number of courts reviewing minor disputes per capita or the authority of courts to use the budgetary funds are considered separately. The issues of fitting the courts with modern means of communication and the implementation of the monitoring and regular evaluation systems, *etc.* are thoroughly examined.

The sixth chapter is dedicated to judges, non-judicial court staff and “Rechtspflegers” - the special category of court clerks present in the Austrian and German judicial system.

Similarly to the previous report, the following parameters concerning judges are examined: types of judges and their number per capita; participation of citizens in the delivery of justice as the jury, *etc.*

The issue of the special category of the Roman-German legal system court clerks - “Rechtspflegers” - participating in the quasi-judicial process is also reviewed. The report includes quantitative statistics regarding this topic. Likewise, the other categories of court clerks are examined. Those are: clerks whose responsibility is rendering direct assistance to judges; administrative judicial personnel and technical staff. The chapter also contains quantitative statistics.

The seventh chapter, ‘Fair Trial within a Reasonable Time’, is dedicated to the time spent by judges on the consideration of cases. This topic was already examined in the previous version of the report in the fourth chapter. Indeed, similarly to the fourth chapter of the court Report 2004, this chapter also studies the total number of cases considered by the courts, the duration of the court proceedings, and the specific measures taken in order to reduce the time of proceedings and to improve their efficiency. On the other hand, it also contains analyses of the implementation of the obligations of Member States stemming from Art. 6 of the European Convention.

The eighth chapter is dedicated to public prosecutors – a topic also examined in the separate chapter five of the previous report. Eighth chapter addresses such issues as public prosecutor’s authorities; specific categories of civil servants that cannot be certainly qualified as public prosecutors, but at the same time fulfil some public prosecution functions. Similarly to the previous version of the report, the issue of their number per capita is also examined.

Unlike the previous version of the report, the topic of judges’ and public prosecutors’ status is discussed in a separate chapter (the ninth). The latter is dedicated to the different aspects of the judges’ and public prosecutors’ activity. These aspects are: selection and appointment of judges (public prosecutors) to the position and terms of their office; the issue of professional training, education and remuneration; and finally, the opportunity of judges (public prosecutors) secondary employment. Certain issues regarding the status of judges and public prosecutors, like for example the issue of disciplinary liability, have been already discussed within the corresponding chapters (dedicated separately to judges and separately to public prosecutors) of the previous version of the report. The other points (for example the issue of benefits for judges and public prosecutors) haven’t been previously discussed and are included only in this updated version of the report.

In this report the separate chapter ten is dedicated to defence lawyers. The issue of place and role of defence lawyers in the court system of Member States is examined. Some topics addressed in this chapter (for example, number of defence lawyers per capita) were already discussed in the previous version. Besides that, the chapter also contains information on: lawyer's monopoly on provision of legal services in the court; organisation and training of lawyers; their activity control; presence of quality standards; *etc.*

In our opinion, the reasonable decision was to address the question of execution of judgements in a separate chapter (Chap. eleven), since this issue relates to both judicial system performance in general and civil rights in specific. The examination of this issue within the report is carried out in terms of different types of proceedings: in terms of civil and administrative proceedings on the one hand, and in terms of criminal proceedings on the other hand. The chapter addresses the number of court bailiffs, the organisation of their profession and professional training, the supervision and control of their activity and the disciplinary liability. The execution of judgements process itself is also discussed in this chapter.

Chapter twelve is dedicated to the notarial system. Here the report is not very original and the addressed issues are discussed quite superficially. The examined points are: status and the number of notaries, supervision and control of their activity.

Alternative means of dispute resolution were also reasonably discussed in Chapter thirteen. Indeed, they are an important way to combat the main problem of the modern judicial system – untimely delivery of justice. It should be noted, that unfortunately, despite the separate chapter being dedicated to this topic, the issue wasn't sufficiently addressed within this version of the report.

2.2.3. Report on “European Judicial Systems - Edition 2008 (2006 data): efficiency and quality of justice”

As noted in the Introduction of the report approved on the CEPEJ plenary meeting in July 2008, this report is original in terms of both number of Member States considered hereunder (45) and number of topics concerning the judiciary. In addition to the statistical material already accepted in this type of report, it also contains trends and tendencies in the development of judicial system, and takes into account the latest reforms of the judiciary of Member States.

According to the accepted pattern, the first chapter of the report is dedicated to the research technique. Similarly to the previous versions of the report, it describes the evaluation procedure for data provided by the national representatives (correspondents), the approach used for data analysis and the working principles. Finally, as with previous reports, it contains social and demographic indices. In other words, the introductory first chapter is almost similar in all three report versions.

The next chapter also indicates that the report is prepared according to the proven scheme: the second chapter analyses the issue of judicial system, public prosecution system and legal aid financial support. The chapter shows that the budgets of the Ministry of Justice in most of the Member States are constantly growing. One of the modern trends is the computerization of the judicial system causing a constant increase of the corresponding share in the court budget. Another confirmed fact is that the legal aid expenditure item exists in the budget of almost all Member States, but it is sufficient enough only in several countries (*e.g.* Great Britain). Finally, it is also indicated that in the countries of Eastern Europe the expenditures for the Public Prosecution Service are still high.

Similarly to the previous version of the report, the third chapter is dedicated to the legal aid, which is associated with the issue of access to justice. According to the traditional analysis pattern, the legal aid is discussed in relation to the court proceedings. The chapter also addresses the size of the budget funds allocated for the legal aid rendering; the average amount allocated for the legal aid under the single case; the quantity of legal aid allocated per capita; legal aid provision terms and the effect of legal duties and fees on the access to justice.

The chapter confirms the fact that the legal aid is provided in all Member States. The emphasis is placed on special civil insurance programmes against the cases where the legal aid is required, which existed at that time only in 25 Member States. It is also noted that certain States of the Western Europe make significant efforts in order to improve the terms of legal aid provision.

According to the scheme established in the previous report, the fourth chapter is dedicated to court users. This chapter, similarly to the report 2006, addresses the issue of quality of information provided to citizens (including the information spread via Internet) and the issue of specific social group protection. The chapter also contains the evaluation of citizens' satisfaction by judicial system service and reviews the system of victim compensations. Besides that, the chapter also addresses the topic that was not previously included in the report – the role of public prosecutors in the protection of specific social groups.

The chapter shows the overall trend suggesting the development of legal services via the modern means of communication. The other tendencies in judiciary regarding these issues are: development of the public prosecutor's role in matters of protection of crime victims and creation of compensation funds for the proceeding participants due the defects in delivery of justice.

Similarly to the report 2006, the fifth chapter hereof is dedicated to courts. It addresses such issues as composition and number of courts in the different States (including per capita); authorities of courts to use the budgetary funds; using the modern means of communication and information technologies; implementation of the monitoring and evaluation tools in order to improve the internal governance and provide the community and supervisory bodies with all necessary information; creation of promptness and quality control systems for delivery of justice (control of the proceeding time); and the analysis of reforms implemented in the judiciary of Member States.

This chapter shows that the main trend regarding the issue of court organisation is the reduction of their quantity. Under the tendency of increasing court performance, modern technical means and Internet are used more and more widely, which allows improving the court availability. Finally, it is noted that the using of performance indices tends to increase the level of court responsibility for the quality and efficiency of its work, which, in its turn, requires the monitoring of court activity.

The sixth chapter concerns the alternative means of dispute resolution. Dedication of the separate chapter to this topic is associated with the growing implantation of such means into the legislation and judicial practice of Member States, which is explained by the positive impact of such means on justice efficiency due to the reduced number of cases submitted to courts. Indeed, extrajudicial dispute resolution helps to discharge the workload of the courts. This chapter addresses the issues of presence of alternative means of dispute resolution in the legislation of States; practical implementation of such means depending on the categories of cases; types of mediators and rendering legal aid for resolution of disputes using the alternative means; number of mediators per capita and frequency of alternative means using; and finally, types of alternative dispute resolution.

A tendency of constant growth of the number of European States where the alternative means of dispute resolution are used is observed. At the same time only in half of those States legal aid for alternative dispute resolution is provided.

The seventh chapter is dedicated to judges. Similarly to the fifth chapter of the previous report, it addresses the following issues: number of judges; their availability; using of non professional judges for delivery of justice; participation of jury in the delivery of justice, *etc.*

The eighth chapter is dedicated to court clerks. Similarly to the sixth chapter of the previous report, it also addresses the number of such clerks per capita. The chapter also examines different categories of court clerks including the “Rechtspflegers” – the special category of court staff present in the Roman-German legal system and participating in the quasi-judicial process; clerks whose responsibility is rendering the direct assistance to judges; administrative judicial personnel and technical staff. It also contains quantitative statistics for each category. It is noted that the main trend in this field is the rationalization and reduction of costs, which results in reduction of expenses for the court staff, whose quantity is decreasing in the States where the corresponding reforms are adopted (mainly the countries of Western Europe).

The ninth chapter is dedicated to the fair trial and court activity. This chapter, similarly to the seventh chapter of the report 2006, is focused on the time spent for considering cases. The chapter addresses such issues as total number of cases considered by the courts, duration of the court proceedings and specific measures taken in order to reduce the time of proceedings and to improve their efficiency. It also contains analyses of the number of incoming and actually considered cases of different categories in the courts. The main accent here is put on the analysis of the court caseload and proceeding duration for the different case categories.

The tenth chapter is dedicated to public prosecution. The main points of the analysis concern the public prosecutors’ authority; the specific categories of civil servants that cannot be certainly qualified as public prosecutors, but at the same time fulfil some public prosecution function; their number per capita; their role and powers (including outside the criminal law).

The eleventh chapter deals with the status and career of judges and public prosecutors. It addresses different aspects, like: selection and appointment of judges (public prosecutors) to the position and terms of their office; professional training, education and remuneration; opportunity of judges (public prosecutors) secondary employment; disciplinary liability; bonuses, benefits and career growth.

The twelfth chapter is related to defence lawyers. It namely examines the place and role of defence lawyers in the court of the Member States; the organisation of their activity; the number of defence lawyers per capita; their status and professional education; the control of their activity and the different types of sanctions that can be imposed against them; the specific aspects of their activity (*e.g.* lawyer’s monopoly on provision of legal services in the court); the presence of quality standards; *etc.* It is noted that the number of defence lawyers per capita greatly varies between the different States, which can be explained by the cultural differences (level of legal culture) and the functions fulfilled by lawyers.

The thirteenth chapter is dedicated to the execution of justice. The examination of this issue within the report is carried out in terms of different types of proceedings: in terms of civil and administrative proceedings on the one hand, and in terms of criminal proceedings on the other hand. The chapter also addresses the number of court bailiffs, the organisation of their profession and professional training, the supervision and control of their activity and the disciplinary liability.

The execution of judgements process itself and the efficiency of executive procedures are separately evaluated in this chapter. It should be noted that the status of the court bailiffs varies significantly between the different States, and that some of the Member States require the increase in the professional training and responsibility level of these court staff.

The fourteenth chapter deals with the notarial system. It addresses the issues of notary functions and status; their number per capita and the control and supervision of their activity.

The report also includes a new direction in the evaluation of the judiciary of the Member States: the assessment of reforms in the justice area. This topic was discussed in the fifteenth chapter of the report. It considers the reforms adopted in the different Council of Europe Member States, and classifies them depending on the area of justice, proceeding type, and the stage of the judicial process.

The most interesting innovation of this report is the sixteenth chapter "*Towards more efficiency and quality in the European judiciary*". This chapter is dedicated to the overall conclusions that can be drawn, following the results of analysis of statistical data provided in the report in order to distinguish the main tendencies of European systems' development, and the analysis of the compliance of such tendencies to the quality standards in the area of delivery of justice, designed by the Council of Europe. In other words, it contains the overall analysis of changes in tendencies in the judiciary of the Member States and their compliance to European standards of judicial system quality and efficiency.

The study in this chapter is carried out according to the following scheme: analysis of access to justice; efficiency level of performance of courts and judiciary in general; efficiency level of procedural law in civil and criminal proceedings; quality of the policy in the area of justice taking into account the opinion of judicial service consumers; protection of judicial power independence, status of judges and public prosecutors.

2.2.4. Report on "European Judicial Systems - Edition 2010 (2008 data): efficiency and quality of justice"

In the CEPEJ European Judicial System Report 2010, it is specified that the report is prepared in compliance with the scheme used in the previous version. Accordingly, the reader is enabled to compare the data contained herein with the previous reports and to deduce certain trends and tendencies. Therefore, the chronological data analysis in this report is enhanced by the possibility to compare the 2008 data with data collected under the previous studies on European judiciary. Put differently, besides comparative analysis of judicial system data from different Member States, the chronological comparative method, where the data of the new period are compared with the data of other (previous) periods, is also used. It means that in this version of the report the development approach to the court evaluation was first implemented. Consequently, the results gained by the CEPEJ in relation to the different aspects of the European judiciary are provided below without indication of report chapter content (with the rare exceptions, limited to the research process innovations, parameters and criteria), but with description of the trends and tendencies that can be identified based on the previous versions of the report.

According to the accepted pattern, the first chapter of the report is dedicated to the research technique. Similarly to the previous versions, it describes the evaluation procedure for data provided by the national representatives (correspondents), the approach used for data analysis and the working principles. Likewise, it contains social and demographic indices. As stated above, the introductory first chapter is almost similar in all report versions.

The second chapter is identical to the corresponding chapter of the previous report, as it addresses the issue of courts system, public prosecution system and legal aid financial support. Nevertheless, some points indicate the implementation of the developmental approach, since the comparison is made not only between the different Member States, but also between the current data and the data collected by the CEPEJ at the time of the preparation of the previous report. For example, the development of budget appropriations for the courts (from 2006 to 2008) is also discussed within the chapter.

In the chapter conclusion it is stated that the budgets of the Ministries of Justice of the Member States are constantly growing. At the same time it is noted that probably one of the consequences of the financial crisis would be a reduction of budget provision for courts, public prosecution and legal aid. The tendencies suggesting the reduction of number of courts in the countries of Western Europe is also observed.

The third chapter dedicated to the access to justice is also identical to the third chapter of the previous report. The innovation here is the implementation of the 'developmental approach', where the data collected in 2008-2010 is compared with the data from previous reports.

In the chapter conclusion it is pointed out that the States of Europe' budgets allocated for the legal aid are growing yearly. Moreover, it is noted that legal aid systems had been created in some of the Eastern Europe States where they previously had been missing. The CEPEJ also emphasizes that in some of the States the reforms in the area of legal aid are being prepared or have been already adopted.

Similarly to the previous version of the report, the fourth chapter is dedicated to court users and their rights. The results of the analysis of public opinion on the quality of judicial service are used here more and more widely, and the chapter contains a whole paragraph dedicated to this topic. This tendency is also underlined in the conclusion of this chapter. The CEPEJ attention is particularly focussed on two points: the development of access to the information on the time of proceedings; the compensation provided to citizens for excessive duration of proceedings and non-execution of judicial decisions that directly violate the rights of the court users.

The fifth chapter is related to courts. Like the previous chapters, the developmental (chronological) data analysis is applied and the large statistical database created by the CEPEJ during the work on the previous reports is used.

This chapter, in particular, reflects such tendencies observed in the countries of Western Europe as the decrease in the number of courts beginning with the change of geographic implantation of courts in certain States. As for the Eastern Europe, quite the reverse trend suggesting that the number of courts is growing every year is observed. The emphasis is also placed on the increase in budgets allocated for the implementation of modern information and communication techniques into the operation of courts in all Member States.

The sixth chapter is identical to the sixth chapter of the previous report of 2008, and is dedicated to alternative means of dispute resolution. It deals with the use of alternative dispute resolution means in the Member States, and the way it is developing. It is noted that reforms aimed at the improvement of the application of such means have been adopted in several Member States and that since 2006 the reforms of certain States (mainly in Central Europe) have led to the provision of legal aid for using alternative means of dispute resolution.

According to the already proven scheme, the seventh chapter, similarly to the previous report, concerns judges. This chapter also uses the developmental evaluation approach that allows identification of tendencies related to this issue. It is noted here that the number of judges per capita is still higher in the countries of Central and Eastern Europe. The overall tendency for the period between 2004 and 2008 is a stable level of the number of judges per capita. Emphasis is also placed on the fact that the States of Europe mainly use professional judges, and this is also a tendency for the countries where the resort to non professional judges is allowed. It is also indicated that the jury is mostly absent in the judicial practice of European States.

The eighth chapter, similarly to the previous report, is dedicated to judicial administrative personnel. It is also noted here that the data for the period between 2004 and 2008 almost hadn't changed.

Similarly to the report of 2008, the ninth chapter is related to 'fair trial' and the activities of the court. Like the previous version of the report, this chapter also addresses the issues of efficiency, duration of cases and courts' caseload. The innovation here is the use of statistics that henceforth should be collected by the government authorities in compliance with specially designed *CEPEJ Guidelines on judicial statistics*⁴⁰. The performance indices and court performance evaluation methods designed in this CEPEJ document allow more comprehensive comparative analysis of court activity and its compliance with fair trial principles, and in particular with proceeding duration standards. Analyses of performance indices allowed the CEPEJ to make the following conclusion: in the main, the courts manage the caseload better than the Courts of Appeal. The lowest number of cases considered by the courts is recorded in Northern Europe, and that certain States (in particular, Georgia and the Russian Federation) manage the large caseload quite good thanks to the massive investments into the Ministry of Justice budget.

The tenth chapter, according to the scheme used in the previous report, is dedicated to Public Prosecution. This chapter also uses the developmental/chronological approach, which allows building a more complete picture of trends in the Public Prosecution services of Member States in the period between 2004 and 2008. According to this chapter, no significant changes in the Public Prosecution services of the Member States took place in this period of time.

Similarly to the report of 2008, the subjects of the eleventh chapter are the career and status of judges and public prosecutors. This chapter also uses the developmental/chronological method described above, which allows an in-depth analysis of trends in the status of judges and public prosecutors in the period between 2004 and 2008.

It is noted that, in the period analysed, in certain States of Eastern Europe reforms aimed in particular at the improvement of public prosecutors' professional qualification level were adopted. The chapter also shows that while in certain States the status of judges and public prosecutors is almost identical, in other States (in particular in the countries with the Anglo-Saxon Law) the status of judges and the status of public prosecutors is quite different. It also stated that since 2004 several States of Eastern Europe increased the salary of public prosecutors, but at the same time the differences in the salary level of judges and public prosecutors still remain quite significant.

⁴⁰ *CEPEJ Guidelines on judicial statistics*, adopted by the CEPEJ at its 12th plenary meeting (Strasbourg, 10-11 December 2008), CEPEJ(2008)11.

The twelfth chapter, following the proven pattern of the report of 2008, is dedicated to defence lawyers. In this chapter, the overall trend is observed, suggesting the growing number of defence lawyers in the period between 2004 and 2008. Notwithstanding, the number of defence lawyers per capita varies greatly in the different States, which is associated with both the level of the legal culture of citizens, and the functions fulfilled by defence lawyers depending on the specific State (e.g. the number of defence lawyers per capita in the countries of Southern Europe is greater than in the countries of Northern Europe).

The thirteenth chapter, similarly to the previous version of the report, concerns the execution of judgements. Here it is explained that the approach to the definition of people responsible for the execution of judgements is ambiguous, and varies between the different States: in some States this function is entrusted to specific category of officers, while in other countries the execution of judgements is carried out by the judges themselves. The Commission emphasized that it is essential for Member States to control the appropriate professional qualification of officers responsible for the execution of judgements and their activity as well. The CEPEJ reiterates that it has recently developed the list of standards for proper execution of judgements⁴¹.

Similarly to the report of 2008, the fourteenth chapter deals with the notarial system. Besides the updated data for the year 2008, it also contains new conclusions, different from these drawn in the previous version of the report.

The fifteenth chapter, dedicated to interpreters, has become the new element of the report. Indeed, this issue was first discussed exactly in 2010. Similarly to the chapters dedicated to other court staff, the fifteenth chapter addresses such issues as: number, status, function and professional training quality of translators and interpreters. In the chapter conclusion the CEPEJ highlights that the importance of translation for the court is that it grants access to justice, and ensures a fair trial.

According to the accepted pattern, one of the last chapters of the report of 2010 (Chap. 16) concerns the reforms in the judiciary of Member States. Unlike the previous report, analyses of specific measures are almost absent and the chapter instead contains a table encompassing all reforms adopted by the Member States. It should be noted that the listed reforms relate to all the areas of the Member State's judicial system performance.

The last, seventeenth chapter, similarly to the previous report of 2006, is called "*Towards more efficiency and quality in the European judiciary*". This chapter is dedicated to the overall conclusions that can be drawn following the results of the analysis of statistical data provided in the report in order to distinguish the main tendencies of the development of European judiciary, and the analysis of the compliance of such tendencies to the quality standards in the area of delivery of justice, designed by the Council of Europe. In other words, it contains the overall analysis of changes in tendencies in the judiciary of the Member States, and their compliance to European standards of judicial systems' quality and efficiency. The scheme of the study is identical to the scheme used in the previous report.

⁴¹ CEPEJ Guidelines for a better implementation of the existing Council of Europe's Recommendation on enforcement, CEPEJ(2009)11REV2.

2.2.5 Report on “European Judicial Systems - Edition 2012 (2010 data): efficiency and quality of justice” and Report on “European Judicial Systems - Edition 2014 (2012 data): efficiency and quality of justice”

Similarly to the report of 2010, these versions contain not only the data for the period analysed, but also the data collected during the previous judiciary evaluation cycles. In other words, the CEPEJ approach to the preparation of the report is almost identical to the approach applied in the previous version. The 2012 report cover 46, the 2014 report 45 Member States. These versions also confirm the tendency for the increase of the size of the reports: indeed, the reports 2012 and 2014 are larger than the report 2010 (report 2012 contains more than 400 pages, report 2014 is more than 500 pages).

According to the accepted pattern, the first chapter of both the reports is dedicated to research techniques. Similarly to the previous versions of the reports, it describes the evaluation procedure for data provided by the national representatives, the approach used for data analysis and the working principles. Finally, it contains social and demographic indices. In other words, the introductory first chapter is almost the same in all the report versions.

Similarly to the previous versions, the second chapter is dedicated to the judiciary financial support. The research method used herein is identical to the method used in the report of 2010. The chapter also employs the developmental/chronological approach. Accordingly, not only the data for the current period, but also the data collected during the previous evaluation cycles (2004, 2006, 2008 and 2010) are analysed.

In this chapter the authors first note the high quality of the Ministry of Justice budget statistics that had been collected. The trends observed in the previous periods are confirmed: the budgets of the Ministries of Justice are constantly growing. At the same time the number of States where the court costs were reduced compared to the previous period has grown. This is explained by the financial and economic crisis. The chapter also separately addresses certain categories of judicial system costs. It is noted that the expenses on such judicial system matters as officers' remuneration, information and communication technology development and professional training of judges are constantly growing.

The issue of access to justice, similarly to the previous version of the report, is discussed in the third chapter of the research. According to the accepted pattern, this chapter also uses certain elements of the developmental/chronological approach, where statistics of the current period are compared to the previous periods.

It is noted here that henceforth a system of reimbursable judicial service (State duties charged for the judicial service) exists in all of the Member States. A similar situation is noticed in the area of legal aid, which is provided in all Member States during criminal proceedings, while the number of States where legal aid is provided for civil and commercial cases is constantly growing. Another positive trend is the increasing amount of expenses allocated for legal aid for each case.

Similarly to the previous version of the report, the fourth chapter is dedicated to court users and their rights. In more and more countries the information about court proceedings is available to the proceeding participants *via* Internet. The availability of information of the proceedings' duration is increasing, and the predictability of their duration is improving. It is also noted that in a growing number of States the most vulnerable proceedings' participants are granted special rights, while the amount of legal aid provided to them is increasing, and the role of public prosecutor in their protection is becoming more significant.

The fifth chapter is related to courts. Like for the previous chapters, the Commission resorts to the developmental/chronological data analysis, using its large statistical database created during the work on the previous reports.

In this chapter it is stated that for most Member States there were no significant changes in the organisation of courts. Nevertheless, the number of specialised first instance courts is growing. The other trend observed in the area of the organisation of the court system is the persistent increase in the attention of the government to the application and use of modern information and communication technologies. In other words, the courts are more and more fitted with computers, videoconferencing systems, and other means of communication.

Similarly to the previous version of the report, chapter 6 of these reports is dedicated to alternative means of dispute resolution. The chapter also employs the developmental/chronological approach where the data collected by national correspondents under the preparation hereof are compared to the archived CEPEJ data collected in the previous report versions.

The CEPEJ states that the alternative means of dispute resolution are developing further in the judiciary of the Member States. For example, in Italy, Montenegro and Rumania the reforms aimed at the improvement of the alternative means of dispute resolution were adopted. Another positive trend here is the enhanced provision of legal aid: since 2006, provision of legal aid in the implementation of alternative means of dispute resolution has been guaranteed in 32 States.

According to the accepted pattern, the seventh chapter of both reports is dedicated to judges. It also employs the developmental/chronological approach. Here the rate of the number of judges per capita hasn't significantly changed: a higher number of judges is observed in the countries of Central and Eastern Europe. The overall trend is a stable level of the number of judges. It is indicated that some countries have provisions on the participation of juries in the delivery of justice. At the same time there is also a wide variety of schemes of participation of professional and non professional judges in the delivery of justice.

The eighth chapter, similarly to the eighth chapter of the report of 2010, deals with administrative judicial personnel. Nevertheless, during the preparation of the last two reports, the authors were assisted by the European Union of "Rechtspfleger" and court clerks. The chapter employs the accepted developmental/chronological approach that allows identification of the main trends in the development of the court.

This chapter shows that the data concerning the "Rechtspfleger" and court clerks almost hasn't changed between 2006 and 2012. It is also noted that quite often the activities other than delivery of justice but related to it are carried out by private organisations.

Similarly to the ninth chapter of the previous report this chapter is related to fair trial and court activity (court efficiency). Like the whole new version of the report, this chapter is quite large, and contains the comparative analysis of data collected under the preparation hereof and data collected under the previous versions, which allows tracking the development of the issue during several years.

In the conclusion of this chapter it is highlighted that European courts manage the criminal caseload better than the civil one. The rest of the conclusions are similar to those drawn in the previous period. Special emphasis is placed on the most efficient judiciaries that successfully manage the caseload of any category. These systems are those of Georgia, Russia, Austria and the Czech Republic.

Similarly to the previous version of the report, the tenth chapter concerns public prosecution. It is noted that the Public Prosecution Service in different Member States fulfils different functions, which is especially evident outside the criminal law. This fact makes the comparative analysis more complicated. The overall trend here is the reduction in the number of both public prosecutors, and the cases considered by them. In general, public prosecutors successfully manage the caseload in almost all of the Member States.

The eleventh chapter is focussed on the career and status of judges and public prosecutors. It is noted here that during the preparation of the reports the authors held consultations with the different professional organisations of the public prosecutors and judges. It also needs to be mentioned that this chapter, like the other chapters of the reports, employs the developmental/chronological approach, which allows comparison of the data collected since 2008.

It is indicated that the process of judges' and public prosecutors' appointment is similar in most of the Member States. The chapter also shows that most Member States conduct regular professional training of both public prosecutors and judges. It is noted that since 2004 the remuneration of judges and public prosecutors in most of the Eastern Europe countries is constantly growing. Another trend observed is the promotion of gender equality among public prosecutors and judges.

Similarly to the version 2010, the twelfth chapter is dedicated to defence lawyers. In conclusion, the Commission asserts that in the period between 2006 and 2012 the number of defence lawyers has grown in almost all Member States, which corresponds to the trend identified already in 2004. The financial crisis hasn't affected this trend. It is also noted that in the countries of Southern Europe the number of lawyers per capita is higher than in the countries of Northern Europe. And the final observation is that in general the profession of lawyer is organised quite well, and the issues of professional training are of great importance in all Member States.

Similarly to the previous report the thirteenth chapter is dedicated to the execution of judgements. This chapter shows that the stable trend here is the constant growth of the number of court staff responsible for the execution of judgements. The CEPEJ states that the status of officers responsible for the execution of judgements varies greatly between the different Member States. Nevertheless, the stable trend observed in this area since 2006 is the reduction of public sector officers responsible for the execution of judgements, and the correlative increase in the number of private enforcement officers. Another trend is the implementation of the execution of judgement quality standards based on European standards for proper execution of judgement designed by the CEPEJ⁴² at the regulatory level.

⁴² *CEPEJ Guidelines for a better implementation of the existing Council of Europe's Recommendation on enforcement*, CEPEJ(2009)11REV2.

Similarly to the previous version of the report, the fourteenth chapter concerns the notarial system. It identifies the main trend, suggesting the privatization of the notarial status and functions. The other trends in this area remain stable (e.g. the number of notaries remains at the same level). It is also possible to identify the tendency of minor reduction in the number of notaries in States of Eastern and Northern Europe.

The fifteenth chapter was first included in the 2012 version of the report, and is dedicated to judicial experts. It addresses such issues as: types of judicial experts; selection (or appointment) of judicial experts; number of judicial experts; functions and status of judicial experts. Due to the fact that this topic hadn't been included in the previous versions of the report, this chapter does not contain any interesting findings regarding judicial experts, except the one that in the most States their selection (appointment) is carried out by the court itself, and in most cases the judicial experts are people with some special knowledge.

The sixteenth chapter is dedicated to interpreters. Its content is identical to the corresponding chapter of the previous report. The authors underline certain difficulties in the analysis of the various aspects of status, functions and qualification of court interpreters, which is explained by the low level of statutory regulation of their activity. The CEPEJ notes that there are some Member States that do not have an examination qualification for court interpreters.

According to the accepted pattern, one of the last chapters of the reports published in 2012 and 2014 (Chap. 17) is dedicated to the reforms in the judiciary of Member States. The analysis of specific measures is almost non-existent, and the chapter instead contains a table of all reforms adopted by the Member States. It should be noted that the reforms listed relate to all the areas of the Member State's judicial system performance.

The last, eighteen chapter, similarly to the previous report, is called 'Towards More Efficiency and Quality in European Judiciary'. This chapter is dedicated to the overall conclusions that can be drawn following the results of the analysis of the statistical data provided in the report in order to distinguish the main tendencies of European systems development, and the analysis of compliance of such tendencies to the quality standards in the area of delivery of justice, designed by the Council of Europe bodies. In other words, it contains the overall analysis of changes in tendencies in the judiciary of the Member States and their compliance to European standards of judicial system quality and efficiency. The scheme of the study is identical to the scheme used in the previous report.

The Working Group on evaluation of judicial systems (CEPEJ-GT-EVAL) continues the evaluation process of judicial systems of the Council of Europe' Members States with the aim to provide the exchange of knowledge on their functioning, identify the best practices and assist these countries in improving their systems on comparative basis. The scope of comparison of the judicial systems is broader than 'just' efficiency in a narrow sense: it also emphasizes the quality and the effectiveness of justice.

Chapter 3.

The activity of the European Commission for the Efficiency of Justice relating to the management of judicial time in the European court systems

The European Court of Human Rights practice indicates that the length of proceedings is one of the main problems in the delivery of justice in the States of Europe⁴³. Indeed, the violation of Art. 6 and 13 of the European Convention on Human Rights is the main subject of the European Court of Human Rights case-law, while the infringement of the right to a fair trial within a reasonable time is the main ground for the establishment of these articles violation by the Member States⁴⁴. Consequently, the creation of a special centre by the CEPEJ in 2007, whose activity consists purely in working on issues on trial duration, was quite predictable. Therefore, the Centre for judicial time management or Study and Analysis of judicial Time Use Research Network (hereafter referred to as SATURN Centre)⁴⁵ was created.

⁴³ For example, see ECHR, *Kudla v. Poland*, 26 October 2000; *Gagliano v. Italy*, 6 March 2012; *Michelioudakis v. Greece*, 3 April 2012; *Idalov v. Russia*, 22 May 2012; *Vlad v. Rumania*, 26 November 2013; *Svinarenko & Slyadnev v. Russia*, 17 July 2014; *Mocanu v. Rumania*, 17 September 2014.

⁴⁴ For example, see (F.) Sudre, *Droit européen et international des droits de l'Homme*, PUF, 2003, p. 343.

⁴⁵ Before the creation of the CEPEJ-SATURN Centre, the CEPEJ already had its prototype – CEPEJ Task Force on timeframes of judicial proceedings (CEPEJ-TF-DEL), which in particular has developed the *Compendium of 'best practices' on the time management of judicial proceedings*.

Similarly to the other CEPEJ Working Groups, this Centre consisting of six experts⁴⁶ is responsible for collecting data on its relevant specialization and, in particular, on the duration of trials within Member States. The target of this activity is the provision of the Member States with necessary information in order to bring their judicial caseload into compliance with the European Convention on Human Rights standards and the SATURN Centre guidelines. According to the Strategic Plan for the SATURN Centre⁴⁷, this group:

- is a “*European Observatory*” for judicial time use, which performs analysis of qualitative and quantitative data related to the length of proceedings in European courts;
- it provides Member States with advices regarding the gathering of information and statistics on delays, time use and caseloads in their judiciary;
- it assists Member States in the implementation of its advices and guidelines.

According to the Strategic Plan for the SATURN Centre, in order to fulfil this task, the Steering Group performs the following actions:

- collection, processing and analysis of corresponding qualitative and quantitative information on time management in the course of the delivery of justice;
- establishment and improvement of methodologies of measurement and statistical data collection with regard to the length of proceedings within Member States courts, and development of means of collecting relevant data via statistical analysis;
- establishment of networks, in particular a Network of Pilot Courts for test implementation of mechanisms developed in order to reduce the length of trials;
- organisation and implementation of course programmes for raising the awareness of courts on how the Steering Group tools should be used.

Besides the SATURN Centre’s task of implementing the European Convention on Human Rights’ requirements related to the reasonable time of proceedings, it also has to consider a number of other Council of Europe acts, it being of an advisory nature. These are recommendations of the different Council of Europe authorities acting in the area of justice, directly or indirectly addressing the issue of the length of trials.

The SATURN Centre is intended to assist Member States in their endeavours to reduce the length of proceedings; however, at the same time (similarly to the CEPEJ itself) it is not a monitoring or control structure of the Council of Europe for the fulfilment of international legal obligations accepted by Member States. Consequently, the targets of this CEPEJ institution, fixed in the Strategic Plan for the SATURN Centre, correspond to its nature:

⁴⁶ 6 experts are appointed by the CEPEJ Bureau among members of the CEPEJ. The Chairman of the SATURN Centre is an expert from Switzerland – Dr. Jacques Bühler (Deputy Secretary General, Federal court, Switzerland). The group includes the following experts - Irakli Adeishvili (Chairman, Chamber of Civil Cases, Tbilisi, Georgia; Vice-president of the CEPEJ), Ivana Borzova (Head of division, Department of Civil Supervision, Ministry of Justice, Czech Republic; CEPEJ Bureau member); Ivan Crncec (Assistant Minister of Justice, Croatia), Francesco Depasquale (Legal advisor, Director General for Courts, Ministry of Justice and Home Affairs, Malta), Giacomo Oberto (Judge, First Instance Court of Torino, Italy).

⁴⁷ 10th meeting, Strasbourg, 21 and 23 September 2011, CEPEJ-SATURN Centre (2011)5Rev2.

- periodic collection of data on the length of trials for different categories of cases in the judiciary of Member States;
- constant improvement of the quality of data collected;
- analysis of the collected data in the light of the European Court of Human Rights' case-law requirements related to the time taken to deal with cases⁴⁸;
- development of standards and regulations for the time it takes to consider cases;
- wide distribution, including via the Internet, of the devised standards on the one hand and the results of the analysis of data regarding the length of proceedings on the other hand;
- active promotion of the tools and methods of reduction of the length of trials developed by the SATURN Centre;
- support of the Member States' initiatives regarding the reduction of the length of trials.

The implementation of these goals is carried out through projects agreed in the Strategic Plan for the SATURN Centre. The specific content of each project is described in the Strategic Plan, which also indicates the stages of the implementation of the concerned project, the officers responsible in this respect, and the timescale. In particular, the Strategic Plan includes the following projects:

- collection of data on the length of proceedings in the States of Europe;
- organisation of an intense work with the separate pilot/experimental courts with regard to issues related to the implementation of the SATURN guidelines;
- updating the information on the European Court of Human Rights' practice regarding the issues of fair trial within a reasonable time;
- processing the data on the time it takes to consider cases dealt with by the Member States' judiciary;
- preparation of reports on the length of proceedings in the Member States, based on the provided statistics;
- constant adaptation of the SATURN guidelines on the reduction of the length of trials to practical requirements;
- determination of standards in matters of length of proceedings based on the courts' practice in dealing with cases;
- organization of professional advancement courses for Council of Europe Member States government authority representatives in order to familiarise them with the methods of reducing the length of trials;
- assisting national courts in the implementation of the SATURN guidelines in their practice.

During the fruitful activity of the SATURN Centre, three Studies have been devised – Study N°2 on *Time management of justice systems: a Northern Europe study*; Study N°3 on *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*; Study N°17 on *Council of Europe Member States Appeal and Supreme Courts' Lengths of Proceedings*⁴⁹.

⁴⁸ Regarding this issue, the CEPEJ has elaborated a report on the length of court proceedings in the States of Europe in compliance with the ECHR practice: *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*, adopted by the CEPEJ at its 20th plenary meeting, Strasbourg, 31 July 2012.

⁴⁹ Study N°2 on *Time management of justice systems: a Northern Europe study*, drafted by Ms. Mirka Smolej (researcher at the National Research Institute of Legal Policy in Finland) and Mr. Jon T. Johnsen (Professor in law, Dean, Faculty of Law, University of Oslo, Norway), 2003; Study N°3 on *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*,

Below we will consider the main SATURN documents being a part of the so-called SATURN ‘toolbox for the evaluation of fair trial within a reasonable time by the national courts’, and the SATURN Guidelines for implementation on the national level. The first documents are developed in order to evaluate the level of the speed with which courts are dealing with cases in Member States, *i.e.* they are the analytical tools, while the second category of documents are of an advisory nature and are intended for implementation in the national judiciary in order to speed up and increase the efficiency of justice.

3.1. Time management checklist: SATURN working document

The CEPEJ has been concerned by the issue of length of proceedings in the Member States long before the creation of the SATURN working group. Thus, in 2005 at the 6th CEPEJ Plenary Meeting, the Commission approved a document containing the Time Management Checklist. It is the CEPEJ internal working document encompassing instructions intended to regulate the operation of both the SATURN Centre and the corresponding Member States authorities as concerns the activities of collecting and analysing information on the length of trials in Member States, in order to minimize the unreasonable delays in the delivery of justice and increase the efficiency, transparency and predictability of proceedings.

According to this CEPEJ document, the length of trials reduction should be achieved *inter alia* by gathering information on the problems hindering the prompt dispute resolution. According to the European Court of Human Rights, the court proceedings length directly influences the effectiveness of the protection of individual rights and liberties. Consequently the issue of court proceedings length is of great importance, and the preparation of the Checklist considered in this Chapter as well as the establishment of the SATURN Research Network (Centre) have been planned for a long time. Thus, on September 15th 2004, the CEPEJ developed a Framework-Programme “*A new objective for the judiciary: the processing of each case within an optimum and foreseeable timeframe*”⁵⁰.

The collection of data concerning the duration of court proceedings and its analysis at first was a difficult task for the CEPEJ, since separate aspects of the Member States judicial system performance were significantly different, which complicated their comparative analysis. The CEPEJ had already emphasised this fact in its first evaluation Report⁵¹. Consequently, the document considered in this chapter has become a basis for the harmonisation of the Member States’ systems of collection and analysis of statistics regarding the length of proceedings. This *Time management checklist* allows the analysis of both the duration of the total proceedings from the stage of filing the claim to the passing of judgement (and enforcement) by the court, and the duration of the separate stages of the proceedings, which makes possible the identification of specific shortcomings of the proceedings.

drafted by Ms. Françoise Calvez (Judge), France (updated in 2012-03-26 by Mr. Nicolas Régis (Judge), France), 2011; Study N°17 on *Council of Europe Member States appeal and supreme courts’ lengths of proceedings*, drafted by Mr. Marco Velicogna (researcher at the Research Institute on Judicial Systems of the Italian National Research Council), 2013.

⁵⁰ Framework-Program, “*A new objective for judiciary: the processing of each case within an optimum and foreseeable timeframe*”, CM(2004)19 Addendum 3, 21 July 2004.

⁵¹ CEPEJ, “*European Judiciary 2002: facts and figures*”, adopted by the CEPEJ at its 4th plenary meeting (December 2004).

Consequently, one of the criteria for the evaluation of the length of proceedings in the mentioned Checklist concerns the implementation of a unified court case numbering mechanism implying that a unique identifier is conferred to each proceeding on all procedural stages, even when several cases have been merged in one or when a case has been transferred from one court to another one. In other words, the question the Member States had to answer under their proceedings length evaluation in the frame of the Time management checklist, is related to the availability of statistical data on the different aspects of proceedings duration, namely, whether the State:

- has statistics collection system for data on proceedings duration from the trial opening stage to the adoption of a final judgement;
- takes into account when evaluating the length of proceedings the formal proceedings prior to the instigation of judicial proceedings;
- considers the judgement enforcement stage in the evaluation of the length of proceedings, *etc.*

Another criterion for proceedings length evaluation is the presence of unified trial duration standards defining the optimal terms for specific judicial actions. In other words, the court quality evaluation in general and the fair trial within a reasonable time evaluation in particular are also determined by the following:

- availability of approximate terms for judgement passing or procedural actions performance;
- notification to the participants in the proceedings (claimant, defendant and their representatives) of the availability of such terms;
- availability of consensus procedures (between the judge and the trial parties) for determination of the terms for proceedings in general and specific procedural actions.

The third criterion for dispute resolution promptness evaluation is performing the classification of cases and determination of the corresponding terms of their resolution depending on the complexity of each dispute.

The fourth criterion is the availability of temporary standards or recommendations establishing timeframes for proceedings principal stages duration. Put differently, it is suggested that the Member States keep at least statistical records of the proceedings different stages duration in relation to the different case categories, since the CEPEJ requests information regarding the length of the proceedings separate stages.

The fifth criterion is the availability of a system for prompt identification of excessive duration (delays) and notification of the responsible persons and offices in order to restore the normal judicial case flow and prevent further dysfunctions. In other words, the Commission asks whether there is a specific authority liable for the delivery of justice delays at the national level. In the CEPEJ opinion, such delay identification system implies the creation of the following:

- special government delay monitoring function;
- procedures for resolving the situation with excessive delays;
- availability of procedural means for speeding up the proceedings.

The sixth criterion is availability and using of modern technological means of monitoring and delay prevention in the delivery of justice. This means the availability of a monitoring system that can be employed for both general system delays monitoring and used by the proceedings parties and the judges for specific case resolution as an informational mean indicating the proceedings stage and specific procedural action performing time.

3.2. Framework-Programme “A new objective for judiciary: the processing of each case within an optimum and foreseeable timeframe”

This is the first CEPEJ document containing advices for timely dispute resolution in the Member States or, as can be seen from the document title, case processing within an optimum and foreseeable timeframe. In the opinion of the Commission the issue related to the delays in justice is acute, not only due to the high number of cases considered by the European Court of Human Rights, but also due to the fact that this issue is present in almost all Member States. Moreover, as the Commission notes in this document, the most delays in the delivery of justice are observed in the countries of Western Europe.

