

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

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 II 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 II 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 II 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 II 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 II 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 II.

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 II 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 II 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 I 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 centres;
- 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 chairs 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 (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 organise, 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 II 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 II 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 recommendations ¹

- *Access to justice and proper and efficient functioning of courts*

- *Access to justice*

- . Resolution (76) 5 on legal aid in civil, commercial and administrative matters;

- . Resolution (78) 8 on legal aid and advice

- . Recommendation No. R (81) 7 on measures facilitating access to justice

- . Recommendation No. R (93)1 on effective access to the law and to justice for the very poor

- . Recommendation No. R (98) 1 on family mediation

- . Recommendation No. R (99) 19 concerning mediation in penal matters

. Recommendation [Rec\(2001\)9](#) on alternatives to litigation between administrative authorities and private parties.

- *Efficiency of judicial proceedings*

. Recommendation No. R (84) 5 on the principles of civil procedure designed to improve the functioning of justice;

. Recommendation No. R(86)12 concerning measures to prevent and reduce the excessive workload of courts;

. Recommendation No. R (87) 8 concerning the simplification of criminal justice;

. Recommendation No. R (95) 5 concerning the introduction and improvement of the functioning of appeal systems and procedures in civil and commercial cases.

● *The status and role of the legal professionals*

- Judges

. Recommendation No. R (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

- Training

. Recommendation No. R (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 No. R (87) 18 on the simplification of criminal justice;

. Recommendation No. R (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.

¹ See www.legal.coe.int. For a list of treaties of the Council of Europe, see <http://conventions.coe.int>