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EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

Groupe de Pilotage of the SATURN Centre for judicial time management

Towards European Timeframes for Judicial Proceedings

Implementation Guide

Introduction

As it is known, article 6 of the European Convention on Human Rights states that "everyone is entitled to a fair and public hearing within a reasonable time".

This objective has to be pursued through the development of tools, policies, procedures, and actions by the decision makers, the court personnel, the lawyers, and the collaboration of the stakeholders.

Timeframes are one of these tools. Timeframes are not the panacea for decreasing the length of judicial proceedings, but they have been proven as a useful tool to assess the court functioning and policies, and then to improve the pace of litigation.

Timeframes can be considered *operational tools*, because they are concrete targets to measure to what extent each court, and more generally the administration of justice, pursue the timeliness of case processing, and then the principle of fair trial within a reasonable time stated by the European Convention on Human Rights.

The **setting of Timeframes** is a fundamental step to start measuring and comparing case processing performance and defining conceptually better the **"Backlog"**, which is the number or percentage of pending cases that do not accomplish the set or planned timeframe.

Please note that in this work the following terms have this meaning:

Workload – it is the whole work that a court, or a judge, deals with. It is the sum of all the activities carried out by a court or by a judge (e.g. caseload, management duties, any other activity that is part of the work of the court or of the judge).

Caseload – it is the number of cases that a court, or a judge, has to deal with. It is the sum of pending cases plus incoming cases in a certain time.

Pending cases – it is the number of cases that still have to be dealt with by the court, or by a judge, in a certain time (e.g. Pending cases by January 1).

Timeframe – it is a period of time within which a certain number or percentage of cases have to be resolved, taking into consideration the age of the pending cases. Timeframes are a managerial tool, which can be set by central authorities (e.g. Judicial Council, Supreme Court, Ministry of Justice, Parliament) and/or by courts. Timeframes should not be confused with *procedural deadline or time limits*, which refer to single cases. Procedural deadline or time limits are usually established by the procedural law and entail that an action must occur in a specific time or there will be legal consequences.

Backlog – it is the number or percentage of pending cases not resolved within an established Timeframe. For example, if the Timeframe has been set at 24 months for all the civil proceedings, the Backlog is the number of pending cases that are older than 24 months.

Timeframes should be set not only for the three major areas (civil, criminal, administrative), but they should progressively be set for the different "Case categories" dealt with by the court. Timeframes should be tailored to each case category (e.g. family matters, bankruptcy, labour etc.), and local circumstances, depending on procedural issues, resource available, legal environment.

However a European indication is a fundamental lighthouse to develop timeframes at the national and local levels, and to start building a shared vision of common expectations across Europe.

It is important to underline that quantitative indicators and targets are just photos of the functioning of courts and of the desirable goals to be reached. Courts' resources, policies, rules and concrete actions are the steps to be undertaken to reach these goals.

In addition, the length of judicial proceedings is just one of what can be defined a "trilogy" of goals for judicial systems, whose functioning should be: *fair, affordable, and in reasonable time*.

1.1 Method used to elaborate the Timeframes

The **Timeframes** proposed here are the result of a process which was carried out in the following steps: a) analysis of the literature on judicial timeframes; b) case law of the European Courts of Human Rights; c) data collection and analysis of two surveys submitted to both National Correspondents and Pilot Courts of the CEPEJ; d) discussion of the proposed Timeframes during the 2014 and 2015 meetings of the CEPEJ Pilot Courts.

This method allows to propose three sets of timeframes (A, B, C), which take into consideration the large variety of situations in the Member States.

Based on the data available, we are aware that some countries will not be able to meet the Timeframes proposed, while some others will probably be able to do even better. The three Timeframes proposed here are syntheses of the various situations that we found with the empirical research. They may be used as a basic reference. Each country or court can establish its own Timeframes.

Timeframes should be applied for **each instance** of the whole judicial process (first, appeal, Supreme Court instance). For example, Timeframe C can be realistic for first instance courts, at least as a starting point, while Timeframe A can be used in Supreme Courts.

1.2 Main objectives and development perspectives

We believe that these **Timeframes** are a pragmatic compromise of very different situations and contexts of the various Member States. They should be seen as objectives to be progressively reached step by step by all the Member States, also in the light to promote justice services and a length of judicial proceedings quite similar across Europe.

This entails that the overall objective for all the Council of Europe Member States should be to reach **Timeframe A** for all the proceedings, with a progressive approaching through Timeframe B and C.