The first part of this document is dedicated to identifying the reasons for delays in the delivery of justice. Here it is noted that the Council of Europe Committee of Ministers has already developed a number of advisory documents, a part of which is directly or indirectly aimed at the reduction of the length of proceedings. These are:

- Recommendation Rec(86)12 concerning *Measures to prevent and reduce excessive workloads in the courts*;
- Recommendation Rec(94)12 on the *Independence, efficiency and role of judges* and Recommendation Rec(95)12 on the *Management of criminal justice*;
- Report on *Cost-effective measures to increase the efficiency of justice* approved during the conference of the Member States of the Council of Europe Ministers of Justice in June 2000.

Other Council of Europe authorities have also presented a number of measures aimed at the reduction of the length of trials:

- creation of mechanisms for legal liability for delays;
- participation of the different (including interested) parties (for example, trial participants) in the process of deciding on the timeframes of judicial proceedings;
- maintaining a monitoring and notification system;
- establishment of specific timescales for the consideration of specific case categories⁵².

The second part of the document contains an ‘Action Plan’, in the narrow sense.

Here the authors specify the three core principles of the court’s performance. The first principle is the balance between resources allocated to the court and the targets set for to the court, including the high-quality delivery of justice. It includes the special organisation of the delivery of justice, the efficiency of the delivery of justice, and consideration of the public opinion regarding the way it should be organised. The second principle is the availability of efficient

⁵² The Appendix to the Framework-Programme “A new objective for judiciary: the processing of each case within an optimum and foreseeable timeframe” contains the full list of the Council of Europe recommendations that have positively affected the reduction of the time it takes to consider cases.

evaluation tools in respect of delays in justice and systems of analysis. Here the Commission refers to the creation of a common ground for the evaluation criteria of all Member States with regard to justice delays and rules about its analysis: these had not existed at the time of the preparation of the discussed document. And finally, the third principle implies the need to develop a balanced approach considering the necessity for both fair trial within a reasonable time, and its high-quality delivery. In other words, this principle implies that the speeding up of the delivery of justice cannot be carried out at the expense of other core principles of justice (for example, the right to defence).

The Commission starts the development of specific measures aimed at the reduction of trial time by recalling the existence of indirect measures pursuing the same goal, and particularly the redistribution of cases among the courts, the alteration of the cases' territorial jurisdiction and the introduction of alternative means of resolving disputes. Herewith, the Commission emphasises that despite the fact that such measures definitely influence the reduction of the length of trials, they still remain indirect, while the means developed under the present CEPEJ document are directly aimed at this task fulfilment.

Nevertheless, besides the development of the direct means of reducing trial times, the Commission also calls upon the utility of resorting to a complex and overall approach to the issue of the excessive length of proceedings. Accordingly, the Commission suggests carrying out actions aimed at both the reduction of the total number of cases considered by the courts, and the provision of judiciary bodies with additional resources for improving the quality of the processing of cases.

The specific CEPEJ advices for reducing the length of proceedings are contained in the third chapter of the present document.

In the opinion of the CEPEJ, the main means of reducing the length of trials consists in increasing the resources of the court (financial and staffing), which in particular is expressed in the increased number of judges and other court staff⁵³, and the provision of the proper technical equipment, *etc.* The Commission emphasises that it means not just increasing the amount of resources allocated to courts, but also their efficient use. Thus, it is suggested not just to increase the remuneration of judges, but also to redistribute it depending on the amount of the work fulfilled by each judge. It is also advised that the authority of judges to redistribute cases should be strengthened, that the quality of professional training for judicial manpower employed in administrative proceedings should be developed, and that the court operations should be modernised generally.

Another means of time reduction is to consider how new judicial legislation can influence the time it takes to deal with cases. Put differently, the Commission suggests resorting to a preliminary experts evaluation of the projected laws in order to ensure their compliance with the fair trial within a reasonable time requirement.

⁵³ For more details see:

<https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ%282005%2912&Language=lanEnglish&Ver=rev&Site=COE&BackColorInternet=eff2fa&BackColorIntranet=eff2fa&BackColorLogged=c1cbe6>

<https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ%282010%2910&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864>

Another CEPEJ piece of advice is the improvement of the predictability of the proceedings timeframes. In the opinion of the CEPEJ, such a move is necessary in order to improve the judicial system to provide a quality service, expressed not only in a fair trial within a reasonable time, but also in the predictability of the length of trials.

The next CEPEJ advice concerns the establishment of standards for optimal lengths of proceedings depending on the category of the case. In particular, it implies the collection and analysis of information regarding the length of trials within each case category, and the determination of standards based on those that are the minimal possible, and not on the average time it takes to consider cases.

Another piece of advice is to modify the systems of collecting statistics on length of proceedings and the methods of processing them, and to develop and improve information technology. It means the creation of statistical databases about court cases at the national level in each Member State. The CEPEJ advises that representatives of each society should be involved in the creation and improvement of such databases, and make them available to the public. It also emphasises that it is necessary to use the assistance of representatives from academic institutions, and to organise an international cooperation in order to share experience regarding these issues.

The Commission highlights the importance of implementing experimental/pilot projects in separate courts in order to improve the means by which the length of proceedings may be reduced.

The CEPEJ also separately refers to such measures as the mandatory notification to the participants in the proceedings of the expected length of their trials and the possibility of joint definition of the specific length of trials by the court officers and the participants in the proceedings. In other words, the Commission suggests an enhancement of the involvement of the participants in proceedings in the determination of the timeframes they are concerned by. Surprisingly, another solution for bringing the judicial times in compliance with the European Court of Human Rights' case-law, is the limitation of the possibility of impeachment via 'cassation' (interpretations of the law, and appeals.) This advice does not mean an absolute restriction, but rather an indirect limitation, for example, through introducing fines in the advent of delaying strategies, or filtering mechanisms in respect of cases of lower importance.

Another direction in the reduction of time taken over cases is improvement of separate procedures. It means borrowing court procedures already existing in other countries which had proved being efficient (for example, *juge de la mise en état* existing in civil proceedings in France). Another example is the prohibition of the interruption of proceedings for an indefinite time, or the mandatory determination of specific dates for the resumption of proceedings, if it happens to be suspended.

One more CEPEJ advice is the creation of conditions for efficient forwarding of cases standing in a queue for consideration. A similar suggestion is made regarding the improvement of the running of proceedings. Thus, for example, parties in the proceedings should be notified about the exact date and time of the hearing and conduct of the debate.

The CEPEJ next suggestion is the creation of a special proceeding to revive pending cases. An interesting and, in our opinion, efficient CEPEJ advice is to make the rules on the territorial jurisdiction of courts more flexible. In particular, it implies the possibility of taking a case into consideration even when it does not belong to the court's jurisdiction, in order to ensure its transfer to the territorially competent court.

A separate paragraph is dedicated to the importance of a more intensive engagement of citizens into the administration of court proceedings, and particularly into the determination of the time it takes to consider cases. It is also suggested that legal professionals (notaries, enforcement officers) should participate more in the process of speeding up cases within the court.

Another piece of advice is to review the relations between courts and lawyers. Thus, the CEPEJ notes that in some States the Bar Associations determine on a negotiable basis with the court the terms for filing claims, applications and other documentations. The Commission encourages the implementation of such schemes intended to facilitate the cooperation between courts and lawyers in the member States.

In the opinion of the CEPEJ, increasing the professional qualification of judges, public prosecutors and other court staff is another way to reduce the length of proceedings.

As for the participation of the notaries and other legal sector professionals in the process of reducing the length of trials, the CEPEJ recommends that their role should be better specified in the statutory regulations. The Commission believes that the participation of such people promotes faster resolution of disputes.

The final part of the Framework-Programme is quite interesting, since here the Commission has drawn a line between advices addressed to the Member States and advices addressed to the Commission itself.

Thus, for example, the following advices are addressed to the Member States:

- some are related to the increasing of the resources allocated to courts (in particular, the remuneration of judges, depending on the amount of work completed; the increase of the authority of courts regarding the management of administrative resources ; the development of the use of modern technologies);
- carrying out the evaluation of the legislation quality;
- establishing standards in order to create conditions for the predictability of the length of proceedings;
- determination of such standards depending on the category of the case;
- development of a system of statistics collection and their processing at the national level;
- establishment of a system where the lengths of trials are defined both by courts and the parties in the proceedings (consensus procedures);
- limitation of the possibility to appeal judgements;
- improvement of the separate procedural aspects of the suspension and resumption of court proceedings;
- determination of priorities in the consideration of separate case categories;
- creation of proceedings aimed at reviving pending cases;
- making more flexible the rules on the territorial jurisdiction of courts;
- involvement of the different interested parties (lawyers, notaries, enforcement officers) into the reduction of the length of proceedings;
- increasing the qualification required in respect of the court staff (judges, public prosecutors and other justice officers).

At the same time, the following are the advices addressed to the Commission itself:

- conducting researches, determining the reasons for delays in the delivery of justice, and identifying means of solving the problem based on the case-law of the European Court of Human Rights;
- organisation of the operation of pilot courts in order to share experiences related to the reduction of time taken over cases;
- elaborating Guidelines for improvement the time of delivery of justice;
- organisation of international conferences, and creation of research networks based on university centres, in order to publish the results of academic researches about how to reduce the length of time taken over court cases;
- enhancement of the cooperation between the Council of Europe and the European Union, especially for the improvement of the analysis and exchange of statistics.

3.3. Compendium of “best practices” on time management of judicial proceedings⁵⁴

The next stage in the CEPEJ combat against excessive lengths of proceedings within the Member States was the development of a document encapsulating the best practices on time management in judicial proceedings. Unlike the Framework-Programme described above, this document is not of an advisory, but rather of a research /analytical nature, since it contains analysis of the most efficient ways of reducing proceedings’ time already existing in the national judiciary. It also contains the CEPEJ tools already implemented under the experimental CEPEJ Network of pilot courts project. The best practices described in the document have been actualised and updated during the pilot court meeting in September 2014 and integrated in a new document called *SATURN Guidelines for judicial time management – Comments and implementation examples*⁵⁵ written by Mr. Marco Fabri and Ms. Nadia Carboni.

3.4. Revised SATURN Guidelines for judicial time management⁵⁶

Unlike the previous SATURN documents (except for the Framework-Programme described in the chapter above), this document is purely of an advisory nature. In other words, similarly to the Framework-Programme it contains advises and suggestions on fair trial within a reasonable time addressed to Member States. As one can see from the introduction to this document, it is intended for all participants in the proceedings, and should be translated and available for every participant in the courts of Member States, since it contains important guidelines.

As main guidelines and principles SATURN establishes the following:

- *Transparency and foreseeability*, which imply that all participants in the proceedings must be involved in the time management of judicial proceedings; that the latter must be notified about any action prone to increase the times of proceedings; that the duration of proceedings must be foreseeable as far as possible; that statistics related to the proceedings duration per types of cases must be available to any person.

⁵⁴ *Compendium of “best practices” on time management of judicial proceedings*, adopted at its 8th plenary meeting, Strasbourg, 6-8 December 2006, CEPEJ(2006)13.

⁵⁵ *SATURN Guidelines for judicial time management – Comments and implementation examples*, Strasbourg, September 2014, CEPEJ-SATURN(2015)2.

⁵⁶ *SATURN Guidelines for judicial time management*, Strasbourg, 25 September 2013, CEPEJ (2008)8 Rev 3.

- *Optimum length of judicial proceedings*, which means that the time it takes to consider a case, must correspond to the complexity of the latter. Put differently, cases must be dealt with within a reasonable time, being not too long and not too short. The SATURN Centre believes that although this principle does not provide to the participants in the proceedings a direct determination of the trials times, it nevertheless ensures that the timeframes are fixed in an objective manner, correspond to the standard terms for each category of cases and do not depart in a significant way from the timing of similar cases. The purpose it is intended for is to keep all parties satisfied about the trial duration.
- *The planning of the duration of court proceedings and data collection* is carried out depending on the type of proceedings. Those principles also imply the participation of all interested parties to the proceedings and the establishment of a system of data collection with regard to the length of proceedings and a monitoring mechanism thereof.
- *Flexibility* in the time management of the judicial process as a principle implies that the trials times must be adapted to the specific features of the case being heard and the needs of the participants in the proceedings. As a consequence, the Commission advises not to resort to strict deadlines under laws and other regulations, and in the countries where they are still existing, to constantly adapt them to the specific peculiarities of the case.
- *Loyal collaboration of all stakeholders* of the proceedings is the principle allowing the achievement of optimal and foreseeable times of proceedings. In other words, this principle implies that both at the legislation level and at the level of the participants in specific proceedings, all measures required for timely case consideration are taken. Therefore, all parties (the government, the judicial bodies, judges and participants in the proceedings) should participate in the process of reduction of times of proceedings. In order to achieve this purpose, the SATURN Centre suggests to develop a negotiated system of framework agreements on proceedings times involving both judges and lawyers.

A separate chapter of the SATURN Guidelines is dedicated to the advices for legislators and relevant authorities.

Here the CEPEJ recalls the importance of providing the judicial system with sufficient funds corresponding to the courts caseload and allowing them to cope with it in due time. Put differently, the funds and resources must be distributed within the court in compliance with its needs, and must be efficiently used. The distribution of resources for the court must be carried out in such a way as to stimulate effective time management, and the redistribution of the funds, if necessary, must be done promptly and in an effective way, in order to avoid delays and backlogs.

As for the organisation of the court, the SATURN Guidelines suggest that it should be devised in such a way that the officers responsible for the time management of proceedings are clearly identified. This approach implies the creation within the court of a special unit of officers responsible for the fair trial within a reasonable time, whose duties are to perform continuous analysis of the duration of proceedings in order to identify trends and tendencies and to prevent adverse changes in the length of proceedings or other problems related to the timeframes.

Separately the Centre SATURN insists on the utility of positive changes in the *substantive law*. The latter needs to be clarified and simplified in order to eliminate the difficulties related to its implementation. In this respect, the legal departments of Member States should study in advance the consequences of new laws on the courts caseload and avoid changes that may generate backlogs and delays.

With regard to the rules of procedure, the SATURN Centre provides more detailed information. Namely, procedural regulations should be formulated in such a way that their practical implementation does not generate any problems. Likewise, procedural rules complicating the proceedings should be excluded or modified. Here, the SATURN particularly invites Member States to take into consideration and comply with a number of Council of Europe recommendations related to the rules of procedure. Another advice is that procedural legislation changes should be adopted with the participation of the interested parties (above all, judges). It is also suggested to enhance the using of expedited procedures in the courts of second instance and to limit the appeals in respect of small cases, while applications before these courts must be reserved only to cases of a particular importance.

The SATURN Guidelines also address the activity of authorities responsible of the administration of courts (in particular, the Member States' Ministries of Justice). In this respect, the SATURN Centre advises the division of labour between all courts and participants in the proceedings in order to stimulate their activity in the direction of good time management. Another direction is the monitoring of statistical data, which above all is the duty of government authorities responsible for the performance of courts. In particular, the SATURN Centre suggests the establishment of a monitoring system including a national database in compliance with the European Uniform Guidelines for Monitoring of Judicial Timeframes⁵⁷. The Member States are also invited to undertake specific interventions, aimed at the reduction of timeframes of proceedings. Special attention must be paid by government authorities to cases, which undue trial times risk to give rise to the finding of the violation of the human right to a trial within reasonable time. Another SATURN advice to Member States is to use new technologies to reduce the times of proceedings (in particular, videoconferencing, remote access to documents, interaction with the participants in the proceedings, via e-mail etc.). Finally, the officers responsible for the courts performance should establish the accountability of persons who cause delays and adversely affect the observance of set standards and targets in the time management.

Besides legislators and local authorities, the SATURN Centre formulates a series of advices in respect of court managers. For example, the latter should carry out the collection of information on the length of proceedings and delays in the delivery of justice, and should act in compliance with the Time management Checklist developed by the Commission. The information collected in such a way is subject to continuing analysis in order to increase the efficiency of the judiciary and guarantee an effective safeguard of the right to a fair trial within reasonable time. It must be published online in the form of reports on the judicial bodies' activity accessible to everyone. Besides the definition of goals and specific standards at national level, the SATURN Centre also suggests that targets should be established at the level of individual courts. These targets must be the subject of continuous revision, and become the basis for the evaluation of the performance of specific courts. Finally, the individual courts are invited to develop means of crisis management (combating serious delays in the delivery of justice and deviations from the times established by the court for the consideration of specific cases).

⁵⁷ These Guidelines are contained in the Appendix to the *Revised SATURN Guidelines for judicial time management*.

Finally, the SATURN Centre has developed a number of advices in relation to judges themselves. In this respect, judges should be granted sufficient authority for active case management in order to ensure fair trials within reasonable timeframes. In particular, this means that judges should be entitled to set specific terms for the performance of certain procedural actions in each individual case. Here it is also advisable to create special programmes allowing judges to draw up judgements according to specific schemes in order to save time. Another piece of advice is the introduction of a “*Timing Agreement*” with the parties and lawyers, which would allow interested parties to participate in the time management of proceedings. In this process, judges are also advised to ensure the co-operation and monitoring of other people involved: experts, witnesses, *etc.* The SATURN Centre also advises to punish attempts to interfere with the proceedings, *i.e.* the abuses of the judicial process. The sanctions are determined in relation to specific citizens (both parties in the proceedings and their representatives (lawyers)). As a deterrent, the SATURN Centre also suggests notifying the Bar Association of any transgression committed by a lawyer. And finally, the reasoning founding judgements should be concise, in order to save time.

Two very important documents are directly in relation with the SATURN-Guidelines: the *Implementation Guide*⁵⁸ and the *comments and implementation examples of the SATURN Guidelines for Judicial time management*. The first document describes the methodology of the implementation of the Guidelines. There are three main steps:

- Analysis of the implementation degree of each point of the guideline (fully implemented; not implemented at all; partially implemented; not implemented as such, but there is another practice/procedure which enables to achieve the same result; not implemented so far, but implementation is already planned.
- Definition and conducting of one or more projects to implement the not or partially implemented points of the Guidelines.
- Reporting to better understand the state of the project(s) and, if there exist, the practical obstacles to the implementation of the CEPEJ tools. The point 3.5 below gives examples of the tests of the methodology made in some pilot courts.

3.5. Report on the Implementation of SATURN time management tools⁵⁹

This report encompasses the results of the experimental/pilot court activity on the implementation of SATURN tools. In other words, this report is intended for summarising the activity of individual national courts, on the experimental basis implemented by SATURN time management tools under their judicial practice. Above all, it means the implementation of the already-described SATURN tools:

- the *Time management checklist*;
- the *Revised SATURN Guidelines for judicial time management*.

⁵⁸ *Implementing the SATURN time management tools in courts*, CEPEJ-SATURN(2011)9Prov3.

⁵⁹ *Report on Implementation of SATURN Centre Time Management Tools*, 9th meeting, Strasbourg, 9 and 20 May 2011, CEPEJ-SATURN Centre (2011)2.

Thanks to the research on the implementation of its theoretical developments in the area of the reduction of times of proceedings, the SATURN Centre has obtained concrete information regarding the practical application of its advices. In other words, this report is focused on the analysis of the national practices of reducing times of proceedings carried out by the experimental/pilot courts resorting to the SATURN tools. The results of the analysis provided in the report have been gathered on the basis of surveys and meetings with the representatives of experimental/pilot courts implementing SATURN tools about reducing times of proceedings.

The analysis of the implementation of tools developed by the SATURN Centre and adopted by the experimental/pilot courts is carried out in compliance with the methodology developed by the SATURN Centre itself⁶⁰. It is noteworthy that this analysis was not carried out for all SATURN time management tools. It should also be specified that pilot courts experiences are not the only subject of the report. In particular, the SATURN has selected those pilot courts which were willing to participate in the programme and those where the court workload and number of cases under consideration was particularly high. Apart from that, the court survey was carried out according to the unified scheme of evaluation where the pilot court representatives were asked to answer several questions related to the implementation of specific SATURN time management tools, and their efficiency.

The SATURN report also contains a specific and detailed explanation of the methodology used for collecting and processing the information on the implementation of time management tools. Accordingly, the document describes the general principles of efficiency of the analysis of time management tools; the process of correcting and representing the information; and the peculiarities of the handover of the gathered information by courts to the SATURN Centre. The authors invoke the complexity of different aspects of the comparative analysis and state that some individual courts have fulfilled their task better than others. Consequently, SATURN has presented the results of the analysis of the different pilot courts participating in the project separately, and not in a comparative form. Indeed, the analysis of the implementation of the time management tools conducted by the different courts varies so greatly that a comparative approach would be an extremely difficult task for SATURN.

The reports submitted by the experimental/pilot courts being the basis of the SATURN report considered in this chapter were provided by individual courts of the Czech Republic, the United Kingdom, Georgia, Italia, Norway and Switzerland. The SATURN Centre analysed in detail the report of each of the abovementioned pilot courts and compared the time management tools used by them with those established at the national level. It also compared the time management provisions of the national legislations to its proper guidelines and standards. For example, in the case of the Italian procedural rules, the SATURN Centre reviewed the provisions of the Italian Civil Procedure Code in order to observe what steps are being taken by the active judicial authority about case forwarding and time management. In this respect the SATURN Centre came to the conclusion that all Italian judges are granted at the legislative level with sufficient authority for expediting the proceedings and are able to consider cases within a reasonable time.

⁶⁰ *Implementation test of SATURN tools in selected pilot courts*, CEPEJ-SATURN Centre (2010)1, adopted on 29 March 2010 in Strasbourg during the 7th meeting.

The SATURN Centre also examined the internal rules of procedure of the Italian pilot (Turin) court aimed at reduction of the length of proceedings. Thus, besides the active role of judges in forwarding cases, the report authors also addressed such issues as: the adaptation of times to the specific case conditions; agreements between the judge and the parties to the proceedings on the course of the proceedings; supervision of other participants in the proceedings (witnesses, experts, *etc.*); punishment of procedural abuses committed by the participants in the proceedings; and finally the drawing up of judgements.

Thus, the report provided by the Italian pilot court proved to be the most interesting for the SATURN Centre study.

As a result, the work carried out by both the SATURN Centre experts and the experimental/pilot courts representatives, described in the corresponding reports, has been deemed as quite positive, since it allows the improvement of the implementation of SATURN time management tools, and the identification of problems that arise in the course of the practical implementation of such tools. Moreover, the practical data provided by the pilot courts allows the SATURN Centre to adapt separate time management tools, the concrete implementation of which has not led to the desired results, or has appeared to be inefficient.

Based on the pilot court reports the SATURN Centre has come to the conclusion that most courts are not familiar with the SATURN time management tools. Nevertheless, the authors note that almost in all Member States nowadays there are special regulations and measures aimed at the ensuring of a fair trial within a reasonable time. The SATURN Centre also believes that the growth of resources, including electronic and staffing ones, is another way to reduce the length of proceedings.

The SATURN Centre has also noted that a significant problem in the implementation of its time management tools is the language barrier. For instance, the authors state that in the report provided by the Czech authorities it is specified that the main CEPEJ (and particularly SATURN Centre) documents are prepared in English and French, which prevents the integration of the Council of Europe tools in the national legislation. It should be noted that this problem also arose in the experimental/pilot courts which had been specially selected for the programme of time management tools implementation, and carried out the corresponding work, which suggests that the rest of the national courts that did not participate in the programme would show even worse results in the implementation of SATURN tools.

It is obvious that the main problem hindering the implementation of the SATURN time management tools is the excessive court workload and the lack of personnel and other resources. It is also noted that the introduction of modern computer technologies into the court practice has led to the increase of administrative (not directly related to the delivery of justice) judge performance, which naturally has been achieved at the expense of their primary activity. Another problem is the fact that in individual judiciaries (for example, in Norway) the formal proceedings prior to the instigation of judicial proceedings are not taken into account, while they are the main factor of delay in the delivery of justice.

In the final part of the report the SATURN Centre has formulated several advices towards the improvement of the implementation of time management tools into national court practice. Those are:

- the translation of the SATURN tools into the Member States' national languages and their widest possible distribution;
- the identification of the unimplemented SATURN tools, and taking the corresponding steps for their implementation;
- the creation of electronic control systems to supervise the length of proceedings;
- the introduction of agreements with the Bar Associations in order to influence the behaviour of lawyers to help speed up the proceedings;
- the alteration of the legal service payment system, which should not depend on the number of documents processed by the legal adviser or on the number of hearings conducted by him within a single case;
- the inclusion of time management issues into university legal training programmes;
- the reduction of the judicial decisions volume and their banal development.

In conclusion, the SATURN Centre notes that the implementation of its time management tools in the national court practice requires improvement. Moreover, data analysis about the implementation of the tools slows down SATURN in trying to identify the separate practical problems and to modify its tools, taking into account the already identified problems.

During the last years the methodology for implementing the SATURN tools and also extended to other CEPEJ tools was used with success in many countries, for example in individual courts in Germany (Freiburg in Breisgau), Italy (Siracusa) and Greece (Thessaloniki) and for the entire justice system in Morocco, Albania and Croatia.

The next objective of the SATURN Centre, based on the mission and the defined strategy, is to define European time limits for the different types of procedure in a first step and for different more specific categories of cases in a further step.

Chapter 4.

The activity of the European Commission for the Efficiency of Justice aimed at improving the quality of the European court systems

The Working Group on quality of justice (CEPEJ-GT-QUAL) has been created by the CEPEJ in order to improve the quality of the court system of the Council of Europe Member States. Actively operating since 2007, its activity is aimed at the development of various analytical tools used for the evaluation of the activities of the judiciary of Member States in order to enhance the practice of the delivery of justice⁶¹. To reach this goal, the Working Group on quality of justice is endowed with the responsibility of the following tasks:

- development and improvement of indices, criteria and evaluation tools concerning the quality of the judicial work;
- designing measures for improvement of the court activity and, in particular, of the organisation of the court in order to enhance the access of citizens to the court and the execution of judgements;
- designing measures for solving functional problems of the court and balancing the redistribution of the caseload between the judicial authorities in order to increase the quality of the delivery of justice.

To fulfil these tasks the Working Group on quality of justice performs the following actions:

⁶¹ For more details see CEPEJ, 2014-2015 Activity Programme of the CEPEJ, Terms of reference of the Working Group on quality of justice (CEPEJ-GT-QUAL) renewed by the CEPEJ at its 22nd plenary meeting, Strasbourg, 6 December 2013, CEPEJ(2013)12.

- carrying out court-users' satisfaction surveys in order to evaluate the degree of implementation of its advices on the polling of citizens' satisfaction in respect of the activity of national courts;
- performing the testing of the quality indices and indicators for the delivery of justice by national courts;
- designing measures aimed at the improvement of the quality of the work of judicial experts;
- designing directives on the improvement of the access to the court;
- designing directives on the improvement of executive proceedings;
- designing other measures aimed at the improvement of the quality of justice;
- contributing to the translation of the CEPEJ advisory documents into the languages of Member-States.

Similarly to the other CEPEJ working groups, the Working Group on quality of justice consists of six CEPEJ expert-members representing different Council of Europe Member States⁶². Besides, the Group can also resort to other (external) experts and international organisations and associations, whose intervention is limited to the assistance of this CEPEJ structure, since they are not granted with the right to vote. For example, supervisors from the following organisations participate in the activity of the CEPEJ-GT-QUAL: the European Institute of Expertise and Experts; the European Network of Councils for the Judiciary; the European Union of "Rechtspfleger"; the International Union of Court Staff; the Council of Bars and Law Societies of Europe. Similarly to the other Working Groups, the CEPEJ President and certain bodies of the European Union can also be involved in the work of the CEPEJ-GT-QUAL. At the same time, the participation of representatives of the World Bank in the activity of this Working Group is a little surprising.

It should be noted that, unlike such specialised CEPEJ working groups as the SATURN Centre, the Working Group on mediation or the Working Group on execution, the Working Group on quality of justice is quite a diversified body. Indeed, in our opinion the concept of 'quality of justice' is quite wide and comprises many different aspects of the activities of the court. Accordingly, it is not limited to specific issues related to court proceedings, the status of judges, the execution of judgements, etc. This peculiarity explains the volume and the intensity of the work carried out by the CEPEJ-GT-QUAL.

4.1. Checklist for promoting the quality of justice and the courts⁶³

This document pursues two main targets: on the one hand, it is of a methodological nature: it identifies five areas of measurement for the collection of quality data in the court; and on the other hand – it is of an analytical nature: it allows the examination of separate aspects of the court. The document, as can be seen from its name, relates to both judiciary in general and individual courts and judges in particular. It is intended for the managing bodies of the State authorities whose jurisdiction covers the issues of policy in the area of justice (Ministry of Justice, courts, etc.).

⁶² For more detail see: CEPEJ, Composition of the CEPEJ Working Groups for 2014-2015, CEPEJ(2014)6, Strasbourg, 24 January 2014. The Working Group on quality of justice consists of the following experts: Joao Arsenio De Oliveira (Legal Advisor, General Directorate on political issues, Ministry of justice, Portugal); Fabio Bartolomeo (Director General of statistics, Ministry of Justice, Italy), Anke Eilers (Judge, Appeal Court of Cologne, Germany), Nikolina Mišković (Judge, Commercial Court of Rijeka, Croatia), Ioannis Symeonidis (Judge, Court of Appeal and Professor at the Law School, University of Thessaloniki, Greece). Currently, the Chairman of the Group is the Swiss expert Dr. François Paychère (President of the Court of Auditors of the Republic and Canton of Geneva, Switzerland).

⁶³ CEPEJ-GT-QUAL, *Checklist for promoting the quality of justice and the courts*, Strasbourg, 2-3 July 2008, CEPEJ(2008)2E.

The document encompasses the following topics:

- the infrastructure of the judicial power, *i.e.* the geographical location of courts within the State, or 'the judicial map';
- staffing issues, *i.e.* issues of qualification and number of judges;
- the financial support and technical maintenance of the court;
- separate issues of justice: allocation and redistribution of cases; improvement of the hearing performance; engagement of citizens into the process of justice, *etc.*;
- the citizens' satisfaction with regard to courts.

Specifically, this document is based on questions intended to identify the national policy of improvement of the judicial service set up in a specific country. The replies provided by the court representatives help to determine if the State implements the improvement policy of the court, and if so, how efficient it is and whether it can serve as an example for other States.

Therefore, the list of questions addressed to the court staff of Member States via the present document is quite diverse.

The checklist starts with mundane topics regarding:

- the existence of government authorities responsible for the quality of the court system;
- the existence of specific legislation in respect of the court system;
- the existence of constitutional guarantees as to the independence of the judiciary;
- the existence of court specialisation;
- the existence of a record of the court's expenses;
- the existence of a policy in respect of the court structure (geographical location and number of jurisdictions) and the planning of the resources allocated to.

A number of questions also relates to:

- the development of a strategy in the management of justice;
- the consideration of citizens' feedback within the process of elaboration of policies related to the court system;
- the stimulation and encouragement of innovations in the judicial practice, aimed at increasing the quality of the justice, *etc.*

It also contains questions regarding the determination of the courts jurisdiction and the interrelation between judges and other participants in the proceedings. Thus, for example, the Working Group is interested in:

- the monitoring of the caseload of the court and the number of cases dealt with;
- the possibilities for a flexible approach in matters of courts jurisdiction and reassignment of cases between judges and courts;
- the level of participation of court clerks, *etc.*

The Working Group separately raises the issue of evaluating the national policy on the court. In other words, special attention is granted to changes in the legislation related to the court and their impact in terms of quality of justice. The Working Group focuses on the following matters:

- the use of quality standards in the legislative activity;
- the independent evaluation of the impact of new legislations on the court system;
- the changes in procedural law aimed at the improvement of the quality of justice;
- the consideration of judges' qualification during the assignment and reassignment of cases.

The issues relating to the quality of the management of proceedings are addressed in a separate part of the document. In this respect, the Working Group is interested in the following matters:

- the possibility for judges to identify immediately the level of seriousness of cases and to know in real time the state of the pending cases within their department;
- the access to this information of other court staff;
- the possibility for judges to resort to alternative means of dispute resolution in the course of the case consideration;
- the publicity of hearings;
- the existence of means by which judicial costs can be reduced for the parties to proceedings;
- the authority of judges to transfer cases to mediators;
- the existence of a policy with regard to the management of hearings and the determination of the duration of trials agreed with the other participants in proceedings;
- the existence of a system allowing to evaluate the duration of hearings and to notify to the participants delays or other changes in the process of consideration of their case;
- the existence of a system of early notification of the parties concerned of the times of proceedings and actions;
- the existence of a policy with regard to the preliminary identification of the terms of each case and the duty to consider it within the appropriate and predictable terms;
- the means by which applicants can be notified about delays concerning the consideration of their case;
- the judge's authority to accelerate the proceedings and the possibility for the parties to proceedings to take part in the determination of the timeframes;
- the specific periods of time for passing the judgement after the hearing, *etc.*

As for the execution of judgements, the Working Group presents questions related to:

- the existence of a system of notification of judgements;
- the definition of specific periods of time for the notification of the judgement;
- the monitoring of the observance of these times;

Among the main questions about the court, we can find a number of questions related to the interaction of courts with participants in proceedings other than judges (judicial experts, interpreters, public prosecutors, *etc.*).

Special attention is granted to the electronic case analysis and regulation system. To put it in a more accurate way, the authors of the checklist have devised questions on the availability of electronic case record-keeping systems and electronic maintenance of the court archives.

Finally, the section relating to the general performance of the court ends with questions regarding the national systems for evaluating the quality of justice delivered. In particular, these questions concern:

- the existence of an internal control system;
- the existence of a quality evaluation system and public access to information about the quality of justice;
- the existence of a performance evaluation system for each judge;
- the existence of a case quantitative accounting system (for cases considered, for cases under consideration, *etc.*).

Another separate section is dedicated to the accessibility of courts, the interaction of courts with citizens and the process of raising public awareness concerning courts' activity.

The Working Group has also devised questions regarding the availability of information on court activity and legislation:

- availability of the relevant legislation on the Internet;
- existence of an interpreting service within courts or the possibility to resort to external interpreters during the different stages of court proceedings;
- availability of the information provided in the frame of the system for raising public awareness concerning court performance, civil rights and liberties *etc.*

As concerns the financial aspect of courts accessibility, the Working Group has prepared questions on:

- the availability of free legal aid;
- the availability of free legal representation by a defence lawyer (in criminal and/or civil proceedings);
- the existence of general rules concerning the payment of court fees or court taxes in criminal proceedings or other proceedings;
- the existence of a legal possibility to challenge excessive lawyers' fees, *etc.*

The Group has also formulated questions regarding the physical accessibility of courts, namely:

- the geographical location of courts;
- the accessibility of courts to people with disabilities;
- the existence and the accessibility of waiting rooms, *etc.*

The interaction of judges with other participants in the proceedings has become another subject studied by the Working Group in this document. In particular, the following questions are addressed to Member States:

-
- To what extent participants in the proceedings are provided by the judges with basic explanations about the disputes they are concerned by?
 - Are judges endowed with the responsibility to ensure that the participants in the trials understand the legal language of the proceedings?
 - To what procedural measures or actions judges can resort in order to minimize legal expenses?
 - What means are granted to the participants in the trials in order to allow them influencing the progress of the proceedings?

In this document the Working Group also considers the quality of the judgement passed. In respect of this topic, the questions are focussed on:

- the comprehensibility of the reasons founding the decision as regards the language and the form;
- the mandatory motivation of the judgement which has to be sufficiently detailed in order to constitute a clear guidance for the parties and legal professionals in accepting the fairness and lawfulness of the decision;
- the existence of standards framing the formal presentation of judicial decisions;
- the consideration of the parties expectations and the established case-law in the relevant matter when drafting judicial decisions.

The Group has also prepared questions regarding the legitimacy of the judicial system and the public trust in its respect. The latter concern:

- the elaboration of annual reports on the quality and the performance of the court system, discussed with citizens and submitted to Parliament;
- the regular evaluation of citizens' confidence in the court system;
- the independent evaluation of court activity, including the possibility to resort to disciplinary sanctions against individual judges if needed;
- the involvement of citizens and non-government organisations in the development of measures aimed at the improvement of the quality of the court system;
- the existence of court officers responsible for public relations, *etc.*

The document also addresses the issues of public opinion and trust evaluation through the following topics:

- periodical evaluation of the public trust in the judiciary;
- consideration of the proceeding participants' opinion on the evaluation system;
- publicity about the polls regarding court users' satisfaction in the court.

The document also contains a separate section dedicated to staffing issues, intended to verify the existence in Member States of:

- long-term policy for qualification assessment, employment and career promotion of judges;
- special educational institutions for judges at the national level;
- statutory regulation of the judges' monetary allowances;
- criteria for the evaluation of judges performance;
- mechanism of evaluation of ethical qualities of candidates to the position of judge;
- objective criteria for selection of candidates to the position of judge, public prosecutor, *etc.*

The questions related to the status of judges have been formulated in the following way:

- whether the status of judges is formalised at the legislative level;
- whether their competence is established at the legislative level;
- if there are any codes of conduct or codes of ethics for the judges;
- if there are any protection mechanisms for judges, *etc.*

In relation to the qualification of judges the Working Group has prepared the following questions:

- whether the qualification of judges and their in-service training are taken into account for their appointment to the position or their career promotion;
- if there is any policy intended to strengthen the culture of co-operation and integrity;
- whether the primary competence of court staff other than judges is formalised;
- if there are courses of in-service training for judges;
- whether ethical principles are included in the programme of the initial and in-service trainings provided by the national educational institutions.

The document also addresses the matter of the internal control of judges' activity, which is carried out directly by the judges themselves and concerns both the ethical issues and the quality of justice. The issue of the external control of judges' qualification is also addressed within the context of the staffing policy.

The last section of the document is dedicated to the sufficiency of the resources allocated to the court system. In particular, the accent is put on the following matters:

- the sufficiency of the financial funds allocated to the court system in general;
- the correspondence of such funds to the court's needs and their sufficiency for granting its independence;
- the availability of information and communication technologies, communication and data processing means;
- the availability of procedures and funds for obtaining the equipment necessary for the delivery of justice;
- the availability of procedures for ensuring the security of data (*e.g.* archives);
- ensuring security of court premises;
- analysis and evaluation systems of the expenses incurred by the courts; insurance of the court resources and premises; *etc.*

By answering the questions encompassed in the *Checklist*, the users can verify if a certain topic or a specific point is already covered by the relevant legislation or not. If not, the document can help national authorities to develop new policies, to modify current policies and to pay attention to certain quality issues that are related to the work of courts, judges, prosecutors and staff.

4.2. Checklist for court coaching in the framework of customer satisfaction surveys among court-users⁶⁴

Similarly to the previous case, this advisory document is intended for the CEPEJ experts, the employees of the Ministries of Justice and other court staff of the Member States. It is aimed at establishing a methodological frame with regard to the performance of customer satisfaction surveys among court-users. For quite obvious reasons, such surveys are naturally entrusted to the local Ministry of Justice representatives and other court staff of the Member States and the purpose of the question list is to facilitate their task and to increase the quality of the results of the surveys. Based on this document, the CEPEJ experts organize training courses for the Member States' Ministry of Justice representatives and explain to them the methods of conducting such surveys.

Thus, before starting the survey it is recommended that a working group should be created and a reference person should be chosen amongst its members in order to lead and coordinate all activities at every stage. For the implementation of surveys, it is also advisable to involve the widest possible range of court staff: judges, public prosecutors, other court staff, lawyers, academic staff, Ministry of Justice representatives, *etc.*

In order to facilitate the carrying out of the surveys, the Commission suggests setting up a working group composed of representatives of various professional areas endowed with the responsibility of specific tasks according to their specialisation. Moreover, if the Member State Ministry of Justice Representatives plan to perform the survey on the whole territory of the State, under the whole judicial system, or at least under several courts, the CEPEJ suggests the creation of a Survey Management Group, consisting of officers working in the regions where those courts are. In other words, it is recommended that a whole structure is established, the organisation of which corresponds to the scope of the survey, so that the management bodies are able to deal with the volume of work. Also, before the surveys are arranged, it is advisable to define clearly the scope of work (based on which courts the surveys would be carried out in; what aspects of the activity would be the subject of the survey; what court staff would participate in the collection of answers, *etc.*). Another piece of advice is to prepare a special document defining the specific actions that need to be taken by the participants in the project in order to conduct the survey; the survey timeframe; the expected results, *etc.*

The definition of the survey goal is another part of the preparation stage. It should be up to the working group responsible for the survey to establish the target most clearly possible (for example, the evaluation of the satisfaction of the court-users). Accordingly, it is important to explain the method used for the survey, since the latter is carried out by officers who are not professional sociologists. Therefore, in the Commission's view, the survey working group should include at least one professional in the area of statistical survey performance and statistical data collection.

At the outset, before the survey is started, it is advisable to explain to the members of the working group the survey methods and techniques, to familiarise them with the CEPEJ questionnaire and to determine if it is necessary to adapt it to the local conditions. At this stage, it is also advisable to define the category of potential respondents, *i. e.* the target group. Most often they are participants in specific court proceedings, or certain categories of people engaged in the proceedings (for example, victims in criminal proceedings). Another advice at this stage of the implementation of the project is to define the system of selecting respondents.

⁶⁴ CEPEJ-GT-QUAL, *Checklist for court coaching in the framework of customer satisfaction surveys among court-users*, Strasbourg, 6 December 2013, CEPEJ(2013)15.

At the preliminary stage of the survey it is also recommended that the material parts of the survey and the sources of their financing should be determined.

In order to ensure the efficient conduct of the survey and the appropriate results, the questionnaire should be tested on-the-field and the target group should be properly notified of the survey.

The final advice for the preliminary stage is to instruct the staff directly responsible for conducting the survey. Namely, it is necessary to explain them how to use the questionnaire; how to address the respondents; how to avoid mistakes in the data collection, *etc.*

After the survey's conduct, the CEPEJ also advises:

- to verify the quality of the completed questionnaires in order to avoid errors, inconsistencies, missing data that might be recoverable *etc.*;
- to use means of electronic data processing;
- to verify that the data have been correctly transferred from the paper questionnaires to the digital format;
- to use visual means of data representation (graphs, diagrams, *etc.*);
- to spread the results of the survey as quickly as possible (*i.e.* to publish or to post them online);
- to notify the officers interested in first place in the survey's results (the court chairmen, the Minister of Justice, *etc.*) in order to draw the lessons and define the course of action for improvement;
- to organise another survey in the future in order to compare the new and the previous results and to identify the trends and tendencies in the area of the quality of justice.

4.3. Report on the conducting of satisfaction surveys amongst court-users in the Member States of the Council of Europe⁶⁵

The purpose of this report is to inform the suitable authorities of the Member States of how the court-user satisfaction surveys should be conducted and to provide the analysis of the surveys already conducted within Member States.

This report is another document in the sequence of papers designed by the CEPEJ Working Group on quality of justice. The information examined in this report has been provided by the authorities of Member States of the Council of Europe who had responded and collected data based on another document of this Working Group - *Checklist for promoting the quality of justice and the courts*⁶⁶. It should be noted that henceforth the conduct of surveys based on the present report is the subject of another document devised by the CEPEJ Working Group on quality of justice that had not existed at the time of the preparation of this report: *Checklist for court coaching in the framework of customer satisfaction surveys among court-users*⁶⁷. Another document of the CEPEJ Working Group on Quality of Justice regulating the conduct of court-users satisfaction surveys is the *Handbook for conducting satisfaction surveys aimed at Court-users in the Council of*

⁶⁵ CEPEJ-GT-QUAL, *Report on conducting satisfaction surveys of court-users in Council of Europe Member States*, Strasbourg, 10 September 2010, CEPEJ(2010)2.

⁶⁶ CEPEJ-GT-QUAL, *Checklist for promoting the quality of justice and the courts*, Strasbourg, 3 July 2008, CEPEJ(2008)2E.

