



LESSONS LEARNT AND CHALLENGES FACED BY THE COURT SYSTEMS DURING AND AFTER THE COVID-19 PANDEMIC

Ideas and recommendations included in the CEPEJ Declaration of June 10th 2020

Harold ÉPINEUSE, CEPEJ Expert - France

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**Meeting of the CEPEJ on the
impact and lessons
of the health crisis on the
efficiency of justice and the
functioning of
judicial systems**

This page is organized according to the transcript of
the 2020 Chairmanship of the Committee of Ministers, to which the key theme is
"The protection of human life and public health in a pandemic situation:
Efficient management of a health crisis".
With respect to human rights and the principles of democracy, see point 4 of last



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Impact and lessons of the COVID-19 crisis as regards the efficiency of justice and the functioning of the judiciary

During the Covid19 pandemic, member States had to adapt to new circumstances. A [compilation of measures](#) was made by the CEPEJ at the beginning of the health crisis and is regularly updated. To guide States, the CEPEJ organised a [meeting](#) on 10 June 2020, in the framework of the Greek Chairmanship of the Committee of Ministers, on the impact and lessons of the COVID19 crisis as regards the efficiency of justice and the functioning of the judiciary, which led to the adoption of the ["Declaration on lessons learnt and challenges faced by the judiciary during and after the COVID19 pandemic"](#).

Also available in [Armenian](#), [Azerbaijani](#), [Georgian](#), [Greek](#), [French](#), [Latvian](#), [Macedonian](#), [Ukrainian](#).



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SEMINAR 10 JUNE 2020: IMPACT & LESSONS OF THE COVID-19 CRISIS ON THE FUNCTIONING OF THE JUDICIARY



Session I - Impact of the Covid19 crisis: is it possible to ensure normally the public service of justice?



Session II - After the Covid19 crisis: which lessons for the justice systems in 2021 and beyond?

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COVID-19 RIPOSTE

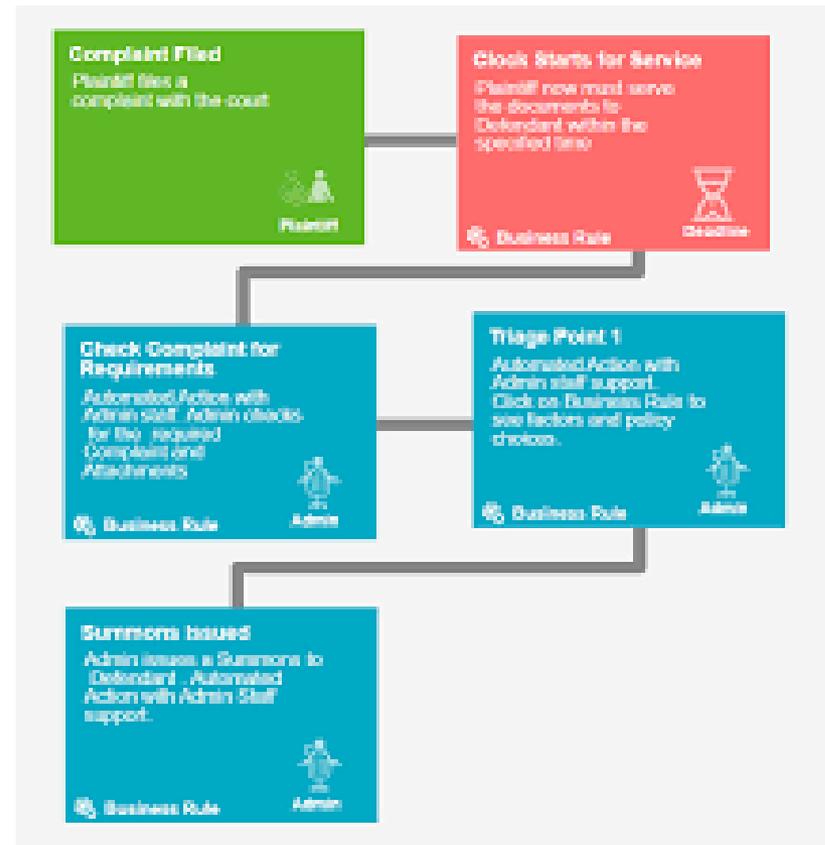


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CEPEJ 2020/044

EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

At the 4th CEPEJ plenary meeting
Held on 10 June 2020

Organized by the members of the Group of Experts
of the Committee of Ministers of the Council of Europe

CEPEJ DECLARATION

LESSONS LEARNED AND CHALLENGES FACED BY THE JUDICIARY DURING AND AFTER THE COVID-19 PANDEMIC

The European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe supports the Organisation's member States in improving the efficiency and quality of their judicial systems in order to ensure that they operate in line with the standards of the Council of Europe and meet the needs of their populations.

The COVID-19 pandemic is a health crisis with serious human and social consequences. It has also created challenges for courts and judicial authorities in the member States. It invites to reflect on innovative measures that can arise within judicial systems.

Member States have made considerable efforts to adjust to new circumstances within a short time and to make the best use of existing resources to ensure the functioning of their courts. They should maintain the momentum and draw the lessons from the experience. The crisis cannot be used to excuse deficiencies in judicial systems and even less to reduce standards or limit legal guarantees.