The **Timeframes** proposed should be considered as a European lighthouse for Member States, which should then adopt their own timeframes at the national, district and court level, based on the different contexts.

It has also to be underlined that the proposed **Timeframes** are management tools, which deal with the aggregated caseload of a court or of a judicial system; therefore they are not supposed to be considered whatsoever as a safeguard to avoid a conviction of the European Court of Human Rights.

The reasonable time clause stated by article 6 deals with every single individual case. This means that The European Court of Human Rights (ECHR) is The Institution in charge to assess if a case has violated article 6 of the European Convention on Human Rights.

This first set of **Timeframes** is supposed to be applied to the three large “families” of cases (civil, criminal and administrative). In the future, it is envisaged the proposition of Timeframes for different case categories.

1.3 Application field

At this stage, these Timeframes do not consider the **enforcement procedure**, due to its complexity and diversity in the different countries. However, it should be known that the case law of the ECHR includes the enforcement phase in the assessment of the excessive length of judicial proceedings.

Likewise, the **Timeframes** which deals with **criminal cases** do not take into consideration the investigative or “pre-court” phase, but they consider the case when it is filed to court. However, it should be known that the case law of the ECHR includes the investigative phase in the assessment of the length of judicial proceedings.

Therefore, for these Timeframes, the **starting date** of each case should be the day in which the case has been filed to court, while cases can be defined **disposed** or **resolved**, when the court has taken a “final decision”, which means that the case is terminated.

In civil cases we proposed to **exclude** in the counting all the non-contentious (non-litigious) matters (e.g. “payment or injunctive orders”, guardianship etc.), which usually follow a particular procedure with very different time of disposition.

2. Description of the Timeframes

Each **Timeframe** has two stages (e.g. Timeframes A for civil cases: 75% disposed in 12 months, 95% disposed in 18 months), meaning that they can be fully accomplished if both percentages are accomplished or partially accomplished. If, for example, the first percentage is not accomplished but the second is accomplished (e.g. 65% of case are disposed in 12 months, then 95% are disposed in 18 months), Timeframe A is partially accomplished. If any of the two percentages is reached the Timeframe is not accomplished.

Courts have also to deal with very complex cases that may require some extra time. For this reason, there is a **5% buffer only for very complex cases** that are not supposed to be included in the Timeframes, which therefore address 95% of the court caseload. However, the cases within this buffer zone need a very special attention to be brought as soon as possible within the Timeframes.

Courts could be able to accomplish different Timeframes for different case categories. For example, a court could be able to accomplish Timeframe A for civil proceedings and Timeframes B for criminal proceedings, and then Timeframe A for family matters, but Timeframe C for bankruptcy.

TIMEFRAME A

Timeframe A for civil contentious cases

75% of all civil cases should be disposed in **12 months** from the date of their filing.

(Alternative calculation: 75% of all pending civil cases should not be older than 12 months from the date of their filing).

95% of all civil cases should be disposed in **18 months** from the date of their filing.

(Alternative calculation: 95% of all pending civil cases should not be older than 18 months from the date of their filing).

Buffer

5% of very complex pending civil cases could be **older than 18 months** from the date of their filing.

Timeframe A for administrative cases

75% of all administrative cases should be disposed in **12 months** from the date of their filing.

(Alternative calculation: 75% of all pending civil cases should not be older than 12 months from their filing).

95% of all administrative cases should be disposed in **18 months** from the date of their filing.

(Alternative calculation: 95% of all pending cases should not be older than 18 months from their filing).

Buffer

5% of very complex pending administrative cases could be **older than 18 months** from the date of their filing.

Timeframe A for criminal cases

75% of all criminal cases should be disposed in **6 months** from the date of their filing.
(Alternative calculation: 75% of all pending criminal cases should not be older than 6 months from their filing).

95% of all criminal cases should be disposed in **12 months** from the date of their filing.
(Alternative calculation: 95% of all pending criminal cases should not be older than 12 months from the date of their filing).

Buffer

5% of very complex pending criminal cases could be **older than 18 months** from the date of their filing.

TIMEFRAMES B

Timeframe B for civil contentious cases

75% of all civil cases should be disposed in **18 months** from the date of their filing.
(Alternative calculation: 75% of all pending civil cases should not be older than 18 months from the date of their filing).

95% of all civil cases should be disposed in **24 months** from the date of their filing.
(Alternative calculation: 95% of all pending civil cases should not be older than 24 months from the date of their filing).

Buffer

5% of very complex pending civil cases could be **older than 24 months** from the date of their filing.