⁶⁷ CEPEJ-GT-QUAL, *Checklist for court coaching in the framework of customer satisfaction surveys among court-users*, Strasbourg, 6 December 2013, CEPEJ(2013)15.

*Europe's member States*⁶⁸. Therefore, the CEPEJ-GT-QUAL has elaborated a number of documents aimed at the regulation of court-user satisfaction surveys, namely: the questionnaire, the guidance on the conduct of surveys and the survey results.

In the opinion of the Working Group, the court-user satisfaction surveys enable the introduction of the culture of the quality of justice. Indeed, the conduct of surveys on court-user satisfaction allows the refocusing of the development of the judicial system from the target of its efficiency and performance improvement to the target of ensuring the court-users' interests.

Two types of surveys can be distinguished in the report: the national court-user satisfaction surveys and the surveys conducted with regard to the satisfaction of participants in national and local proceedings.

The national court-user satisfaction surveys can be conducted on both a periodic and a one-off basis. The former are usually conducted by the Ministry of Justice and other government authorities, while the latter are rather conducted by private organisations (newsletters and other mass media). The survey data often reflect the overall level of public confidence in government authorities in general, and not only in the judiciary. At the same time, a large number of citizens usually participate in such surveys, which allows the identification of the main public opinion trends. In particular, such surveys have shown that the reasons causing the dissatisfaction of court-users have been the same for the last 200 years: the excessive cost of the judicial service related to the delivery of justice; the excessive length of proceedings; the unfair treatment of the participants in the proceedings.

Consequently, within the context of the report discussed in this chapter, the CEPEJ relies on the most accurate indices in order to measure public confidence in the judicial bodies' efficiency. Such indices can be represented only in the research focused not on public opinion in general, but on the personal experience of citizens who have directly interacted with the court authorities – the litigants.

In order to adopt the most relevant approach in the matter, the CEPEJ distinguishes between two categories of surveys. The first one covers citizens who in some way have interacted with the court under the proceedings in a specific case (witnesses, litigants, crime victims, criminals, *etc.*) While conducting this type of survey, it is important to take into account the outcome of the case the respondents participated in (especially when the respondent was a party to the proceedings), since their opinion on judicial bodies may depend on whether they won or lost the case. The second category of citizens directly interacting with judicial system authorities is represented by the officers of the legal sector (lawyers, judges, public prosecutors, *etc.*).

As for the methods of conducting the survey, the present document suggests both the interview or observation on site and the telephone survey. It is noted that the methods of the survey depend on the targets, the scope (one single court or the whole national judicial system) and the specific group of respondents.

⁶⁸ CEPEJ-GT-QUAL, *Handbook for conducting satisfaction surveys aimed at court-users in Council of Europe's member States*, Strasbourg, 10 September 2010, CEPEJ(2010)1.

It should also be noted that the CEPEJ has always adhered to the opinion that the conduct of the surveys should imply the least possible costs for Member States. Therefore, the latter are advised to adjust their methods and means according to their capacities.

The report also contains the list of surveys already conducted in Member States of the Council of Europe (and countries of North America). These surveys have been carried out mainly in the countries of Western Europe, the only exception being Rumania.

The document recommends starting the survey with the simplest forms: interviews, group meetings, on-site court activity supervision, civil complaints analysis, *etc.* The examples of such approaches are those of the Polish Ombudsman and the Grasse (France) City court surveys. The authors note that in some courts (like, for example, in Switzerland) there are special steering committees responsible for the conduct of this type of surveys. Most often such committees consist both of court officer representatives and court-users (academic staffs such as professors of law are also sometimes involved). Their activity includes the preparation of the questionnaire's final version, taking into account the specific features and peculiarities of the concerned court.

The preparation of the survey demands the determination of its goals in order to identify the group of respondents, the approach, the indicators, the goals of result processing, the method of addressing the target group, *etc.*

There are different criteria for identifying the group of respondents. For example, in the national surveys conducted in Spain, Belgium and France, the organisers also used social and demographic indices such as age, sex, confession of faith, geographic representation, language, *etc.*

On the contrary, the surveys carried out in the frame of one specific court should be conducted among people who have directly interacted with the court by taking part in the proceedings. This category of court-users can be cut down to a specific level (for example, only criminal participants in the proceedings or only crime victims, *etc.*). Quite often the respondents are selected in such a way as to evaluate the efficiency of a specific court unit (certain board or court administrative body), which requires cutting down the group depending on their interaction with this specific unit. Thus, for example, in certain States (such as the Netherlands or Switzerland) the surveys conducted in respect of specific target groups interacting with the judicial bodies determine the respondents as "court clients".

Court-user satisfaction surveys conducted by the CEPEJ Working Group on quality of justice themselves are divided into 'quantitative' and "qualitative" surveys.

The qualitative surveys are intended for the identification of the main trends and changes in the general satisfaction of the court-users. They are conducted by supervising the behaviour of the proceeding participants on site and sometimes through the anonymous control of persons sent by external experts who pose as customers in order to measure the quality of justice. This practice known in the Common Law countries as "Mystery shopping" in particular has been used for evaluating the quality of justice in Ireland. Finally, the qualitative surveys are conducted by means of interview.

The qualitative surveys are quite expensive in practice, but they allow accurate representation of the quality of the court, which is the reason why they are used in the Netherlands.

The quantitative surveys in their turn allow a statistical evaluation of the quality of the judicial system based on specific selection or sampling of public opinion. For example, Switzerland resorts to an optional public opinion survey where the respondents are not obliged to participate in the survey and the questionnaires are always available in the court buildings. Accordingly, everyone willing to take part can voluntarily complete the questionnaires on his/her own initiative. It is quite a cheap way to conduct the survey; nevertheless, the quality of data collected is significantly lower, since technically such surveys always involve fewer respondents.

Other cheap methods of conducting surveys that are worth noticing are questionnaires to be fulfilled on line and telephone surveys. Nevertheless, the efficiency and relevance of such surveys are also quite low due to the restraint number of answers sent back (this fact was confirmed by the survey related to court accessibility conducted in the Netherlands in 2009). At the same time, this approach is recommended to be used for surveys carried out among employees of the judiciary, since they are a more disciplined category of citizens and answer the questions thoroughly (in particular, this is confirmed by the survey “judges” conducted in France in 2008).

The telephone survey is a more time-consuming and costly practice since it implies the intervention of a certain number of people and in most cases the assistance of specialist survey companies - sociologists and statisticians - is needed. In particular, such an approach was used in France for the crime victim opinion survey in 2001 and 2008.

Finally, another method of conducting the court-user satisfaction survey is the on-site polling of participants in the proceedings. It means personal interviews with the direct participation of the interviewers and the respondents. This approach is quite expensive since it also requires the involvement of specialists. Nevertheless, it is employed quite often (for example, in France and Austria).

During the preparation stage, it is necessary to identify the bodies or persons other than the organizers of the survey and the members of the target group, who will be associated to the survey. In this respect, besides the abovementioned steering committees, the survey organisers often use the services of private survey companies (France, Rumania and the United-Kingdom); external experts (Austria, Ireland and Spain); universities (Finland, Spain), *etc.*

The CEPEJ document considered in this chapter also includes some advices regarding the form and the content of the questions. Notwithstanding, the latter are not of great importance, since the CEPEJ Working Group on quality of justice has already developed the principal advices in the matter in the frame of the above-described *Checklist for promoting the quality of justice and the courts*. The checklist offers the question and answer forms already developed in use in the Common Law: binary type questions (with only two options of answer ‘yes’ or ‘no’); questions with multiple options; score type questions, *etc.*

This report also offers several methods of preparation and conduct of surveys that already have been mentioned in the different CEPEJ documents more than once. In particular, the authors address the issue of data analysis, which the CEPEJ Working Group on quality of justice advises to be carried out with the assistance of an external body.

In the report, the Working Group also discusses the issue of the use of the surveys results. In particular, it recommends the creation of a follow-up committee, whose responsibility would be to distribute/publish the surveys results and to ensure their consideration by judicial bodies in order to improve the quality of justice. This follow-up committee should also be endowed with the responsibility to spread information on the changes in the judicial system based on the surveys results.

Finally, the working group refers to the additional types of survey intended to enhance the information collected in the course of the main survey: intervention or peer review, mirror surveys and “mystery shopping” (described above).

The peer review is based on the mutual control of judges’ performance carried out by the judges themselves, *i.e.* one judge has to evaluate the performance of one of his colleagues, and vice versa. This quality control system for justice has been developed in the Netherlands and is now used in other European States. “Mirror surveys” imply the evaluation of the court user satisfaction by the judges. In other words, judges have to see their performance in the way that the citizens see it. Finally, the “mystery shopping” is the evaluation of the justice systems quality by experts introducing themselves as ordinary citizens but addressing the courts not in order to actually participate in proceedings, but to evaluate the quality of justice.

The final part of the research preceding the typical questionnaire for court-user satisfaction survey contains a number of comments concerning the experimental implementation of the project of questionnaire within various pilot courts of Member States. The test surveys were conducted in the courts of the following cities: Veszprem (Hungary), Turin (Italy), Marseille (France), Novi Travnik (Bosnia and Herzegovina), Lublin (Poland), Prague (Czech Republic).

The comments regarding the test questionnaire were taken into account by the CEPEJ-GT-QUAL, when preparing the updated version of this questionnaire. The exchange of opinions between representatives of the pilot courts took place during the conference on November 13th, 2009.

The questionnaire included in the final part of the report is significantly different from the one represented in the *Checklist for promoting the quality of justice and the courts*. Indeed, it is much more short and simple, which is due to the fact that it is offered with the aim of being conducted not among the professional audience, but among ordinary citizens. Consequently, it contains less than thirty questions, and the answers have to be indicated in the form of the score from 0 to 6. Probably, it was made in order to simplify the survey and to reduce the amount of time necessary for its conduct, since unlike the judges and Ministry of Justice representatives being the respondents of the survey conducted according to the questionnaire developed in the abovementioned document⁶⁹, the citizens are not directly interested in the survey, and can just refuse to participate in it.

The questions are divided into categories, and address the following issues:

- general perception of the performance of the judicial system
- availability of information;
- physical accessibility of the court itself;
- performance of courts;
- satisfaction about the performance of judges and public prosecutors.

⁶⁹ The number of questions in the *Checklist for promoting the quality of justice and the courts* intended for conducting surveys among judges and Ministry of Justice representatives is more than one hundred.

There is also a separate questionnaire for lawyers. In its turn, it contains more than 30 questions which are formulated in a more detailed manner allowing a thorough analysis of different aspects of the court activity:

- general evaluation of the court performance;
- satisfaction about the interaction with the court administration;
- satisfaction with the preparation and the conduct of hearings;
- satisfaction about the decisions of the court.

At the end of this report, the authors provide statistics on the quantity and regularity of surveys conducted in Member States. The data is given depending on whether the survey is national or conducted in respect of a specific court. It is noteworthy that today the surveys are regularly carried out almost in all Council of Europe Member States.

4.4. Court-user satisfaction reports prepared by the national courts of the Member States

Report on court-user satisfaction in the cities of TURIN and CATANIA (Italy)⁷⁰

The Italian court-user satisfaction survey was carried out based on the pilot/experimental courts in the cities of Turin and Catania.

The main targets of these surveys were:

- the determination of the general satisfaction level of citizens who had directly interacted with the Italian judicial system;
- the development of the main indicators that would allow tracking the evolution of the public opinion and identifying the trends in court-user satisfaction levels in the future;
- identification of the least satisfactory aspects of the performance of the judicial system in order to improve the quality of justice;
- analysis of the degree of satisfaction with the judicial service among different categories of citizens, using a social and demographic approach (by age, by sex, etc.).

The Working Group that managed the survey was quite representative. Thus, it included representatives of the Ministry of Justice of the Italian Republic (also being CEPEJ members); representatives of the courts of appeal and national tribunals; judges and defence lawyers; university professors; specialists in the area of statistical data processing. Such diversified composition indicates the objectivity of the results of the survey conducted.

⁷⁰ G. Oberto, *Report on the expert meeting aimed to assist the court of Clermont-Ferrand (France), in applying the methodology for conducting satisfaction surveys among court-users developed within the framework of the activity of the European Commission for the Efficiency of Justice*, Clermont-Ferrand, 5 April 2012.

The survey was conducted without financial support. It employed only internal resources of the court and the assistance of student-volunteers performing the polling of citizens. Consequently, the preparation required the carrying out of motivational and outreach meetings and briefings by the organisers. In order to improve the quality of the survey results, the interviewers underwent special training and had been explained how to conduct the survey, how to conduct themselves during the survey, how to formulate correct questions, *etc.*

Some hundreds of respondents were interviewed during the survey. The target group was composed of court “clients”, *i.e.* citizens who had directly interacted with the court in the frame of court proceedings: witnesses, proceedings parties, proceedings parties’ relatives, court interpreters and even experts. The following categories of citizens were excluded from the survey: lawyers, judges, enforcement officers and other representatives of the court and law enforcement authorities.

The questions asked under the survey addressed various issues of civil satisfaction through the following headings:

- courts buildings, their organization and cleanliness;
- punctuality of the conduct of hearings and their duration;
- professionalism of judges, their competence and amiability;
- information about courts on their respective Internet web-sites;
- location of courts and transport routes providing access to them.

The survey was preceded by an outreach and information campaign: posters containing information related to the survey conduct were hung in the concerned court buildings. Judges and lawyers also participated in increasing the awareness of citizens.

The answers were collected via the Internet. The data processing was also carried out by downloading the answers on the centralised electronic screen, which allowed the notification of the Working Group members in real time.

The survey results varied depending on the pilot court. For example, the general satisfaction of citizens in the court services in Turin was higher than in Catania. Indeed, 38% of the respondents in Turin showed quite a high level of satisfaction, while in Catania only 18% of court-users were satisfied. Moreover, 15% of the respondents in Turin were extremely unsatisfied with the court performance, while in Catania this number was 30% of the respondents. In our opinion, those figures reflect the social and economic differences between the north part of the country with the relatively high standards of life in Turin and the more disadvantaged southern part of Italy.

As for the main reasons for low satisfaction of citizens with the court, in Turin and Catania they were almost identical. Thus, in both cases the most serious reasons, being of the greatest importance for citizens, were: the high cost of court services; the excessive duration of proceedings and their lack of punctuality. At the same time, such important matters for public opinion as the qualification of judges and court clerks, their impartiality and amiability, have received quite a good evaluation in both courts.

Report on results of the survey of notary and lawyers' satisfaction by the service of LINZ City (Austria) District Court

Similarly to the previous case, the survey was conducted in May 2011, in the frame of one of the experimental/pilot courts being a part of the Pilot Courts Network of the CEPEJ, namely the Linz City District Court. Nevertheless, the group of respondents was quite different from the usual participants in such surveys. Indeed, the survey was conducted among lawyers and notaries. They were asked questions relating to the following issues:

- court service;
- court staff;
- information and communication;
- infrastructure;
- course of proceedings.

Similarly to the previous survey, the present one was dedicated to the quality of justice.

Thus, the survey showed that in the opinion of lawyers and notaries who have addressed the court in Linz, the most common shortcoming of the court was the high cost of the services. Most often, the respondents named such problems as the high cost of document flow, the price of procedural document copy insurance and the excessive amount of legal duties and fees.

Another important aspect of the quality of the court according to the Austrian lawyers and notaries was the issue of staffing. Individual members of the target group who had addressed the court in Linz made a few negative comments regarding the impartiality and the quality of the administration staff. Even if the situation with staffing issues was not critical, it was requiring reforming.

In the area of information and communication, the main problem was the availability of judges. The concern of Austrian lawyers and notaries about this issue was quite serious, and therefore, in the opinion of the respondents, a number of measures were requiring to be taken. The respondents highlighted the need of reviewing the means of interaction between the parties and other participants in the proceedings on the one hand, and the judges on the other hand, by using modern means of communication. For example, it was suggested that the telephone should be used in the work of judges with the citizens participating in proceedings. Moreover, this means of communication was recommended to be used for establishing a direct connection between judges and citizens in order to avoid the mediation of administrative bodies for reducing the time necessary for court proceedings, and thus increasing the quality of justice.

It is interesting that the Austrian lawyers and notaries were most satisfied with the organisation of courts. They expressed a slightly lower degree of satisfaction in relation to the level of court funding, but here, the Austrian public opinion was not shocked by this aspect of the court.

The situation was significantly different concerning the issues about the course of proceedings. If the general impression of lawyers and notaries regarding this aspect was not catastrophic, however they were extremely unsatisfied with such issues as the difficulty of the language used in the judgements and the terminology used during the cases.

The target group was satisfied with the representation of information about the courts on the Internet.

The survey authors also asked separate questions in order to determine the satisfaction level of notaries and lawyers with the development of the judicial service for the last five years. The results appeared to be quite positive, as most respondents found that the quality of justice has improved over the period.

Report on court-user satisfaction results in Georgia

The purposes of the satisfaction survey conducted in 2012 for citizens who had interacted with different courts of the Georgian judicial system (Tbilisi, Rustavi, Gori, Kutaisi, Zugdidi and Batumi) were:

- the determination of the general level of court-user satisfaction;
- the determination of the level of civil trust in the court system;
- the fixing of indicators that would allow the identification of evolutions in the quality of justice;
- the identification of the weaknesses of the judicial system, in order to develop appropriate means for its improvement;
- the determination of the satisfaction level of the different categories of citizens with regard to the court service.

It should be noted that compared with similar surveys conducted in other countries, the number of respondents interviewed under this public opinion research was significantly higher. Indeed, the total number of Georgian court-users who participated in the survey was equal to approximately 2,000 persons. The respondent selection was made according to the proven scheme already employed in Italy, since here, unlike the Austrian survey, the respondents were not professionals of the legal sector (lawyers, notaries, etc.), but ordinary citizens in some way participating in the delivery of justice. Thus the target group was represented by the following categories of citizens:

- claimants (the highest quantity of respondents);
- defendants;
- defenders (defence lawyers);
- witnesses;
- family members of the participants in the proceedings;
- experts;
- interpreters;
- citizens who had applied to courts for simple administrative matters (receiving of some legal document), and other citizens (such as journalists).

Moreover, the credibility of the survey was also confirmed by the fact that the authors interviewed respondents from all categories of proceedings (civil, criminal and administrative).

The approach used for conducting the research complied with the CEPEJ requirements and was based on the Commission's questionnaire as a standard survey conduct tool. It comprised 8 introductory questions, 56 main questions and 4 demographic questions. The answers were also formed according to the proven scheme where the respondent has to rate the answer using the 1-5 score scale. In other words, the quality of justice was evaluated based on the five-grade scale.

The general court-user satisfaction level appeared to be quite high. It was equal to 4.5. Indeed, under the separate satisfaction aspects (satisfaction with administrative personnel performance; court building and infrastructure; promptness and speed of delivery of justice; court performance; judges *etc.*) the answers were fluctuating between 4.4 and 4.6. At the same time, the evaluations varied slightly, depending on the court where the survey was conducted. Thus, the highest court-user satisfaction level was observed in Gori (4.74), while the lowest (4.28) – in Tbilisi.

The level of confidence in the judges also received quite a high evaluation, although the conclusions of the interviewers were controversial. This level was fluctuating between 4.1 and 4.6. However, the interviewers noted that the judges showed the lowest civil confidence level as compared with the other officers of the judiciary, which was quite a concerning finding. The lowest level of confidence was expressed in relation to the judges of Batumi and Tbilisi.

At the same time, the performance of the administrative personnel was rated quite highly. The civil trust level for this category of court staff was equal to 4.6. Here the respondents evaluated the qualifications and competence of the staff, their help to citizens, the using of language available to the ordinary citizens/good communication skills, *etc.* The level of civil satisfaction with the court staff by different criteria did not fall below 4.5. In their turn, Batumi and Tbilisi courts again showed the lowest level of civil confidence towards this category of court staff (4.4).

The promptness of delivery of justice received an average rate of 4.4. Here the respondents considered such matters as: passing judgements within the terms established by law; promptness of the provision of information requested; promptness of the court's dealing with the case; judge's punctuality during the hearing, *etc.* In this category of questions, the highest concern of citizens was expressed in relation to the terms of consideration of cases (4.3).

The following questions were focussed on the court performance: comprehensibility of the summons; comprehensibility of other information forwarded by the court to citizens; court organization; judgement motivation; court performance transparency; confidence about the court in general. The average rating of those questions was relatively high (4.4). Nevertheless, the last question (similarly to the confidence about the judges) received the lowest rating from the citizens (4.1). The worst results regarding both this and other questions were shown in respect of the Tbilisi court (3.9).

Here is another interesting issue: the interviewers requested the respondents to evaluate the change of their opinion about the quality of the court after addressing the latter. It is surprising but the values showed a high level of rating in this aspect too. Thus, the opinion of almost 40 percent of respondents remained positive, and the opinion of 33 percent of respondents even improved.

The general evaluation of the court service by the citizens of Georgia remained positive, since almost 60 percent of the respondents were satisfied or extremely satisfied by the quality of justice in their country. The average judicial system satisfaction score in Georgia in 2012 was 3.9 by five-point grading scale.

The survey also showed that the most part of the Georgian population did still trust courts (50.4 percent were extremely satisfied, while 34.7 were satisfied). However, the average score under this question was equal to 3.3 by four-point grading scale.

Almost 80 percent of the respondents (78.1%) considered Georgian courts as incorruptible. At the same time, in Rustavi, only two thirds of the respondents (66 percent) believed that Georgian courts were not taking bribes. The authors carried out the corruption/incorruptibility evaluation by categories of respondents, which allowed the identification of the relation between the confidence level and the fact whether the judgement was passed in favour of the respondent or not. Other trends identified were the following: the confidence level was lower among the participants in criminal proceedings; young people trusted courts more than citizens older than 45; women trusted courts less than men; and finally the confidence level was lower among retirees and unemployed than among employed citizens.

As for the evaluation of the corruption of judges, the following tendencies were identified: the number of citizens believing that judges are corrupted was higher among the defendants and accused parties, while the number of claimants sharing the same opinion was relatively lower; the opinion on the high level of judge corruption was also less common among participants in criminal proceedings, while among citizens who had participated in civil and administrative proceedings there were more people believing that judges did take bribes. A quite negative trend suggesting that the idea of judges being corrupted was more common among people who had interacted with the court recently (within less than one year) was also identified in the course of the analysis of the survey data. The survey also showed that the greatest influence on the opinion whether judges are corrupted was exercised by the courts judgements: thus, among people in whose favour the judgement was passed the bad opinion of the corruption of judges was less common.

4.5. Guidelines on the creation of judicial maps to support access to justice within a quality judicial system⁷¹

Unlike most CEPEJ Working Group on quality of justice documents considered above, the present one is aimed not at the organisation of surveys or data analysis, but is purely of an advisory nature. According to the authors of the text, it is intended for the provision of Member States' government authorities with advices that can become a basis for the reformation of the judicial map, in order to improve the physical accessibility of courts. In particular, the authors indicate the factors that should make the basis of decision-making regarding the judicial map and size of the courts in order to achieve the optimal possible quality of justice. In other words, the Guidelines are intended for the maximisation of the delivery of justice and the optimisation of the court costs.

The CEPEJ Working Group on quality of justice notes that the government authorities' approach to the definition of judicial maps, court size and accessibility is similar to the approach used for determining the location of other State bodies and institutions rendering various services to citizens (healthcare, education, etc.) Put differently, the process of determination of healthcare and educational institutions' geographic location and minimal possible size (in order to optimise the costs) is absolutely identical to the decision-making process in the court. Therefore, when making such decisions, governments should consider the following factors:

- physical (geographic) accessibility of the institution for citizens;
- the smallest possible size of the institution;
- institution cost reduction;
- institution service quality maximisation.

⁷¹ CEPEJ-GT-QUAL, *Guidelines on the creation of judicial maps to support access to justice within a quality judicial system*, Strasbourg, 6 December 2013, CEPEJ(2013)7Rev1.

Thus, the purpose of the Guidelines is not the suggestion of a specific scenario for the court size and geographic implementation to Member States, but the determination of relevant criteria and factors they could use in order to carry out such an activity. The result of the optimal court size and geographic implementation policy is the identification of a new judicial map (considering where new courts should be opened and which courts should be closed).

The Working Group on quality of justice stresses that if previously due to the low development of communication means, the government approach to the organisation of court activity was limited to the creation of autonomous judicial institutions, nowadays the work of the different courts is organised according to the network principle. This is exactly the way that would allow the achievement of the optimal judicial service provision model, where the reduction of costs is accompanied by a higher accessibility of justice. Therefore, the core task of the court reformers is not the determination of which courts should be closed and where new courts should be opened, but the creation of connections between the different courts and connections with external in relation to them entities. In other words, the initial optimization of the court system performance can be achieved by the planning and the reorganisation of the court activity and the enhancement of its interaction with external entities.

Consequently, the determination of the court size and geographic implementation is a complex task which should be started with the evaluation of the already existing judicial map, the fixing of the target criteria and indices for its improvement, and only after that the reformers could create the new judicial system.

Therefore, the first stage of the improvement of the judicial map is the evaluation of the already existing one. Here, the CEPEJ working group draws the attention on the importance of the availability of qualitative and quantitative indices. Thus, for example, the authors state that the determination of the judicial service demand within a specific geographic perimeter is an essential starting point for judicial map creation.

In other words, the idea described in the document is to perform a preliminary evaluation of the current situation, which would allow identifying the actions required in order to improve it. At this stage of the judicial map reforming, it is recommended to gather information from internal and external sources, namely:

- data provided by the court administration concerning the number of incoming cases, the number of cases being considered and the number of pending cases;
- information related to courts and judges performance;
- geographic and infrastructural information;
- other information (such as information on quantity of enterprises, legal firms, *etc.* in the region within the jurisdiction of the concerned court).

The next stage of the new judicial map creation implies determination of targets and general assessment of required actions.

The CEPEJ Working Group on quality of justice emphasizes that the target of the reformation of the judicial map is different depending on the States. Thus, for example, in Italy the aim was just to reduce the excessive number of courts (more than 2,000 before the reform), which was achieved by the simple reduction of the number of the least efficient courts of first instance, entailing a better allocation of staff. In other European judicial systems the government chose the way of geographic consolidation of judicial functions, which was made not in order to reduce the court costs (like in Italy's case), but to improve the quality of justice.

At the same time the analysis of the existing shortcomings may lead to the necessity of creating additional courts in order to reduce the distance between the court and the participants in proceedings. Thus, again with regard to the Italian experience, the authors of the Guidelines observed that the number of courts per capita in Rome and other big cities was significantly lower than in the rest of the country. Accordingly, the courts of the large cities were less accessible. In this respect, the Commission's advice was to create several additional courts.

The main reasons for the need to reform the judicial map are the excessive number of courts, their irrational geographic location and incorrect resources distribution. It is explained by the fact that the demographic situation in every country has changed over the time, so the adaptation of the judicial system to the modern environment is required. The specific definition of the steps that should be taken in order to improve the judicial map should be carried out taking into account the following factors:

- density of population;
- court size;
- court caseload;
- geographical location and transport infrastructure of the region where the court is situated;
- level of judicial bodies computerization;
- provision of the court with modern means of communication;
- availability of organizations rendering legal services within the region;
- level of court cooperation with the external subjects (penal system authorities, police, public prosecution service) and others.

The authors of the Guidelines emphasize the fact that there is a direct relation between the number and size of courts on the one hand and the density of population in the specific region on the other hand. Here the authors analyse quantitative indices concerning the category of courts of first instance and specifically their number per capita. At the same time, the CEPEJ refuses to give any specific figures regarding the number of courts per capita, since the court competence varies in the different judiciaries (thus, for example, in some States they fulfil not only delivery of justice function, but also certain administrative functions such as register maintaining), which entails a different level of work load.

Consideration of the court size (number of judges working in the specific court) is also important, when reforming the judicial map. In fact, the size of the court is one of the parameters conditioning the level of judge's performance (number of considered cases per one judge). In other words, the determination of the court size is an important element of the judicial map reforming process. In the Commission's view, the most efficient court size is 40-80 judges. It is noteworthy that the court efficiency and performance aspect relates also to the number of administrative personnel.

The workload of the court is also another criterion for the judicial map structure change. Here it is recommended to perform the analysis of the court workload based on the number of claims submitted to court and resolved cases (their relation is the court performance index). The authors also suggest creating judges' teams, whose task would be the resolution of unconsidered cases in order to reduce the number of pending cases. Another advice is to consider the opportunity of changing the territorial jurisdiction of courts in order to transfer the excess of cases from one court to another.

According to the CEPEJ, the issue of the court's geographical installation and the logistical infrastructure in the territory of its jurisdiction is one of the main elements of the court accessibility (especially in those hearings where the physical presence of the participants in the proceedings is mandatory). Consequently, the CEPEJ recommends that the time for a citizen to travel to the court building should be fixed, and encourages public authorities to minimise as much as possible the distance between the court and the territories under its jurisdiction. The Guidelines also provide the approach for determining the reasonableness of the terms and distance between the court and the territories under its jurisdiction, which would allow the identification of the optimal geographical location for the court, depending on its territorial jurisdiction.

The courts computerisation is another important factor in the evaluation of the availability of the judicial service, since the presence of modern means of communication in the court allows the performance of a number of procedures remotely and, consequently, the ensuring of the delivery of justice without physical travel to the court building. Here, in particular, the authors describe the relation between the court location and the level of informational support, on the one hand, and the necessity of granting physical accessibility of courts, on the other hand: the higher the level of informational support is, the lower the necessity for its physical accessibility is. The videoconferencing set-up, which allows participation in the proceedings without actual presence in the court room, has a similar influence. Consequently, the geographical installation of the court and its size depend on the level of its computerisation/informational support.

According to the Guidelines, it is useful to consider the level of business development in the region where the authorities are going to install (or dismantle) the court structure. The idea here is that the necessity of judicial authorities is more intense in regions with higher commercial activity.

Another factor to be taken into account before proceeding to changes in the judicial map is the availability of alternative means of dispute resolution. Indeed, the developed forms of such means reduce the necessity to resort to judicial proceedings and therefore, depending on their availability, one could measure the need of installing a judicial building and its size.

Another aspect that should be taken into account when reforming the judicial map is the availability of a sufficient number of judges and lawyers. Put differently, the existence of a sufficient number of lawyers in the region, as well as the qualification and the size of the judicial manpower and administrative court personnel, are parameters prone to influence the decision concerning the court size and its geographic implementation.

The last factor having impact on the choice of the court size and place of installation is the opportunity for cooperation with other government authorities directly or indirectly interacting with the judicial bodies (e.g. penal system, public prosecution service and police). Thus, for example, during criminal hearings the places of the suspect's temporary detention should be a location in close proximity to the court in order to reduce the distance for the transportation of the suspect.

Therefore, the factors considered above are the criteria for the process of reforming the judicial map. Nevertheless, not all of them are actually used in the determination of the court size and geographic installation. Thus, for example, the adaptation of the judicial map to the demographic changes in France required the collection of a large quantity of statistical material. Quite the opposite, in the Netherlands, the reform of the court system consisted only in the local courts' reorganisation, and was limited to the use of only some of the criteria and factors. Nowadays, the general trend in the reformation of the judicial map is the closing of low-efficient and small courts. In other words, the task of the Member States' legislators is to reduce costs by increasing the efficiency and the performance of the court.

In the course of the implementation of the reforms of the judicial map – regardless of its results – the CEPEJ recommends performing the monitoring and analysis of the alterations made. When implementing the reforms, it is advisable to ensure the continuous delivery of justice; to arrange the transfer of staff to the new places of employment and to provide the court institutions with the necessary resources. In order to implement the reform, the CEPEJ Working Group on quality of justice advises the development of a plan, and the creation of working groups for the introduction of the reform. Special attention should be paid to setting limits to the timeframes for the creation of new courts, and the closing of old ones. It is also necessary to minimise the effects of such a process on the court-users, and to limit the risks relating to the interruption of the provision of service.

The organisation of the reform implies the development of a specific budget. An important and expensive consideration in this respect is the transfer of the personnel to the new place of employment. In order to rationalize the expenses for the judicial map changing and to receive the approval of public opinion and judicial manpower, it is recommended to shape a plan as to the communication concerning the introduction of the reform, to carry out the informational work with the court personnel, to encourage it to participate in the implementation of the reforms, *etc.*

Finally, after the reform is implemented it is necessary to perform the evaluation of its efficiency. And specifically, to determine:

- whether the level of performance of the delivery of justice has improved;
- whether the specialised judicial functions are properly carried out;
- whether the general quality of justice has improved.

The CEPEJ Working Group on quality of justice notes that the reduction of the Ministry of Justice costs should be the least important target, while the first priority in the measurement of results achieved should be assigned to the qualitative indices. It is also advised to establish specific terms for the implementation of different targets and monitoring of their achievement should be carried out in order to determine the current progress of the implementation of the reform.

4.6. Questionnaire for collecting information on the organization and accessibility of court premises⁷²

Unlike most of the documents designed by the CEPEJ Working Group on quality of justice, the act discussed in this chapter does not relate to the court in general and addresses only a specific aspect of this topic: the organisation and the accessibility of courts. The questionnaire is intended for the ‘pilot’ or experimental courts, which would provide information on their judicial practice regarding the issues of accessibility of judicial institutions for citizens in order to improve their access to the judicial service and thus increase the quality of justice within Member States. Indeed, the CEPEJ-GT-QUAL has used the provided by the pilot courts information about the accessibility of justice administration services for the elaboration of specific Guidelines in the matter, containing a list of advices on improvement of the judicial service accessibility. The questionnaire contains 11 separate categories.

⁷² CEPEJ-GT-QUAL, *Questionnaire for collecting information on the organization and accessibility of court premises*, Strasbourg, 15 March 2013, CEPEJ-GT-QUAL(2013)1.

The first section is dedicated to the regulatory framework of access to court institutions. Here the Working Group asks whether guidance (a law or statutory regulation) for physical possibility for citizens to access the judicial institutions is present in the legislation of Member States.

The second section is dedicated to the reception desk and availability of information at the entrance of the court premises. Thus, in particular the CEPEJ Working Group addresses the issues of reception staff availability for citizens; presence of special guidance (instruction for the attendant); arrangement of Welcome Days, *etc.*

The third section is dedicated to the exterior to the court building and adjacent territory, namely: the possibility to identify the court building from outside; the availability of municipal transport routes allowing access to the court building; special entrances for participants to criminal proceedings, *etc.*

The fourth section is dedicated to the organisation of hearings and the time spent by citizens within the building of the court waiting for the hearing and other procedural actions. Here the authors of the questionnaire address the following matters: modalities of notification of the hearings to the participants in proceedings; availability of waiting rooms; comfortable conditions within the building of court (the existence of a canteen, food and drink-vending machines, toilets, *etc.*).

The fifth section is dedicated to the organisation of the conditions of work of defence lawyers and other court staff. Here the CEPEJ addresses the issues of availability of special rooms for communication between the lawyer and his/her client, rooms with limited access for hearings in respect of special categories of cases (*e. g.* participation of a person under the legal age, *etc.*).

The sixth section is dedicated to the safety inside the court premises. Here the Working Group addresses the following matters: protection of judges and other court personnel; existence of a separate area accessible only to the court staff; existence of a separate area for the defendants, *etc.*

The seventh section relates to the access of people with disabilities.

The eighth section is dedicated to the information and use of modern telecommunication means in the court operation. There the authors address the following issues: availability of a court web-site on the Internet; possibilities for citizens to obtain the information on court proceedings they participate in via the Internet; use of videoconference systems, *etc.*

The ninth section is dedicated to the public relations of the courts.

The tenth section concerns the participation of judges and court clerks in the solution of architectural issues regarding the construction and fitting of the court premises.

And finally, the last, eleventh section, addresses the issues of improvement of the questionnaire itself.

4.7. Guidelines on the organization and accessibility of court premises⁷³

With purpose to provide a reference framework which could be of use to administrators and decision-makers for the construction of new court premises or the conversion of older buildings, on the one hand, and to ease access of citizens to justice and increase the efficiency of administration of justice in the Council of Europe Member States, on the other hand, the Working group on quality of justice prepared the *Guidelines on the organization and accessibility of court premises*. These Guidelines are formulated based on the answers of Pilot Courts from Member States to the *Questionnaire for collecting information on the organisation and accessibility of court premises*. They have been discussed during the meeting of the Network of pilot courts and adopted at the CEPEJ 24th plenary meeting in Strasbourg, 11-12 December 2014.

In the introduction of the document it is mentioned that improving the efficiency and quality of the public service delivered by the justice system, in particular vis-à-vis the expectations of the justice practitioners and users, is a central element of the action of the European Commission for the Efficiency of Justice. For this purpose the Working Group on the quality of justice is *inter alia* tasked to “draft concrete solutions for policy makers and for courts to improve the organization of the court system” as well as the good functioning of the latter, including from a material and logistical viewpoint.

The CEPEJ believes that it is essential that plans to build or renovate court premises be drawn up in such a way as to ensure the delivery of high quality justice and take into account the users’ expectations. It is stressed out that public access to justice must be facilitated by improving reception in courthouses, in particular for persons with reduced mobility, the access to information by court users through IT must be encouraged, judicial staff should benefit of good working conditions, the exercise of the defense rights or the detainee’s rights must be properly provided.

The document contains a number of advices to Member States on a real estate policy for court premises, location of buildings, adaptation possibilities, maintaining the continuous operation of the courts, judicial symbolism, accessibility to the courthouse, information on access to the courthouse, signage and display of practical information, functional aspects of the building, clearly defined zones, reception areas for citizens, lawyers, prosecutors, special areas reserved for judges, judicial staff, number, type and size of courtrooms, courtroom equipment, waiting room design, evidence room *etc.* For the first time the standards of zoning in the courthouses are stipulated by the Guidelines and by means of that the Council of Europe Member States are granted the possibility to have summary requirements to courthouses. In this respect, it is suggested to determine three specific zones, one for reception of the public, another one restricted to judicial staff and the third should be a secure zone. Accordingly, security measures and movement within the building should be specific to these different zones. These differentiated routes protect judges and court staff from undue pressure, increase their productivity and remove the possibility of unofficial relations between the parties and court staff in courts.

⁷³ CEPEJ-GT-QUAL, *Guidelines on the organization and accessibility of court premises*, Strasbourg, 12 December 2014, CEPEJ(2014)15.

It is mentioned that the public must be provided with information on access to the courthouse. Namely, the court website should provide information for citizens on the location of the court, the public transport links, the opening hours, the layout of the courtrooms, the times of hearings, etc. The courthouse must also be clearly identifiable from the public area outside, either from its architectural symbolism, a sign placed close to the entrance such as a flag pole with flags or other external feature, or by a sufficiently large sign on the façade.

A special attention is granted to the accessibility for people with disabilities to courthouses. According to the requirements of the Recommendation 1592 and Resolution 1642 of the Parliamentary Assembly of the Council of Europe, the court buildings should be adapted to the environment to make it accessible to people with disabilities by applying universal design principles and avoiding the creation of new obstacles. It is stressed out that if there are serious budgetary constraints, then the work should be carried out in stages depending on the importance of the aspects to be brought up to standard as regards people with disabilities, in the following proposed order: access to the building, reception area, one courtroom per type of use (criminal, civil, hearing in chambers) and toilet facilities close to reception and the courtrooms. In addition to the work relating to accessibility for people in wheelchairs, provision should be made for work in connection with other disabilities: for example, improving lighting and signage for people with visual impairments, the provision of audio induction loops for those with hearing impairments, and adapting door handles and the height of light switches.

Relating to the logistics for the new technologies in courthouses, it is mentioned that the logistics facilities should allow for adaptation to the new technologies. The placing of equipment in courtrooms should be arranged in such a way as to ensure that hearings can be conducted properly and that all participants have a full view of everything.

These Guidelines play a unique and significant role in increasing the efficiency of administration of justice and providing the proper accessibility of citizens to justice in Europe.

4.8. Questionnaire on the role of experts in the judicial systems of the Council of Europe Member States⁷⁴

This document is another exception from the practice according to which the documents designed by the CEPEJ Working group on quality of justice relate to the quality of judiciary in general. Moreover, at first sight the topic of the role of experts in the court does not relate to the quality of the court at all.

The questionnaire is intended for the experimental/pilot courts, which would provide the information on their judicial practice regarding the role of experts in the court proceedings. In other words, similarly to the other documents written by the CEPEJ Working group on quality of justice such as *'The Checklist for promoting the quality of justice and the courts'* and *'The Questionnaire for collecting information on the organisation and accessibility of court premises'*, it is intended for the poll of Member States' court staff, not for performing the polls of citizens like with a number of other Working group documents. Similarly to some other CEPEJ documents this questionnaire should be sent to the CEPEJ Network of Pilot Courts.

⁷⁴ CEPEJ-GT-QUAL, *Questionnaire on the role of experts in judiciary of the Member States of the Council of Europe*, Strasbourg, 20 December 2013, CEPEJ-GT-QUAL(2013)7RevE.

In relation to the issues of the general organisation of expert participation in proceedings, the following questions were put:

- the name and number of the legislative acts regulating the role of experts in the proceedings and the number of articles such legislative acts comprise;
- the definition of experts' roles in the proceedings (assistant of the judge, assistant of the parties, other).

One of the questions of this section (C) simply asks for a description of the role of experts in the proceedings. The other questions also try to define this role in comparison with the other participants in the proceedings: determine the status of the expert in comparison with other court staff; whether there is a practice of appointment of assessors assisting the judge in understanding the expert opinion and other complicated information (e.g. technical information, being a part of the evidentiary base of the hearing). The Commission asks the pilot courts to specify the different designations corresponding to the different categories of experts: (forensic experts; expert-witnesses; expert-referees, judicial experts, etc.). Another question raised within the document concerns the possibility of appointing an artificial person as an expert. The questionnaire also addresses the possibility to delegate the function of 'expert' and the engagement of another expert as an assistant to the expert already appointed. The interest of the CEPEJ Working Group on quality of justice was also attracted to the terminology used in respect of the expert opinion: testimony, conclusion, technical opinion etc.

The use of expert opinions (and especially the frequency of their use) is another aspect addressed in the questionnaire. Thus, in particular, the Working group requests information about the number of hearings (for the last five years) where expert opinions were used; the proportion between the number of hearings where expert assistance was employed and the number of hearings where experts did not participate; the most commonly used type of experts (medical experts, construction experts, automobile experts, research experts, scientific experts.) Finally, in the section of questions dedicated to the use of expert opinion, the Working group asks about how often the judges refused to use expert assistance due to the inability of the court to pay for expert services.

Other issues addressed are: the existence of professional judicial expert associations (collegiums, etc.); the existence of multidisciplinary judicial expert evaluation; expert evaluation carried out by the judges.

A separate section of questions relates to the remuneration of experts, namely in criminal and civil proceedings. In this respect the authors request information regarding the responsible authority for determining expert fees (the Ministry of Justice, the court or the legislator) and the responsible authority for paying expert fees (the court, the Ministry of Justice, the parties or other).

The issues relating to procedural law are discussed in a separate section of the questionnaire. One subsection of the latter is dedicated to the significance of expert opinions in the proceedings. In particular, the authors request information regarding the following matters:

-
- whether the consideration of the expert opinion in the hearing is mandatory to the court and what is the level of significance of the expert opinion (whether it is used as a basis for the judgement or just guides the judge in construing the evidences, *etc.*);
 - whether there are certain limitations to the influence of the expert opinion on the decision of the court (whether the judge is obliged to explain in what part the judgement depends on the expert opinion, whether the judge is obliged to explain why he hadn't considered the expert opinion in passing judgement, *etc.*);
 - whether there are some sanctions that can be imposed upon the judge for an absence of explanation why the expert opinion hadn't been used, *etc.*;
 - whether the expert opinion can be dismissed by the court, and based on what reasons (prejudgment of the expert; improper techniques and methods used by the expert; the court classified the expert as unqualified, *etc.*).