Such a health crisis may be repeated. The judicial systems have to be prepared, notably where it comes to effective solutions to ensure the continuity of court work and access to justice while respecting individual rights.

In this context, the CEPEJ wishes to remind the member States of the following essential principle:

Principle 1 (Human Rights and Rule of Law) The principles of Article 5 - Right to liberty and security - and Article 6 of the European Convention on Human Rights (ECHR) - Right to a **fair trial** - have to be. The continuous functioning of the judiciary and of the service **protected at all times** and become **especially important during the crisis** provided by justice professionals needs to be ensured based on **European standards**. Trust in justice must continue even at a time of crisis. A crisis requires immediate and urgent response. However, any kind of reaction to the crisis must be **strictly based on the principles** of the Rule of Law and must respect and protect human rights. Emergency measures **must respect the principles of legality, legal certainty and proportionality** and need to be constantly re-evaluated. Judicial authorities as well as representatives of justice professionals should, where appropriate, be **consulted on the emergency regulations**. Any measures introduced must have a **fixed end date** and **judicial review** must be possible in due time.

Principle 2 (Access to justice) During a pandemic, locking down courts might be necessary to protect the health and safety of justice professionals and court users. It should be done in a careful and proportionate manner as it results in an important limitation of access to justice which is a fundamental principle of the Rule of Law. **The public service of justice must be maintained as much as possible**, including providing access to justice by alternative means such as online services or strengthening access to information through court websites and other means of communication (phone, email, etc.). Greater consultation and coordination with all justice professionals (including lawyers, enforcement agents, mediators and social services) will help to ensure a good level of access to justice. Access to justice **must be ensured for all users**, but at a time of health crisis, special attention must be devoted to vulnerable groups who are even more at risk of suffering from the situation. Thus, judicial systems should **give priority to cases which concern these groups**, such as cases of domestic violence, in particular against women and children, involving elderly people or persons with disabilities, or concerning serious economic situations. Vulnerabilities arising from the crisis should also be taken into account.

Principle 3 (Safety of persons) Ensuring the health and safety of all the justice professionals, as well as of the users in courts **must be a priority during and after the health crisis**. Safety measures need to be put in place to respect the necessary **physical distancing** within court premises. All measures need to be prepared **in consultation and explained clearly to all concerned**, regularly evaluated and adapted to the new circumstances. They may require **additional investments in the court infrastructure**. **Teleworking should be open to justice professionals**. They should be provided with the necessary secure IT equipment. Particular attention needs to be paid to their well-being during teleworking and, in particular, to the fact that these are **exceptional working conditions** which may require **appropriate support**.

Principle 4 (Monitoring case flow, quality and performance) The well-functioning case management systems and mechanisms of statistical data collection concerning the functioning of the courts is especially relevant during a health crisis. Court presidents, judges and authorities responsible for court management should continue to monitor and manage cases according to their responsibilities, even remotely. This includes triage of cases and possible prioritisation and redistribution of cases based on objective and fair criteria and ensuring quality justice. Given the number of cases that could not be processed and adjournments of hearings, human resources and budgetary support should help courts to put in place a plan to absorb delays. Allowing for a better and flexible allocation of resources as close to local reality as possible during and after the crisis is instrumental in ensuring the emergency functioning of the courts and preventing any aggravation of existing difficulties within judicial systems.

Principle 5 (Cyberjustice) The recourse to information technologies offers the **opportunity for the public service of justice to continue functioning** during the health crisis. However, its **rapid emergence and excessive use may equally bring negative consequences**. IT-solutions, such as online services, remote hearings and videoconferences, as well as future development of digital justice **must always respect fundamental rights and principles of a fair trial**. To reduce risks inherent in the deployment of IT, their use and accessibility for all the users should have a **clear legal basis**. Special attention should be paid to the most **vulnerable groups** in this respect. The **impact of the use of these technologies on justice delivery should therefore be evaluated regularly and remedial measures taken when necessary**. Ensuring **cyber-security** and the **protection of personal data** must be a priority.

Principle 6 (Training) Training is fundamental for the effective management of a health crisis in the future. Judicial training should adapt to the emerging needs, including the use of IT. New curricula should be developed to support justice professionals during and after a health crisis. The closure of courts and the lockdown measures put in place can allow justice professionals to devote more time to training from home in a safe and secure environment. Training institutions should develop the use of e-learning platforms. Specific training on teleworking should be provided for justice professionals. Specific training on the new types of cases arising from the COVID-19 pandemic should also be provided for justice professionals. Justice professionals should be consulted by competent institutions, including via online surveys, on such specific training needs.

Principle 7 (Forward looking justice) The COVID-19 pandemic has also been an occasion to introduce emergency **innovative practices**. A transformation-strategy for judiciaries should be developed to capitalise on the benefits of newly implemented solutions. Some aspects of traditional court functioning should be reconsidered (relations with media, level of use of new technologies, increased recourse to alternative dispute resolution, in particular to mediation). **Transforming the judiciary for the future should be approached in a positive manner and always with respect for fundamental rights guaranteed in the ECHR.** It would also be appropriate to maintain the necessary **dialogue between all actors** in the justice system and to **take advantage of the new relations created** between judges, prosecutors, court staff, lawyers, enforcement agents, notaries, mediators and experts **at the time of the health crisis.**

THANK YOU

<http://www.coe.int/cepej/>

hepineuse@ihej.org

@CEPEJ_CoE