Timeframe B for administrative cases

75% of all administrative cases should be disposed in **18 months** from the date of their filing.
(Alternative calculation: 75% of all pending administrative cases should not be older than 18 months from the date of their filing).

95% of all administrative cases should be disposed in **24 months** from the date of their filing.
(Alternative calculation: 95% of all pending administrative cases should not be older than 24 months from their filing).

Buffer

5% of very complex pending administrative cases could be **older than 24 months** from the date of their filing.

Timeframe B for criminal cases

75% of all criminal cases should be disposed in **12 months** from the date of their filing.
(Alternative calculation: 75% of all pending criminal cases should not be older than 12 months from their filing).

95% of all criminal cases should be disposed in **18 months** from the date of their filing.
(Alternative calculation: 95% of all pending criminal cases should not be older than 18 months from the date of their filing).

Buffer

5% of very complex pending criminal cases could be **older than 18 months** from the date of their filing.

TIMEFRAME C

Timeframe C for civil contentious cases

75% of all civil cases should be disposed in **24 months** from the date of their filing.
(Alternative calculation: 75% of all pending civil cases should not be older than 24 months from the date of their filing).

95% of all civil cases should be disposed in **30 months** from the date of their filing.
(Alternative calculation: 95% of all pending civil cases should not be older than 30 months from the date of their filing).

Buffer

5% of very complex pending civil cases could be **older than 30 months** from the date of their filing.

Timeframe C for administrative cases

75% of all administrative cases should be disposed in **24 months** from the date of their filing.
(Alternative calculation: 75% of all pending administrative cases should not be older than 24 months from the date of their filing).

95% of all administrative cases should be disposed in **30 months** from the date of their filing.
(Alternative calculation: 95% of all pending administrative cases should not be older than 30 months from the date of their filing).

Buffer

5% of very complex pending administrative cases could be **older than 30 months** from the date of their filing

Timeframe C for criminal cases

75% of all criminal cases should be disposed in **18 months** from the date of their filing.
(Alternative calculation: 75% of all pending criminal cases should not be older than 18 months from their filing).

95% of all criminal cases should be disposed in **24 months** from the date of their filing.
(Alternative calculation: 95% of all pending criminal cases should not be older than 24 months from the date of their filing).

Buffer

5% of very complex pending criminal cases could be **older than 24 months** from the date of their filing.

TIMEFRAMES SUMMARY TABLE

PERCENTAGE OF CASES DISPOSED WITHIN THE 3 TIMEFRAMES

| | CIVIL | | ADMINISTRATIVE | | CRIMINAL | |
|-------------|-----------|-----------|----------------|-----------|-----------|-----------|
| | 75% | 95% | 75% | 95% | 75% | 95% |
| TIMEFRAME A | 12 months | 18 months | 12 months | 18 months | 6 months | 12 months |
| TIMEFRAME B | 18 months | 24 months | 18 months | 24 months | 12 months | 18 months |
| TIMEFRAME C | 24 months | 30 months | 24 months | 30 months | 18 months | 24 months |

3. Methodology to implement the Timeframes

Here, we will describe the concrete process needed to implement the Timeframes within a court. There are three main steps: 1) Diagnosis of the current situation, 2) Set Timeframes for the court 3) Monitoring the Timeframes.

Then based on the Monitoring, the court can set a different Timeframe for the future (e.g. the year ahead), trying to constantly improving towards Timeframe A for all its cases.

3.1 Step 1: Diagnosis of the current situation

First the court has to define its own situation regarding the procedure lengths for the three different types of procedures (civil, administrative, and criminal) and, if possible, for the different case categories that are the most representative of the court caseload (e.g. family, labour, contracts, torts etc.).

This diagnosis should be done for at least the last 3 (or even better 5) years to have a quite clear picture of the court case flow.

The example below deals with civil cases, but similar tables should be filled in for administrative and criminal cases, and then for specific case categories.

TABLE – Age of pending civil cases in the last 3 years

| Civil and commercial litigious cases year 2014 | | | | | | |
|---|----------------------------|---------------------------------|---------------------------------|---------------------------------|-----------------------|----------------------|
| | Less than 12 months | Between 12 and 18 months | Between 18 and 24 months | Between 24 and 30 months | Over 30 months | Total pending |
| Pending cases | 500 | 200 | 250 | 50 | 0 | 1000 |
| Percentage | 50 | 20 | 25 | 5 | 0 | 100 |
| Timeframe A | 25 | 5 | backlog | | | |
| Monitoring | -25 | -25 | -25 | | | |
| Timeframe B | | 25 | 5 | backlog | | |
| Monitoring | | -5 | 0 | 0 | | |
| Timeframe C | | | 25 | 5 | backlog | |
| Monitoring | | | 20 | 5 | 0 | |