The possibility to request new expert opinion during the same trial but in a different area has become another object of interest of the CEPEJ Working group on quality of justice. One more procedural matter addressed in the document is the possibility for judges to request an expert assistance before the hearing, upon request of the participants in the proceedings.

Another topic separately addressed by the CEPEJ Working group on quality of justice concerns the procedural guarantees granted to the participants in the proceedings in relation to the experts' activity. In this respect, the questionnaire is intended to determine if: the participants in the proceedings are notified about the progress in the work of the expert with possibility to take into consideration critics and concerns raised by the preliminary remarks preceding the final expert opinion; there is a possibility of cross-over interrogation; the court is entitled to limit the area of the expert's activity upon request of the parties; the parties are enabled to hire their own experts (if it is possible, it is necessary to indicate if the opinion of such an expert has the same importance than the opinion of an expert appointed by the court).

In relation to other procedural aspects of the activity of experts, the questionnaire contains the following questions:

- who appoints experts (the parties, the court, the parties and the court jointly);
- whether the parties can personally chose their own expert;
- whether there is a system of expert licensing and accreditation;
- whether the court is obliged to choose an expert from a pre-established expert list where such a list exists;
- how the expert conclusions are presented in the proceedings (by written opinion, by oral presentation, within a competitive discussion with the proceeding parties).

A separate section of the questionnaire is dedicated to the issue of liability of experts and possible sanctions in their respect. Above all, the CEPEJ Working Group on quality of justice requests information regarding the existence of sanctions in case of non-fulfilment of the experts' obligations and the form in which such sanctions are imposed (*e.g.* dismissal of the expert opinion, imposition of a penalty, removal of an expert from the official expert list, reduction of the expert's remuneration; criminal punishment; civil liability, *etc.*). In other words, the authors want to determine whether it is possible to bring experts to account for the mistakes made in the process of the expert evaluation. Here the CEPEJ is also interested in the form of such liability (civil, criminal,

other), and the person/authority (the parties, the judge, other) responsible for the control of the expert activity and detection of such mistakes, and then for establishing whether sanctions must be imposed upon the expert. Another issue concerns the expert liability insurance and the authority endowed with the responsibility to verify the existence of such insurance. Finally, the last question regarding this topic allows knowing whether the status of “expert” has an impact on his/her civil or penal liability.

Another separate chapter is dedicated to the speed in the expert activity. Here the focus is made on the application of the requirement for swiftness to the expert activity, which is quite logical, since the duration of proceedings directly depends on the expert’s contribution. Consequently, the first question concerns the possibility of courts to limit the time of the expert activity under the proceedings and the forms of such limitation (limitation by decision of the court under the established schedule of pre-hearing consideration of each case; establishing specific terms according to the procedural law; full authority of courts to establish the terms for expert activity, *etc.*).

Another question is related to the format of the expert opinion and the existence of a mandatory structure for its preparation. The CEPEJ also requests information on the most common reasons of delays in the expert activity (insufficient number of experts, or technical equipment, procedural rules; problems with the qualifications of experts; multiplication of the court instructions for the experts). The CEPEJ is also interested in statistics on cases where experts are engaged and namely: to what extent the participation of an expert increases the duration of proceedings; how much time the court on average allows for the expert activity under the case proceedings; whether there is a system of registration and approval of expert opinions in the court; whether there is an administration responsible for the supervision of the number of expertise conferred to each expert; whether judges have the authority to manage the expert opinion (establishing and prolonging the time for the preparation of an expert opinion, widening and narrowing the subject of the expert evaluation; assisting the expert in his activity, *e.g.* requesting the documents necessary for the expert evaluation; demanding the change of an expert in case of non-fulfilment of his obligations or duties within the agreed time).

The last chapter contains a number of questions about good practices, the answers to which the respondents should give in the form of grading by a five-point scale. The questions in this chapter are the following:

- how much judges rely on expert evaluation when reviewing judgements;
- whether judges undergo special courses or training programmes in order to enhance their knowledge in the area of expert evaluation;
- whether the experts undergo special courses or training programmes in order to enhance their legal knowledge;
- another question put separately is how to determine the level of qualification of the expert, where the respondents were required to indicate the way by which such level is ensured (accreditation, licensing of activity, presence of rules established by a professional organisation, specific regulations applicable to experts, *etc.*).

The CEPEJ Working Group on quality of justice also requests information on the initiatives within States aimed at the stimulation of the expert performance and the elimination of delays in their activity. If such initiatives exist, the CEPEJ asks the respondents to indicate who exactly adopts them (the courts, government political authorities, academic staff, the judicial experts themselves).

The CEPEJ also requires information on the most acute problems existing in the area of judicial expert appraisal (lack of experts, lack of responsibility in their activity, lack of trust, lack of impartiality, etc.). Finally, the last question concerns the availability in the academic environment of books, monographs and scientific works related to judicial expert appraisal and also the existence of specialised periodical literature and Internet web-sites on this topic.

4.9. Guidelines on the role of court-appointed experts in judicial proceedings⁷⁵

Based on answers provided by the Network of Pilot Courts of the Member States of the Council of Europe on *Questionnaire on the role of experts in the judiciary of Member States of the Council of Europe*, the CEPEJ Working group on a quality of justice prepared the *Guidelines on the role of court-appointed experts in judicial proceedings* which have been adopted at the CEPEJ 24th plenary meeting in Strasbourg on 11-12 December 2014.

The purpose of this document is to provide a reference framework for the legislator, the judge and all parties to a lawsuit as regards the role of a technical expert, in cases where the expert is instructed by the court, during the judicial decision process. The definition of a court-appointed expert used in this document is the one provided in the CEPEJ report on European judicial systems, according to which technical experts “place at the disposal of courts their scientific and technical knowledge on matters of fact”. It is meant to communicate the basic principles concerning the role of the experts in the judicial systems of the Council of Europe Member States. Furthermore it identifies principles which clarify the legal interpretation and application of the law concerning the work of those experts during judicial proceedings. Those principles apply to all pre-judicial and judicial proceedings in all areas of law; not only in civil, but also in criminal and administrative cases.

The aim of these guidelines is not to answer the question whether and under which circumstances the appointment of an expert is necessary in general according to statutes and the principles of procedural law, but to provide criteria for the correct selection and appointment of the expert and for the preparation of his expert opinion and the introduction thereof into the court proceedings.

In the guidelines is reflected the task, replacement and selection of the expert, requirements stated by the parties, appointment by the parties or by the court, requirements for the preparation of the expert opinion (assessment)/form of the expert opinion, the expert’s duties and rights, possibilities for follow-up to the expertise and sanction in cases of breaches of duty, effects of the expert opinion in the lawsuit or trial, determination of expert knowledge, the court’s means of control after the appointment and during the selection procedure etc.

It is noted that the expert has to remain independent concerning the matter under examination and must be impartial concerning the relationship with both parties. He/she should not be allowed to have been appointed by one party to prepare a private expert opinion during the pre-procedural stage. It should also be prohibited for him/her to stand in a close personal relationship with one party so as to suggest a conflict of interests. He/she has to guarantee that his/her opinion is given objectively and not according to potential personal interests.

⁷⁵ CEPEJ-GT-QUAL, *Guidelines on the role of court-appointed experts in judicial proceedings*, Strasbourg, 12 December 2014, CEPEJ(2014)14.

The Guidelines enumerate different criteria for selection of experts to which member States are used to resort, such as determination of expert knowledge, factual independence and personal impartiality, time and technical capacity/personal ability, predictable costs, forensic experience/occupational expert, predictability of the outcome of the assessment, comprehensibility of the language/nationality, decisiveness and reference to results. The Commission formulates very useful advices to Member States as to the interpretation of these criteria. For instance, the lowest hourly rate must not be a selection criterion; the selection of the expert cannot be made depending on whether the expert has already had experience with judicial assessments; the predictability of the outcome of the assessment cannot be a selection parameter.

According to the principles developed in these Guidelines, every Member State of the Council of Europe should either introduce legal regulations concerning the rights and responsibilities of experts in the judicial process or control, or review whether the existing guidelines in the matter meet the prescribed minimum standards of the rules of conduct for experts.

Chapter 5.

The activity of the European Commission for the Efficiency of Justice related to the implementation of alternative methods of resolving disputes and the difficulties in the enforcement of court decisions

5.1. The European Commission for the Efficiency of Justice activity in relation to mediation

In order to contribute to the development of appropriate conditions for the implementation of the recommendations of the Council of Europe Committee of Ministers related to mediation, the special CEPEJ Working Group on Mediation has been created. This Working Group was first mentioned in the First Meeting Report of the CEPEJ Working Group on Mediation dated March 8-10th 2006⁷⁶. The Appendix to this document contains the terms of reference of the Working Group on Mediation⁷⁷, specifying that this CEPEJ Working Group was created in order to assess the impact in the member States of the Council of Europe Committee of Ministers recommendations⁷⁸, to contribute to the effective implementation of the existing recommendations and to participate in the development of new international obligations in the field of the alternative means of dispute resolution (mediation in particular).

⁷⁶ Working group on mediation (CEPEJ-GT-MED), Strasbourg, 8-10 March 2006, Meeting report, CEPEJ-GT-MED(2006)4.

⁷⁷ Terms of reference of the Working Group on mediation (CEPEJ-GT-MED) adopted by the CEPEJ at its 6th plenary meeting. Henceforth the competences of this group were reviewed. For example, see Terms of reference of the Working Group on mediation (CEPEJ-GT-MED), CEPEJ(2007)4, Strasbourg, 22 January 2007.

⁷⁸ This means: Recommendation Rec(98)1 on *family mediation*; Recommendation Rec(99)19 concerning *mediation in penal matters*; Recommendation Rec(2001)9 on *alternatives to litigation between administrative authorities and private parties*; Recommendation Rec(2002)10 on *mediation in civil matters*.

This Working Group consists of 6 members, or CEPEJ experts⁷⁹, who possess the necessary knowledge in the area of mediation and other alternative means of dispute resolution. This CEPEJ group cooperates with other Council of Europe authorities and relies on them in the exercise of its mandate. The activity of the Working Group on mediation is also carried out with the support of separate non-government organisations and experimental/pilot courts that in particular provide the Working Group with practical information on the application of mediation procedures in the national judicial systems.

The first meeting of the CEPEJ Working Group on Mediation was dedicated to the determination of the procedure for national mediation and the efficiency of other means of dispute resolution on the one hand, and to the development of the document based on which the evaluation of the impact of the abovementioned Council of Europe recommendations would be carried out, on the other hand. Therefore, the Working Group has developed a questionnaire⁸⁰ addressed to Member States and intended for the collection of information and the representation of a general table of the alternative means of dispute resolution (including the mediation) implemented in Member States. It should be noted that this questionnaire was also published on the CEPEJ web-site in order to ensure spontaneous replies of mediators working in the Member States who would provide alternative information about the implementation of mediation procedures within the corresponding States.

5.1.1. Analysis of the assessment of the impact of Council of Europe Recommendations on mediation⁸¹

This report is one of the largest documents prepared by the CEPEJ-GT-MED, since its volume exceeds 200 pages. The first part is dedicated to the quality of work carried out by Member State authorities with regard to the CEPEJ questionnaire and ascertains how serious is the approach to the CEPEJ activity in general, and the activity of its Working Group on Mediation in particular. The second part of the report is dedicated to the analysis of the quality of the implementation of the Council of Europe's recommendations in the national judicial systems, where each recommendation is separately assessed by experts of the Working Group.

As for the Recommendation Rec(98)1 on family mediation, the Working Group notes that many lawyers practising in the area of family law are familiar with this Council of Europe act. The Working Group also states that the Council of Europe recommendation has quite a strong impact on both court practice and university legal training programmes. Nevertheless, the national legal regulations are not developed sufficiently enough to ensure the use of the alternative means of dispute resolution to the full extent. At the same time, the authors observe another trend, implying the incorporation of the principles of the recommendation into the national law.

⁷⁹ The six experts of this CEPEJ Working Group are selected by the CEPEJ Bureau among the CEPEJ members. The Working Group consisted of experts from Portugal, Germany, Lithuania, the Czech Republic, the United Kingdom and Slovenia. The chairman on the last Working Group meeting was an expert from Lithuania.

⁸⁰ CEPEJ-GT-MED(2006)3.

⁸¹ CEPEJ-GT-MED, *Analysis on assessment of the impact of Council of Europe recommendations concerning mediation*, Strasbourg, 3 May 2007, CEPEJ(2007)12.

In its report, the Working Group criticises the low awareness of the citizens of family dispute resolution alternative means availability. The limited use of mediation in family cases is also explained by the absence of confidence in such extrajudicial dispute resolution between judges and citizens.

The restricted resort to mediation in family cases is quite surprising since it has significant advantages compared to the court proceedings, namely it is a cheaper way to resolve family disputes. Since in most Member States both mediation and court proceedings in family cases are carried out at the expense of the interested parties, the public awareness campaign about using alternative means of dispute resolution, in the opinion of the Working Group, should be more intense.

The Working Group also believes that the financial support of alternative means of dispute resolution in most Member States is insufficient. Moreover, the training of mediators also requires a greater degree of government participation. The State authorities have to establish general rules about the status of mediators and, in particular, to fix a number of core principles for their activity (for example, the principle of confidentiality and the mandatory participation of children in the mediation process). The authors also pay attention to the agreement signed following the results of the mediation, and in particular, on its mandatorily legal binding force, which although recognised in all Member States, is still insufficient.

Following the results of the analysis of the implementation of the Council of Europe recommendations on family mediation, the Working Group has developed the following pieces of advice:

- publicising the alternative means of dispute resolution both among citizens and among judges;
- the enhancement of the financial support in order to prevent the financial imbalances of the parties;
- a more serious consideration of the interests of children;
- the elaboration of a mediators' Code of practice;
- the standardisation of mediator training within the whole of Europe;
- rectification of the status of mediated agreements in the national legislation;
- the creation of procedures for International family mediation for the "conjoints" or citizens of different States;
- the obligation on judges to notify citizens about the availability of alternative means of family dispute resolution;
- the standardisation of the principle of confidentiality and the determination of the sanctions in case of violation of this principle;
- increasing State expenses for the financial support of alternative means of family dispute resolution;
- the elaboration of specific rules concerning the access to the mediator status;
- rectification of the terms for participation of children in alternative dispute resolution proceedings;
- establishing the terms for the fulfilment of obligations stemming from the mediated agreement.

Recommendation Rec(2002)10 on mediation in civil matters was also examined in the Working Group report. The CEPEJ-GT-MED emphasizes that this Council of Europe recommendation is recognised by the practising lawyers of Member States and is thought to be part of the European university legal training programmes. Moreover, the authors note that in most of the Member States the provisions of this recommendation have been transposed within the national legislation. At the same time, the Working Group draws the attention on the fact that citizens are not always aware of the availability of the means of such dispute resolution. Consequently, the Group advises the Member States to carry out a public awareness campaign and to advertise such mediation aspects as: the relative cheapness of the mediation; its less formal nature; its short length, *etc.* The Working Group notes that in almost all Member States the mediation is regulated by the Civil Proceedings Code, or another statutory act, which is explained by the fact that the nature of the civil legal relations is the most acceptable one for dispute resolution via the alternative means.

The Working Group also highlights the insufficient financial support of the alternative means of civil dispute resolution in some of the Member States. It is also noted that in countries where society is not familiar with mediation, the government financial support of such proceedings is too low.

The situation with the provision of the parties in the proceedings with funds for dispute resolution is quite diversified: in some countries all expenses are paid exclusively by the participants in the proceedings; in other countries there are government financial support programmes.

The Working Group points out that in most countries the mediator functions cannot be fulfilled by judges. It is also noted that judges are obliged to inform the parties in the proceedings about the possibility of mediation. Nevertheless, in the European States, the choice of whether to use or not to use mediation is made by the participants in the proceedings.

The Working Group explains that in most countries there are codes of rules fixing the requirements for mediators. The Working Group suggests the establishment of an evaluation system for mediator activity in order to increase the level of their responsibility. The Member States also have professional training programmes for mediators. In this respect, they are advised to harmonise their legislations in the area of requirements for candidates for the mediator position and in the area of mediators' qualification and training.

The Working Group notes that not in all Member States, mediators are bound by an obligation of confidentiality.

Even if mediation in civil matters is not a mandatory practice, the mediated agreements are of full executive force in the national judiciaries.

The Working Group has the following pieces of advice regarding the improvement of the implementation of this Council of Europe recommendation:

-
- to raise the awareness of lawyers and citizens regarding the advantages of mediation;
 - to adopt the incompatibility rule between the function of judge and the function of mediator in the same case;
 - to create the conditions for reducing the financial imbalances between the parties in mediation proceedings;
 - to standardise the quality requirements for mediation procedures in order to increase their efficiency by bringing them into compliance with existing international practices;
 - to submit mediators to the duty of confidentiality in all Member States;
 - to harmonise the requirements for the candidates for the position of mediator, *etc.*

Recommendation Rec(99)19 concerning mediation in penal matters has made a more controversial impression on the CEPEJ Working Group.

Thus, for example, it is noted that although this recommendation is well-known in the academic world, practising lawyers are less aware of it, despite the fact that most national legislations contain corresponding regulations. Moreover, the authors state that the general public of Member States is familiar with the mediation procedures in penal matters. Nevertheless, the Working Group emphasizes the need of conducting public awareness campaigns regarding this issue in order to familiarise citizens with that type of penal procedure.

The Working Group notes that unlike in civil matters, the penal mediation cannot be applied to all cases. Nevertheless, at the same time, the authors state that the mediation should be applied at all stages of the penal proceedings. The confidentiality principle here should be applied to a fuller extent than in the civil mediation: that is obvious, considering the specific nature of penal proceedings.

An interesting observation of the Working Group is that in penal matters those procedures are applied regardless of the cost. It is also stated that the financial support of the mediation procedures in penal matters is almost absolutely absent, since all procedural expenses in almost all Member States are paid by the government. Still, the Working Group notes that the suspect may be obliged to pay a part of the mediation expenses.

The Working Group pays special attention to the notification of the participants in penal proceedings of the nature and consequences of the mediation process. The high level of qualification of the mediators conditions the credibility of the mediation mechanism in the view of the participants in penal proceedings. Consequently, raising the public awareness and ensuring the high professional qualities of the mediators are guarantees of the successful implementation of the mediation procedure in penal matters. Such guarantees are ensured by means of the requirements for professional qualification of mediators who in compliance with the national legislation must possess the necessary legal, psychological and pedagogical skills. Due to the specific nature of penal matters, the CEPEJ Working Group recommends that the Member States should oblige mediators to undergo professional training courses on a regular basis.

The result of the mediation in penal matters in all of the Member States is the mediation agreement being a ground for the final suspension of criminal prosecution in relation to the suspect. Such agreement possesses executive legal force.

Analysis of the implementation of this recommendation allowed the Working Group to develop several pieces of advice:

- to take steps for increasing the public confidence in mediation in penal matters;
- to specify the competence of the courts in respect of the transfer of cases for mediation procedure;
- to specify the guarantees of the rights of people under the legal age participating in the mediation procedure;
- to establish the guarantees of the rights of representatives of vulnerable social groups participating in the mediation procedure;
- to create the necessary conditions for ensuring the independence of mediators;
- to specify the rules for the professional qualification of mediators;
- to improve the rules of confidentiality;
- to specify the sources of financial support for mediation.

The analysis of the implementation of Recommendation Rec(2001)9 on alternatives to litigation between administrative authorities and private parties appeared to be quite difficult. Indeed, the Working Group notes that not all Member States have conducted an analysis of this type of mediation, which is probably due to the unsatisfactory inclusion of this Recommendation in the national legislation. Thus, for example, the Working Group states that not all practising lawyers are aware of this Recommendation, which requires a wider public awareness campaign about this type of mediation.

The mediation schemes applied in the different Member States are quite diverse: half-mediation carried out before filing the claim; compromise committees appointed by the government; and actually the alternatives to litigation between administrative authorities and private parties. Nevertheless, the Working Group has not managed to obtain more complete information from the Member States regarding the legal regulation of this type of mediation. It is also noted that the citizens do not receive enough information on alternatives to litigation between administrative authorities and private parties.

Consequently, to eliminate the serious shortcomings in the implementation of this recommendation, the Working Group suggests to Member States the following:

- to carry out a public awareness campaign among citizens, practising lawyers and legal theorists;
- to develop procedural tools that would allow the parties to impose to judges their decision to resort to alternative means for the settlement of disputes;
- to develop the qualifications of mediators and their standards of training , *etc.*

In other words, the improvement of the alternatives to litigation between the administrative authorities and private parties is required to the full extent, since the information provided by Member States indicates the absence of satisfactory implementation of the provisions of the Council of Europe Recommendation.

5.1.2. Guidelines on the implementation of the Council of Europe Recommendations on mediation

These guidelines, developed and approved in the frame of the third Working Group on Mediation meeting⁸², have been devised after the Working Group had carried out the analysis on assessment of the impact of Council of Europe recommendations concerning mediation on the national legislation of Member States. Indeed, the document has been developed by the CEPEJ-GT-MED after the Group had identified a number of shortcomings in the implementation of the Council of Europe recommendations about mediation⁸³.

Consequently, as a result of the decision made during this meeting, the present guidelines have been developed intended both for the Member States, in order to facilitate their work in the implementation of the already-existing recommendations of the Council of Europe, and for the authorities of the Council of Europe in order to advise them to make certain changes in the recommendations prone to improve them and to facilitate their implementation within national legislations.

Similarly to the report considered in the previous section, the Working Group has developed its guidelines according to the already-existing plan. The guidelines are:

- for a better implementation of the existing recommendations concerning family mediation and mediation in civil matters;
- for a better implementation of the existing recommendation concerning the mediation in penal matters;
- for a better implementation of the existing recommendation on alternatives to litigation between administrative authorities and private parties.

The *Guidelines for a better implementation of the existing recommendations concerning family mediation and mediation in civil matters*⁸⁴ have been prepared according to the scheme under which the following advices had been developed:

- on the availability and the quality of mediation procedures;
- on their actual accessibility for citizens;
- on the public awareness of opportunities for their use.

Thus, the Working Group above all addressed the issue of the availability and the quality of mediation procedures in Member States and, in particular, the issue of their availability over the whole territory of a given State. Therefore, the Working Group advises:

⁸² CEPEJ-GT-MED, 3rd meeting, Strasbourg, 3-4 April 2007, CEPEJ-GT-MED(2007)9.

⁸³ It should be noted that besides the above considered report, the CEPEJ Working Group on mediation familiarized itself with the several works on efficiency of mediation procedures in the Member States which have become a bases for its analysis and development of the actual Guidelines. See Julien LHUILLIER, *Current situation of and prospects for penal mediation in Europe*, CEPEJ-GT-MED(2007)8E, 22 August 2007; European Commission for the Efficiency of Justice (CEPEJ), *Mediation*, report prepared at the request of the Delegation of Switzerland, CEPEJ(2003)25(D2)E, 05 December 2003.

⁸⁴ *CEPEJ Guidelines for a better implementation of the existing Recommendation concerning family mediation and mediation in civil matters*, Strasbourg, 7 December 2007, CEPEJ(2007)14.

- to increase the financial and staffing support;
- to encourage judges to raise awareness of the parties in the proceedings of the possibility to resort to alternative means of dispute resolution;
- to define within the Bar Codes of Conduct the obligation of lawyers to offer alternative means of dispute resolution to their clients;
- to introduce a detailed statutory regulation about the confidentiality principle; to make it mandatory for any stage of the proceedings and to establish sanctions with regard to the violations of this principle;
- to improve the statutory regulation of issues concerning mediators' training and qualification;
- to consider the interests of children (under the family mediation procedure);
- to create codified acts regulating the mediation activity in family and civil matters;
- to create disciplinary procedures engaging the liability of mediators in case of violation of the Code provisions regulating their activity.

The accessibility of mediation procedures, in the opinion of the Working Group, implies the following: a reasonable price for the mediation services and the absence of various limitations for using this kind of procedures.

The necessity for increasing the level of public awareness of the possibilities to resort to these procedures led the Working Group to develop the following advices: information on the advantages of alternative means of dispute resolution should be provided and the specific way of using this means should be made available for all citizens (this advice relates not only to the Member States, but also to the CEPEJ itself, since the Working Group offers to create a special page on the CEPEJ website dedicated to this topic); the awareness of practising lawyers and participants in the proceedings should be improved; the compensation of expenses incurred in the course of the process should be denied, if the parties have not used the alternative means of dispute resolution in the specific case; the awareness of judges about how the alternative means of dispute resolution might be applied should be improved; the communication between judges and mediators should be stimulated; the level of lawyers' awareness of the use of alternative means of dispute resolution should be increased; non-government organisations should be involved in the development of the process of alternative means of dispute resolution.

The *Guidelines for a better implementation of the existing recommendation concerning mediation in penal matters*⁸⁵ are prepared according to the scheme used in previous documents. Thus they also contain advices on the availability and the quality of mediation procedures, their actual accessibility for citizens and the public awareness of the opportunities for their use.

As for the availability and the quality of mediation in penal matters, the Working Group notes that:

- Member States have to make efforts for maintaining and developing these procedures in penal matters, in particular, by funding the corresponding programmes;

⁸⁵ *CEPEJ Guidelines for a better implementation of the existing Recommendation concerning mediation in penal matters*, Strasbourg, 7 December 2007, CEPEJ(2007)13.

-
- judges, public prosecutors and law enforcement authorities have to provide citizens with information on the possibilities of using mediation in penal matters, and also to participate actively in the mediation procedures and cooperate with mediators;
 - Member States should cooperate with social non-government organisations that could potentially participate in mediation procedures;
 - lawyers should be bound by the obligation to notify citizens of the possibility of mediation in penal matters;
 - schemes, procedures and information related to the mediation in penal matters should be improved constantly and, in order to achieve this target, the governments are advised to establish a monitoring system of the application of these procedures, allowing to identify shortcomings in their functioning.

The Member States are also invited to:

- make applicable the obligation of confidentiality to all stages of the penal mediation;
- to fix the list of requirements for the candidates for the position of mediator;
- to establish the rules for mediator education and professional training;
- to fix the requirements regarding the protection of people under the legal age;
- to create a codified act regulating the resort to mediation procedures in penal matters;
- to establish the mediators liability for the violation of this act;
- and finally to create international penal mediation procedures.

The improvement of the accessibility to mediation procedures, in the opinion of the Working Group, implies the following: the improvement of the protection of the rights of both victims and criminals, in particular, via notifying them of the nature and the consequences of the mediation process; the provision of financial support to the parties to the mediation; and also the elimination of any limitations for applying such procedures.

In the light of the necessity for increasing the level of public awareness of the possibilities of these procedures, the Working Group developed the following advices:

- information on the advantages of alternative means of dispute resolution advantages and the specific way of using this means should be made available for all citizens (this advice relates not only to the Members States, but also to the CEPEJ itself, since the Working Group offers to create the special page on the CEPEJ web-site dedicated to this topic);
- it should be fixed by statute that the law enforcement authority should inform the victims and the criminals about the application of alternative means of dispute resolution;
- the awareness of law enforcement officers of mediation procedures in the penal matters should be improved;
- the judicial officers' awareness of applying the alternative means of dispute resolution in penal matters should be increased and the communication between judges and mediators should be stimulated;
- the level of lawyers' awareness of the use of alternative means dispute resolution using should be increased;
- non-government organizations and social workers should be involved in the development of the process of alternative means of dispute resolution.

The *Guidelines for a better implementation of the existing Recommendation on alternatives to litigation between administrative authorities and private parties*⁸⁶ are prepared according to the scheme used in previous documents. Thus, it also contains advices on the availability and the quality of the mediation procedures, their actual accessibility for the citizens and the public awareness of the opportunity of their use.

As for the availability and the quality of mediation procedures between administrative authorities and private parties, the Working Group notes that:

- the government authorities (above all, the administrative authorities making individual decisions in relation to citizens) have to take the measures aimed at the development of the alternatives to litigation between administrative authorities and private parties;
- at the level of higher government authorities, regulations promoting the development of the alternatives to litigation between administrative authorities and private parties should be adopted;
- it is advisable to create internal procedures for the evaluation of the lawfulness of administrative acts, in order to reduce the number of administrative disputes;
- judges are advised to provide more detailed information on the availability of alternatives to litigation between administrative authorities and private parties;
- it is also advisable to adopt the obligation of lawyers to notify the citizens of the possibility of using mediation procedures in the administrative matters and to cooperate with the mediators in dispute resolutions;
- the monitoring of using the alternatives to litigation between administrative authorities and private parties should be maintained, in order to improve and popularise the current legislation;
- it is suggested to modify the requirements related to the qualification, the training, the professional training and the control of fulfilment of their functions in administrative matters of mediators;
- a codified act regulating the application of the mediation procedures in administrative matters should be devised; it should be possible to engage the liability for the violation of this act; international penal mediation procedures should be established.

The improvement of the accessibility of the alternatives to litigation between administrative authorities and private parties, in the opinion of Working Group, implies ensuring the free provision of mediation procedures carried out at the first stages by the administration itself, with independent mediator participation – ensuring the low cost of his/her services and the provision of financial support.

⁸⁶ *CEPEJ Guidelines for a better implementation of the existing Recommendation on alternatives to litigation between administrative authorities and private parties*, Strasbourg, 7 December 2007, CEPEJ(2007)15.

The necessity for increasing the level of public awareness of the possibilities of these procedures led the Working Group to formulate the following advices: above all, information about the advantages of alternative means of dispute resolution alternative means and that the specific way of using this means should be made available for all citizens (this advice relates not only to the Members States, but also to the Commission itself, since the Working Group is going to create a special page on the CEPEJ website dedicated to this topic).

The next Working Group advice is to oblige the government authority representatives to provide information on alternatives to litigation between administrative authorities and private parties and, in particular, to deny the compensation of the expenses incurred in the course of the process, if the parties have not used the alternative means of dispute resolution in the specific conditions.

The Working Group also suggests the improvement of the awareness of judges about how the alternative means of dispute resolution can be applied and the stimulation of the communication between judges and mediators. Finally, it is advised that the level of lawyers' awareness of the use of alternatives to litigation between administrative authorities and private parties should be increased.

5.2. The European Commission for the Efficiency of Justice activity in relation to the implementation of the Council of Europe enforcement standards

The CEPEJ Working Group on enforcement (CEPEJ-GT-EXE) is the youngest CEPEJ unit since its official activity started only in 2009⁸⁷. This fact explains the low intensity of the activity of this Working Group which by today has held only two expert meetings and has developed only one significant document – *Guidelines for a better implementation of the existing Council of Europe's Recommendation on enforcement*⁸⁸. The CEPEJ decision on the creation of this Working Group was adopted on the 12th CEPEJ plenary meeting held at the end of the year 2008⁸⁹ where the Terms of reference of this CEPEJ structure were developed⁹⁰.

In particular, the Terms of Reference establish the following main goals behind the creation of the Working Group on enforcement "...the better implementation of the existing Council of Europe's Recommendation on enforcement of the national court decisions in civil and administrative cases". The following is indicated as the specific activities of this unit:

- the assessment of the impact of the Council of Europe's standards in the field of execution of judgements at the national level;
- the preparation of guidelines aimed at the efficient implementation of the Council of Europe's standards in the area of court decision enforcement in Member States;

⁸⁷ The first meeting of the Working Group experts took place on January 29th and 30th, 2009. See the Report on the 1st meeting of the group, Strasbourg, 20 March 2009, CEPEJ-GT-EXE(2009)3.

⁸⁸ *CEPEJ Guidelines for a better implementation of the existing Council of Europe's Recommendation on enforcement*, CEPEJ(2009)11REV2, Strasbourg, 17 December 2009.

⁸⁹ CEPEJ, 12th plenary meeting, Strasbourg, 10-11 December 2008.

⁹⁰ Terms of reference of the Working Group on execution (CEPEJ-GT-EXE) adopted by the CEPEJ at its 12th plenary meeting.

- the preparation of quality standards and their improvement in order to increase the efficiency of court decision enforcement. In its activity the Working Group is advised to use the CEPEJ researches on the topic of court decision execution which have already been conducted and implemented in the experimental/pilot courts⁹¹.

The Working Group consists of six experts appointed by the CEPEJ Bureau⁹². Besides those members, other experts can also participate in its activity⁹³. However, the expenses of their participation are not covered by the CEPEJ budget, but are paid by the funds of the Member States of the Council of Europe. The Working Group on enforcement also engages individual artificial persons (organizations) and their branches as supervisors (without the right to vote). Those entities are: the International Association of Court staff (UIHJ)/Union Internationale des Huissiers de Justice (UIHJ); the European Commission of the European Union; the European Committee on Legal Co-operation (CDCJ) / Comité européen de co-operation juridique (CDCJ) of the Council of Europe.

The Working Group on quality (CEPEJ-GT-QUAL) took over the activity of the Working Group on enforcement (CEPEJ-GT-EXE) and is currently working on the topic of promoting the guidelines for a better implementation of the existing Council of Europe recommendation on enforcement. At its 15th meeting, the CEPEJ-GT-QUAL had considered certain problems connected with the enforcement of court decisions and had emphasised the importance of the part played by the CEPEJ guidelines in that field. At the end of the discussion, the International Union of Judicial Officers (UIHJ) had undertaken to give CEPEJ members access to its major questionnaire on enforcement in order to prepare a document on the main issues related to enforcement, with a view to the next meeting. Thus the group would assess on the basis of that document the appropriateness of organising further work on the subject. Matthieu CHARDON, observer representing the UIHJ, presented a document on the problems associated with enforcement which was intended both to provide the best possible promotion of the guidelines and to emphasise the most frequently occurring problems and those which most impeded efficient enforcement. Six problems in particular to which priority could be given were identified by the document. A discussion ensued about the work which could be done by the CEPEJ-GT-QUAL on this subject. While highlighting the need to promote the guidelines and help judicial officers to cope with the new challenges arising in respect of enforcement, the group considered it appropriate not to create new standards or to duplicate the guidelines, which were a European and global model for the enforcement of court decisions. Joao Arsenio DE OLIVEIRA (Portugal) suggested that the group focus its work on existing good practices in Europe where enforcement was concerned, a field as yet unexplored. The UIHJ and several members of the group agreed that it would be very useful to compile good practices in respect of each guideline. Matthieu CHARDON pointed out that the UIHJ was in possession of the necessary information and was ready to place its expertise (and, if need be, an expert) at the group's disposal. At the end of its discussion, the CEPEJ-GT-QUAL decided to prepare a compilation of good practices in respect of enforcement, with specific examples from all Council of Europe Member States and instructed the Secretariat to provide the necessary practical assistance during this work.

⁹¹ CEPEJ, 2nd plenary meeting, Strasbourg, 19 March 2007 – Meeting report, Strasbourg, 3 April 2007, CEPEJ(2007)9.

⁹² This Working Group consists of 6 experts selected by the CEPEJ Bureau from the CEPEJ Members. The Group included experts from Croatia, Greece, Germany, Monaco, Russia and the United Kingdom. The chairman of the last meeting was an expert from Germany.

⁹³ Above all, it means the CEPEJ experts being members of other units of the Council of Europe body and participating in the Working Group on enforcement only on subsidiary basis. Thus for example, the other CEPEJ experts and even the CEPEJ President can take part in the Group activity.

5.2.1. Enforcement of court decisions in Europe⁹⁴

This report is not a result of the activity of the CEPEJ Working Group on enforcement (CEPEJ-GT-EXE). It was devised before the creation of that group with the assistance of external experts. Moreover, this report prepared by researchers from Switzerland and France upon the request of the CEPEJ recommended that the Commission should create this specialised Working Group within its structure.

The report is prepared on the basis of statistics and information collected by the CEPEJ and the national legislation research conducted by the abovementioned legal theorists. The report is divided into two sections. The first section is dedicated to the availability of the means of enforcing court decisions, while the second is dedicated to their efficiency.

Specifically, the first section examines the public and private structures intended for court decision enforcement. Here the authors separately discuss the issues of the organisation of such structures under the civil and criminal law. In particular, the authors note that there is no unified approach, since court decision enforcement is carried out by both public (for example, the judges) and private structures. Notwithstanding, in criminal proceedings the court decision enforcement almost in all member States is carried out by the government authorities (judge, public prosecutor, penal authorities, individual units of the Ministry of Justice).

A separate interest of experts was linked to the financial support of the court decision enforcement, since the high cost of enforcement could become a serious problem for the execution of judgements. Here, due to quite obvious reasons, the experts examined the enforcement cost only under civil proceedings.

The report addresses the issues of the efficiency of enforcement and, in particular, the transparency of the enforcement process, the foreseeability of the enforcement costs and the efficiency of the tools of enforcement.

The second section starts with the examination of the enforcement tools and the law enforcement mechanisms. Thus, in particular, the experts consider the issues of the qualification level of the enforcement agents, their initial training and professional training. This section also represents the issues of the status of the enforcement agents, the organisation and the control of their activity. Thus, for example, the experts discuss the issue of the availability of quality standards for the activity of the enforcement agent, the control of the enforcement agents' activities and their supervisory authorities (judges, public prosecutors, special bodies); disciplinary procedures related to them, *etc.*

⁹⁴ Report prepared by the Research Team on enforcement of court decisions (University Nancy (France) / Swiss Institute of comparative law) and discussed by the CEPEJ-GT-EVAL at its 8th meeting. See CEPEJ-GT-EVAL, – 8th meeting, 8-9 November 2007, Meeting report, Strasbourg, 14 November 2007, CEPEJ-GT-EVAL(2007)14.

There is an interesting statistic showing that the most regular complaints of citizens in relation to the activity of the enforcement officer are the excessive cost and the excessive duration of the enforcement process. The experts also examine the statistical data on disciplinary proceedings initiated against enforcement officers and the number of decisions passed, imposing disciplinary sanctions upon them⁹⁵.

Another topic separately examined in the report is the efficiency of the enforcement process. Thus, in particular, the experts address the issue of the duration of the enforcement process. Based on the analysis of the specific provisions fixed in the national legislation of some of the Member States, the authors come to the conclusion that the timeframes should be rather foreseeable than strictly defined. This enforcement process quality criterion, in particular, is implemented via the notification of the interested parties about the progress of the enforcement process. The authors also consider the issue of liability for the violation of the terms of the enforcement process.

5.2.2. Guidelines for a better implementation of the existing Council of Europe's Recommendations on enforcement⁹⁶

Unlike the report considered above, the guidelines were developed under the CEPEJ Working Group on Enforcement. Nevertheless, the external experts who had worked on the previous report also participated in the development of the guidelines.

From the first lines, the guidelines authors state that the correct court decision enforcement is one of the factors determining the public confidence in the national judicial system and constitutes an integral part of the rule of law. Consequently, the enforcement officers' role is of a ultimate importance for the development of the principles of the rule of law and the protection of the rights of the participants in the proceedings, while the legal regulation and the public awareness of their activity are the guarantees of the observance of human rights.

Among the Working Group advices the authors mention the necessity for the creation of conditions for accessibility to the process of enforcement. Above all, it means the accessibility of the enforcement officers in the geographical sense of this word, *i.e.* the physical availability of their service over the whole territory of the State. Here it is also specified that the accessibility of the enforcement process implies the elimination of language barriers, *i.e.* it is necessary to ensure that the parties are able to understand the process of enforcement in which they are involved, and, where possible, have the option of participating in the proceedings without the need for legal representation. Finally, the Working Group recommends that the Member States should determine the status and the rights of all participants in the enforcement process, as accurately as possible, in order to enhance their respective role in the enforcement process.

⁹⁵ It is interesting to note here that the Russian Federation shows a too high number of disciplinary proceedings initiated against enforcement officers and a too high number of sanctions imposed upon them. According to the statistics of 2004, the number of such proceedings and sanctions is higher than the similar values of all Council of Europe Member States put together.

⁹⁶ *CEPEJ Guidelines for a better implementation of the existing Council of Europe's Recommendation on enforcement*, Strasbourg, 17 December 2009, CEPEJ(2009)11REV2.

In the opinion of the Working Group, special attention should be paid to the issue of the notification of parties to the proceedings. Thus, it is noted that the notification of parties to the proceedings of various aspects of the enforcement process is an integral part of the right to fair trial guaranteed by Art. 6 of the European Convention on Human Rights. The Working Group suggests the notification of the interested parties about all significant aspects of the enforcement process.

The Working Group also advises the Member States to specify the status of the decisions made by the enforcement officers.

Quite a large part of the Guidelines is dedicated to the qualifications of the enforcement officers, their training, rights and obligations, and the control of their activities. Above all, the Working Group advises that the requirements made of the candidates to the position of enforcement officer should be specified and, if necessary, increased, since the quality of the enforcement of court decisions depends on it. It is also advisable to increase the requirements of the quality of their training, and oblige them to undergo professional training courses. Member States are also advised to organise activities of the law-enforcement officials within a unified corporate agency intended for both the protection of the enforcement officer's rights and to perform control and information-gathering on them and their activities.

The rights and duties of enforcement officers have become the separate subject of the Working Group research. Thus, in particular, it is established that besides the main duties of the enforcement officers, national legislation may make them responsible for some secondary functions related to the ensuring of the court decision enforcement (imposition of arrest on property; participation in bankruptcy procedures; ensuring the safety of the evidence base, *etc.*). Finally, in the opinion of the Working Group, the topic of enforcement officers' rights and duties also includes the issue of the ethics of their behaviour, so the Working Group suggests that the Member States should regulate this issue under the enforcement officer code. This code should include the professional standards used by the enforcement officers in their activities.

A separate Guidelines chapter is dedicated to the specific implementation of the enforcement process.

Thus, in particular, here we can find a number of rules related to the notification of participants in proceedings. It is specified that the claimant must be provided with the information about the defendant in order to ensure the high-quality enforcement of the court decision passed in his favour. In order to achieve this target, Member States are also advised to develop legal regulations ensuring the access of the enforcement officers to the information of assets of the defendant. It is also advisable to create a regulatory framework that would allow the provision of enforcement officers with all the information necessary for the enforcement of the court's decision. At the same time, during such activity, States should ensure the protection of private data, in compliance with the Council of Europe standards.

The cost of the enforcement process also has become a subject of the Working Group's advices. Thus, in particular, Member States are invited to regulate the cost of the enforcement service. Another piece of advice is to create a system of government assistance for the procedure of the enforcement of court decisions. The Working Group emphasises the need for the cost transparency of the enforcement services, which would basically lead to the reduction of the claimant's financial load. Thus, for example, it is advised that a State price-list for court decision enforcement services should be adopted. Fixing the price of each enforcement service should be carried out, based on the principle of the relation between the enforcement actions' complexity and their cost. It is advised that the principle of compensating the enforcement expenses by the defendant should be established.

The enforcement proceeding timeframe has also become the advice object from the Working Group. Thus, the quite obvious one is the advice related to the reasonableness of the terms in the enforcement proceeding. Let us be reminded that the principles of reasonableness and foreseeability are the principles of any judicial process, and the enforcement stage is not an exception. In order to reduce the terms of the enforcement proceedings, Member States are advised to do the following:

- to stimulate the communication between the parties to the proceedings and the enforcement officer in an electronic format;
- to create procedures for the expedition of the enforcement process;
- to limit the possibilities for the defendant to slow down the enforcement process.

Finally, the CEPEJ Working Group on enforcement addressed the issue of the control of the activities of the enforcement officer. Thus, in particular, it is recommended that enforcement process quality standards should be introduced, in compliance with which a regular control of the enforcement officer would be carried out. This means the creation of a system that would allow the conduct of regular performance and enforcement quality evaluation by means of an independent form of control. It is also advisable to create authorities reporting to the government, whose responsibility would be the constant control of the activities of enforcement officers. Finally, in case of any violations committed by the enforcement officers, it is necessary to initiate disciplinary proceedings, and to impose corresponding sanctions.

Chapter 6.

The co-operation activities of the European Commission for the Efficiency of Justice with Member States⁹⁷

6.1. Joint Programme on enhancing judicial reform in the Eastern Partnership countries as example

6.1.1. Report on efficient judiciary

This report is one of the products of the joint programme of the European Union and the Council of Europe on *Enhancing Judicial Reform in the Eastern Partnership Countries*. The report contains the evaluation of the judiciary effectiveness in the Eastern Partnership countries, and namely: Armenia, Azerbaijan, Georgia, Moldova and Ukraine. The report addresses the issue of the compliance of the judiciary of those States with European standards, and provides assistance through the elaboration of guidelines on their improvement.

The report is prepared based on the statistics collected by the CEPEJ under the court evaluation cycle 2010-2012, i.e. during the preparation of the report described above. The main difference of the present report from the abovementioned one is the regional approach to the court evaluation, which allows identification of problems common for the judiciary of these States, and development of uniform guidelines for their improvement. The report encompasses more than 300 pages.

The first section of the report contains extracts from the “*Report on European Judiciary, 2012*” (based on the data collected in 2010). Of course, the main attention in this report is focused on the five Eastern Partnership countries (EPC). The approach used in the court report consists in correlating the statistics of the five countries and comparing their indices by means of the European control criteria. In order to analyse the development of the judiciary over time, the experts resorted to the data for the last three evaluation cycles. In the frame of this comparative evaluation of the situation of countries with approximately similar economic, social and legal

⁹⁷ The European Commission for the Efficiency of Justice (CEPEJ) implements 10 co-operation projects across the Europe and abroad, such as Eastern Partnership Joint Programme, co-operation programmes in Albania, Azerbaijan, Croatia, Moldova, Turkey, Ukraine, Jordan, Morocco, Tunisia.

background, special attention was paid to the correlation of the data collected in the five Member States. The first section also contains the countries' national legal statistical analysis, where the issues of the volume of cases unconsidered within the established terms, the percentage of cases considered within the established terms, case pendency and judicial system efficiency and performance are examined on a first-priority basis. The Report also includes comprehensive and systematic comparison of the judiciaries by 28 different indicators.

The second section presents a comprehensive and systematic comparison of the performance features of the Eastern Partnership countries' judiciary. The control criteria (indicators) described within this section allows thorough examination of different aspects of the court system. In particular, the section contains the evaluation of the general situation and judicial system efficiency: case flow (the volume of cases unconsidered within the established terms, the percentage of cases considered within the established terms; case pendency, etc.), efficiency and performance indices. The second section of the report also describes the research method employed, and the results of its use.

And finally, the third section discusses the potential of the specific countries from an institutional point of view. This section explains the monitoring and the components of statistical data evaluation, and the possibilities of their use based on the overall strategy designed for the courts and judicial system in general. In other words, it contains the description of the monitoring of the court's efficiency evaluation procedure.

Let us consider those sections of the report in more detail.

The first section called "*Financial support and overload of the court*" is the largest one, and contains the most interesting information, since here we can find not only statistics on the judiciary of Eastern Europe countries, but also the advices regarding their improvement. This section consists of the six following chapters:

- performance evaluation procedure;
- judicial system financial support;
- judges, other court staff and remuneration;
- operational management of court activity;
- court performance: case flow speed and case pendency;
- comparative analysis (28 indicators).

The first chapter, "Performance evaluation procedure", tries to bring the statistical data to a format where like can be compared to like. In particular, it takes into account the social and economic indices and budget data of the countries analysed, with a due regard for gross domestic product, and the size of the country. In fact, this chapter is of a methodologically introductory nature, and therefore of the lowest interest.

The second chapter, "*Judicial system financial support*" mainly describes trends and changes in the government financial support of the court system. It is noted here that the financial support of the judiciary in the Eastern Partnership countries studied herein is constantly growing, even faster than in the countries of Western Europe. Therefore there are almost no advices regarding the increase of the budget provisions for the court.

Another finding is that in most countries significant funds have been allocated for the improvement of the infrastructure and material support of the courts, while the funds intended for the staff have not always grown in proportion. The counter example of this phenomenon is Moldova, where significant amounts were allocated for the professional training of judges. In Azerbaijan the State budget allocations are significantly increased and mainly allocated for improving the court infrastructure, establishing the new regional courts, implementing widely the information technologies in courts⁹⁸.

The subject of the CEPEJ criticism is the lack of co-operation between the courts and the governments regarding the issues of the court's financial support in most Eastern Partnership countries. In particular, the CEPEJ criticises the fact that the higher government authorities responsible for the budget apportionment do not consider the opinion of the courts regarding the organisation of the court's budget.

A more moderate criticism is expressed in relation to the financial support of legal aid. For example, it is stated that only in Georgia and Moldova is the level of investments into legal aid provided to the population in compliance with the requirements and the spirit of the European Convention on Human Rights.

As a general conclusion regarding the court's financial support the CEPEJ states that after the correlation of all the data with the GDP and the size of the population, the total investments into the judiciary in all EPC countries comply with the European control criteria. Besides the level of budget provisions, their shared distribution between the courts, public prosecution and the legal aid system is also of great importance. In order to ensure balance within the court system and the rule of law, it is recommended to redistribute the budget allowances allocated for the excessively funded sectors between the insufficiently funded sectors, in compliance with the European control criteria that can be applied.

In the third chapter, "*Judges, other court staff and remuneration*" it is noted that justice in the countries of Eastern Europe is almost exclusively carried out by professional judges, which explains the relatively low number of court staff - by European standards. The dynamics of the judicial manpower number has been multidirectional in the recent years. In Georgia the size of judicial manpower has been reduced; in Ukraine and Azerbaijan it has been increased.

As for the other court staff, it is noted that while the general tendency in Europe is the reduction of the number of the officers per one judge, the situation of the EPC has to be qualified: in Azerbaijan the number of court staff has grown, when in Armenia and Moldova the number of court staff is relatively low, and continues to get lower.

Finally, in relation to the issue of remuneration, it is noted that, except in Moldova, the remuneration of judges in the countries studied generally complies with the European control criteria. As for the public prosecution, the remuneration indicators are slightly lower than the European control criteria. Since the financial and economic crisis of 2008, a significant reduction of the remuneration of judges (except for Azerbaijan and Georgia) can be observed. In Azerbaijan and Moldova the remuneration of judges is lower than the European control criteria. Therefore, the CEPEJ encourages increasing the remuneration to the level of the European control criteria.

⁹⁸ For more details see: the Speech of the Minister of Justice of the Republic of Azerbaijan Mr. Fikret Mammadov at the International conference "*Role of the judicial branch in a democratic society*", which was held on 26 May 2015 and dedicated to the celebration of the 10th anniversary of the Judicial-Legal Council.

The fourth chapter, “*Operational management of court activity*”, mainly addresses the issue of the number of courts, which in general corresponds to the average number of courts per capita in the European countries. It is also noted that an active effort aimed at increasing the professional level of the court management (with the introduction of IT, quality control systems, monitoring and evaluation tools) has been made in Georgia and Azerbaijan⁹⁹. In Ukraine, Armenia and Moldova the methods of professional use of modern means of court management haven’t progressed. Here, for the modernisation of the courts (i.e. the introduction of IT, monitoring, evaluation, and quality policies) and the improvement of their performance, the CEPEJ recommends the development of professionalization and judicial autonomy.

The fifth chapter, “*Court performance: case flow speed and case pendency*”, is dedicated to the percentage of cases not yet dealt with within the established terms, the percentage of cases considered within the established term, and the case pendency. Here it is emphasized that the situation with the proceeding terms in the studied countries is controversial:

- the situation in Armenia and Moldova can be deemed as concerning;
- in Georgia the adopted reforms have brought a good result;
- a gradual improvement of the situation can be observed in Azerbaijan;
- finally, Ukrainian data does not allow drawing a clear conclusion.

Finally, the last chapter of the research “*Comparative analysis by 28 indicators*” was devised in order to proceed to a comparative assessment of the court efficiency. Therefore, in this chapter the authors studied thoroughly the whole system of financial support, court caseload and performance indicators. Based on the data of the years 2006, 2008 and 2010 provided by the countries of the Eastern Partnership, the authors determined the caseload and results of the court activity. After adjustment of those data to the unified standards, they were compared with the calculated and standard criteria of the 49 judiciary effective in the Member States of the Council of Europe and corresponding territorial and administrative units. The statistical transformations carried out in order to ‘adjust’ all 28 key indicators to the ‘unified standards’ deserve special attention, since they are the basis for the qualitative comparison by all 28 indicators, and therefore they allow the identification of the advantages and disadvantages of the judiciary being studied.

The overall conclusions drawn from the first section of the report are the following:

- regarding the court resources: with the exception of Ukraine where the court resources comply with the average criteria, the rest of the five countries studied have a weaker resource base than the average value in the Council of Europe. The exception is the remuneration of judges in Georgia and Azerbaijan, where in the course of evaluation the authors took into account the ration of gross judge’s remuneration and the average remuneration in the country;
- regarding the court caseload: with the exception of Ukraine, in the rest of the five countries studied the number of cases submitted to court per year (court caseload) did not exceed the average indicator per 100 residents in the Member States of the Council of Europe;

⁹⁹ For more details about the judicial-legal reforms in Azerbaijan see: Publications (interviews) of the Minister of Justice, Chairman of the Judicial-Legal Council of the Republic of Azerbaijan Mr. Fikret Mammadov – “*The priorities of the legal reforms in Azerbaijan is the establishment of a modern infrastructure and the implementation of the art-of-state information technologies*”; “*E-court serves for increasing the citizens confidence in justice*”; “*The judicial reforms in Azerbaijan have been already internationally recognized, but we are not resting on these achievements and continuing working on this direction*” (http://justice.gov.az/dec_top1.php).

- regarding the percentage of cases considered with the established terms: in Georgia it is generally higher than the average value; in Ukraine and Azerbaijan it is equal to the average value; and in Armenia and Moldova it is lower than the average value;
- regarding the case pendency: in all five countries the case pendency is lower than the average values; however, in Georgia there is a positive tendency towards its reduction, while in Armenia and Moldova – there is a negative tendency of its increasing, which is a direct consequence of the inability of the country to manage the incoming case flow to the full extent.

The second section of the report “*Comparison of court work practice: case flow, efficiency and performance*” also contains a number of statistics and advices for the countries studied.

Thus, in relation to Armenia, it is noticed that neither the number of judges nor the funds invested into the court system correspond to the number of incoming cases (regulation of the system by its initial parameters) and the number of cases considered within the established terms (regulation with regard to the result achieved). The chapter also reveals the absence of an interrelation between the growth of budget provision for the court system and its results (which is most evident in the period from 2010-2011). In this country the overall trend of the development of the court system has been negative by almost all indicators since. The number of judges and the amount of assignments have been reduced, while the caseload has grown. Simultaneously, the system performance also decreased, which resulted in increased delay and court pendency. Therefore, the CEPEJ advises Armenia to focus on the use of quantitative indicators in the operational management of the court, and then to identify on their basis the problems related to the proceeding terms and to take the appropriate measures. Another piece of advice is to achieve the correlation between the initial and resulting parameters.

As for Azerbaijan, the CEPEJ indicates that an approximate correlation between initial and resulting system parameters can be observed, although the growth of the number of judges clearly does not correspond with the increase in the incoming case flow. For a long time the number of cases dealt with had been growing, and the percentage of cases dealt with within the established terms had been kept at a level above 95%. Since 2011 the situation has deteriorated, and the risk of persistent delay has become the rule. Regarding the separate categories of courts the following conclusions are drawn: business and administrative courts had been working quite consistently for a long period of time until 2010; since 2011 their performance has been clearly declining, which requires special attention. The relatively low performance/efficiency of the criminal courts for serious crimes is also recorded. At the same time, even with the relatively high caseload they manage to perform the delivery of justice within the appropriate period of time. The military and district courts operate perfectly. The CEPEJ has the following advices regarding the court system of Azerbaijan:

- it is necessary to ensure the awareness of the low indices of the percentage of cases considered within the established period of time, and potential risk of delay;
- it is necessary to pay special attention to the weakened performance of economic and administrative courts;
- it is advisable to study the advanced practice of the Baku Court for grave crimes;
- taking into account the caseload on the Lenkaran court for grave crimes, it is necessary to provide it with appropriate staff appointed.

In relation to Georgia, the CEPEJ has the least amount of criticism. Thus, it is stated that Georgia shows the best indices of the case flow, with extremely low calculated time of to consider cases. Nevertheless, the CEPEJ advises Georgia to pay special attention to the significant performance drops, and to ensure the strict correspondence between the caseload and staff appointed. Even if the overall tendency for reduction of the number of judges corresponds to the reduced number of incoming cases, a lot of courts are 'less efficient/inefficient' due to non-qualified staff. As for the overstaffed but less efficient courts, it is advisable to continue the process of their merger (or staff reduction) and to focus on ensuring the strict correlation between the caseload and staffing.

As for Moldova, it is stated that in general, and with certain exceptions, the number of cases submitted to the courts is considered properly, but the present changes in the amount of cases not yet dealt with is sending certain alarm signals. Thus it is noted that despite the prompt and effective proceedings, most indices show negative trends. Serious fluctuations in performance are observed, which indicates the necessity for changes in the use of resources. The growth of the staff and the budget that has been taking place in the recent two years still hasn't affected the number of cases dealt with, which is associated with the fact that the main investments have been made mainly in the infrastructure of courts. The abovementioned inconsistency between the caseload and the financial support in the Republic of Moldova indicates that probably it is necessary to consider the opportunity of the wider use of funds based on the performance principle.

Finally, in relation to Ukraine it is stated that increased financial investments were followed – at least in 2011 – by the increased number of submitted and considered cases, promoting the increase of the performance level. While all the indices indicate the stability of the system, it is possible to draw a conclusion that the corresponding management structures thoroughly maintain the equilibrium between the amount of invested funds and the results achieved.

The third section of the report "*Opportunities of political potential*" is dedicated to the importance of the monitoring of court systems and the evaluation tools for the improvement of their quality and efficiency, taking into account the feedbacks of the users. Here the authors place the emphasis on the significance of the citizens' opinion regarding the performance of the court, and thus advise the national governments to listen to the users' (citizens') opinion when choosing the specific measures in the area of the reformation of the court system. The evaluation and monitoring mechanisms are intended to provide assistance in the area of improving the efficiency of the court system, and increasing the quality of the work carried out by the courts, and therefore to ensure the more consistent implementation of the reformation policy of the judicial system.

In order to create an efficient mechanism of evaluation and monitoring of the courts, the Member States are advised to pass the five stages of such system building:

- bureaucratic data collection spontaneously carried out in any judicial system, since it ensures responsibility and control;
- development of a regulatory framework in order to ensure the compliance of the monitoring and evaluation system with the principles of constitutional law (for ensuring the principle of the independence of the judge);
- institutional adaptation suggests both the creation of special judicial system evaluation and monitoring authorities and adaptation of already existing bodies;
- the monitoring and evaluation themselves are carried out only after the previous monitoring and evaluation system building stages are passed: indeed, only after the regulatory framework and appropriate institutions are developed is it possible to start using an efficient monitoring and evaluation system;

- the final stage of an efficient monitoring and evaluation system development is the creation of operation and responsibility mechanisms, i.e. practical usage of the monitoring results and getting the benefits.

In this chapter of the report the authors also advise the government authorities to introduce into judicial system the principle of financial support depending on the system performance, i.e. to introduce into the public authority system another principle of marketing and private regulation. What is meant here is the implementation of the judicial officer responsibility mechanisms based on the achieved results that increase the opportunities (the potential) of the court without increase in its financial support. The performance policy, the CEPEJ advises to implement, is built on the following principles:

- the targets in the form of clear and measurable results are established for each specific institution;
- each institution must be granted with resources and powers necessary for achieving of the targets established;
- the actual and target performance indices must be clearly defined;
- the results in achieving of the targets established must be reported regularly, clearly and in detail;
- the reports on the results must be submitted to the Parliament and be available to the public;
- the high performance must be encouraged, while insufficient performance - punished.

Performance based financial support system in the area of judiciary is advised to be implemented not only in relation to the institutions, but also in relation to the judges. Thus, the aspects of judge performance are advised to be evaluated according to the following criteria:

- times of proceedings;
- case flow;
- efficiency (number of cases, output rate and/or assessment of the time spent);
- quality.

6.1.2. Report on the profession of lawyer

The Report on the profession of lawyer is prepared by the group consisting of representatives of the Ministries of Justice, professional Bar Associations, the civil society of the Eastern Partnership countries and the consultants (experts) of the Council of Europe. It was developed under the joint programme of the European Union and the Council of Europe for *Enhancing Judicial Reform in the Eastern Partnership Countries*. The target of this programme is to assist the support of the court reformation process in Azerbaijan, Armenia, Georgia, Moldova, Ukraine and Belarus by intensive sharing of information and advanced expertise.

The report consists of more than 300 pages. It contains 5 chapters: role of the bar; access to the profession; training of lawyers; disciplinary liability, and code of conduct. The authors of the report mainly use the method of comparative analysis, which allows identification of efficient practice and regional tendencies; it is combined with analysis of the legislation and the practice of every country studied.

The first chapter, “*The role of the bar*”, is dedicated to the overall evaluation of the role of the Bar, the analysis of the aspects that can be contrary to international law, or the practice and the development of guidelines aimed at the improvement of compliance of national legislation to European standards. In this chapter, the authors note that in all countries, except Ukraine, there are independent autonomous professional Bar Associations. Ukraine doesn’t have any professional Bar Association, which does not comply with European standards. However, there are voluntary Bar Associations and other authorities (qualification and disciplinary commissions and the Higher Bar Qualification Commission) which perform the main function of the professional Bar Association, although it does not compensate for the absence of such authority. Consequently, the CEPEJ advises the creation of an independent, autonomous professional Bar Association in Ukraine.

In general, the legal regulation of the lawyers’ activity, as provided for in the corresponding national laws, complies with European standards. Nevertheless, it is noted that the laws regulating the profession of lawyer can be improved. In particular, in the opinion of the CEPEJ, in the legislation of Armenia and Azerbaijan it is necessary to indicate the ‘enhancing of the rule of law’ as the specific function of the Bar. The legislation of Azerbaijan includes limitations and unclear criteria applying to the formation of governing bodies of the national bar. It is advised that they should be revised. The legislation of Moldova and Georgia does not contain the general description of the Bar Association, although this is the starting point for the establishment of the legal base framing the role and functions of the Bar within the country. Therefore it is advised to add such description into the national legislation of those countries, and include there the provisions describing the activities of the Bar. Besides, it seems that the administrative potential of the Chamber Secretariat in Moldova, i.e. the number of employees, is limited. Such a circumstance can negatively affect the efficiency of the activity of the Chamber. Lastly, the CEPEJ consultants are concerned by the fact that the budgets of the Bar Chambers of Moldova and Armenia can be insufficient for funding all directions of the activity, and especially those related to the representation and promotion of the Bar’s interests.

A separate issue also discussed within this chapter is the monopoly of the Bar on legal representation. It is noted here that the lawyers in Ukraine do not have any monopoly, either on legal consultation or on legal representation. The CEPEJ advises the introduction of provision in compliance with which the defence in criminal cases could be carried out only by defence lawyers. In all countries participating in the project the lawyers do not have a monopoly on legal consultation. Despite the fact that the legislation of some European countries ensures that this kind of service can be provided only by lawyers, the absence of monopoly isn’t incompatible with modern European standards. In Azerbaijan, Georgia and Moldova the lawyers have almost full monopoly on legal representation in criminal cases, while in Armenia and in Ukraine there is only a partial monopoly. The CEPEJ consultants are concerned by the fact that in these two countries a person not being a lawyer is allowed to perform the defence in criminal cases. Such regulation seems to be incompatible with European standards. Consequently these two countries are advised to revise State policy regarding this issue.

In all countries, except Moldova, lawyers do not have a monopoly on legal representation in civil cases. In Azerbaijan and Ukraine legal representation in civil cases can be carried out by any person, while in other countries it is rather the full monopoly of the lawyers, with certain exceptions (Armenia), or partial monopoly in some court instances (Georgia). Such regulation complies with European standards. However, in order to give only the best legal aid, the experts advise that the opportunity of providing the lawyers with stronger monopoly on representation in civil cases should be considered.

The second chapter, “*Access to the profession of lawyer*”, in general contains quite positive comments on the legislation of the States studied. Nevertheless, the authors note that in many countries of Eastern Europe the Bar laws and charters of the Bar chambers are overloaded with administrative details (Armenia, Moldova and Ukraine). Moreover, in many cases the charters repeat the provisions of the law and at the same time are in conflict with them (Moldova). Consequently, the CEPEJ advises the countries to consider the opportunity of the reduction of the texts regulating the Bar activity, and to abstain from the repetition of those texts in the charters and the laws. The CEPEJ consultants advise Azerbaijan and Ukraine to improve their legislation as concerns the independence of the licensing authorities. The legislation of Georgia has found suitable and up-to-date solutions for many of the above-mentioned problems, so its experience can be used by other countries of the region as an example.

The third chapter, “*The professional training of lawyers*”, is dedicated to the different kinds of professional training (from initial training to professional advancement). As for the access to the initial training, it is pointed out that the legislation of all countries studied does not make any distinction between the 1st and 2nd level of education required in order to become a lawyer. The Council of the Bars and Law Societies of the European Communities in its advice also has not mentioned such a distinction. Therefore, it is impossible to say that the legislation of the countries studied does not comply with the European standards in this aspect. Nevertheless, it is also noted that according to the European Qualification Framework, the term ‘complete legal education’ lays the person under obligation to have the diploma of Bachelor of Law.

As for the initial training, the CEPEJ notes that it isn’t mandatory in all countries, and moreover is quite a rare phenomenon. Armenia and Azerbaijan were one of the first Eastern European countries who established institutional programmes of initial lawyers’ training. Therefore, the legislation of these countries complies with the relevant European standards, although today it is impossible to assess the efficiency of such programmes. Due to this fact, the CEPEJ experts advise all the countries to introduce the mandatory professional practical training for the future lawyers that must have clearly determined goals and be based on the transparent selection process. The experts also suggest that the theoretical component of such training includes a sufficient number of hours (300 hours can be considered as good practice) and that the content is aimed at the development of lawyer-skills. This component should be followed by mandatory practical training within a legal advice centre during at least two months. The types and terms of the practical training vary from country to country, but it is mandatory in almost all States.

As for the professional advancement (or in-service professional training) the authors note that in almost all countries it is funded by sponsors. Although certain curricula are prepared every year, they can be changed depending on the priorities and goals of the sponsor. They are designed to take into account the available funds, and are implemented rather as a result of the investments of sponsors, than on the basis of comprehensive analysis of training needs. Often, it is a sort of formality, especially in the countries that have introduced the specific number of mandatory hours for in-service professional training. In order to ensure the stability and efficiency of in-service professional training, the States are advised to introduce payments to cover the costs of its implementation. Moreover, such professional training should be made attractive for lawyers and consistent with their actual professional needs. Therefore, the experts advise that an annual detailed analysis and evaluation of those needs should be carried out. In the countries which have implemented the credit/points system (as, for example, Ukraine has done), it is important to specify the method of their accrual.

In the fourth chapter, “*The disciplinary liability of lawyers*”, the authors emphasize that the legislation of certain countries still contains the provisions according to which the violation of the ethics code may automatically trigger the initiation of disciplinary proceedings and the imposition of disciplinary sanctions. The experts advise those countries (Armenia, Georgia and Moldova) to eliminate such phenomena. Several times the CEPEJ has pointed out that it is most important to carry out disciplinary proceedings according to the proper procedures (complying with the principles established by Art. 6 of the European Convention on Human Rights - i.e. granting the lawyers undergoing the disciplinary proceedings the observation of their procedural rights). The CEPEJ suggests that the rights of lawyers in Azerbaijan and Ukraine should be enhanced, and in Moldova formulated more clearly. In some countries of Eastern Europe the legislation does not provide the principle of proportionality between the offence committed by the lawyer and the sanction imposed upon him. Besides that, in Ukraine the list of disciplinary sanctions is too narrow, and does not allow the imposition of a sanction proportional to the offence. In this regard, the provisions and the laws adopted by Georgia and Moldova are a good example of measures that should be implemented by other Eastern Europe States.

In the fifth chapter, “*The bar code of conduct: its influence, scope and determination of disciplinary liability*”, the authors highlight that all five countries recognise the necessity for the adoption of special code regulating the conduct of lawyers. In Armenia, Azerbaijan, Georgia and Moldova this code is adopted by the general Bar meeting. In Ukraine this procedure hasn't been observed. Therefore, despite the possible organisational difficulties, the procedure of the Bar Code of Conduct adoption should be changed. For the future, it is advised that in all countries the Code adoption process should start not with voting, but with intensive discussion. This advice is given as a general comment, i.e. without reference to the practice of any specific country.

As for the content of the code, the Bar Codes of Conduct in Georgia and Moldova are good examples of the well-balanced regulatory documents which, while establishing basic principles, leave enough space for further development and the interpretation of norms. The lawyers of Azerbaijan and Ukraine are advised to consider the opportunity of discussion and development of new codes, since the existing documents either include too many secondary regulation subjects (Ukraine), or are too unstructured and unclear (Azerbaijan). The CEPEJ advises Bar chambers and associations to develop and improve the codes of conduct and the values they are based upon. In order to achieve a more strict and rigid observation of codes, it is recommended to promote such practice among citizens and potential clients, since the client's awareness of the obligations of the lawyer would encourage the observation of rules provided in the code, and thereby the improvement of the lawyer's quality of service.

6.1.3. Report on judicial training

The Report on judicial training in the countries of the Eastern Partnership was jointly prepared by the consultants of the Council of Europe, and the representatives of judicial educational institutions, the Ministries of Justice and civil society of the Member States. It was developed under the joint programme of the European Union and the Council of Europe on *Enhancing Judicial Reform in the Eastern Partnership Countries*. The aim of this programme is to assist the support of the reformation process in Azerbaijan, Armenia, Georgia, Moldova, Ukraine and Belarus by intensive sharing of information and advanced expertise.

This report is prepared in order to summarise the achievements of those Eastern European States, to evaluate the progress in this area, and to determine the actions that need to be taken to improve judicial training, in compliance with the standards of the Council of Europe. It contains the overview of such issues, such as the organisation and liability of the educational institutions, enrolment in the educational institutions, the structure, methodology and evaluation of the initial and in-service judicial training.

The first chapter, “*European standards of judicial training*”, is dedicated to the overview of the documents of the Council of Europe regulating issues about professional judicial training. Thus, in particular, the authors specify that the most important documents in this area are: Recommendation Rec(2010)12 for the issue of Independence, Efficiency and Role of Judges; European Charter on the statute for judges; points 10-13 of the Opinion of the Consultative Council of European Judges (CCJE) No.1 (2001) and Opinion No.3 (2002) of the CCJE. The flagship document containing a comprehensive examination of all issues of the initial and in-service judicial training is, the Opinion of the Consultative Council of European Judges № 4 on the proper initial and in-service training for judges at national and European levels¹⁰⁰.

The second chapter, “*The institution responsible for judicial training*”, mainly addresses the issue of the independence of institutions providing judicial training, which is the cornerstone principle of building an efficient system of judicial training and retraining. The CEPEJ consultants emphasise the importance of eliminating the impact of executive and legislative power on such institutions, which is provided for by the European Charter on the Statute for Judges. The authors note that nowadays every country participating in the project has a specific body responsible for the judicial training, which is a quite significant achievement. Along with it, the analysis of the legal framework regulating the status and the activity of those institutions has shown that some countries do not ensure the sufficient level of independence in the resolution of operational management and functional issues (Azerbaijan, Armenia, and Ukraine). At the same time, in a number of countries studied such educational institutions have gained full independence (Georgia, Moldova), and so these countries can serve as an example of advanced practice in this region.

Customarily, most of such institutions prepare only the judges and the candidates to be judges; nowadays, they more and more widely perform the training of the other judicial specialists. The switch to the joint training of the different “judicial specialists” within a single institution seems to be a reasonable measure for the number of countries due to their size and limited economic resources. Besides reasons of economy, the incorporation of the different educational processes in the single institution opens the possibilities of additional optimisation thanks to the coordination of efforts. Here, the authors advise not only the creation of a single institution that would then be limited to the fully separate education by different specialisations, but the creation of a unified educational process common for all judicial specialists within such institution.

Alongside this, it is noted that economic efficiency and the benefits from the creation of institutions with unified educational process must not lead to the deviation from its main task – professional judicial training. This aspect is considered in detail, using the example of Moldova, but the other States are also advised to take it into account.

¹⁰⁰ See in more details: The Speech of the Deputy Minister of Justice of the Republic of Azerbaijan Dr. Azer Jafarov (former acting director of the Justice Academy) at the International conference “*Training of judges is as the means of increasing the efficiency of justice*” (Baku, 29-30 September 2014).

In the opinion of the CEPEJ, another issue that deserves special attention is the issue of the financial resources of educational institutions. In order to ensure the independence of such institutions from the external donors, the countries should allocate an adequate budget, and thus avoid the situation where the leading role in the educational process is played by the donors. Guaranteed government financial support reduces the risk of 'selling' the service to the specialists not being a part of the intended floor (for example, to the lawyers who are not judges) of such institutions in order to improve the financial situation.

The third chapter, "*Admission to judicial training*", indicates that in recent years all countries of the Eastern Partnership have taken measures aimed at the improvement of the issues related to the admission of candidates to judicial training. The positive steps on the way to the improvement of judges' professional qualifications are the changes made to the corresponding laws. The legal status and composition of the bodies responsible for the selection of applicants have been brought into compliance with European standards. In some of the countries (Armenia, Ukraine) the new laws still require revision and simplification. On the one hand, they are overloaded with purely technical issues (overregulation), and on the other hand, they miss some basic provisions on the principal issues. In most countries of Eastern Europe the issues related to the publicity concerning the start of candidate admission to training are weakly developed. The announcements do not contain specific information about:

- the number of available positions (Armenia, Azerbaijan, Moldova, Ukraine);
- competition procedure (Armenia);
- the methods used to evaluate exam results (Moldova);
- the procedures for the formation and operation of the Admission Board;
- the authors of the examination tests and the members of the Examination Board (Azerbaijan, Ukraine);
- the rules and information on the procedures for appealing against the decision made under the competition rules (Ukraine).

The mechanism of the social checking procedure during competition offered by Ukraine questions the fairness and transparency of the information, instead of putting up with it. In all countries that have been studied there are tests carried out in writing, and oral answers to the examination questions in most of them. It is advised that the main focus should be given to the evaluation process, especially when it comes to the oral examination, in order to prevent subjectivity.

The fourth chapter, "*Initial training*", shows that all the countries studied have implemented the measures for the procedural and institutional regulation of the initial training. It includes theoretical lectures and practical training being mandatory in all countries (with the exception of Ukraine, where the appropriate regulations have been adopted, but are not yet enforced). The most significant deviations from European standards can be observed in the area of the duration and content of the initial training programmes. In order not to turn the practical training into a pure formality, it is advised that its duration and content are optimised. The length of the initial training should be significant (one year, including at least six months of classroom lectures and around six months of practical training). Based on the curricula received by the CEPEJ experts, it is possible to draw the conclusion that in most countries the initial training programmes are dedicated to the mastering of mainly theoretical knowledge. The CEPEJ advises that in the provision of the procedures of the training programme development it should be ensured that there is the optimal proportion between the theoretical and practical sections in the statutory regulation. The mandatory part of the training should encompass the issues related to the European Convention on Human Rights (the European Convention).

The CEPEJ also criticises the methodology of the training which gives preference to the simple transfer of knowledge, and not to the transfer of required judicial skills. Due to this fact, the experts advise that mandatory training should be arranged for all instructors/lecturers/trainers: it would be focused on the development of such qualities. Besides that, when appointing teachers, it is advised that their appointment should be based upon the requirements of the institution and staff previously determined in the statutory regulation.

In all the countries studied (with the exception of Moldova) the judges and public prosecutors undergo separate training, while the CEPEJ suggests that the training should be carried out jointly. In order to improve the mutual understanding between the judges and the public prosecutors, it is advised that different forms of their joint education should be gradually introduced.

In the fifth chapter, "*In-service training*", the authors note that the in-service professional advancement is mandatory in all the countries that have been studied (with the exception of Georgia). The approaches to the selection of training topics used by the five countries studied are quite diverse. In some countries the judges are free to choose the topics (Azerbaijan, Moldova, Georgia and Ukraine); in other countries, only a specific percentage of the topics/mandatory hours may be chosen (Armenia), and in certain cases such a right of choice is cancelled (Moldova). Besides that, a number of countries have special mandatory courses for the judges first appointed to the position, and the judges appointed permanently (Azerbaijan, Ukraine). All these approaches comply with European standards and practice. In order to increase the quality and efficiency of the training, the CEPEJ experts offer the following pieces of advice:

- the introduction of the comprehensive analysis of the educational needs in the preparation of training programmes, and to take into account the feedbacks of the judges of courts of different instances and other information, including public opinion, reports on various countries, analytical papers, researches, etc;
- in order to improve the quality of the professional advancement it is recommended to introduce the evaluation on a continuous basis as a means to improve training and to determine future needs.

In the sixth chapter, "*Training in human rights*" the authors indicate that in all countries studied the initial training programmes include special courses on human rights. Therefore, it is possible to say that they are brought in compliance with European standards and advanced practices.

Alongside this, the topics on human rights under the professional advancement programmes are developed unstructured. The training is mainly of a theoretical nature, and in particular it includes the familiarisation with the specific European Convention articles and United Nations human rights protection mechanisms. There are rare references to the internal means of legal protection. The CEPEJ experts advise that the focus of the training should be about human rights concerning practical issues, based on the rules of law related to the European Convention.

It is reasonable to include the European Convention issues in the various educational curricula and materials. The goals of training in human rights should be the familiarisation of all judges with the principal aspects of the system for the protection of human rights. One of the acceptable means of achieving this goal is the formulation of a community of specialist judges who can provide information and offer consultation to other judges. Taking into account this fact, the CEPEJ experts advise that the training should be carried out by professionals directly familiar with the case law of the ECHR i.e. judges and public prosecutors who have undergone the specialised training within the Court, and other professionals from the area of the protection of human rights

(scientists, non-governmental organisations members, etc.). For example, in Azerbaijan are undertaken different preventive measures for decreasing the number of applications to the European Court on Human Rights, such as organization of trainings and seminars for judges, promoting the implementation of the norms of the European Convention on human rights and the case law of the European Court in national courts, the implementation of the National plan of measures aimed at increasing the protection of human rights and freedoms, as well as studying of all cases where the European Court found violations of the European Convention on human rights¹⁰¹.

6.2. Targeted co-operation process with Member States

Besides the CEPEJ documents considered in previous chapters regarding the all Member States, the Commission developed also reports for specific States. The CEPEJ implemented 12 targeted co-operation projects with different Member States of the Council of Europe, such as Armenia, Azerbaijan, Bulgaria, Croatia, France, Slovenia, Malta, Montenegro, Netherlands, Portugal, Russian Federation, Switzerland and United Kingdom¹⁰². One of the examples of such targeted co-operation is *"The Report on assessment of policy and procedures for the selection of judges in Azerbaijan"*¹⁰³.

On the 16th CEPEJ plenary meeting it was decided to conduct research and analysis of policy and procedures for the selection and appointment of judges in Azerbaijan. In compliance with the CEPEJ Bureau decision, this research was conducted in September 2011 by the experts in this field – Head of International Secretariat of the Norwegian Courts Administration, CEPEJ Bureau member Mr. Audun Berg (Norway), the Director of the Judicial Academy of Croatia and the representative of the Lisbon Network¹⁰⁴ in CEPEJ, Ms. Ivana Goranic (Croatia), and the representative of the Council of Europe.

¹⁰¹ See in details: The Speech of the Chairman of the Supreme Court of the Republic of Azerbaijan, Mr. Ramiz Rzayev, at the International conference "The role of national judges in the application of the European Convention on human rights", which was held in Baku on 24 October 2014 with participation of the President of the European Court on Human Rights (<http://www.1news.az/society/20141024115442087.html>); the Interview relating to his participation on 31 January 2014 at the Ceremony of the opening of the 2014 court year and the Seminar "Implementation of the decisions of the European Court on Human Rights: joint court responsibility" by the invitation of the European Court on Human Rights; the Speech of the General Prosecutor of the Republic of Azerbaijan Mr. Zakir Garalov during a meeting with reporters of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe in 2014 (<http://www.br.az/politics/20120614124116728.html>).

¹⁰² CEPEJ Report on organization of courts in Armenia, Strasbourg, 28 May 2009, CEPEJ-COOP(2009)3; CEPEJ Report on territorial jurisdiction in Netherlands, Strasbourg, 5 December 2003, CEPEJ(2003)18(D3); CEPEJ Report on dematerialization and the use of ICT in Portugal, Strasbourg, 11 June 2009, CEPEJ-COOP (2009)4; CEPEJ Report on examination of problems related to the execution of decisions by national civil courts against the state and its entities in the Russian Federation, Strasbourg, 9 December 2005, CEPEJ(2005)8; CEPEJ Report on the review of the collection of judicial statistics in Azerbaijan and etc.

¹⁰³ CEPEJ Report on assessment of policy and procedures for the selection of judges in Azerbaijan, Strasbourg, 10 January 2012, CEPEJ-COOP(2011)1.

¹⁰⁴ The Lisbon Network is the network of European educational institutions that provides judicial training, founded in 1995 in order to share experience and information, and to ensure the further development of such institutions. Since 2011, the Lisbon Network has been participating actively with the European Commission for the Efficiency of Justice.

The bases for the analysis are the statutory acts regulating the procedures for selection of judges, and information obtained by the experts during their visit to Azerbaijan where they held consultations with members of the Judicial-Legal Council; members of the Judge Selection Committee; the Head of the Supreme Court Apparatus; members of the Bar Chamber Management Board; the Minister of Justice of Azerbaijan; OSCE representatives, and the Head of the Council of Europe Representative Office in Baku. The experts also participated personally in the test exam.

Based on the results of the work carried out, the CEPEJ representatives have prepared a corresponding report, where they, in particular, stated that within the last 10 years Azerbaijan has successfully implemented a number of large scale reforms resulting in the improvements of the judicial system, and bringing its regulatory framework and applications into compliance with Council of Europe standards.

The authors also note that in Azerbaijan the judges of the Constitutional Court, the Supreme Court and the courts of appeal are appointed by the Parliament, whilst the rest of the judges are appointed by the President upon the submission by the Judicial-Legal Council of proposals concerning the candidates. The main participant in the procedure for the appointment of judges is the Judicial-Legal Council (JLC) – the self-governing body of the judicial branch that within the limits of its competence ensures the independence, organisation and performance of the judicial system; is responsible for the selection of candidates; evaluates the activities of judges, and resolves matters about their transfer; brings the judges to disciplinary liability, if need be; deals with other issues related to judges and the judicial system, and fulfils the functions of judicial power autonomy and self-governance¹⁰⁵; The Judge Selection Committee (JSC) is created by the Judicial-Legal Council and also takes active part in the selection of candidatures and preparation of proposals for appointment.

The selection of candidates and their further appointment consists of several stages: testing, exams (written and oral); training (a course of theory and practice in the courts) at the Justice Academy, written and oral exams following the results of the training; then an interview with the JSC and JLC members, after a positive decision, as a result of which the recommendation of the appointment of the candidate to the position of judge to particular court is forwarded to the President of the Republic of Azerbaijan.

Having thoroughly studied this procedure, the CEPEJ experts stated that it complies with the European standards and requirements, as long as it is based upon the objective criteria, and is transparent and efficient enough. The authors also note that the bodies participating in the procedure of the appointment of judges – the Judge Selection Committee and the Judicial-Legal Council – also correspond to the European standards.

When devising the judicial-legal reforms, the experience of developed countries, the universal democratic principles, as well as the history of statehood and the traditions of Azerbaijan have been taken into account. As a result the Judicial-Legal Council plays today a significant role in developing the court system of Azerbaijan and founds its work, first of all, on the principles of independence, legality, transparency, efficiency, management, impartiality, objectivity, and consequently deserves high respect in society¹⁰⁶.

¹⁰⁵ http://jlc.gov.az/e_mhs.php

¹⁰⁶ See in more details: the Speech of the Mr. Fuad Alasgarov, Head of the Department on work with law enforcement authorities of the Administration of the President of the Republic of Azerbaijan, at the International conference “*Role of the judicial branch in a democratic society*”, which was held on 26 May 2015 and dedicated to the celebration of the 10th anniversary of the Judicial-Legal Council.

The creation and the operation of the Judicial-Legal Council have an utmost importance, because the selection of judges, their appointment and the assessment of their activity are one of the main tools in promoting the efficiency of justice, providing the institutional independence of the judicial system, as well as the impartiality and the personal independence of judges¹⁰⁷.

In the final part of the report, the authors draw some conclusions, and give a number of advices. In particular, it is noted that the new judge appointment procedure in Azerbaijan, regulated by the Law on Courts and Judges¹⁰⁸, and the Law on the Judicial-Legal Council¹⁰⁹, and developed under the productive cooperation with the Council of Europe in order to increase the efficiency of justice, complies with the main principles of the rule of law – the judge appointment procedure itself is transparent enough, and performed under maintained, guaranteed democratic control; the appointment system also complies with the principle of the judge's independence, while the procedure for the appointment of candidates considers their professional qualification and personal qualities sufficiently.

Despite the fact that officially judges are appointed by the President of the Republic of Azerbaijan, the actual proposal for appointment is made by the various governmental authorities (JLC and JSC). The composition and member selection procedure of these structures comply with European and international standards. The Judge Selection Committee also has left a positive impression on the European experts, thanks to the fact that its activities are transparent.

Moreover, the multilevel examination system for the evaluation of the knowledge of candidates allows the selection only of those candidates who possess the knowledge and qualities necessary for the efficient delivery of justice.

In general, after detailed analysis of all aspects of judge selection system developed in Azerbaijan, the CEPEJ working group has come to a conclusion, that this procedure can be used as an example for other European countries.

The European Commission for the Efficiency of Justice (CEPEJ) is not the only institution that praised the procedure for the appointment of judges in Azerbaijan highly. In the report of the *Project on Enhancing Judicial Reform in the Eastern Partnership Countries* implemented by the European Union together with the Council of Europe, the *modus operandi* used for the selection of candidates to the position of judge in Azerbaijan was recognised as one of the best practices in this field in Europe.

Along with the generally positive evaluation of the Azerbaijani system of selecting and appointing judges, the experts also gave several advices about its further development. In general, the advices related to further steps to reinforce the independence of judges, to the increase of the transparency of judicial power, and to the increase of the confidence of both the public and the candidates for the position of judge.

¹⁰⁷ See in more details: the Speech of the Chairman of the Constitutional Court of the Republic of Azerbaijan Dr. Farhad Abdullayev at the International conference "*Role of the judicial branch in a democratic society*", which was held on 26 May 2015 and dedicated to the celebration of the 10th anniversary of the Judicial-Legal Council.

¹⁰⁸ Law of the Republic of Azerbaijan №310-IG dated 10.07.1997 on Courts and Judges (amended as of 21.12.2012) // E-qanun.az, 1997, № 5, Art. 413.