| Civil and commercial litigious cases year 2013 | | | | | | |
|---|----------------------------|---------------------------------|---------------------------------|---------------------------------|-----------------------|----------------------|
| | Less than 12 months | Between 12 and 18 months | Between 18 and 24 months | Between 24 and 30 months | Over 30 months | Total pending |
| Pending cases | 400 | 300 | 100 | 50 | 50 | 900 |
| Percentage | 44 | 33 | 11 | 6 | 6 | 100 |
| Timeframe A | 25 | 5 | backlog | | | |
| Monitoring | -31 | -17 | -17 | | | |
| Timeframe B | | 25 | 5 | backlog | | |
| Monitoring | | 3 | -6 | -6 | | |

| | | | | | | |
|--------------------|--|--|----|----|---------|--|
| Timeframe C | | | 25 | 5 | backlog | |
| Monitoring | | | 14 | -1 | -1 | |
| | | | | | | |

| Civil and commercial litigious cases year 2012 | | | | | | |
|---|----------------------------|---------------------------------|---------------------------------|---------------------------------|-----------------------|----------------------|
| | Less than 12 months | Between 12 and 18 months | Between 18 and 24 months | Between 24 and 30 months | Over 30 months | Total pending |
| Pending cases | 700 | 100 | 200 | 50 | 0 | 1050 |
| Percentage | 67 | 10 | 19 | 5 | 0 | 100 |
| Timeframe A | 25 | 5 | backlog | | | |
| Monitoring | -8 | -19 | -19 | | | |
| Timeframe B | | 25 | 5 | backlog | | |
| Monitoring | | 1 | 0 | 0 | | |
| Timeframe C | | | 25 | 5 | backlog | |
| Monitoring | | | 20 | 5 | 0 | |
| | | | | | | |

3.2 Step 2: Setting and implementing Timeframes

When the court knows its own age of the pending cases for the three types of cases (civil, administrative, and criminal), and possibly further data about specific case categories, it is possible to choose a Timeframe to be realistically pursued for the year ahead.

The court Timeframes may not always be immediately in accordance with the targets set by the law or the higher judicial authorities (higher court, high council of justice). In this case, Timeframes are intermediary steps to reach the stricter above mentioned Timeframes or legal requirements on duration of proceedings.

Based on the data (examples) collected in the tables above, the court could choose Timeframe B, which was not fully accomplished in any of the 3 years considered, but it seems a feasible target.

More specific Timeframes for case category can be set, if the court is able to have data on specific case categories.

3.3 Step 3: Monitoring

At least at the end of each year, the court has to complete the table below to monitor if the Timeframes are achieved. It could be very useful to monitor the situation not only at the end of the year but as often as possible, preferably every three months. So it could be possible to detect problems earlier and to take measures (see in particular SATURN guidelines on judicial time management) to achieve the Timeframes.

The Table “Age of pending cases at a certain date” must be filled in only in the “Pending cases” row. Percentages and the Backlog, which is the percentage of pending cases that are not resolved within the Timeframe is automatically calculated by the attached spreadsheet (cf Annex). A negative number identifies the percentage of cases that are the Backlog of the court.

If there is a Backlog, policies and actions should be undertaken to avoid it or at least to decrease it.

The following two examples try to explain how the Timeframes and the Backlog work. We have matched the data with the 3 proposed Timeframes.

Example 1

| Civil and commercial litigious cases pending at [DATE] | | | | | | |
|--|---------------------|--------------------------|--------------------------|--------------------------|----------------|---------------|
| | Less than 12 months | Between 12 and 18 months | Between 18 and 24 months | Between 24 and 30 months | Over 30 months | Total pending |
| Pending cases | 250 | 700 | 50 | 0 | 0 | 1000 |
| Percentage | 25 | 70 | 5 | 0 | 0 | 100 |
| Timeframe A | 25 | 5 | backlog | | | |
| Monitoring | -50 | 0 | 0 | | | |
| Timeframe B | | 25 | 5 | backlog | | |
| Monitoring | | 20 | 5 | 0 | | |
| Timeframe C | | | 25 | 5 | backlog | |
| Monitoring | | | 25 | 5 | 0 | |

As the Table shows:

Timeframe A (75% of cases resolved in 12 months, 95% in 18 months) is only partially accomplished, because only 25% of cases and not 75% are resolved within 12 months, even though 95% are then resolved within 18 months, therefore the Buffer, cases pending over 18 months is 5%, and the Backlog is zero.