¹⁰⁹ Law of the Republic of Azerbaijan №818-IIG dated 28.12.2004 on Judicial-Legal Council (amended as of 22.10.2013) // Azerbaijan Newspaper, February 1st, 2005 № 23.

First of all, according to the opinion of the experts, the Judicial-Legal Council should develop criteria for the advancement of each judge's career. This document should be executed in the form of a codified act, and made open access for all interested persons.

Secondly, the judge selection procedure, including all of its sub-stages and aspects should be fixed at the sub-legislative level and made available to the public.

Thirdly, it is necessary to make detailed information about the vacancies of position for judges publically available. It should contain the data regarding the number of vacancies, the institution where the vacancy has been made available, their location, etc. It would promote the increase in the transparency of the judge selection procedure, the guarantees of their independence and consequently the growth in public confidence in the judicial power.

Separately, the CEPEJ experts advised that the five-year judge probationary period should be revised, so as to reduce it, if not to cancel it altogether. As for this issue, it is necessary to note that the Commission's suggestion was considered by the Azerbaijani government, and the probationary period was reduced to three years.

As it has already been mentioned above, in recent years Azerbaijan implemented a wide range of judicial reforms on modernization of the court infrastructure, increasing the quantity of courts, judges and court staff, providing the access to justice, development of e-court and implementation of information technologies in management of court system¹¹⁰. On the 7-8th December 2012 at the CEPEJ plenary meeting, the information about the work on the creation, development and improvement of the new court infrastructure in Azerbaijan was presented to the CEPEJ members. The activity of the Azerbaijan government in this field was highly appreciated by the European experts, who came to the conclusion that Azerbaijan is an example for many European States in the area of the reforming of a judicial system to make it efficient, unique in its creation of an infrastructure, and the use of the most up-to-date information technology and innovations.

It should be noted that Azerbaijan is the first Council of Europe Member State that performed in 2012 the translation of the European Commission for the Efficiency of Justice *European judicial system evaluation reports* into the national language, which is another indicator of the intention of this country to develop the judicial system, taking into account the cornerstone principles of the rule of law in compliance with European standards.

The 31st Conference of Ministers of Justice took place on 19th-21st September 2012 in Vienna. The presentation of the CEPEJ *European Judicial System Evaluation Report 2010 (2012 edition)* was made to coincide with this event. The Ceremony of presentation was headed by three Ministers of Justice – from Austria (as host party), France and Azerbaijan. Here, the participation of the Azerbaijan Minister of Justice on behalf of other colleagues from Member States indicated the recognition of this country's success – it has completely reformed the judicial system of the whole State within quite a short period of time. This fact was also mentioned in the CEPEJ Report itself,

¹¹⁰ See in more details: the Speech of the Minister of Justice Mr. Fikret Mammadov at the Opening Ceremony of the 23rd plenary meeting of CEPEJ (Baku, 3-4 July 2014); Interview "The judicial reforms in Azerbaijan have been already internationally recognized, but we are not resting on these achievements and continuing working on this direction" (http://justice.gov.az/dec_top1.php).

where the authors noted the yearly increase of the judicial branch budget, which is the indicator of the consistent economic growth of Azerbaijan, and the consequent increased numbers of courts, judges and judicial officers, its updated judicial infrastructure, the development and implementation of unified standards for court building design, the creation of a unified portal for all courts using innovative information technology. These actions significantly facilitated the access of citizens to justice and increased the court performance. This is very important since the problem of extremely long terms of a case hearing is still remarked on by many other European countries.

In its turn, a significant influence on the reforming of the Azerbaijan judicial system was exerted by the co-operation between this country and the European Commission for the Efficiency of Justice. The number of reforms and important legislation changes in this field were based on the CEPEJ reports, which in turn also formed the basis for the World Bank large scale projects on the improvement of the Azerbaijan judicial system.

The other indicator of the active cooperation of Azerbaijan with the CEPEJ is also the fact that in 2011 a representative of the Republic of Azerbaijan was appointed to the CEPEJ Working Group on the evaluation of judicial systems (CEPEJ-GT-EVAL). Within the work in this group, in 2014 he participated in the peer evaluation trips to Estonia and Switzerland, and in 2015 he headed the peer evaluation group of CEPEJ experts in respect of Lithuania and participated in the group of experts to Slovakia.

In 2014 relations between the CEPEJ and Republic of Azerbaijan came to a new, higher level – for the first time over the whole period of the CEPEJ’s activity, the 23rd plenary meeting was held not in Strasbourg, but in Baku, the capital of Azerbaijan, where more than 100 representatives of the European judicial family gathered on 3-4th June 2014.

The CEPEJ plenary meeting was opened by Mr. Philippe Boillat, Director General of Human Rights and Rule of Law of the Council of Europe, and by the Minister of Justice and Chairman of the Judicial-Legal Council of Azerbaijan Mr. Fikret Mammadov. The latter has significantly contributed to the reformation of the judicial system of the whole country, and is recognized as ‘the most active Minister of Justice and reformer in Europe’.

Holding the plenary meeting in Baku allowed the European experts to actually evaluate the success achieved in the area of judicial system reforming. By invitation of Mr. Ramiz Rzayev, the Chairman of the Supreme Court of Azerbaijan, the members of the Commission visited the new building of the Supreme Court – the Palace of Justice¹¹¹.

For the purpose of the popularisation and familiarisation with the activity of the European Commission for the Efficiency of Justice, after the plenary meeting more than 120 employees of the judicial authorities, and representatives of the prosecution service and other organisations and judicial bodies participated in informational seminar under the guidance of the CEPEJ President Mr. John Stacey, and Dr. Azer Jafarov, member of the Judicial-Legal Council of Azerbaijan, deputy minister of justice and honoured lawyer. The latter, being a Co-Chairman of the Council of Europe

¹¹¹ The initiative for constructing the Palace of Justice belongs to the Chairman of the Supreme Court of Azerbaijan Mr. Ramiz Rzayev and these works have been successfully implemented under his direct supervision.

Working Group on reformation of the legislative acts, established in 2004 – and which drafted the main laws regulating the activity of the judiciary – has greatly contributed into the further development of the judicial system of Azerbaijan. At the seminar Mr. Georg Stawa, the CEPEJ Vice-President¹¹² and the Azerbaijan representative to the CEPEJ¹¹³ presented their reports on the Commission's activity. During the event, the Heads of three CEPEJ working groups – professor Jean-Paul Jean (France) and doctors of law Jacques Bühler (Switzerland) and François Paychère (Switzerland) participated actively in the discussions.

The other significant event was the election in December 2014 during the 25th plenary meeting, by secret ballot and majority of the votes cast of 47 Member States, of the representative of Azerbaijan as one of the four members of the CEPEJ Bureau.

¹¹² At present Mr. Georg Stawa is the President of the European Commission for the Efficiency of Justice (CEPEJ).

¹¹³ The first representative of Azerbaijan in CEPEJ was Mr. Chingiz Gasimov, Director of the Organizational-analytical department of the Ministry of Justice (2002-2003), the second representative was Mr. Azer Jafarov, Director of the General department on organization and supervision of the Ministry of Justice (2003-2004), from 2005 till present the representative of Azerbaijan in CEPEJ is judge Ramin Gurbanov, scientific expert of the Institute of Philosophy and Law/Azerbaijan National Academy of Sciences.

CONCLUSION

Despite the advisory and analytical nature of its functions, the European Commission for the Efficiency of Justice (CEPEJ) has gained global acceptance.

The main goal of the evaluation of the Member States' court systems is to communicate directly with the judicial and executive representatives of the national governments that are interested in cooperation. The Commission assists Member States in bringing different aspects of the performance of their judicial systems into compliance with the standards of the Council of Europe. So the CEPEJ intervention is not only based on the interests of the Member States endowed with the responsibility for the performance of their judicial system, (above all, their Ministries of Justice), but the interests of judges, court staff, scholars and practicing lawyers as well.

Attachment 1.

European Commission for the Efficiency of Justice (CEPEJ)

Resolution Res(2002)12

establishing the European Commission for the Efficiency of Justice (CEPEJ)

*(adopted by the Committee of Ministers on 18 September 2002
at the 808th meeting of the Ministers' Deputies and amended on 19 March 2003 at the 832nd
meeting and on 4 February 2004 at the 870th meetings of the Ministers' Deputies)*

This Resolution includes:

- in Appendix 1 the Statute of the CEPEJ
- in Appendix 2 the non-exhaustive list of relevant Council of Europe recommendations

**Resolution Res(2002)12 establishing
the European Commission for the efficiency of justice (CEPEJ)**

*(adopted by the Committee of Ministers on 18 September 2002
at the 808th meeting of the Ministers' Deputies)*

The Committee of Ministers under the terms of Articles 15.a and 16 of the Statute of the Council of Europe,

Recognising that the rule of law on which European democracies rest cannot be ensured without fair, efficient and accessible judicial systems;

Acknowledging also that the rule of law principle can be a reality only if citizens can uphold their legal rights and challenge unlawful acts;

Underlining the need to improve inter-state co-operation by, *inter alia*, analysing the results achieved by the different judicial systems, facilitating the implementation of the international legal instruments concerning efficiency and fairness of justice and defining concrete means to improve the functioning of the judicial systems in Europe;

Stressing the need for enhanced communication amongst all those principally concerned with the functioning of justice;

Conscious of the need to make full use of all appropriate information and communication technologies to facilitate access to justice, improve the efficiency and the functioning of the judicial system, reduce the costs of justice and extend the service available to the public;

Bearing in mind the requirements of the European Convention on Human Rights, and in particular its Articles 5, 6, 13 and 14, as well as the relevant provisions of its protocols, the case law of the European Court of Human Rights and the relevant international legal instruments drawn up within the Council of Europe in the area of the efficiency and fairness of justice and the necessity of their proper implementation;

Having regard also to the decisions of the Committee of Ministers concerning the monitoring procedure regarding questions relating to the functioning of the judicial system;

Having regard to the resolutions of the 20th, 22nd, 23rd and 24th Conferences of European Ministers of Justice (Budapest 1996, Chişinău 1999, London 2000, and Moscow 2001 respectively);

Having regard to the report on cost-effective measures taken by states to increase the efficiency of justice, prepared by the European Committee on Legal Co-operation (CDCJ) in consultation with the European Committee on Crime Problems (CDPC);

Recalling the results achieved during the multilateral and bilateral legal co-operation activities carried out by the Council of Europe and its member states and convinced of the need for these results to be properly followed up through concrete legislative or other proposals aiming at improving the functioning of the judicial system;

Taking into account the work carried out by the various bodies of the Council of Europe in the field of the protection and promotion of human rights and the rule of law as regards the proper and efficient functioning of justice, in particular the work of the CDCJ, the CDPC, the Steering Committee on Human Rights (CDDH) and the Consultative Council of European Judges (CCJE);

Taking into account in particular the following principles:

I. Access to justice and proper and efficient functioning of courts

1. Access to justice

- i. Access to justice shall be guaranteed in all cases concerning the determination of civil rights and obligations or of any criminal charges; legal advice and assistance shall be available when the interests of justice so require.
- ii. To this end, the provisions contained in the relevant Council of Europe international legal instruments referred in Appendix 2 should, *inter alia*, be taken into account.

2. Efficiency of judicial proceedings

- i. All necessary measures shall be taken to comply with Article 6 of the European Convention on Human Rights by affording judicial proceedings within a reasonable time, whilst complying with the other guarantees of a fair trial. Consistent with that, steps should be taken to avoid undue delays in judicial proceedings and to reduce their cost.
- ii. Efficiency of justice shall be guaranteed and, in order to do so, the provisions contained in the relevant Council of Europe international legal instruments referred to in Appendix 2 should, *inter alia*, be taken into account.
- iii. Provisional, protective or any other urgent measures obtained by simple and rapid procedures should be available in order to provide interim solutions, which, although not final, ensure the effective protection of the rights of the parties or of third persons, as well as the efficiency of judicial proceedings.

3. Execution of court decisions

- i. All judicial decisions shall be executed in an effective manner and within a reasonable time-limit.
- ii. Bailiffs, where they exist, or any other execution agents, shall carry out their work according to the law, fairly, impartially, efficiently and transparently.

II. The status and role of the legal professionals

1. Judges

- i. All necessary measures shall be taken to respect, protect and promote the independence and impartiality of judges and, at the same time, to ensure their efficiency and competence.
- ii. To this end, the provisions contained in the relevant Recommendation referred to in Appendix 2 should, *inter alia*, be taken into account.

2. *Public prosecutors*

- i. All necessary measures shall be taken to protect and promote the status and role of public prosecutors and, at the same time, to ensure their efficiency and competence, in order to enable them to perform their professional duties and responsibilities without unjustified interference.
- ii. To this end, the provisions contained in the relevant Recommendation referred to in Appendix 2 should, *inter alia*, be taken into account.

3. *Lawyers*

- i. All necessary measures shall be taken to allow the freedom of exercise of the profession of lawyer and, at the same time, to ensure lawyers' competence and responsible conduct in judicial proceedings.
- ii. To this end, the provisions contained in the relevant Recommendation referred to in Appendix 2 should, *inter alia*, be taken into account.

4. *Training*

- i. Initial and on-going training is a right and a duty of all those involved in the judicial service and is an essential requirement for justice to fulfil its functions.
- ii. Initial and on-going training of legal professionals shall be guaranteed, in particular by taking into account the relevant Council of Europe international legal instruments referred to in Appendix 2.

III. *Administration of justice and management of courts*

- i. The proper administration of justice and the effective management of courts is an essential condition for the proper functioning of the judicial system and requires, amongst others, adequate budgetary appropriations. Consideration should be given in this respect to the report on cost-effective measures taken by states to increase the efficiency of justice presented by the CDCJ and the CDPC to the 23rd Conference of European Ministers of Justice (London, 2000).
- ii. In order to improve the administration of justice and the management of courts, the provisions contained in the relevant Council of Europe international legal instruments referred to in Appendix 2 should, *inter alia*, be taken into account.

IV. *Use of information and communication technologies*

- i. The use of information and communication technologies shall be promoted in order to strengthen the efficiency of justice, in particular in order to facilitate access to justice, speed up court proceedings, improve the training of legal professionals, as well as the administration of justice and management of courts.

ii. To this end, the provisions contained in the relevant Council of Europe international legal instruments referred in Appendix 2 should, *inter alia*, be taken into account.

Resolve to establish the European Commission for the Efficiency of Justice (CEPEJ) governed by the statute contained in Appendix 1 hereto. The CEPEJ shall work in close co-operation and co-ordination with the CDCJ.

Appendix 1 to Resolution Res(2002)12

**Statute
of the European Commission for the Efficiency of Justice
(CEPEJ)**

Article 1 – Aims

The aim of the European Commission for the Efficiency of Justice (hereinafter referred to as “the CEPEJ”) is (a) to improve the efficiency and the functioning of the justice system of member states, with a view to ensuring that everyone within their jurisdiction can enforce their legal rights effectively, thereby generating increased confidence of the citizens in the justice system and (b) to enable a better implementation of the international legal instruments of the Council of Europe concerning efficiency and fairness of justice.

Article 2 – Functions

1. Without prejudice to the competence of other bodies of the Council of Europe and taking into account the work they have already carried out on the subject, the CEPEJ shall encourage and enable member States to co-operate with each other and with participating international institutions concerning specific themes. It shall have the task:

- a. to examine the results achieved by the different judicial systems in the light of the principles referred to in the preamble to this resolution by using, amongst other things, common statistical criteria and means of evaluation;
- b. to define problems and areas for possible improvements and to exchange views on the functioning of the judicial systems;
- c. to identify concrete ways to improve the measuring and functioning of the judicial systems of the member States, having regard to their specific needs;
- d. to provide assistance to one or more member States, at their request, including assistance in complying with the standards of the Council of Europe;
- e. to suggest, if appropriate, areas in which the relevant steering committees of the Council of Europe, in particular the European Committee on Legal Co-operation (CDCJ), may, if they consider it necessary, draft new international legal instruments or amendments to existing ones, for adoption by the Committee of Ministers.

2. The CEPEJ shall not be a supervisory or monitoring body.

Article 3 – Working methods

The CEPEJ shall fulfil its tasks by:

- a. identifying and developing indicators, collecting and analysing quantitative and qualitative data, and defining measures and means of evaluation;

- b. drawing up reports, statistics, best practice surveys, guidelines, action plans, opinions and general comments;
- c. establishing links with research institutes and documentation and study centers;
- d. inviting to participate in its work, on a case-by-case basis, any qualified person, specialist or non-governmental organisation active in its field of competence and capable of helping it in the fulfilment of its objectives, and holding hearings;
- e. creating networks of professionals involved in the justice area.

Article 4 – Procedure

1. The CEPEJ may carry out the functions referred to in Article 2, paragraph 1, sub-paragraphs *a*, *b*, *c* and *e* on its own initiative.
2. The CEPEJ may carry out the functions referred to in Article 2, paragraph 1, sub-paragraph *d*, at the request of one or more member States.
3. The CEPEJ shall supply opinions upon request by the Parliamentary Assembly of the Council of Europe, the European Court of Human Rights, the appropriate Committees of the Council of Europe, in particular the European Committee on Legal Co-operation (CDCJ), the European Committee on Crime Problems (CDPC), the Steering Committee on Human Rights (CDDH) and the Consultative Council of European Judges (CCJE) and the Secretary General.
4. Steering committees of the Council of Europe, in particular the CDCJ, the CDPC and the CDDH, may request the CEPEJ to prepare specific action plans, best practice surveys or guidelines.
5. Any non-member state of the Council of Europe, as well as any international institution, may benefit from the activities of the CEPEJ by making a request to the Committee of Ministers, with a view to obtaining its consent.

Article 5 – Composition of the CEPEJ

1. The CEPEJ shall be composed of experts who are best able to contribute to its aims and functions, and who have in particular an in-depth knowledge of the administration, functioning and efficiency of civil, criminal and/or administrative justice.
2. Each member State of the Council of Europe shall appoint an expert to the CEPEJ. The travel and subsistence expenses of this expert, as well as of the president of the CEPEJ, are covered by the budget of the Council of Europe. Each member of the CEPEJ may appoint additional experts at its own expense.
3. The presidents of the Parliamentary Assembly and of the European Court of Human Rights, as well as the chairmen of the relevant steering committees of the Council of Europe, in particular the CDCJ, or their representatives may participate in the work of the CEPEJ without a right to vote.

Article 6 - Observers and participation of the European Community

1. Observers may be admitted to the CEPEJ under the terms of Resolution Res(76)3.
2. The participation of the European Community in the CEPEJ shall be governed by the arrangement between the Council of Europe and the European Community concluded on 15 June 1987, as amended by the exchange of letters between the Secretary General of the Council of Europe and the President of the European Commission of 5 November 1996.

Specific modalities of co-operation may be the subject of further agreements.

Article 7 – Operation of the CEPEJ

1. The CEPEJ shall draw up its own rules of procedure.
2. The CEPEJ:
 - a. shall hold at least one plenary meeting a year;
 - b. may decide to set up working parties and to organize, within the available resources, *ad hoc* meetings, whenever necessary; and
 - c. shall decide on the publicity to be given to its activities, taking into account in particular the possibilities offered by new information technologies.
3. The CEPEJ shall be assisted by a Secretariat provided by the Secretary General of the Council of Europe.
4. Members of the CEPEJ shall have the right to vote.
5. The CEPEJ shall draw up its draft annual programme of activities for the Secretary General who, as far as overall priorities and resources allow, shall take account of this programme in proposals for the Programme of Activities as a whole.
6. The CEPEJ shall approve its annual activity report, prior to its submission to the Committee of Ministers.
7. The CEPEJ shall publish every year its annual activity report, once approved by the Committee of Ministers.

Article 8 – Amendments

1. The Committee of Ministers may adopt amendments to this Statute, to Appendix 2 and to the principles contained in the preamble to this resolution, by the majority foreseen at Article 20.d of the Statute of the Council of Europe, after consulting the CEPEJ.
2. The CEPEJ may propose amendments to this Statute, to Appendix 2 and to the principles contained in the preamble to this resolution, to the Committee of Ministers, which shall decide by the above-mentioned majority.

*Appendix 2 to Resolution Res(2002)12***Non-exhaustive list of relevant Council of Europe recommendations¹¹⁴**

- *Access to justice and proper and efficient functioning of courts*

- *Access to justice*

- Resolution Res(76)5 on legal aid in civil, commercial and administrative matters;

- Resolution Res(78)8 on legal aid and advice;

- Recommendation Rec(81)7 on measures facilitating access to justice;

- Recommendation Rec(93)1 on effective access to the law and to justice for the very poor,

- Recommendation Rec(98)1 on family mediation;

- Recommendation Rec(99)19 concerning mediation in penal matters;

- Recommendation Rec(2001)9 on alternatives to litigation between administrative authorities and private parties;

- Recommendation Rec(2002)10 on mediation in civil matters.

- *Efficiency of judicial proceedings*

- Recommendation Rec(84)5 on the principles of civil procedure designed to improve the functioning of justice;

- Recommendation Rec(86)12 concerning measures to prevent and reduce the excessive workload of courts;

- Recommendation Rec(87)8 concerning the simplification of criminal justice;

- Recommendation Rec(95)5 concerning the introduction and improvement of the functioning of appeal systems and procedures in civil and commercial cases.

- *Execution of court decisions*

- Recommendation Rec(2003)16 on the execution of administrative and judicial decisions in the field of administrative law

- Recommendation Rec(2003)17 on enforcement

- *The status and role of the legal professionals*

- *Judges*

- Recommendation Rec(94)12 on the independence, efficiency and role of judges

- *Public prosecutors*

- Recommendation Rec(2000)19 on the role of public prosecution in the criminal justice system

- *Lawyers*

- Recommendation Rec(2000)21 on the freedom of exercise of the profession of lawyer

¹¹⁴ See www.legal.coe.int. For a list of treaties of the Council of Europe, see <http://conventions.coe.int>

- *Training*

. Recommendation Rec(94)12 on the independence, efficiency and role of judges;
. Recommendation Rec(2000)19 on the role of public prosecution in the criminal justice system;

. Recommendation Rec(2000)21 on the freedom of exercise of the profession of lawyer.

● *Administration of justice and management of courts*

. Recommendation Rec(87)18 on the simplification of criminal justice;
. Recommendation Rec(95)12 on the management of criminal justice;
. Recommendation Rec(2001)2 concerning the design and re-design of court systems and legal information systems in a cost effective manner;
. Recommendation Rec(2001)3 on the delivery of court and other legal services to the citizen through the use of new technologies.

● *Use of information and communication technologies*

. Recommendation Rec(2001)2 concerning the design and re-design of court systems and legal information systems in a cost effective manner;
. Recommendation Rec(2001)3 on the delivery of court and other legal services to the citizen through the use of new technologies;
. Recommendation Rec(2003)14 on the interoperability of information systems in the justice sector.

Attachment 2.

European Commission for the Efficiency of Justice (CEPEJ)

Rules of procedure

Document prepared by DGI – Legal affairs

The European Commission for the efficiency of justice (hereinafter referred to as “the CEPEJ”),
Having regard to Resolution Res(2002)12 establishing the European Commission for the efficiency
of justice (CEPEJ), adopted by the Committee of Ministers on 18 September 2002 at the 808th
meeting of the Ministers’ Deputies,

Having regard to the Statute of the CEPEJ,

Pursuant to paragraph 1 of Article 7 of the Statute of the CEPEJ and without prejudice of
Resolution Res(76)3 on structure, terms of reference and working methods, adopted by the
Committee of Ministers on 18 February 1976, at the 254th meeting of the Ministers' Deputies;
Adopts the following Rules of Procedure:

TITLE I ORGANISATION OF THE CEPEJ

Rule 1

Composition of the CEPEJ

Each member State shall appoint its delegation under Article 5 of the Statute of the CEPEJ.

Rule 2

Election of the President and Vice-President

1. The CEPEJ shall elect its President and Vice-President from among the experts appointed by the member State entitled to vote (hereinafter referred to as "the experts"). The member State having appointed the expert who is elected President shall be entitled to appoint an additional expert at the expense of the Council of Europe as part of its delegation to the CEPEJ.
2. The President and Vice-President shall be elected for two years. They may be re-elected once.
3. Elections shall be held by secret ballot and by a majority of the votes cast.

Rule 3

Composition and functions of the Bureau

1. The Bureau shall be composed of the President, the Vice-President and up to 2 experts. The experts members of the Bureau shall be elected for two years. They may be re-elected once.
2. Elections shall be held by secret ballot and by a majority of the votes cast.
3. The Bureau shall carry out the following functions:
 - make proposals as regards the issues referred to in Article 3 of the Statute of the CEPEJ, having in mind in particular the Guiding Principles contained in the Statute of the CEPEJ;
 - make proposals, where appropriate, to the CEPEJ on (i) country assistance activities, (ii) on the specialists who may be called upon to carry out a country assistance activity in accordance with Rule 7 below and (iii) on the modalities in which a country assistance activity will be carried out;
 - make proposals to the CEPEJ concerning the appointment of consultants;
 - co-ordinate the work of the working parties;
 - prepare the draft order of business for the meetings of the CEPEJ;
 - decide whether or not any proposal for amendment to the present Rules in accordance with Rule 12 below shall be submitted to the CEPEJ;
 - prepare the preliminary draft annual activity report;
 - prepare for the attention of the CEPEJ the draft annual activity report;
 - carry out any other function assigned to it by the CEPEJ.

Rule 4

Documents

1. The Secretariat shall be responsible for the preparation and circulation of all the documents to be considered by the CEPEJ. The documents will, as a general rule and subject to delays due to unforeseeable circumstances, be forwarded to the Heads of delegation and to the other representatives referred to in Article 5, paragraph 3, and Article 6 of the Statute of the CEPEJ and/or posted on the CEPEJ web site, at least two weeks before the opening of the meeting.

2. All documents produced by the CEPEJ, or for the CEPEJ consideration, shall be made public by all appropriate means, particularly by using the CEPEJ web site, unless otherwise decided by the CEPEJ and bearing in mind Committee of Ministers Resolution Res(2001)6 on access to Council of Europe documents.

Rule 5

Quorum

There shall be a quorum if a majority of the delegations are present.

Rule 6

Working parties

Whenever working parties are set up, they comprise a maximum of six persons appointed by the CEPEJ and whose travel and subsistence expenses are covered by the Council of Europe.

Rule 7

Specialists

1. Each delegation shall provide the Secretariat, on request, with information concerning specialists in the subject-matters covered by the CEPEJ.
2. The specialists referred to in this Rule may be called upon in particular to carry out the country assistance activities referred to in Article 2.d of the Statute of the CEPEJ.

TITLE II COUNTRY ASSISTANCE ACTIVITIES

Rule 8

General provision

1. The Rules contained in the present title aim at further elaborating Article 2.d of the Statute of the CEPEJ.
2. The country assistance activities may be carried out at the request of one or more member States and are based on the principle of mutual assistance on a voluntary basis. Such activities shall be instrumental to reach the aims of the CEPEJ, as enshrined in Article 1 of its Statute and be subject to the available budgetary resources.
3. The CEPEJ will determine, at the request of the country/ies concerned, the number of country assistance activities to be carried out in the financial year, including their extent and length, bearing in mind the annual budget of the CEPEJ.

Rule 9

Teams of specialists

1. The Bureau shall make proposals to the CEPEJ concerning the composition of the teams of specialists (hereafter referred to as the “team”).
2. Unless otherwise determined by the CEPEJ, the team shall be composed of three specialists, assisted by a member of the Secretariat.
3. Before the CEPEJ approves the Bureau’s proposals, the names of the specialists shall be submitted to the country undergoing the activity in order for it to express its views. In the case of disagreement judged by the CEPEJ to be justified, the Bureau shall submit alternative proposals.

Rule 10

Country visits

1. Where the CEPEJ considers it necessary and with the agreement of the country concerned, country visits may be carried out for the purpose of seeking additional information concerning the law and practice of this country, which is useful for the activity.

-
2. On the basis of a draft programme submitted by the country undergoing the activity to the Secretariat, the team will agree to the programme proposed for the visit as soon as possible. The dates of the visit shall be determined by the Secretariat in consultation with the host-country and shall correspond to the programme of visits adopted by the Bureau.
 3. Before starting the country visit, a preparatory meeting shall take place in order to allow a preliminary exchange of views between the team and the Secretariat.
 4. There shall be a final on-site meeting with the authorities of the host country in order to discuss all outstanding issues related to the activity.
 5. The country visit shall end with a concluding meeting between the team and the Secretariat to develop a common result of the activity. The points made shall be summarised at the end by the Secretariat, who will produce a preliminary draft Report.
 6. The CEPEJ or its Bureau will determine on a case-by-case basis the procedure to be followed for the finalisation of the Report.

TITLE III ANNUAL GENERAL REPORT OF THE CEPEJ

Rule 11

Annual report

1. In accordance with Article 7, paragraph 6 of the Statute, the Secretariat shall submit every year a preliminary draft annual activity report to the Bureau of the CEPEJ. After examination by the Bureau, the report shall be adopted at the first meeting of the CEPEJ in a given calendar year and cover the whole of the preceding calendar year. The report shall then be transmitted to the Committee of Ministers. If invited by the Committee of Ministers, the President of the CEPEJ will present this report to the Committee of Ministers during an oral hearing. Subsequently, the report shall also be transmitted to the Parliamentary Assembly.
2. The report shall contain *inter alia* information on the organisation and internal working methods of the CEPEJ, as well as the texts which have been adopted within the period concerned.

TITLE IV FINAL CLAUSES

Rule 12

Amendments

1. Any member State may at any time propose an amendment to these Rules. A proposal to that effect shall be submitted in writing to the Bureau. It shall be for the Bureau to decide whether or not this proposal is submitted to the CEPEJ.
2. If the Bureau decides not to submit the proposal to the CEPEJ, it shall inform the CEPEJ accordingly and the proposal shall be included on the agenda only if it receives the support of one fourth of the members of the CEPEJ at any given moment.
3. The CEPEJ may adopt the amendment suggested by a two-third majority of the votes cast.

Rule 13

Entry into force of the Rules

The present Rules shall enter into force on 19 March 2003.

Attachment 3.

PLENARY MEETINGS OF CEPEJ

IN BRIEF

24th plenary meeting (Strasbourg, 11 - 12 December 2014)

- Guidelines on the organization and accessibility of court premises (CEPEJ(2014)15)
- Guidelines on the role of technical experts in the judicial proceedings (CEPEJ(2014)14)
- Revised Guidelines on judicial time management (CEPEJ(2014)16)
- Opinion (CEPEJ(2014)19) aimed at proposing to the European Committee for Legal Cooperation (CDCJ) to update Recommendation Rec(86)12 concerning measures to prevent and reduce the excessive workload in the courts of the Committee of Ministers
- Election of the CEPEJ Bureau: Mr. Georg STAWA (Austria) as its President, Mr. Irakli ADEISHVILI (Georgia) as its Vice-President, Ms. Ivana BORZOVA (Czech Republic) and Mr. Ramin Gurbanov (Azerbaijan) as members

23th plenary meeting (Baku - Azerbaijan, 3 - 4 July 2014)

- Report on European judicial systems – Edition 2014 (CEPEJ(2014)16)
- Recent launching of the Joint Programme with the European Union in Albania: “Support to efficiency of justice (SEJ)” through which the CEPEJ will cooperate with all the Albanian courts
- Forthcoming launching on a cooperation programme with the Norway Grants and Croatia to support court management through the CEPEJ tools
- Forthcoming launching on a cooperation programme with the Swedish authorities (SIDA) and Turkey to promote mediation on the basis of the CEPEJ Guidelines
- Taking note with satisfaction of the on-going developments for justice efficiency, on the basis of the CEPEJ evaluation, in Armenia, Azerbaijan, Georgia, Moldova and Ukraine within the framework of the Joint programme with the European Union for the Eastern partnership countries
- Welcoming the developments of the Council of Europe’s neighbourhood policy with Morocco, Tunisia and Jordan where the CEPEJ plays a preeminent role based on its methodology and tools

22th plenary meeting (Strasbourg, 5 - 6 December 2013)

- Technical document «Customer satisfaction surveys among court users: checklist for court coaching» ([CEPEJ\(2013\)15](#))
- Revised Guidelines on the creation of judicial maps to support access to justice within a quality judicial system ([CEPEJ\(2013\)7Rev1](#))
- Revised Guidelines on judicial time management ([CEPEJ\(2008\)8Rev3](#))
- Report on peer evaluation visit on judicial statistics to Latvia on 14-15 November 2013 and new visits would take place at in Estonia, Lithuania (jointly), Switzerland and Ukraine in 2014
- Thanked the authorities of Azerbaijan for having offered to host on 3-4 July 2014 the 23rd plenary meeting of the CEPEJ within the framework of their Chairmanship of the Council of Europe for the first time

21th plenary meeting (Strasbourg, 20 - 21 June 2013)

- Amendments to the new Evaluation Scheme ([CEPEJ\(2012\)12Rev](#))
- Guidelines on the creation of judicial maps to support access to justice within a quality judicial system ([CEPEJ\(2013\)7](#))
- Document «Proposed amendments to some recommendations – comparative table» ([CEPEJ\(2013\)4](#))

20th plenary meeting (Strasbourg, 6 - 7 December 2012)

- Celebration ceremony of the 10th anniversary of the CEPEJ with participation of the Deputy Secretary General of the Council of Europe, the President of the Ministers' Delegates, the President of the European Court of Human Rights, the Commissioner for Human Rights, as well as the ambassadors and justice professionals
- Revised version of the Evaluation Scheme ([CEPEJ\(2012\)12](#)) and its subsequent explanatory note ([CEPEJ\(2012\)13](#))
- Revised version of the Report "On 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" prepared by the scientific experts Françoise CALVEZ and Nicolas RÉGIS ([CEPEJ\(2012\)16](#)) and decided to publish it in the Series of the "CEPEJ Studies"
- Welcoming the report prepared by the experts of the CEPEJ-GT-EVAL on "The efficiency of justice" within the Joint Programme with the European Union for the Eastern Partnership countries (Armenia, Azerbaijan, Georgia, Moldova, Ukraine), based on the report "European judicial systems - Edition 2012"
- Re-election of the CEPEJ Bureau: Mr. John STACEY (United Kingdom) as its President, Mr. Georg STAWA (Austria) as its Vice-President, Mr. Audun BERG (Norway) and Mr. Irakli ADEISHVILI (Georgia) as members

19th plenary meeting (Strasbourg, 5 - 6 July 2012)

- Report on European judicial systems – Edition 2012 (CEPEJ(2012)5)
- Memorandum to the attention of Hallvard GORSETH, Hanne JUNCHER and Marja RUOTANEN relating to the possible participation of the Secretary General in the 10th anniversary of the European Commission for the Efficiency of Justice (CEPEJ) – Strasbourg, 6/7 December 2012
- Took note of the information given by the experts on the peer evaluation visits on judicial statistics to Azerbaijan
- Stressing that for the first time the report of evaluation of the European judicial systems includes a specific chapter on the situation of gender issues within the judiciary in line with the Committee of Ministers' Declaration of 12 May 2009: "Making gender equality a reality" and appointing the Gábor SZÉPLAKI-NAGY (Hungary) as specific reporter of CEPEJ for gender issues
- Welcoming the development of the Council of Europe's neighbourhood policy – the Joint programme with the European Union for "strengthening democratic reform in the South countries neighbourhood" with Morocco, Tunisia and Jordan
- Welcoming the delegation of Israel which have been granted the observer status with the CEPEJ by the Committee of Ministers
- Granting the observer status to Council of the Notariats of the European Union
- Entrusting the Bureau with preparation of a special session of the CEPEJ to celebrate its 10th anniversary within the framework of the 20th plenary meeting in Strasbourg on 7 December 2012

18th plenary meeting (Strasbourg, 7-8 December 2011)

- Research "On monitoring and evaluation as new modes of judicial governance" prepared by the scientific expert Daniela Piana (Italy)
- Comprehensive presentation by the representative of Azerbaijan on the process for judicial modernization in his country
- Report «On the process for the selection of judges in Azerbaijan» (CEPEJ-COOP(2011)1), Rapporteur Mr. Audun BERG (Norway) and Mr. Ramin Gurbanov (Azerbaijan)

17th plenary meeting (Strasbourg, 28 – 29 June 2011)

- Report «Contractualisation of judicial processes in Europe» (CEPEJ (2010)10)
 - Publication on the web site the document "Implementation of SATURN time management tools - synthesizing report from seven test projects" (CEPEJ-SATURN(2011)2) as well as the Handbook on methodology
 - Establishment of the Bureau, composed of four members, for the Lisbon Network and entrusted it to provide the CEPEJ with proposals for activities and express concrete proposals allowing a proper use of the CEPEJ tools within the training of judges and prosecutors
 - Election of Mr. Audun BERG (Norway) as member of the Bureau replacing Ms. Eva FERNQVIST (Sweden) until the end of the terms of office
-

16th plenary meeting (Strasbourg, 9-10 December 2010)

- Revised version of the Evaluation Scheme ([CEPEJ\(2010\)11](#)) and its subsequent explanatory note ([CEPEJ\(2010\)12](#))
- Report «On the analysis of rationalization of the court network in Montenegro» (CEPEJ-COOP(2010)2)
- Agreed to cooperate with Azerbaijan on the organisation of the court system (including administrative courts) and the process for selecting judges
- Agreed to cooperate with Armenia on the issue of rotation of court presidents
- Reiteration of its full willingness to cooperate with the European Court of Human Rights and the CDDH to contribute to improving respect for Article 6 of the Convention within the member states in the follow-up of the Interlaken Conference concerning the future of the ECHR
- Election of the CEPEJ Bureau: Mr. John STACEY (United Kingdom) as its President, Mr. Georg STAWA (Austria) as its Vice-President, Ms. Eva FERNQVIST (Sweden) and Mr. Irakli ADEISHVILI (Georgia) as members
- Welcoming the adoption by the Committee of Ministers of the Recommendation Rec(2010)12 on "Judges: independence, efficiency and responsibilities", drafted on the basis of a proposal and with the support of the CEPEJ

15th plenary meeting (Strasbourg, 9-10 September 2010)

- Report on European judicial systems – Edition 2010 (CEPEJ(2010)xx)
- Study «Quality management in courts and in the judicial organisations in 8 Council of Europe Member states» (CEPEJ (2010)3)
- Report «On the realization of the Court user satisfaction survey in the Council of Europe member states» (CEPEJ(2010)2)
- Handbook «On the realization of the Court user satisfaction survey in the Council of Europe Member states» (CEPEJ(2010)1)
- Report «Performance study of the judicial department of the Emirate of Abu Dhabi, United Arab Emirates» (CEPEJ-COOP(2010)1)

14th plenary meeting (Strasbourg, 9 - 10 December 2009)

- Guidelines for a better implementation of the Council of Europe's Recommendation on enforcement (CEPEJ(2009)11)
- Report «Assessing the Portuguese policy on procedural flows and fight against judicial backlogs» (CEPEJ-COOP(2009)1)
- Peer evaluation report on judicial statistics in Malta and in the Russian Federation
- Continuation of the joint organization of the «Crystal Scales of Justice» nomination carried out by the Council of Europe and the European Union
- Promotion the European Day for Justice in Member States on 25 October
- Election of Mr. Georg STAWA (Austria) as member of the Bureau replacing Ms. Ivana BORZOVA (Czech Republic) until the end of the terms of office
- Request by the authorities of the United Arab Emirates (UAE) for the CEPEJ to organise a mission for evaluating the functioning of their justice system

13th plenary meeting (Strasbourg, 10 - 11 June 2009)

- Revised version of the Scheme for evaluating judicial systems – 2008/2010 cycle (CEPEJ(2009)5) and its Explanatory note (CEPEJ(2009)6)
- Report on the methods for evaluating the workload of judges, prosecutors and judicial investigators; the criteria for evaluating individual judges, prosecutors and judicial investigators; the criteria and indicators for the classification of courts and prosecutor offices in Bulgaria (CEPEJ-COOP(2009)2)
- Report on the policy of the Ministry of Justice of Portugal on dematerialization and use of IT in courts (CEPEJ-COOP(2009)4)
- Report on court organisation in Armenia (CEPEJ-COOP(2009)3)
- Development of activities of the European Network for the exchange of information between persons and entities responsible for the training of judges and public prosecutors (Lisbon Network) within the framework of the activity programme of the CEPEJ

12th plenary meeting (Strasbourg, 10 - 11 December 2008)

- CEPEJ Guidelines on judicial statistics (GOJUST) (CEPEJ(2008)11)
- SATURN Guidelines for judicial time management (EUGMONT) (CEPEJ (2008)8)
- Re-election of the CEPEJ Bureau for a two-year term: Mr. Fausto de SANTIS (Italy) as its President, Mr. John STACEY (United Kingdom) Vice-President as its Vice-President, Ms. Elsa GARCIA MALTRAS de BLAS (Spain) and Ms. Ivana BORZOVA (Czech Republic) as members

11th plenary meeting (Strasbourg, 2 - 3 July 2008)

- Report on European judicial systems – Edition 2008 (CEPEJ(2008)3)
- Checklist for the quality of justice systems and courts (CEPEJ(2008)2)
- Presentation of the conclusions of the three experimental evaluation visits made in 2008 by members of the CEPEJ-GT-EVAL to France, Bosnia & Herzegovina and Poland
- Decided to more closely involve the Network of Pilot Courts of the CEPEJ in the work of its Committees
- Cooperation of the Consultative Council of European Judges (CCJE) with the CEPEJ in connection with the quality of judicial decisions

10th plenary meeting (Strasbourg, 5 - 6 December 2007)

- List of “Key data on justice in Europe” (CEPEJ (2007)27)
- Setting up a pilot peer review cooperation process on judicial statistics and approving to this end the objectives and methodology of this process (CEPEJ-GT-EVAL(2007)25) and entrusting the CEPEJ-GT-EVAL to implement it
- Guidelines for a better implementation of the existing recommendations of the Council of Europe concerning penal mediation (CEPEJ(2007)13), family and civil mediation (CEPEJ(2007)14) and on alternatives to litigation between administrative authorities and private parties (CEPEJ (2007)15)
- Setting up a network of academic and research institutions willing to cooperate more closely with the CEPEJ and entrusted the Bureau to propose the modalities for organising such a network, including through the possible setting up of an academic council of the CEPEJ
- Publication of the following CEPEJ Studies:
 - "Access to justice in Europe" (CEPEJ(2007)24Prov) prepared by Ms. Daria SOLENIK (Nancy Faculty of Law)
 - "The execution of court decisions in Europe" (CEPEJ(2007)20Prov) prepared by Mr. Julien LHUILLIER (Nancy Faculty of Law)
 - "Use of information and communication technologies (ICT) in judicial systems of European states" (CEPEJ (2007)22Prov) and “Monitoring and evaluation of the court system: a comparative study” (CEPEJ(2007)21Prov) prepared by Mr. Marco VELICOGNA (Bologna Institute of Research on Judicial Systems)
 - “Judicial training and education assessment tool – Meeting the changing training needs of judges in Europe” (CEPEJ(2007)23Prov) prepared by the Faculty of Law of Birmingham University (United Kingdom), l’Institut des Hautes Études sur la Justice (France) and the universities of Bologna and Florence (Italy)
- Election of Ms. Ivana BORZOVA (Czech Republic) as member of the Bureau replacing Mr. Margus SARAPUU (Estonia) until the end of the terms of office
- Celebration of the 5th anniversary of the CEPEJ

9th plenary meeting (Strasbourg, 13 - 14 June 2007)

- Revised Scheme for evaluating judicial systems (CEPEJ(2007)11)
- Agreement to support the research carried out by the University of Aix-Marseille III (France) on «Improvements and difficulties for a common judicial culture in the European justice area»
- Publication of the Analysis on “Assessment of the impact of the recommendations concerning mediation” (CEPEJ (2007)12) as the working document
- The International Union of Bailiffs (UIHJ) confirmed their organisation's interest in the CEPEJ study on execution of judicial decisions

8th plenary meeting (Strasbourg, 6 - 8 December 2006)

- Report «Length of court proceedings based on the case-law of the ECHR» (CEPEJ (2006)15)
- Report on «Reducing judicial time in the countries of Northern Europe» (CEPEJ (2006)14)
- Compendium «Best practices on time management in judicial proceedings » (CEPEJ (2006)13)
- Formation of the CEPEJ Centre of study and analysis of judicial time management (SATURN Centre) aimed at collecting specific information necessary to the precise knowledge of judicial timeframes in the member states
- Election of the CEPEJ Bureau: Mr. Fausto de SANTIS (Italy) as its President, Mr. John STACEY (United Kingdom) as its Vice-President, Ms. Elsa GARCIA MALTRAS de BLAS (Spain) and Mr. Margus SARAPUU (Estonia) as members
- Granting the observer status to the the European Network of Judicial Councils (ENJC) and the American Bar Association – Central European and Eurasian Law Initiative (ABA-CEELI)

7th plenary meeting (Strasbourg, 6 - 7 July 2006)

- Report on European judicial systems 2004 (CEPEJ (2006)4 Rev)
- Granting the observer status to the European Network of Judicial Training (ENJT) for a two year period
- The Vice-President of the European Commission and EU Commissioner responsible for Justice, Freedom and Security, Mr. Franco FRATTINI stressed the importance of cooperation between the Council of Europe and the European Commission
- Assessment of the impact of the Recommendations of the Committee of Ministers on mediation

6th plenary meeting (Strasbourg, 7 - 9 December 2005)

- Checklist of indicators for the analysis of lengths of proceedings in the justice system (CEPEJ (2005)12 Rev)
- Action Plan prepared by the CEPEJ to the European Committee of Legal Cooperation (CDCJ) on the implementation of the Opinions of the European Council of European Judges (CCJE) (CEPEJ (2005)11)
- Report «Examination of problems related to the execution of decisions by national civil courts against the state and its bodies in the Russian Federation» (CEPEJ (2005)8)
- Election of Mr. Ciaran KELLY (Ireland) as member of the Bureau replacing Mr. Pim ALBERS (the Netherlands) until the end of the terms of office
- A strong interest of the World Bank in the launching a new study: "Doing justice" to support its exercise on "Doing business"
- Presentation of the delegation of Japan about the on-going reforms of the Japanese judicial system

5th plenary meeting (Strasbourg, 15 - 17 June 2005)

- Revised Scheme for evaluating judicial systems (CEPEJ(2005)2 Rev), subject to the redrafting of a question on the cases concerning the violation of Article 6 of the European Convention on Human Rights
- Amendment to the Resolution Res(2002)12 establishing the CEPEJ, in order to include in its Appendix 2 the Recommendations Rec(2003)15 on archiving of electronic documents in the legal sector and Rec(2005)12 containing an application form for legal aid abroad for use under the European Agreement on the transmission of applications for legal aid (CETS No.092) and its Additional Protocol (CETS No.179) (decided to forward to the Committee of Ministers for adoption)
- Noting that the CEPEJ was granted the evaluation and assistance functions during 3rd Summit of Heads of State and Government (the highest political authorities from the member states) on 16-17 May 2005 in Warsaw and was confirmed the leading role to be played by the CEPEJ in strengthening the rule of law in Europe

4th plenary meeting (Strasbourg, 30 November - 3 December 2004)

- First Report on European judicial systems 2002 (CEPEJ(2004)30)
- Revised Pilot Scheme and Explanatory Note for the 2004 data
- Granting the observer status to the Magistrats Européens pour la Démocratie et les Libertés (MEDEL) and the European Federation of Administrative Judges for a renewable period of one year
- Formation of the CEPEJ Working Group on evaluation of judicial systems (CEPEJ-GT-EVAL) and adoption of the terms of reference

3rd plenary meeting (Strasbourg, 9 - 11 June 2004)

- Consolidated Report on «Practical ways of combating delays in the justice system, excessive workloads of judges and case backlogs» (CEPEJ(2004)5) prepared at the request of Croatia and Slovenia
 - Report «Advancing legal and judicial approaches to mediation in civil, family and commercial matters» (CEPEJ(2004)14) prepared at the request of Malta
 - Framework Programme «A new objective for judicial systems: the processing of each case within an optimum and foreseeable timeframe» (CEPEJ (2004)19 Rev1)
 - Evaluation Report on the efficiency of the national judicial systems in their responses to terrorism (CEPEJ (2004)13 Rev1)
-

2nd plenary meeting (Strasbourg, 2 - 5 December 2003)

- Amendment to Resolution Res(2002)12 establishing the CEPEJ, with a view to adding in Appendix 2, Recommendations Rec(2003)17 on enforcement, Rec(2003)14 on the interoperability of information systems in the justice sector and Rec(2003)16 on the execution of administrative and judicial decisions in the field of administrative law
- Draft scheme for evaluating judicial systems was adopted and decided to forward it to the Committee of Ministers for adoption
- Draft organizational charter of the European Day for Civil Justice was adopted with retaining a benchmark date (last week of October) and decided to forward to the Committee of Ministers for adoption
- Report on territorial jurisdiction prepared within the framework of bilateral activity with the Netherlands
- Report on mediation prepared within the framework of bilateral activity with Switzerland
- Granting the observer status to the World Bank, the European Union of Rechtspfleger (EUR), the International Union of Judicial Officers (UIHJ), the European Association of Judges and the Council of the Bars and Law Societies of the European Community (CCBE) for a renewable period of one year
- Setting up of the CEPEJ internet site
- Decided on ongoing cooperation with the European Commission in the field of justice, in particular under way on the organization of the European Day for Civil Justice and the conference that would focus on best practices concerning judicial proceedings in Europe

1st plenary meeting (Strasbourg, 5 - 7 February 2003)

- Draft Rules of Procedure in accordance with Article 7, paragraph 1, of its Statute and Article 21 of Appendix 2 to Resolution Res(76)3 on committee structures, terms of reference and working methods (decided to forward to the Committee of Ministers for adoption)
- Authorization a derogation to Article 17, paragraph f, of Appendix 2 to Resolution Res(76)3 on structures, terms of reference and working methods, aiming at extending from one to two years the length of the terms of office of the President and the Vice-President, in conformity with the draft Rules of procedure approved by the CEPEJ
- Amendment to Resolution Res(2002)12 establishing the CEPEJ, in order to include in its Appendix 2 the recently adopted Recommendation Rec(2002)10 on mediation in civil matters (decided to forward to the Committee of Ministers for adoption)
- Granting the observer status to the Hague Conference on Private International Law for a renewable period of one year and refusing to grant observer status to the European Union of Rechtspfleger (EUR) and the Unitarian Organization of the Italian Bar (OUA)
- Election of the CEPEJ Bureau: Mr. Eberhard DESCH (Germany) as its President, Mr. André POTOCKI (France) as its Vice-President, Mr. Alan UZELAC (Croatia) and Mr. Pim ALBERS (Netherlands) as members

Attachment 4.

**LIST OF PARTICIPANTS
IN THE PLENARY MEETINGS OF THE CEPEJ
CEPEJ MEMBERS**

ALBANIA

Rovena HUSA, Chief of the courts archive, Ministry of Justice, TIRANA

ANDORRA

Carme OBIOLS, Secretary General, High Council of Justice, VIEILLE

ARMENIA

Armen SANOYAN, Head of International Treaties Expertise Division, Department of International Legal Affairs of the Administration, Ministry of Justice, YEREVAN

AUSTRIA

Georg STAWA, Head of Department Pr8, Projects, Strategy and Innovation, Federal Ministry of Justice, VIENNA (President of the CEPEJ)

AZERBAIJAN

Ramin GURBANOV, Judge, Baku City Yasamal District Court, Head of Working group on establishment of E-court system, Coordinator of World Bank Project on modernization of Azerbaijan court system, BAKU (member of the CEPEJ Bureau and CEPEJ-GT-EVAL)

BELGIUM

Dietger GEERAERT, Attache, Legal Department of the General Directorate of Organization of the Judiciary, Federal Ministry of Justice, BRUSSELS

BOSNIA AND HERZEGOVINA

Dragomir VUKOJE, Judge of the Appellate Division of the Court of Bosnia and Herzegovina, SARAJEVO

Rusmir ŠABETA, Head of the Judicial Administration Department, Secretariat of the High Judicial and Prosecutorial, Council of Bosnia and Herzegovina, SARAJEVO

BULGARIA

Ekaterina TODOROVA, Head of International Legal Co-operation and European Affairs Directorate, Ministry of Justice, SOFIA

CROATIA

Ivan CRNČEC, Assistant Minister, European Union and International Co-Operation Directorate, Ministry of justice, ZAGREB

CYPRUS

Efi PAPADOPOULOU, Judge at the Supreme Court, NICOSIA

CZECH REPUBLIC

Ivana BORZOVÁ, Head of Department of Civil Supervision, Ministry of Justice, PRAGUE (member of the CEPEJ Bureau and Steering group of the SATURN Centre for judicial time management)

DENMARK

Marianne GRAM NYBROE, International Coordinator, Danish Court, Administration, Center for Law, Training and Communications, COPENHAGEN

ESTONIA

Kaidi LIPPUS, Head of Legislation and Development Division, Judicial Administration Policy Department, Ministry of Justice, TALLINN

FINLAND

Kari Samuli KIESILÄINEN, Head of Department, Directorate General, Ministry of Justice, HELSINKI

FRANCE

Valéry TURCEY, Chief of Department on European and international affairs, Ministry of Justice, PARIS

GEORGIA

Irakli ADEISHVILI, President, Chamber of Civil Cases, Tbilisi Appeals Court, TBILISI (Vice-President of the CEPEJ and member of Steering group of the SATURN Centre for judicial time management)

GERMANY

Matthias HEGER, Head of the International Civil Procedure Department, Federal Ministry of Justice, BERLIN

Anna-Lena LUX, Judge, Assistant Minister for European Law, Ministry of Justice, Baden-Württemberg, STUTTGART

GREECE

Michalis PIKRAMENOS, Ministry of Justice, Counselor of the State, ATHENS

HUNGARY

Gábor SZÉPLAKI-NAGY, Prosecutor, Head of Division, General Prosecutor Office, Ministry of Justice, BUDAPEST

ICELAND

Arnfrídur EINARSDOTTIR, Judge at the District Court of Reykjavik, REYKJAVÍK

IRELAND

Noel RUBOTHAM, Head of Reform and Development, Courts Service, DUBLIN

Caroline MURPHY, Head of Courts Policy Division, Department of Justice and Equality, DUBLIN

ITALY

Fabio BARTOLOMEO, Director General of statistics, Ministry of Justice, ROME

Giacomo OBERTO, Judge, First Instance Court, TURIN

LATVIA

Aija BRANTA, Judge of the Supreme Court, RIGA

LIECHTENSTEIN

Hubert WACHTER, Government Officer, Government of the Principality of Liechtenstein, Ministry of Justice, VADUZ

LITHUANIA

Laima GARNELIENE, President, Criminal Cases Division, Lithuanian Court of Appeal, VILNIUS

LUXEMBOURG

Catherine TRIERWEILER, Staff Member of the Government, Ministry of Justice, Criminal and Judicial Cases Directorate, LUXEMBOURG

MALTA

Francesco DEPASQUALE, Magistrate, Court of Justice, Ministry of Justice and Home Affairs, VALLETTA

MOLDOVA

Lilia GRIMALSCHI, Head of Analysis and Execution of ECHR judgments Division, General Directorate of Government Agent, Ministry of Justice, CHISINAU

MONACO

Stéphanie MOUROU VIKSTRÖM, Judge, First Instance Court, Courthouse, MONACO

MONTENEGRO

Tijana BADNJAR, Head, Department for Civil Legislation, Directorate for Judiciary, Ministry of Justice, PODGORICA

NETHERLANDS

Frans VAN DER DOELEN, Manager, Department of the Justice System, Ministry of Justice, HAGUE

NORWAY

Audun BERG, Chief, International department, the National Courts Administration, TRONDHEIM

POLAND

Jakub MICHALSKI, Assistant to the Undersecretary of State, Ministry of Justice, WARSAW

PORTUGAL

João ARSENIO DE OLIVEIRA, Head, Department International Affairs Department, Directorate-General for Justice Policy, Ministry of Justice, LISBON

ROMANIA

Violeta BELEGANTE, Legal Adviser, Head of the Civil Law Division, Directorate Specialized in Elaboration of Legal Acts, Studies and Documentation, Ministry of Justice, BUCAREST

RUSSIAN FEDERATION

Alexander PARSHIN, Deputy Director General, Judicial Department of the Supreme Court, MOSCOW

Elena TRUFANOVA, Head, Department of International Legal Cooperation, Judicial Department of the Supreme Court, MOSCOW

Alexandra DRONOVA, Director, Department of International Law and Co-operation, Ministry of Justice, MOSCOW

Alexandra KRIVOSHEEVA, Consultant, Department of International Law and Cooperation, Ministry of Justice, MOSCOW

Maxim TOKAREV, Assistant Representative, Ministry of Justice, External Relations Division, Permanent Representation of the Russian Federation to the Council of Europe

SAN MARINO

Stefano PALMUCCI, Ministry of Justice, CAILUNGO

SERBIA

Nela KUBUROVIC, Assistant Minister for Judiciary, Ministry of Justice and Public Administration, BELGRADE

Ivana NINČIĆ, Consultant for the Reform of Legal Professions, Sector for European Integration and International Projects, Reform/Accession Facilitation Unit, Ministry of Justice, BELGRADE

SLOVAK REPUBLIC

Ladislav DUDITS, Judge, Kosice Regional Court, KOSICE

SLOVENIA

Marko SORLI, Head of the Criminal Division, Supreme Court, LJUBLJANA

SPAIN

Antonio GUTIÉRREZ CARDENETE, Head, Directorate General of International Legal Cooperation and Religious Affairs. Ministry of Justice, MADRID

SWEDEN

Pia ESPELAND NYHLEN, Legal adviser, the Swedish National Courts Administration, STOCKHOLM

SWITZERLAND

Jacques BÜHLER, Deputy General Secretary, Federal Court of Switzerland, LAUSANNE (Chairman of the SATURN Centre)

"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA "

Nikola PROKOPENKO, Head of Department of Courts, Public Prosecutors and other judicial institutions, Ministry of Justice, SKOPJE

TURKEY

Ibrahim CETIN, Judge, Department for Strategy Development, Ministry of Justice, ANKARA

Sadi DEMIR, Judge, Ministry of Justice, ANKARA

UKRAINE

Igor SAMSIN, President of the High Qualification Commission of Judges of Ukraine, KYV

Polina KAZAKEVICH, Head of International department, High Qualification Commission of Judges of Ukraine, KYIV

UNITED KINGDOM

John STACEY, Government Advisor for Efficiency and Quality of Justice, LONDON

Robert WRIGHT, Head, Civil Litigation Funding and Costs, Access to Justice Department, Ministry of Justice, LONDON

CHAIRMEN OF WORKING GROUPS OF THE CEPEJ

CEPEJ-GT-QUAL

François PAYCHÈRE, President of the Court of Auditors, GENEVA, SWITZERLAND (Chairman of the CEPEJ-GT-QUAL)

CEPEJ-GT-EVAL

Jean-Paul JEAN, Associate Professor at the University of Law, Poitiers, Court Section President of the Court of Cassation, Paris, France (Chairman of the CEPEJ-GT-EVAL)

CENTRE SATURN

Jacques BÜHLER, Deputy General Secretary, Federal Court of Switzerland, LAUSANNE (Chairman of the SATURN Centre)

OBSERVER STATES / ÉTATS OBSERVATEURS

JAPAN

Takaaki SHINTAKU, Consul, Attorney, Japanese Consulate General in STRASBOURG, FRANCE

ISRAEL

Gali AVIV, Director, Israel Courts Research Division, Supreme Court of Israel, JERUSALEM
Inbal GALON, Researcher, Courts Research Division, Supreme Court of Israel, JERUSALEM

MOROCCO

Mustapha SIMO, President of the Administrative Court of RABAT
Soufiane DRIQUECH, President of the First Instance Court of NADOR
Abderrafi EROUIHANE, Ministry of Justice

INVITED STATES

TUNISIA

Walid ARFAOUI, Cantonal Judge, ZAGHOUAN
Raja CHAOUACHI, President of the First Instance Court of TUNIS
Mongi CHALGHOU, President of the First Instance Court of ZAGHOUAN

JORDAN

Moh'd Awwad Haza' Al GHRAIR, President of Amman First Instance Court
Khaled Abdelrazzaq M. AL NSOUR, President of Madaba First Instance Court
Ziad AL MUHAREB, Judge, Sahab Magistrates' Court
Osama Mohammad AL KHAWALDEH, Quality engineer, Quality Management Department,
Ministry of Justice
Zied AL TALAFEH, office manager of the Chief Justice
Ala K. ASALI, Programme Officer

OBSERVERS**COUNCIL OF THE BARS AND LAW SOCIETIES OF THE EUROPEAN UNION (CCBE)**

Simone CUOMO, Senior Legal Advisor, Council of Bars and Law Societies of Europe,
BRUSSELS, BELGIUM

EUROPEAN ASSOCIATION OF JUDGES (EAJ)

Christophe REGNARD, President of the International Association of Judges, PARIS, FRANCE

EUROPEAN UNION OF RECHTSPFLEGER AND COURT CLERKS (EUR)

Jean-Jacques KUSTER, President of the EUR, STRASBOURG, FRANCE

Vivien WHYTE, Clerk in the First Instance Court of Strasbourg (*Tribunal de Grande Instance*),
STRASBOURG, FRANCE

INTERNATIONAL UNION OF BAILIFFS (UIHJ)

Leo NETTEN, President of the UIHJ, PARIS, FRANCE

Mathieu CHARDON, Bailiff, First Secretary of the UIHJ, 78490 MONFORT L'AMAURY,
FRANCE

EUROPEAN FEDERATION OF ADMINISTRATIVE JUDGES

Pierre VINCENT, President still in office within the First Instance Administrative Court,
Administrative Court of Appeal of NANCY, FRANCE

COUNCIL OF THE NOTARIATS OF THE EUROPEAN UNION

Edmond GRESSER, Notary, LA WANTZENAU, FRANCE

EUROPEAN UNION

EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

Jana GAJDOSOVA, Research Officer, Freedoms and Justice Department, European Union Agency for Fundamental Rights, VIENNA

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)

Martin FORST, Head, Governance Reviews and Partnerships Division, Public Governance and Territorial Development Directorate, PARIS, FRANCE

EUROPEAN EXPERTISE AND EXPERT INSTITUTE

Jean-Raymond LEMAIRE, Expert within the Court of Appeal of VERSAILLES, approved by the Court of Cassation, Head of the Executive Committee of the EEEI, LEVALLOIS-PERRET, FRANCE

Alain NUÉE, Expert, Former First President of the Court of Appeal of VERSAILLES, FRANCE

COUNCIL OF EUROPE

EUROPEAN COURT OF HUMAN RIGHTS (ECHR)

Paola TONARELLI-LACORE, Registry of the European Court of Human Rights

CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)

Gerhard REISSNER, Chairman of the International Association of Judges, President of the District Court of Floridsdorf, VIENNA, AUSTRIA

CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS (CCJP)

EUROPEAN COMMITTEE ON LEGAL CO-OPERATION

Julia FLOCKERMANN, Division of Public International Law, Bundesministerium der Justiz, BERLIN, GERMANY

EUROPEAN COMMITTEE FOR CRIME PROBLEMS

Fabienne SCHALLER, Head of Mission related to the Negotiations and the Transposition of International Criminal Acts, Directorate of Criminal Cases and Pardon, Ministry of Justice and Freedoms, PARIS, FRANCE

Other participants

Bartolomeo CAPPELLINA, PhD Student, Centre Emily Durkheim, Political Sciences,
BORDEAUX, FRANCE

SECRETARIAT**DGI – Human Rights and Rule of Law – Division for the Independence and Efficiency of Justice**

Hanne JUNCHER,	Head of the Justice and Legal Co-operation Department
Stéphane LEYENBERGER,	Secretary of the CEPEJ, Head of the Division for the independence and efficiency of justice
Muriel DECOT,	Co-Secretary of the CEPEJ
Christel SCHURRER,	Administrator
Clementina BARBARO,	Administrator
Lidija NAUMOSKA,	Statistician Administrator
Yannick MENECEUR,	Special Counselor to the Secretariat of the CEPEJ
Sophio GELASHVILI,	Secretariat of the CEPEJ
Félicie DIARD-DETOEUF,	Secretariat of the CEPEJ
Guergana LAZAROVA-DECHAUX,	Secretariat of the CEPEJ
Paul MEYER,	Secretariat of the CEPEJ
Laetitia NSIONA,	Trainee
Jean-Pierre GEILLER,	Administration and Finances
Annette SATTEL,	Administration and Networks
Emily WALKER,	Assistant
Anna KHROMOVA,	Assistant
Elisabeth HEURTEBISE,	Assistant

Attachment 5.

**European Commission for the Efficiency of Justice
(CEPEJ)**

**Extract from the
2014-2015 Activity Programme of the CEPEJ
Terms of reference
of the Working Group on evaluation of judicial systems
(CEPEJ-GT-EVAL)**

renewed by the CEPEJ at its 22nd plenary meeting

1. Tasks

In accordance with article 7.2.b of Appendix 1 to Resolution Res(2002)12, and under the authority of the European Commission for the Efficiency of Justice (CEPEJ), the Working Group on evaluation of judicial systems (CEPEJ-GT-EVAL) is instructed to carry out the common tool set up by the CEPEJ which aims at evaluating in an objective manner the functioning of the judicial systems in Europe.

In order to fulfil its tasks, the CEPEJ-GT-EVAL shall in particular:

- a. determine and follow the implementation of the 2012 – 2014 evaluation cycle of the European judicial systems, including national judicial data collection and processing and prepare the draft evaluation report to be forwarded to the 23rd plenary meeting of the CEPEJ;
- b. ensure the proper information and communication regarding the Edition 2014 of the Report and assess the impact of the Report in the member states;

-
- c. make proposals for appropriate exploitation of the results achieved through the evaluation exercise (Report “European judicial systems – Edition 2014”), in particular as regards the development and the use of the main court performance indicators (namely the clearance rate and the disposition time), identify trends as well as typical dysfunctions of the judicial systems in Europe;
- d. initiate, follow and approve studies using the report “European judicial systems – Edition 2014”, with a view to publishing them in the Series “CEPEJ Studies”;
- e. organize the 2014 – 2016 cycle for evaluating European judicial systems, by advising in due time the national correspondents, organizing the concrete modalities for data collection and processing as well as anticipating the structure and the outline of the next Report so as to guide the data processing;
- f. coordinate and supervise the CEPEJ’s support to the annual publication of the EU Justice Scoreboard consisting in collecting and analyzing data on the functioning of the judicial systems of the EU Member States, following the established CEPEJ methodology;
- g. organize the implementation of the pilot peer review cooperation process on judicial statistics, analyze the conclusions of this process and, where appropriate, make recommendations aiming to:
- support member states in improving the quality of their judicial statistics and developing their statistics system;
 - facilitate the exchange of experiences between national judicial statistics systems;
 - sharing good practices, identifying benchmarks and facilitating knowledge transfer;
 - contribute to ensuring the transparency and accountability of the CEPEJ process for evaluating European judicial systems and to improving the process.
- h. promote the CEPEJ Guidelines on judicial statistics (GOJUST) in the member states, in particular among the national correspondents, so as to strengthen the collection of homogenous data in view of the next evaluation cycles;
- i. set up and develop, in cooperation with the CEPEJ-GT-QUAL and the Steering group of the SATURN Centre, tools and indicators for measuring the performance of justice systems and courts while safeguarding the principle of the independence of justice.

2. Composition

The CEPEJ-GT-EVAL shall be composed of 6 members of the CEPEJ or experts, proposed by member states and appointed by the CEPEJ Bureau, with an in-depth knowledge in the field of the evaluation of judicial systems. Their travel and subsistence expenses are to be borne by the budget of the Council of Europe. Other experts appointed by the member states might participate in its work, at their own expenses.

The relevant Council of Europe and European Union bodies may be represented to the CEPEJ-GT-EVAL without the right to vote or defrayal of expenses.

The non-governmental organizations granted the observer status with the CEPEJ may be invited by the Bureau to participate in the work of the CEPEJ-GT-EVAL, on a case-by-case basis, if the Bureau considers their attendance relevant for the quality of the work.

3. Working structures and methods

The CEPEJ-GT-EVAL will organize 5 meetings and evaluation visits can be organized in some member states (subject to budgetary availability).

In carrying out its terms of reference, it may in particular seek the advice of the Network of national correspondents entrusted with the coordination of the answers to the evaluation Scheme.

It will also coordinate its work with other relevant CEPEJ's working groups (namely the Steering Group of the SATURN Centre and CEPEJ-GT-QUAL)

It may also seek the advice of external experts and have recourse to studies by consultants.

4. Duration

These terms of reference expire on 31 December 2015.

**European Commission for the Efficiency of Justice
(CEPEJ)**

**Composition of the CEPEJ Working Groups for 2014-2015
as decided by the Bureau of the CEPEJ**

**WORKING GROUP ON EVALUATION OF JUDICIAL SYSTEMS
(CEPEJ-GT-EVAL)**

1. Working group members:

- Jean-Paul JEAN (Chairman), Court Section President, Court of Cassation of France, Associate Professor at the University of Law, Poitiers, France
- Ramin GURBANOV, Judge, Baku City Yasamal District Court, Head of Working group on establishment of E-court system, Coordinator of World Bank Project on modernization of Azerbaijan court system - Bureau and CEPEJ member
- Frans VAN DER DOELEN, Programme Manager of the Department of the Justice System, Ministry of Justice , Netherland - CEPEJ member
- Stéphanie MOUROU VIKSTRÖM, Senior judge, first instance court, Monaco - CEPEJ member
- Adis HODZIC, Head of Statistics Secretariat of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina
- Simone KREß, Judge, Higher Regional Court of Köln, Germany

2. The following persons can be invited as scientific experts according to the needs:

- Beata GRUSZCZYŃSKA, Researcher at the Institute of Justice, Ministry of Justice, Poland
- Munira DOSSAJI, Principal Operational Research Analyst, Strategy and Innovation Team, United Kingdom

3. The following Observers will attend the Working Group meetings:

- European Union of Rechtspfleger (EUR), represented by Vivien WHYTE

4. The President of the CEPEJ can attend the working Group meetings.

5. The following authorities are invited to attend the Working Group meetings:

- European Union institutions

Strasbourg, 13 November 2007

CEPEJ(2007)25

**European Commission for the Efficiency of Justice
(CEPEJ)**

**Objectives and methodology for a pilot peer review cooperation process
on judicial statistics**

Objectives

§ Supporting CoE member states in:

- a. improving the quality of their judicial statistics,
- b. developing their statistics system so that judicial statistics at national level are in line with the common indicators defined through the CEPEJ's Evaluation Scheme.

§ Facilitating exchange of experiences between national judicial statistics systems, sharing good practices, identifying benchmarks and facilitating knowledge transfer.

§ Contributing to ensure the transparency and accountability of the CEPEJ process for evaluating European judicial systems and to improve the process.

Methodology

§ 2 day peer expert visits (3 experts) to 3 pilot countries. Meetings with relevant administrative and judicial institutions to be able to fulfil the tasks mentioned below.

§ General analysis of the organization of CEPEJ's data collection and transmission to the CoE's Secretariat, including inter alia information on:

-
- the sources used by the national correspondents,
 - the main difficulties to fill the questionnaire.

§ Specific analysis of the practical way of responding to selected questions of the Evaluation Scheme and on the content of these answers, namely questions related to:

- budgetary issues,
- types (professional, lay judges) and number of judges,
- litigious civil cases,
- calculation methods of length of proceedings,
- including information on the confidence intervals for such data.

§ Information on the overall technical way of collecting and processing judicial data, including:

- the role of statisticians in this process;
- the publicity given to the results of this process.

Outputs

§ Drafting of visit reports highlighting good practices and including recommendations for improving the collecting of homogenous information on judicial systems among CoE's member states. These reports should be endorsed by the CEPEJ. At the end of the pilot exercise, the CEPEJ will assess the process with a view to enlarge it.

Attachment 6.

**European Commission for the Efficiency of Justice
(CEPEJ)**

**Extract from the
2014-2015 Activity Programme of the CEPEJ**

Terms of reference

**of the Steering Group of the SATURN Centre for judicial time management (SATURN
Center) renewed by the CEPEJ at its 22nd plenary meeting**

1. Tasks

The European Commission for the Efficiency of Justice acts as a Centre for judicial time management (SATURN Centre) aimed at collecting specific information necessary for achieving a sufficiently detailed knowledge of judicial timeframes in the member states enabling them to implement policies aiming to prevent violations of the right to a fair trial within a reasonable time as protected by Article 6 of the European Convention on Human Rights.

The Centre shall in particular:

- a. as a European Observatory of judicial timeframes, analyze the quantitative and qualitative situation regarding time management in European courts (case-flow management, timeframes per types of cases, waiting times within proceedings, etc.);
- b. provide member states with tools for knowledge and analysis of case-flows, backlogs and timeframes of judicial proceedings;
- c. promote and assess the implementation in the member states and ensure the updating of the SATURN Guidelines for judicial time management and other relevant CEPEJ's tools.

The Centre is managed through a Steering group, established in accordance with article 7.2.b of Appendix 1 to Resolution Res(2002)12, under the authority of the CEPEJ.

In order to implement the "Strategic plan for the SATURN Centre" (CEPEJ-SATURN(2011)5), the Steering group shall in particular:

- periodically collect data on procedural times in member states at national and regional level, for all types of proceedings (civil, criminal and administrative) and for all courts (first instance, appeal and supreme courts);
- verify the completeness and quality of the data collected in order to make improvements;
- analyze the data collected and collate them with the principles relating to procedural times derived from the case law of the European Court of Human Rights;
- define guidelines and standards relating to procedural times;
- for all state organs concerned with justice: legislators, bodies vested with the administration of justice, court managers, judges, prosecutors, police officers;
- for all types of proceedings (civil, criminal and administrative);
- for all courts (first instance, appeal and supreme courts);
- disseminate in member states the guidelines, the standards and the results of analysis of the data collected.

§ promote the use of judicial time management tools, particularly those developed by the SATURN Centre, in all member states to enable them to make their own analysis of the situation regarding judicial timeframes in their courts and apply their own remedies to any excessive procedural delays;

§ undertake within the member states most concerned by questions of procedural delays, and with their agreement, targeted actions to improve their situation (preventive or proactive measures) by implementing judicial time management tools in those countries.

- rely on appropriate networks allowing the integration in the work and considerations of the judicial community, in particular on the network of pilot courts within the member states, to draw on innovative projects aimed at reducing and adjusting the timeframes operated by courts in member states;
- organize and implement the court coaching programme (on a volunteer basis) for the effective use of the CEPEJ's tools and guidelines, on the basis of the relevant SATURN Handbook (CEPEJ-SATURN(2011)9).

2. Composition

The Steering group shall be composed of 6 members of the CEPEJ or experts, proposed by member states and appointed by the CEPEJ Bureau, with an in-depth knowledge in the field of judicial timeframes. Their travel and subsistence expenses will be borne by the budget of the Council of Europe. Other experts appointed by the member states might participate in its work, at their own expenses.

The relevant Council of Europe and European Union bodies may be represented on the Steering group without the right to vote or defrayal of expenses.

The non-governmental organizations granted the observer status with the CEPEJ may be invited by the Bureau to participate in the work of the Steering group, on a case-by-case basis, if the Bureau considers their attendance relevant for the quality of the work.

3. Working structures and methods

The Centre will hold 4 meetings (subject to budgetary availability).

In carrying out its terms of reference, the Steering group shall cooperate with the CEPEJ Network of Pilot courts. It will also coordinate its work with other relevant CEPEJ's working groups (namely the CEPEJ-GT-EVAL and the CEPEJ-GT-QUAL).

It may also seek the advice of external experts and have recourse to studies by consultants.

4. Duration

These terms of reference expire on 31 December 2015.

**European Commission for the Efficiency of Justice
(CEPEJ)**

**Composition of the CEPEJ Working Groups for 2014-2015
as decided by the Bureau of the CEPEJ**

**STEERING GROUP OF THE SATURN CENTER FOR
JUDICIAL TIME MANAGEMENT
(SATURN Center)**

1. Steering Group members:

- Jacques BÜHLER (Chairman), Deputy Secretary General, Federal court, Lucerne, Switzerland – CEPEJ member
Irakli ADEISHVILI, Chairman, Chamber of Civil Cases, Tbilisi City Court, Georgia – Vice-president and CEPEJ member
- Ivana BORZOVA, Head, Department of Civil Supervision, Ministry of Justice, Czech Republic – Bureau and CEPEJ member
- Ivan CRNCEC, Assistant Minister, Croatia, CEPEJ member
- Francesco DEPASQUALE, Legal advisor to the Director General For Courts, Malta - CEPEJ member
- Giacomo OBERTO, Judge, First Instance Court of Torino (civil court), Italy

2. The following persons can be invited as scientific experts according to the needs:

- Marco FABRI, Director, Research Institute on judicial systems, Research National Council, Bologna, Italy
- Jon JOHNSEN, Professor in Law, Faculty of law, University of Oslo, Norway

3. The following Observers will attend the Steering Group meetings:

- European Union of Rechtspfleger (EUR), represented by Michel CRAMET

4. The President of the CEPEJ can attend the Steering Group meetings.**5. The following authorities are invited to attend the Steering Group meetings:**

- European Union institutions
- World Bank

Attachment 7.

**European Commission for the Efficiency of Justice
(CEPEJ)
Extract from the
2014-2015 Activity Programme of the CEPEJ

Terms of reference
of the Working Group on quality of justice (CEPEJ-GT-QUAL)
renewed by the CEPEJ at its 22nd plenary meeting**

1. Tasks

In accordance with article 7.2.b of Appendix 1 to Resolution Res(2002)12, and under the authority of the European Commission for the Efficiency of Justice (CEPEJ), the Working Group on quality of justice (CEPEJ-GT-QUAL) is instructed to develop means of analysis and evaluation of the work carried out within the courts with a view to improving, in the member states, the quality of the public service delivered by the justice system, in particular vis-à-vis the expectations of the justice practitioners and users, according to performance and efficiency criteria meeting a large consensus.

In order to fulfil its tasks, the CEPEJ-GT-QUAL shall in particular, while observing the principle of independence of judges:

- a. improve tools, indicators and means for measuring the quality of judicial work and the way in which this service is perceived by the users;
- b. draft concrete solutions for policy makers and for courts to improve the organization of the court system, in particular as regards access to courts and enforcement of court decisions;
- c. draft concrete solutions for policy makers and for courts, allowing to remedy dysfunctions in the judicial activity and balance the obligations of the work of judges and its workload with the obligation to provide users with a justice of quality;
- d. promote among European courts the tools and measures designed by the CEPEJ regarding quality of justice.

In order to fulfil its tasks, the Working group shall in particular:

- promote among courts the effective implementation of the Handbook for court users satisfaction surveys and analyze the results of such surveys and organize and implement the subsequent court coaching programme (on a volunteer basis);
- fine-tune and test in courts indicators enabling to assess the quality of the court work, in close cooperation with the CEPEJ-GT-EVAL and the Steering Group of the SATURN Centre;
- develop measures and tools for promoting the quality of the work of judicial experts;
- prepare guidelines on the organization and accessibility of court premises;
- draft a Handbook on access to justice, in collaboration with the EU Fundamental Rights Agency;
- promote the CEPEJ's Guidelines on the enforcement of court decisions and prepare guidance for policy makers on the powers of enforcement agents and methods of enforcement;
- develop other measures and tools enabling to improve the quality of the public service of justice implemented by the member states, taking into account, in particular, the Checklist for promoting the quality of justice and the courts (CEPEJ(2008)2);
- promote the proper translation and dissemination of the CEPEJ's relevant tools and measures.

2. Composition

The CEPEJ-GT-QUAL shall be composed of 6 members of the CEPEJ or experts, proposed by member states and appointed by the CEPEJ Bureau, with an in-depth knowledge in the field of operation of courts and analyze of judicial practice. Their travel and subsistence expenses will be borne by the budget of the Council of Europe. Other experts appointed by the member states might participate in its work, at their own expenses.

The relevant Council of Europe and European Union bodies may be represented to the CEPEJ-GT-QUAL without the right to vote or defrayal of expenses.

The non-governmental organizations granted the observer status with the CEPEJ may be invited by the Bureau to participate in the work of the CEPEJ-GT-QUAL, on a case-by-case basis, if the Bureau considers their attendance relevant for the quality of the work.

3. Working structures and methods

The CEPEJ-GT-QUAL will organize 4 meetings (subject to budgetary availability).

In carrying out its terms of reference, the CEPEJ-GT-QUAL shall cooperate with the CEPEJ Network of Pilot courts. It will also coordinate its work with other relevant CEPEJ's working groups (namely the CEPEJ-GT-EVAL and the Steering Group of the SATURN Centre)

It may also seek the advice of external experts and have recourse to studies by consultants.

4. Duration

These terms of reference expire on 31 December 2015.

**European Commission for the Efficiency of Justice
(CEPEJ)**

Composition of the CEPEJ Working Groups for 2014-2015

as decided by the Bureau of the CEPEJ

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

1. Working Group members:

- François PAYCHÈRE (Chairman), President of the Court of Auditors of the Republic and Canton of Geneva, Switzerland
- Joao ARSENIO DE OLIVEIRA, Legal Advisor, General Directorate on political issues, Ministry of justice, Portugal – CEPEJ member
- Fabio BARTOLOMEO, Director General of statistics, Ministry of Justice, Italy – CEPEJ member
- Anke EILERS, Judge, Appeal Court of Köln, Germany
- Nikolina MIŠKOVIĆ, Judge, Commercial Court of Rijeka, Croatia
- Ioannis SYMEONIDIS, Judge, Court of Appeal and Professor at the Law School, University of Thessaloniki, Greece

2. The following persons can be invited as scientific experts according to the needs:

- Gilles ACCOMANDO, President of first instance court, Avignon, France
- Yinka TEMPELMAN, Quality Manager of the Dutch Council for the judiciary, Netherlands
- John MARSTON, Former President of the High Court of Enforcement officer of England and Wales, United Kingdom

3. The following Observers will attend the Working Group meetings:

- European Institute of Expertise and Experts (EEEI), represented by Jean-Raymond LEMAIRE
- European Network of Councils for the Judiciary (ENCJ), represented by Jean-Marie SISCOT
- European Union of Rechtspfleger (EUR), represented by Jean-Jacques KUSTER
- International Union of Judicial Officers (UIHJ), represented by Matthieu CHARDON
- Council of Bars and Law Societies of Europe (CCBE), represented by Simone CUOMO

4. The President of the CEPEJ can attend the Working Group meetings.

5. The following authorities are invited to attend the Working Group meetings:

- European Union institutions
- World Bank

Attachment 8.

**European Commission for the Efficiency of Justice
(CEPEJ)
Terms of reference
of the Working Group on mediation (CEPEJ-GT-MED)
adopted by the CEPEJ at its 6th plenary meeting**

1. Tasks

Under the authority of the European Commission for the Efficiency of Justice (CEPEJ), the Working Group on mediation (CEPEJ-GT-MED) is instructed to enable a better implementation of the Recommendations of the Committee of Ministers concerning mediation.

In order to fulfil its tasks, the CEPEJ-GT-MED shall in particular:

- a. assess the impact in the States of the existing Recommendations of the Committee of Ministers concerning mediation, that are: Recommendation Rec(98)1 on family mediation, Recommendation Rec(99)19 concerning mediation in penal matters, Recommendation Rec(2001)9 on alternatives to litigation between administrative authorities and private parties, Recommendation Rec(2002)10 on mediation in civil matters;

- b. draft, if appropriate, guidelines and specific measures aimed to ensure an effective implementation of the existing Recommendations;
- c. taking into account the work of other institutions, and in particular the European Union, suggest, if appropriate, areas in which it could be useful to draft new international legal instruments or amendments to existing ones.

2. Composition

The CEPEJ-GT-MED shall be composed of 6 members of the CEPEJ or other experts appointed by the CEPEJ who have an in-depth knowledge in the field of mediation and other measures of alternative dispute resolution. Their travel and subsistence expenses will be borne by the budget of the Council of Europe. Other experts appointed by the member States might participate in its work, at their own expenses.

The relevant Council of Europe, in particular the European Committee on Legal Co-operation (CDCJ), and European Union bodies might be represented to the CEPEJ-GT-MED without the right to vote or defrayal expenses.

The non-governmental organisations granted with the observer status to the CEPEJ might be invited by the Bureau to participate in the work of the CEPEJ-GT-MED, on a case-by-case basis, if the Bureau considers their attendance relevant for the quality of the work.

3. Working structures and methods

The CEPEJ-GT-MED will organize 2 meetings in 2006.

In carrying out its terms of reference, the CEPEJ-GT-MED may seek the advice of external experts and have recourse to studies by consultants.

4. Duration

These terms of reference expire on 31 December 2006.

Attachment 9.

**European Commission for the Efficiency of Justice
(CEPEJ)
Terms of reference
of the Working Group on execution (CEPEJ-GT-EXE)
adopted by the CEPEJ at its 12th plenary meeting**

1. Tasks

In accordance with article 7.2.b of Appendix 1 to Resolution Res(2002)12, and under the authority of the European Commission for the Efficiency of Justice (CEPEJ), the Working Group on execution (CEPEJ-GT-EXE) is instructed to enable a better implementation of the relevant standards of the Council of Europe regarding execution of court decisions in civil, commercial and administrative matters at national level.

In order to fulfil its tasks, the CEPEJ-GT-EXE shall in particular:

- a. assess the impact in the states of the existing relevant instruments of the Council of Europe on execution or court decisions at national level;
- b. draft, if appropriate, guidelines aimed to ensure an effective implementation of the existing standards of the Council of Europe;
- c. draft, if appropriate, quality standards on execution in order to improve the accessibility of execution systems and the efficiency of execution services.

To fulfil these tasks, the CEPEJ-GT-EXE will take into account in particular the relevant work of the CEPEJ, including the study approved by the CEPEJ on execution of judicial decisions (CEPEJ(2007)9).

2. Composition

The CEPEJ-GT-EXE shall be composed of 6 members of the CEPEJ or experts, comprising practitioners, proposed by member states and appointed by the CEPEJ Bureau who have an in-depth knowledge in the field of execution. Their travel and subsistence expenses are borne by the budget of the Council of Europe. Other experts appointed by the member states might participate in its work, at their own expenses.

The relevant Council of Europe, in particular the European Committee on Legal Co-operation (CDCJ), and European Union bodies might be represented to the CEPEJ-GT-EXE without the right to vote or defrayal expenses.

The non-governmental organizations granted with the observer status to the CEPEJ might be invited by the Bureau to participate in the work of the CEPEJ-GT-EXE, on a case-by-case basis, if the Bureau considers their attendance relevant for the quality of the work.

3. Working structures and methods

The CEPEJ-GT-EXE will organize two meetings in 2009 (subject to budgetary availability).

In carrying out its terms of reference, the CEPEJ-GT-EXE may cooperate with the CEPEJ Network of Pilot courts.