Timeframe B (75% of cases resolved in 18 months, 95% in 24 months) is fully accomplished, so there is not any Backlog.

Timeframe C (75% of cases resolved in 24 months, 95% in 30 months) is fully accomplished, so there is not any Backlog.

Example 2

| Civil and commercial litigious cases pending at [DATE] | | | | | | |
|--|---------------------|--------------------------|--------------------------|--------------------------|----------------|---------------|
| | Less than 12 months | Between 12 and 18 months | Between 18 and 24 months | Between 24 and 30 months | Over 30 months | Total pending |
| Pending cases | 400 | 350 | 150 | 50 | 50 | 1000 |
| Percentage | 40 | 35 | 15 | 5 | 5 | 100 |
| Timeframe A | 25 | 5 | backlog | | | |
| Monitoring | -35 | -20 | -20 | | | |
| Timeframe B | | 25 | 5 | backlog | | |
| Monitoring | | 0 | -5 | -5 | | |
| Timeframe C | | | 25 | 5 | backlog | |
| Monitoring | | | 15 | 0 | 0 | |

As the table shows:

Timeframe A is not accomplished. The Backlog is 20% of the pending cases, with 40% rather than 25% cases still pending within 12 months, and 25% (it should be 5%) still pending after 18 months.

Timeframe B is partially accomplished. Only 25% of the cases are still pending after 18 months (Timeframe accomplished), but 10% and not 5% of cases are still pending over 24 months, therefore the Backlog is 5%.

Timeframe C is fully accomplished. 5% of the pending cases are over 30 months, which is within the "Buffer zone".

The structure of these Tables is also supposed to be used for the different case categories, to set and to monitor the Timeframes.

Based on this monitoring process the court should adjust its Timeframes at least once a year, possibly moving towards Timeframe A, putting in place policies and actions to pursue them.

ANNEX: Template of Excel Sheet to Fill

Please refer to the Excel File "[5 2016 ANNEX Data Entry Timeframes - EN.xlsx](#)"

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Age of pending cases at a certain date

| Civil and commercial litigious cases pending at [DATE] | | | | | | |
|--|---------------------|--------------------------|--------------------------|--------------------------|----------------|---------------|
| | Less than 12 months | Between 12 and 18 months | Between 18 and 24 months | Between 24 and 30 months | Over 30 months | Total pending |
| Pending cases | 400 | 350 | 150 | 50 | 50 | 1000 |
| Percentage | 40 | 35 | 15 | 5 | 5 | 100 |
| Timeframe A | 25 | 5 | backlog | | | |
| Monitoring | -35 | -20 | -20 | | | |
| Timeframe B | | 25 | 5 | backlog | | |
| Monitoring | | 0 | -5 | -5 | | |
| Timeframe C | | | 25 | 5 | backlog | |
| Monitoring | | | 15 | 0 | 0 | |

| Case category | | | | | | |
|---------------------|---------------------|--------------------------|--------------------------|--------------------------|----------------|---------------|
| | Less than 12 months | Between 12 and 18 months | Between 18 and 24 months | Between 24 and 30 months | Over 30 months | Total pending |
| Pending cases | 10 | 20 | 30 | 40 | 50 | 150 |
| Percentage | 7 | 13 | 20 | 27 | 33 | 100 |
| Timeframe A | 25 | 5 | backlog | | | |
| Monitoring | -68 | -75 | -75 | | | |
| Timeframe B | | 25 | 5 | backlog | | |
| Monitoring | | -55 | -55 | -55 | | |
| Timeframe C | | | 25 | 5 | backlog | |
| Monitoring | | | -35 | -28 | -28 | |

| Case category | | | | | | |
|---------------------|---------------------|--------------------------|--------------------------|--------------------------|----------------|---------------|
| | Less than 12 months | Between 12 and 18 months | Between 18 and 24 months | Between 24 and 30 months | Over 30 months | Total pending |
| Pending cases | 10 | 20 | 30 | 40 | 50 | 150 |
| Percentage | 7 | 13 | 20 | 27 | 33 | 100 |
| Timeframe A | 25 | 5 | backlog | | | |
| Monitoring | -68 | -75 | -75 | | | |
| Timeframe B | | 25 | 5 | backlog | | |
| Monitoring | | -55 | -55 | -55 | | |
| Timeframe C | | | 25 | 5 | backlog | |
| Monitoring | | | -35 | -28 | -28 | |