It may also seek the advice of external experts and have recourse to studies by consultants.

4. Duration

These terms of reference expire on 31 December 2009.

Attachment 10.

Strasbourg, 9 November 2009

CEPEJ(2009)12

**European Commission for the Efficiency of Justice
(CEPEJ)**

**Note on possible integration of the Lisbon Network within
the CEPEJ's activity programme**

Secretariat Memorandum, prepared by the Directorate General of Human Rights
and Legal Affairs

I. Background information

Judicial training is essential for the development of a common legal culture in Europe and a prerequisite if the Judiciary is to be respected and worthy of respect. At the level of the Council of Europe a Network to support the judicial training in the member states (Lisbon Network) was established in 1995 within the framework of legal co-operation programmes in order to exchange

information on matters of common interest and to support, the setting up or further development of judicial training facilities in the new democracies of central and eastern Europe.

Members of the Lisbon Network are representatives from the judicial training institutions of Council of Europe member States. European Judicial Training Network and Judicial Training Institute of Lebanon are observer members without the right to vote. In its strategic document dated from 2006, the Lisbon Network underlines that *“unless the right training is provided for legal professions, judicial systems cannot function effectively and will forfeit public trust”*. *The appropriate training of the judges and prosecutors partakes of its independence and its efficiency.*” Since 1995 members of the Lisbon Network met regularly in a plenary meeting until 2008. However the Lisbon Network used to operate according to a hoc working basis, without proper legal existence, as a specific modality for implementing targeted cooperation programme.

II. Judicial training at European level

The main actors of the judicial training remain national judicial training schools as the organization of training is primarily the responsibility of each member State. At the level of the European Union other actors provide training and exchange of good practices in this field, in particular the European Judicial Training Network (EJTN) which has been granted the Observer status with the CEPEJ.

At the level of the Council of Europe European several texts address directly or implicitly the question of initial and continuous training of judges and prosecutors:

- CCJE Opinion N°4 to the attention of the Committee of Ministers of the Council of Europe on appropriate initial and in-service training for judges at national and European levels;
- Recommendation Rec(94)12 of the Committee of Ministers on the Independence, Efficiency and Role of Judges;
- Recommendation Rec(2000)19 of the Committee of Ministers on the Role of Public Prosecution in the Criminal Justice System;
- The European Charter on the statute for judges.

III. The Lisbon Network as a CEPEJ's Network

Resolution Res(2002)12 establishing the European Commission for the efficiency of justice (CEPEJ) highlights, among the principles that inspired its creation: *“i. Initial and on-going training is a right and a duty of all those involved in the judicial service and is an essential requirement for justice to fulfill its functions. ii. Initial and on-going training of legal professionals shall be guaranteed (...)”*.

Moreover, in accordance with Article 3.e of its Statute, the CEPEJ shall fulfil its tasks by creating networks of professionals involved in the justice area.

Judicial training institutions are essential tools for promoting and safeguarding the independence, efficiency and quality of justice systems. Such a network of judicial training institutions would make sense for the CEPEJ. Thus the issue of judicial training would be better taken into account within the CEPEJ's work. Similarly, these training bodies could better include issues on efficiency and quality of justice into their training curricula, in particular through the CEPEJ's tools which could thus be better known and better used by justice professionals

Therefore the aim of this paper is to propose to CEPEJ members to consider the possibility of establishing the Lisbon Network under its umbrella giving it a number of tasks that can complement and enrich the ongoing work of CEPEJ.

IV. Possible missions and tasks for the Lisbon Network within the framework of the CEPEJ's Activity programme

The CEPEJ could decide to promote networking among training institutions for judges and prosecutors through the strengthening of exchanges of experience and development of European quality standards in the field of training.

The Lisbon Network could be a consultative body of the CEPEJ.

To this end, the Lisbon Network could in particular:

- a. complement the work of the CEPEJ by advising the members on questions related to the efficiency and quality of justice through judicial training;
- b. advise the CEPEJ on the issues regarding judicial training within the framework of its process for evaluating European judicial systems and carry out in-depth analysis of the relevant information resulting from this process;
- c. support and disseminate the work of the CEPEJ (in particular on judicial time management, quality of justice, mediation, execution of court decisions) among new (initial training) and experienced (in-service training) judges and prosecutors;
- d. trial within judicial training institutions the relevant CEPEJ's tools and guidance;
- e. encourage dialogue between national and European judicial bodies, amongst institutions responsible for judicial training and amongst judges and prosecutors;
- f. help training institutions in drafting entry-level tests (in particular when it comes to court management issues);
- g. help in drafting specific curricula and training methodologies on the efficiency and quality of justice, management skills, etc;
- h. elaborate a system for the evaluation of the training on international legal instruments;
- i. provide guidelines to legal research;
- j. help training institutions to implement the "Minimum Corpus of Council of Europe standards" and the "Concept paper on the training of judges and prosecutors on cybercrime".

In order to fulfil its tasks, the *Lisbon Network* could in particular:

- analyze pertinent available information concerning the training of judges and prosecutors in the member States in order to propose solutions for the improvement of the cooperation on training methods, the development of distance learning and donation policies;
- collect necessary information on the judicial training of judges and prosecutors, their appointment, the evaluation of their carrier and how they influence the quality and efficiency of justice;

- rely on appropriate networks, in particular the CEPEJ's Network of pilot court, allowing the integration of the works and thin kings of the judicial community, to exploit innovative projects aimed at improving structural and functional features of training institutions in member States.

V. Composition

The Lisbon Network should be composed of representatives from the entities responsible for the training of judges and prosecutors from the 47 member states of the Council of Europe. Ideally the appointed persons should either have a managerial or leading position in the judicial institution or be involved in the development of curricula (for the initial and/or continuous training).

The Lisbon Network could meet regularly, under the auspices of the CEPEJ.

The Lisbon Network could have a steering committee composed of 4 members (experts) proposed by member states and appointed by the CEPEJ Bureau for one year. The steering committee will be the body responsible to provide policy guidance to the Lisbon Network, review and approve its working programme. The steering committee may take the format of a working group, if necessary. In this case, experts with an in-depth knowledge in a certain field will be appointed.

Their travel and subsistence expenses would be borne by the budget of the Council of Europe. Other experts appointed by the member States might participate in its work, at their own expenses.

The relevant Council of Europe and European Union bodies might be represented to the *Lisbon Network* without the right to vote or defrayal expenses.

Other members having observer status within the CEPEJ might be invited to take part in the works of the steering committee, on a case-by-case basis, if CEPEJ Bureau considers their attendance relevant for the quality of the work.

Strasbourg, 13 April 2006

CEPEJ(2006)2

**European Commission for the Efficiency of Justice
(CEPEJ)**

Main elements for the functioning of the CEPEJ Network of Pilot Courts

1. Role of the Network

1.1 A forum of information

§ Pilot courts are privileged addressees of the information on the work and achievements of the CEPEJ (vertical information). They are invited to disseminate this information within their national networks.

§ Within the Network, Pilot courts must be able to communicate and cooperate exchange views, request information, etc. (horizontal information).

1.2 A forum of reflection

§ The Network should be consulted on the various issues addressed by the CEPEJ, beyond the specific issue of judicial timeframes.

§ A proper balance between civil and criminal justice should be maintained as regards the functioning of justice systems.

§ Spontaneous reflections, proposals and comments by the Pilot courts to the CEPEJ are encouraged.

1.3 An area of implementation

§ Some Pilot courts can be proposed to trial at local level some specific measures proposed by the CEPEJ, according to modalities jointly agreed.

2. Working methods

§ Exchanges and reflections within the Network focus on common problems and transposable solutions.

Considering the diversity of the courts involved in the Network, some reflections can be developed within specific clusters defined either according to the kind of courts or according to geographical criteria. However the reflection should remain transparent and be of benefit to all members of the Network.

§ Exchanges between judicial practitioners, who represent their courts and do not commit their governments, must keep an informal nature as far as possible.

§ Being a member of the Network is a project for the whole court, where judges, prosecutors and administrative staff attached to the court, and possibly the local bar association, should be involved. Subsequently the representatives of the courts in the Network are invited to organize appropriate information and consultation within their courts.

§ The Network's members are invited to have regular contacts with the member of the CEPEJ in respect of their country.

§ Pilot courts are encouraged to participate actively in the European Day for Justice (25 October) and to the European Prize for innovative practices contributing to the quality of justice: 'The Crystal Scales of Justice'.

3. Working means

§ The Secretariat of the CEPEJ is the main interlocutor of the members of the Network. In order to facilitate contacts, each Pilot court is invited to appoint one specific contact person to the Secretariat.

§ The CEPEJ Web site (www.coe.int/CEPEJ) is a key tool for acceding to the CEPEJ documents, exchanging information and, as far as possible, developing exchanges, through the Secretariat of the CEPEJ.

A restricted and secured area is reserved to the members of the Network within this Web site for any specific issues regarding the life of the Network.

§ Subject to available budget, the Network can meet regularly.

Attachment 11.

European Commission for the Efficiency of Justice (CEPEJ)

Working Group on evaluation (CEPEJ-GT-EVAL)

Pilot co-operation process / Peer review on judicial statistics
4th cycle (2012)

Visit report:

Baku (Azerbaijan), 30-31 May 2012 (n°10)

GENERAL INTRODUCTION

1. The exercise of evaluating judicial systems carried out by the European Commission for the Efficiency of Justice (CEPEJ) has the aim of progressively defining a core of quantitative as well as qualitative key elements, collected on a regular basis and examined in the same way in all the member States of the Council of Europe. This will allow the pinpointing of common indicators on the quality and the efficiency of the functioning of justice within the member States of the Council of Europe, in order to present a unique picture of the organisation of justice in Europe.
2. Given the stakes at hand, practical precautions are necessary to give credit to such an exercise. With this end in view, the 47 members of the CEPEJ have framed an evaluation scheme which has been discussed and is to become permanent, the CEPEJ has also set up a system of national delegates permitting efficient communication with the secretariat of the CEPEJ. Finally, guidelines on statistics are being discussed.

3. With a view to upgrading its methods, the CEPEJ decided at its 10th plenary meeting (Strasbourg, 5-6 December 2012) to set up a pilot peer review co-operation process in order to strengthen the credibility of the data collected in the framework of the activity for evaluating European judicial systems¹¹⁵. This pilot co-operation process will consist in visits to three States every year on a voluntary basis. In 2008, for the first cycle of evaluation, France, Bosnia-Herzegovina and Poland welcomed the peers of the CEPEJ. In 2009, Malta and the Russian Federation were visited but this second cycle was only achieved in 2010 by means of a meeting in Oslo regrouping 5 Nordic States. The third cycle consisted of three visits: Turkey, the Netherlands and Austria. In 2012, the fourth cycle will consist only in...visits, in Azerbaijan and in

4. Peers are members of the Working Group on Evaluation of the CEPEJ (CEPEJ-GT-EVAL) which also have the task to prepare, every two years, the report on evaluation of the European judicial systems. As a rule, the peers' visit in the given State is organised by the member of the CEPEJ and the national correspondent responsible for the relevant collection of data requested by the CEPEJ. In order to increase the various co-operation projects and exchanges, one of these latter persons may ask to assist the peers in another visit within the same evaluation cycle.

5. The main objectives of this co-operation are as follows :

- Supporting Council of Europe member States in:
 - 🔧 improving the quality of their judicial statistics,
 - 🔧 developing their statistics system so that judicial statistics at national level are in line with the common indicators defined through the CEPEJ's Evaluation Scheme.
- Facilitating the exchange of experiences between national judicial statistics systems, sharing good practices, identifying benchmarks and facilitating the transfer of information.
- Contributing to the transparency and accountability of the CEPEJ process for evaluating European judicial systems and helping to improve the process.

6. The reports can be consulted in the following documents CEPEJ-GT-EVAL(2008)1 (1st cycle), CEPEJ-GT-EVAL(2010)5 (2nd cycle), CEPEJ-GT-EVAL(2011)2Rev3 (3rd cycle) and CEPEJ-GT-EVAL(2012)8(4th cycle).

VISIT REPORT

1. General presentation of the judicial system of Azerbaijan

Mr Azar JAFAROV, member of the Judicial-Legal Council, Director of General Department of Organisation and Supervision at the Ministry of Justice welcomed the CEPEJ delegation and presented the judicial and legal reforms in Azerbaijan.

a. Judicial system

There are 110 courts (103 first instance courts, 6 appeal courts and 1 cassation court) in Azerbaijan:

¹¹⁵ This process has been initiated by France; the Working Group on evaluation of judicial systems (CEPEJ-GT-EVAL) is entrusted with its implementation and its follow-up.

- ✚ 85 district (city) courts with general jurisdiction;
- ✚ 5 regional serious crime courts (Baku, Ganja, Shaki, Lankaran and Nakhchivan);
- ✚ 6 regional military courts (Baku, Ganja, Jalilabad, Füzuli, Tartar and Nakhchivan);
- ✚ 7 regional administrative-economic courts (Baku n°1 and N° 2, Sumgayit, Ganja, Shirvan, Shaki and Nakhchivan);
- ✚ 6 regional appeal courts (Baku, Sumgayit, Ganja, Shaki, Shirvan, the Supreme Court of Nakhchivan Autonomous Republic);
- ✚ 1 Supreme Court of the Republic of Azerbaijan.

b. Reforms

Since its membership to the Council of Europe in 2001, Azerbaijan has undertaken a large programme of reforms in the justice sector, in close co-operation with the Council of Europe: rules on selection of judges, law on Judicial-Legal Council, creation of an administrative justice in 2011, etc.

In parallel, other actions in the process of reforms were funded by the World Bank and the Government of Azerbaijan under the long-term programme “Judicial Modernization Project” (2006-2014) which consists in particular in modernizing the courts’ infrastructure. A certain number of courts were created, other courts were completely renovated (for example: Oguz District Court).

According to the authorities of Azerbaijan, they have analysed and used each edition of the CEPEJ evaluation report (comparison with other European countries) as a basis of reflection for the various national reforms between 2000 and 2012: for example to increase regularly the court budget, to increase the number of judges by 24% as well as their remuneration by 15 – 25%, to create a unified website for all courts who possess a database of court decisions.

Mr JAFAROV provided to the CEPEJ experts various figures concerning the functioning of the judicial system:

- ✚ in 2000, approximately 50.000 cases (criminal, civil and administrative cases) were dealt with by courts. In 2011, this figure increases to 170.000 cases;
- ✚ 3.53 judges per 100.000 inhabitants in 2000 and 6.7 judges in 2010;
- ✚ almost 5 millions Manat allocated to judicial maintenance in 2000 and more than 65 millions Manat in 2012.

2. The collection of judicial statistics and methods of analysis of this data at a national level

Mr Afgan ALAKBAROV, Chief of the Division for collecting and analysing the courts statistics of the General Department of Organisation and Supervision at the Ministry of Justice presented to the CEPEJ peers the methods used in Azerbaijan to collect and analyse the judicial data.

According to the Law “on courts and judges” and the Charter on Ministry of Justice, the Ministry of Justice is competent for:

- ✚ running judicial statistics collection process;
- ✚ define the forms of statistical reports and primary report concerning the judicial activity;
- ✚ collect, summarise and analyse court statistics reports;
- ✚ draft and publish statistical reports;
- ✚ organise the work of court clerks within courts;
- ✚ define, in co-operation with the Supreme Court, regulations concerning the work of court clerks work and other matters concerning the courts.

Concerning statistical data of the activities of the courts, it has been indicated to the experts that:

- ✚ all courts of the Republic of Azerbaijan have to prepare a statistical report at least every six months;
- ✚ presidents of courts and consultants of the apparatus of courts are responsible for the accuracy of the statistical data contained in the reports;
- ✚ it is the task of the Ministry of Justice to collect statistical reports (765 court statistical reports in 17 forms received from 110 courts), to summarise (into 21 statistical reports) to analyse them and to forward them every 6 months to the Judicial-Legal Council and to the Supreme Court (amongst these reports, 16 are sent to the State Statistical Committee)¹¹⁶.

The work related to the court statistics is prepared by the analytical group of the Head of the Department of the Organisation, and supervised by the Ministry of Justice.

A bi-annual statistical bulletin is prepared based on these statistical reports. The data obtained serves also to the calculation of the workload of judges and their evaluation. Statistical indicators are established, compared and analysed, and are used for example, for analysing the stability of the court decisions. Growth and decrease tendencies of various parameters (number of cases, number of the sentenced persons, types of punishments, categories of cases, number of complaints, number of acquittals, etc.) are defined and are forecasted. This information is also used to determine the number of judges, the design of court buildings, etc.

For the preparation of statistical forms, Fox Pro, Delphi v Excel software are used.

¹¹⁶ The statistical report forms of the courts of first instance include:

- “On criminal cases heard in courts of first instance” (form N°1);
- “On criminal cases heard in courts of first instance (form N°1 –a);
- “On enforcement of a ruling or other final court decisions” (form N°1-4);
- “On procedural compulsion measures applied under a decision of a court of first instance” (form N°1-5)
- “On hearing of civil cases and economic disputes by courts of first instance” (form N°2);
- “Adoption and its annulment” (form N°2-4);
- “On hearing of cases on administrative offences” (form N°3);
- “On execution status of rulings, resolution or other final court decision” (form N°4).

Statistical report forms of appeal are:

- “On hearing of criminal cases in a court of appeal” (form N°1-1);
- “On hearing of civil cases, economic and administrative disputes in a court of appeal” (form N°2-1)
- “On the outcome of review of complaint protests issued from the decisions made by courts of first instance about procedural compulsion measures on the criminal cases in courts of appeal” (form N°1-6);
- “On annulment and change of decisions by judges of the courts of first instance”

Statistical report forms of the Supreme Court:

- “On criminal cases heard under cassation in the Supreme Court of the Republic of Azerbaijan (form N°1-2)”
- “On hearing a criminal case by the plenary session of the Supreme Court of the Republic of Azerbaijan (form N°1-3)”
- “On hearing of civil cases, economic and administrative disputes under the cassation procedure by the Supreme Court of the Republic of Azerbaijan (form N°2-3)”
- “On annulment and change of decisions by judges of the courts of appeal”.

There are also:

- “On classification of crimes, persons held criminally accountable in the courts of first instance and punishing measure (form N°10)”
- “On composition and identity of the sentenced on rulings issued by the courts of first instance (form N° 11)”
- “On the sentenced under the mature age (form n°12)”
- “Appendix to report forms N° 10,11,12 (form N°10a)”

Amendments have been made in the various statistical forms with the collaboration of the CEPEJ (decision of 26 May 2009 of the Board of the Ministry of Justice): reports 1, 1a, 3, 1-1, 2, 2-1, 2-2 were modified and a division of criminal cases in line with the classification of crimes, number of objections made to judges (court apparatus), court panel, the appeal rate and the number of criminal cases related to legal aid were added.

3. The creation of automated case and document management systems in courts

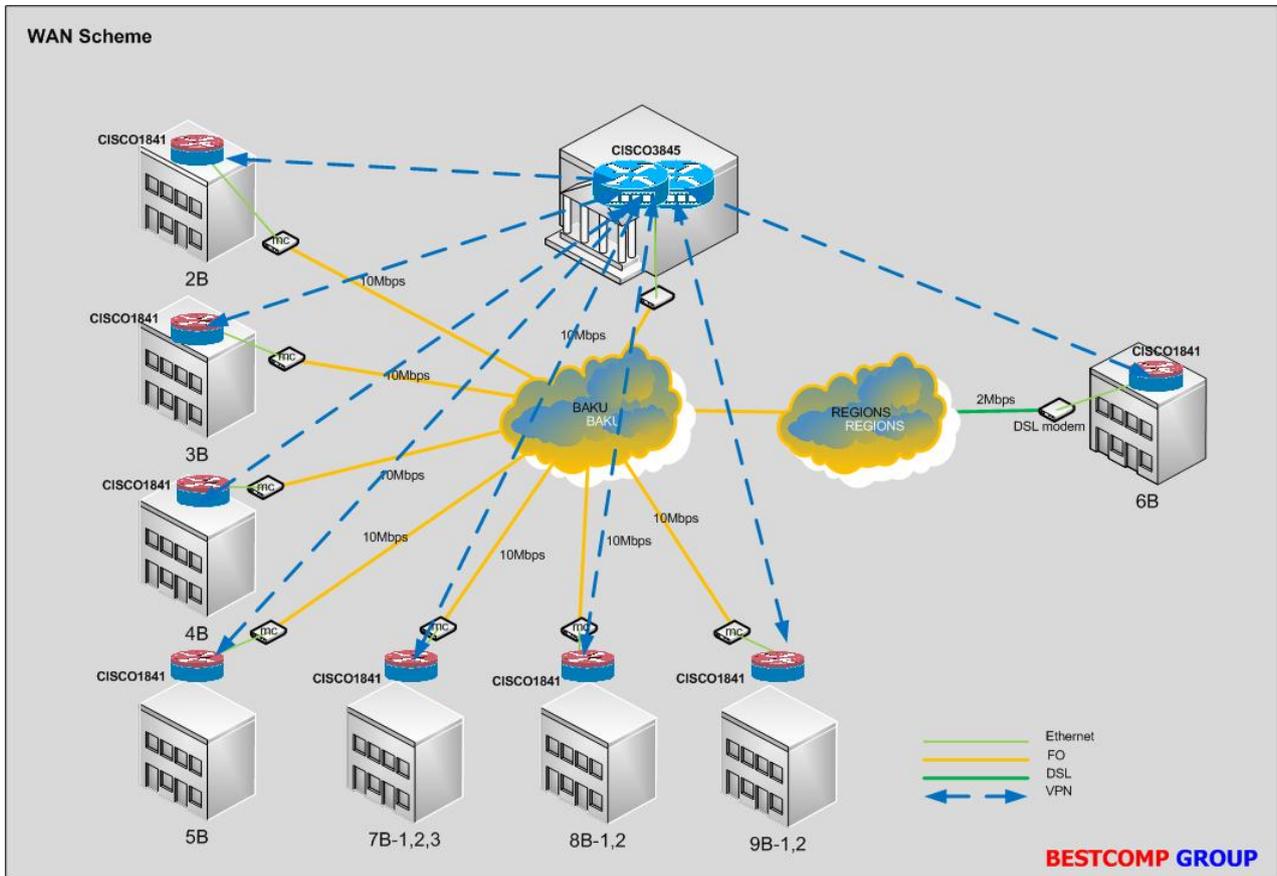
Mr Sadiq HABIBULAYEV from the “Bestcomp” company presented the current jointly financed Government of Azerbaijan/World Bank project called “Judicial modernisation Project” aims at establishing the electronic case and the document management system in courts. It should speed up the process of collecting the statistical information and improve the accuracy of the data collected.

To this end, an ICT action plan has been decided in order to establish of a fully integrated network, to supply and install hardware and software, to improve the current operational processes in the main Apparatus of the Ministry of Justice, in several of the key agencies and selected pilot courts.

ACTIVITIES – Infrastructure

Wiring has been completed in Headquarters-Apparatus of the Ministry of Justice, Centre of working with municipalities, General department of Notary and Registry, Registry department of the Sabunchi district, State notary offices, Sheki regional justice department, Apparatus of the Judicial-Legal Council, Baku economic court, Baku Appeal Court, Baku city Khatai District Court. Wiring of Judicial-Legal Council is not started.

Communication WAN Scheme:



Communication – Headquarters – Apparatus of the Ministry of Justice:

The new implemented activities, via a Software application will be:

- DMS (Document Management System)
- CMS (Case Management System)
- CRS (Court Recording System)

İşlər

İşin nömrəsi: İddiaçı (Ərizəçi): İşin mahiyyəti:

D/O tarixi: - Cavabdeh: İşin statusu:

İşin nömrəsi	D/O tarixi	İddiaçı (Ərizəçi)	Cavabdeh	İşin mahiyyəti	İşin statusu
2 (004) – 2742 / 2010	04.11.2010	Əliyeva Gülnar Faiq qızı	Əliyev Samir İmran oğlu	Boşanma	Ərizə qəbul edilib
2 (004) – 1634 / 2009	15.08.2009	Əliyeva Aynurə Faiq qızı	Əliyev Anar Eldar oğlu	Manzil mübahisəsi	Hazırlıq iclasına təyin edilib
2 (004) – 1022 / 2009	03.02.2009	Əliyeva Gülnar Faiq qızı	Əliyev Samir Elvin oğlu	Zəminlik	Apellyasiyaya göndərilib
2 (004) – 2019 / 2010	22.05.2010	Əliyeva Gülsüm Faiq qızı	Məmmədov Samir Etibar oğlu	Kredit	Qərar qəbul edilib
2 (004) – 1143 / 2009	08.12.2009	Ağayeva Gülnar Faiq qızı	Əliyev Anar Rəşad oğlu	Torpaq mübahisəsi	Baxışa təyin edilib

11.01.2012 10:31 Yasamal Rayon Məhkəməsi - Məmmədov Məmməd © Bestcomp Group

For example, Cases search screen:

4. General analysis of the organisation of the collection and transmission of data concerning Azerbaijan to the Council of Europe Secretariat of the CEPEJ

The peers meeting was organised in the period where the CEPEJ-GT-EVAL and the CEPEJ Secretariat checked the coherence of all data sent by the member States to the CEPEJ for the evaluation report. For this reason, the team came with numerous questions and it took a lot of time to receive the explanation from the authorities of Azerbaijan concerning the data. For that reason, the meeting was extremely useful.

The main difficulties encountered in analysing the Scheme filled in by Azerbaijan concerned, in particular, the budget where important increases were indicated without any explanation, legal aid where replies were missing and the number of court staff and prosecutors. After in depth discussions, most of the replies were consolidated and validated by the experts.

5. Visit of the Supreme court

The CEPEJ team visited the new building of the Supreme Court, very impressive, built in the image to represent the temple of the peace.

After the visit, the CEPEJ team met Mr KASIMOV, Head of the Department on statistics at the Supreme Court as well as other judges and apparatus members in order to exchange their views concerning: (i) the analysis of the statistical data that the Supreme court used to receive every 6 months, (ii) the difficulties that the Supreme court meet when deciding on cases and (iii) the wish of the Supreme Court to unify the case-law and to improve the efficiency of its work.

It is indicated that the Plenum of the Supreme Court is competent to:

- unify the case-law and to adopt guidelines for the attention of presidents of appeal courts calling them to take into account the outcomes of the decisions rendered by the Supreme Court;
- to analyse and discuss their own statistical data (of the Supreme Court)
- to draft general guidelines on specific topics: drugs, military crimes, robberies, compulsory medical examinations for certain diseases, etc.

The Supreme Court has a specific database for the last 5 years, classified into 4 parts (criminal, civil, economical, military), which records cases from the entry to the decision stages. There is a breakdown by judge and by field. It also indicates which judge of appeal court each case comes from. Data is indicated in absolute figures but also in percentage by judge, in general or by judge from the Supreme Court.

The Supreme Court members had an exchange of view with the CEPEJ team concerning the possible ways to improve this database, concerning which breakdown could be now created to give more information on the functioning of this court. It is noted that the classification of case categories is different from the one used at a national level and which has been amended according to the requests of the CEPEJ evaluation. The reason given is that the type of cases submitted to the Supreme court does not correspond to the general one for all other courts.

It is also mentioned that a pilot project on specialisation of courts based on statistical data is currently implemented as from May 2012. The Baku City Court is amongst the pilot courts and will report on the possible improvements after one month of implementation (3 criminal judges and 6 civil judges, on a voluntary basis, were entrusted with specific tasks. It is indicated that this project is too recent to develop concrete conclusions yet. It is also mentioned that such a pilot project was also implemented in an economic court and the results were not encouraging.

6. Visit of the Baku City Yasamal District Court

The CEPEJ team had the opportunity to visit to newly constructed building of Baku City Yasamal District Court. This construction has been undertaken in the framework of the Judicial Modernization Project jointly funded by the Government of Azerbaijan and the World Bank. Mr Ramin GURBANOV, who played one of the main roles in this project, gave to the CEPEJ team a very detailed presentation *in situ* of the court.

Other courts in the country should be subject to such drastic renovation.

EVALUATION MISSION No.10 (BAKU, AZERBAIJAN)

Presentation

Date: 30-31 May 2012

Organisers:

Judicial Legal Council, Azerbaijan
Supreme Court, Azerbaijan
Ministry of Justice, Azerbaijan

Participants:

For Azerbaijan:

- Dr. Azar JAFAROV, Member of the Judicial-Legal Council, Director of General Department of Organisation and Supervision, Ministry of Justice (presiding)
- Mr. Javid HUSEYNOV, Head of Apparatus of the Judicial-Legal Council
- Mrs. Shalala MAMMADOVA, Member of the Judicial-Legal Council, judge, Chairman of Civil Cases Chamber of the Supreme Court
- Mr. Rafiq MAMMADOV, Member of the Judicial-Legal Council, President of the Ganja Appeal Court
- Mr. Aladdin JAFAROV, President of Baku City Yasamal District Court, Chairman of the Association of Azerbaijan General Courts' Judges (member of network of pilot courts)
- Mr. Tofiq Pashayev, President of Baku City Khatai District Court (member of network of pilot courts)
- Mr. Museyib HUSEYNOV, President of the Baku Administrative-Economic Court #1
- Mr. Ramin GURBANOV, Chief of reforms division of the General Department of Organisation and Supervision, Ministry of Justice, member of CEPEJ and CEPEJ-GT-EVAL
- Mr. Afgan ALAKBAROV, Chief of division for collecting and analyzing the courts statistics of the General Department of Organisation and Supervision, Ministry of Justice

For the CEPEJ:

- Mr Jean-Paul JEAN (France), Prosecutor at the Court of Appeal of Paris, Associated Professor at the University of Poitiers, Chair of the CEPEJ-GT-EVAL
- Mr Georg STAWA (Austria), Head of Department Pr 8, Projects, Strategy and Innovation, Federal Ministry of Justice, Wien, Vice-Chair of the CEPEJ
- Mme Beata Z. GRUSZCZYŃSKA, Institute of Justice, Ministry of Justice, Warsaw, Member of the CEPEJ-GT-EVAL
- Ms Muriel DECOT (Council of Europe), Co-secretary of the CEPEJ

Programme:

Wednesday, 30 May 2012

- 10.00-10.15 Adoption of agenda
- 10.15-10.45 Judicial-legal reforms in Azerbaijan (in collaboration with the Council of Europe and impact of CEPEJ report)
Dr. Azar Jafarov, Member of the Judicial-Legal Council, Director of General Department of Organisation and Supervision, Ministry of Justice
- 10.45-11.30 Discussions
- 11.30-11.45 Coffee break
- 12.00-13.00 Field visit to newly constructed administrative building of Baku City Yasamal District Court within the Judicial Modernization Project jointly funded by the Government of Azerbaijan and the World Bank
- 13.15-14.45 Lunch
- 15.00-16.00 Presentation on practice in collecting of judicial statistics information and methods of its analysis
Mr. Afgan Alakbarov
Chief of division for collecting and analyzing the courts statistics of the General Department of Organisation and Supervision, Ministry of Justice
- 16.00-16.45 Discussion

Thursday, 31 May 2012

- 10.00-10.45 Meeting in the Supreme Court (tour in the newly constructed building)
- 10.45-11.30 Meeting with judges and Apparatus members of the Supreme Court
- 11.30-11.45 Coffee break
- 11.45-12.15 Presentation on work relating to the creation of automated case and document management systems in courts
Mr. Sadiq Habibulayev, "Bestcomp" company
- 12.15-12.45 Questions and discussions
- 13.00-14.30 Lunch

Attachment 12.

Crystal Scales of Justice Prize

Since 2005, the Council of Europe and the European Commission are organising together a competition to discover and highlight innovative and efficient practices used in European courts for court organisation or for the conduct of judicial proceedings (for example, initiatives devised by a court president, a registry, a Bar) and deserving to be drawn to the attention of policy-makers and the judicial community so as to improve the functioning of the public justice system.

At the beginning the Prize concerned either criminal (2009) or civil justice (2005, 2006 and 2008). For the first time in 2010, the "Crystal Scales of Justice" Prize covered at the same time the fields of criminal and civil justice. In 2012 the Prize again covered the civil justice field, and in particular innovative practices in the field of civil justice, aimed to improve efficiency and functioning of the judicial system, procedures and the courts' organization.

List of rewarded initiatives

2014

Criminal and civil justice

Awarded prize:

"Online legal aid: better solutions for people's rights", the Portuguese Solicitadores Chamber, Portugal

Given special mention:

"A central Database for Justice (E-File)", Ministry of Justice, Estonia

"An accelerated familial procedure", Family Affairs Courts and Bar, Berlin, Germany

"European Courts weblog and European law newsletters", Amsterdam Court of Appeal, the Netherlands

2012

Civil justice

Awarded prize:

"The follow-up of judicial expertises", Regional Court of Antwerp, Belgium

Given special mention:

"The co-hearing of the judge to family affairs – Auditor of children", Regional Court of Tarascon, France

"Judicial data warehouse and performance dashboards", Supreme Court of Slovenia

"Lexnet electronic communications system", General Secretariat of Justice Administration, Spain

2010

Criminal and civil justice

Awarded prize:

"Equal before the law, but not always equal before the language – Improving communication between courts and citizens", Yambol Administrative Court, Bulgaria

Given special mention:

"Promoting safer driving" (Austrian Mobility Research), Regional Court of Linz and FMG Amor, Austria

"New way of systematic management of delay reduction projects in courts - combining external expertise and internal participation", University of Technology and Ministry of Justice, Finland

"Automated system for enforcement of authentic documents (COVL)", Supreme Court of the Republic of Slovenia

2009

Criminal justice

Awarded prize:

“Volunteer work for inmates”, the Central Prison Service Board, Poland

Given special mention:

“SAS - e-Justice used in the Public Prosecutor’s Offices of the State (Land) Brandenburg”, the General Public Prosecutor’s Office of Brandenburg, Germany

“Mentor Scheme for the Roma people”, Association for Probation and Mediation in Justice, Czech Republic

“European Criminal Law and Human Rights Chamber”, Amsterdam District Court, Criminal Law department, the Netherlands

2008

Civil justice

Awarded prize:

“The Small Claims Mediation Service”, Her Majesty’s Courts Service, United Kingdom

Given special mention:

“Bus “Barreau de Paris Solidarité”, Barreau de Paris, France

“The computerised civil lawsuits office”, Tribunal de Milan, Italy

“National Judiciary Informatics System (UYAP)”, Ministry of Justice, Turkey

2006

Civil justice

Awarded prize:

“Service§Centers”, the Regional Court of Linz, Austria

Given special mention:

“Diagnostic of the functioning of the court”, First Instance Court of Créteil, France

“Programme Strasbourg”, First Instance Court of Torino, Italy

“Médiateur pour petits litiges rattaché au tribunal”, Manchester County Court, United Kingdom

2005

Civil justice

Awarded prize:

“Quality project in the courts in the jurisdiction of the Court of Appeal of Rovaniemi”, Finland

Given special mention:

“The Reform of Law Enforcement (“FEX-project”), Ministry of Justice, Austria

“Amélioration du Déroulement des Expertises en matière Civile, en particulier en droit de la construction”, Tribunal de Première Instance de Liège, Belgium
Médiation Judiciaire, Hof van beroep te Antwerpen, Belgium

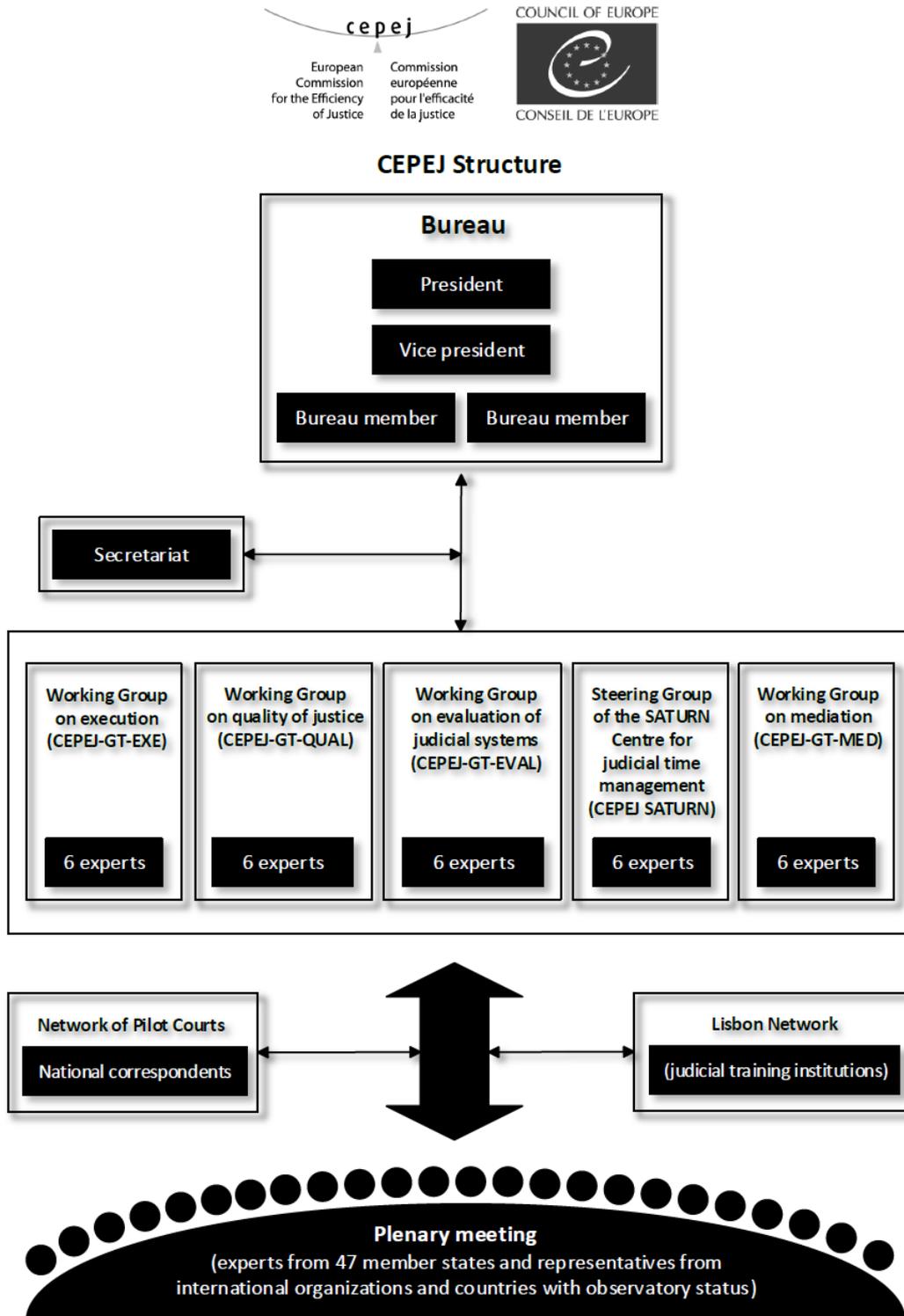
“Legal Aid Scheme of Finland, Department of Judicial Administration”, Ministry of Justice, Finland

“La pratique de la médiation dans le contentieux familial au Tribunal de Grande Instance de Tarascon (13): un changement de culture judiciaire”, Tribunal de Grande Instance de Tarascon, France

“Court Annexed Mediation and Accelerated Civil Litigation Program”, Ljubljana District Court, Supreme Court, Slovenia

Attachment 12.

Structure of the CEPEJ



Attachment 13.

Names of the persons on the front side of the cover

(from left to right)

Photo 1. (top left corner)

1. Ms. Gabriella BATTAINI-DRAGONI, Deputy Secretary General, Council of Europe
2. Mr. Josep DALLERÈS, Chairperson of the Committee of Ministers, Council of Europe
3. Mr. Dean SPIELMANN, President of the European Court of Human Rights (ECHR)

Photo 2. (top right corner)

1. Ms. Hanne JUNCHER, Head of the Justice and Legal Co-operation Department, Council of Europe
2. Mr. Philippe BOILLAT, Director General of the Directorate General of Human Rights and the Rule of Law, Council of Europe

Photo 3. (bottom left corner)

1. Mr. Jean-Paul JEAN, Chairman of the CEPEJ-GT-EVAL
2. Mr. Eberhard DESCH, first President of the CEPEJ (2003-2006)
3. Mr. Guy DE VEL, Director General of Legal Affairs, Council of Europe

Photo 4. (bottom middle)

1. Ms. Muriel DECOT, Co-Secretary of the CEPEJ
2. Mr. Stéphane LEYENBERGER, Secretary of the CEPEJ
3. Mr. John STACEY, third President of the CEPEJ (2011-2014)

Photo 5. (bottom right corner)

1. Mr. Fausto DE SANTIS, second President of the CEPEJ (2007-2010)

Names of the persons on the back side of the cover**(from left to right)**

Photo 1. (top left corner)

1. Mr. John STACEY, third President of the CEPEJ (2011-2014)
2. Mr. Françoise ANDRIEUX, President of the International Union of Bailiffs (UIHJ)

Photo 2. (top middle)

1. Mr. Fikret MAMMADOV, Minister of Justice of the Republic of Azerbaijan
2. Mr. Philippe BOILLAT, Director General of the Directorate General of Human Rights and the Rule of Law, Council of Europe
3. Mr. Ramiz RZAYEV, Chairman of the Supreme Court of the Republic of Azerbaijan

Photo 3. (top right corner)

1. Dr. Azer JAFAROV, Deputy Minister of Justice of the Republic of Azerbaijan
2. Mr. John STACEY, third President of the CEPEJ
3. Mr. Georg STAWA, President of the CEPEJ
4. Mr. Jean-Paul JEAN, Chairman of the CEPEJ-GT-EVAL
5. Mr. Ramin GURBANOV, CEPEJ Bureau member

Photo 4. (bottom left corner)

1. The celebration of the 10th anniversary of the CEPEJ establishment

Photo 4. (bottom middle)

1. Plenary meetings of the CEPEJ

Photo 5. (bottom right corner)

1. Dr. Jacques BÜHLER, Chairman of the Steering Group of the SATURN Centre
2. Dr. François PAYCHÈRE, Chairman of the CEPEJ-GT-QUAL

The European Commission for the Efficiency of Justice (CEPEJ) is a consultative body of the Council of Europe. It contributes to promote the rule of law and the human rights through its analysis of the functioning of the national judicial systems. The study is intended for presenting for the first time the activity of the CEPEJ since its recent creation in 2002.

The purpose of this work consists in introducing the Commission by describing its various functions. Moreover, the study is also aimed at assessing the CEPEJ influence on the judiciary reforms undertaken by the European countries. Namely, the adopted approach implies the examination of the different means of action of the Commission, as well as the evaluation of their effectiveness. To this end, the CEPEJ has launched a constructive dialogue with the Member States of the Council of Europe, offering to them concrete solutions for the existing problems. On the basis of the identification of the observed trends, the CEPEJ extracts general guidelines and contributes in so doing to the consolidation of the European standards related to the quality of the justice. Besides, the Commission pinpoints the examples of good practices in order to foster their generalisation.

The Commission accompanies the European countries in their endeavours to strengthen the efficiency of the judiciary. Accordingly, it plays a more and more recognised role in a field to which the national, the European and the International authorities have granted priority. Thus, the CEPEJ asserted itself as a central interlocutor with regard to the other International organisations interested in promoting and improving the quality of the justice. In this respect, its most significant partnership is with the European Union. For several years, the CEPEJ offers its expertise to the Brussels Commission for which the requirement for quality of the justice has become the main joining criterion addressed to the Candidate countries, as well as one of the core parameters of the evaluation of the degree of consolidation of the rule of law and the economic stability of the Union Member States.

www.coe.int

The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

