ANALYSIS
OF THE METHODOLOGY
FOR CALCULATING THE NUMBER OF JUDGES NEEDED IN COURTS AND WEIGHTING JUDICIAL CASES

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CONTENT

INTRODUCTION

The following note provides a short analysis of the draft methodologies for calculating the number of judges needed in courts and weighting judicial cases based on complexity and workload, developed by the State Judicial Administration (SJA).

The following documents developed by the SJA have been analysed:

1. Justification of normative projects
2. Project of the methodology for calculating the number of judges of courts of the first and appellate instances;
3. Project of the methodology for calculating an expected number of cases in courts of the first instance;
4. *Appendix* to the Project of the methodology for calculating an expected number of cases;
5. *Appendix* to the Explanatory Note to the draft standards of personnel, material and technical and financial support of courts;

As a reference point, the note treats the document developed by the Steering group of the SATURN Centre for judicial time management (CEPEJ-SATURN) titled "*Case-weighting in European judicial systems. Draft Version - Revision 10*"[1] presenting good practices in this area.

On basis of these documents, a comparative analysis between the practices recommended in the CEPEJ-SATURN document and those described in the Ukrainian documents. The objective is to identify strengths and weaknesses in the methodologies developed by the SJA and suggest improvements for effective judicial resource management.

THE EXPLANATORY NOTE FOR DRAFT STANDARDS OF HR, LOGISTICS AND FINANCIAL SUPPORT OF COURTS

As results from the note, the goal of the standards is to ensure the national interests of Ukraine by promoting sustainable development, improving quality of life, and upholding constitutional rights. The standards aim to introduce a unified methodology for planning and allocating expenses to ensure courts can administer justice effectively. This aligns with the constitutional guarantees of court independence and proper state funding. These standards are crucial for the effective administration of

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[1] https://rm.coe.int/cepej-saturn-2017-7erev10e-case-weighting/16808ccb22

justice, providing a structured approach to resource allocation, and supporting the independence and efficiency of the judicial system

Measures for Implementation:

1. Development of draft standards for HR, financial, and logistical support for courts;

2. Engaging stakeholders including the High Council of Justice, the State Judicial Administration of Ukraine, and international organizations to finalize and approve the standards.

3. Transparent budget planning: developing regulations for transparent and objective allocation of budgetary resources.

IMPORTANCE OF THE WEIGHTING OF CASES

The weighting of cases is a mechanism used to assess the nature and complexity of judicial proceedings. Typically, courts use a standardized unit and calibration method to evaluate all cases, regardless of their individual complexities. In some courts, work distribution among judges does not account for the complexity of cases. However, a more structured and in-depth approach would provide a more objective and effective evaluation, benefiting all stakeholders.

Case weighting requires a clear set of 'case categories' and sub-categories to ensure a precise evaluation. Without such categories, it would be difficult to differentiate between the various types of cases (e.g., a simple payment order versus a complex medical responsibility case requiring external expertise).

The objective of evaluating case weight is multifaceted. According to experiences from different member states of the Council of Europe, case weighting systems are used to evaluate:

1. The proper and equitable distribution of cases among judges

2. The expected duration of a case and its hearings

3. The type and amount of resources to be allocated (especially human resources)

A well-implemented case weighting system can also enhance the development of refined statistics, leading to a more qualitative understanding of the caseload.

Furthermore, this system is crucial for accurately calculating the number of judges required in a given court. By understanding the complexity and time demands of various cases, judicial administrators can better allocate judicial resources, ensuring that there are sufficient judges to handle the caseload efficiently. This helps prevent judicial bottlenecks, reduces delays, and ensures that justice is delivered in a timely manner. It also aids in strategic planning and budgeting, allowing courts to function more effectively and respond to changes in caseload dynamics.

PROPOSED METHODOLOGY FOR CALCULATING THE NUMBER OF JUDGES IN UKRAINE

Coefficient of Collegiality

- Single Judge: Coefficient = 1
- Panel (First Instance): Coefficient = 2
- Panel (Appellate): Coefficient = 1.6

Coefficient of Procedure

- Local General Courts: Simplified = 0.41, Full = 1
- District Administrative Courts: Simplified = 0.65, Full = 1

Components of standards -

- Financial Standard: Based on average costs of case handling.
- HR Standard: Number of judges and court staff required based on workload and case complexity.
- Logistics Support Standard: Includes necessary equipment, premises, and ICT resources.

CEPEJ-SATURN METHODOLOGY FOR CASE WEIGHTING

The case weighting methods recommended by CEPEJ can use two approaches to measure complexity of cases. The first one it is "Time-Based Approach" which measures average time a judge spends on different case types using timesheets, surveys, and case data analysis (applied f.e. in Austria and Israel). The second one is "Points-Based Approac" which allocates a complexity index based on criteria such as the number of parties, claims, monetary value, witnesses, and need for expertise.

There are the following stages of case weighting:

- initial assessment which is conducted at case registration to estimate initial workload;
- real-time assessment, which means continuous monitoring and adjustment based on case progress;
- final assessment which is evaluation after case resolution to refine future estimates.

It is reasonable to refer to the CEPEJ-SATURN methodology because it provides a comprehensive and structured approach to judicial case weighting and judge requirement calculations. Its dual approach, incorporating both time-based and

points-based methods, ensures that the assessment of case complexity is thorough and multi-faceted. This allows for a more accurate and reliable estimation of judicial workload and resource needs.

The CEPEJ-SATURN methodology's emphasis on regular updates and refinements based on actual data makes it highly adaptable to changing judicial environments. This flexibility ensures that the system remains relevant and effective over time, accommodating new types of cases and evolving legal standards.

By advocating for the integration of data science and automated systems, the CEPEJ-SATURN methodology leverages modern technology to enhance the accuracy and efficiency of case weighting and resource management. This technological approach can significantly improve predictive capabilities and streamline judicial processes.

The CEPEJ-SATURN methodology prioritizes transparency and stakeholder involvement, ensuring that the case weighting system is developed and implemented with broad consensus and understanding. This promotes trust and cooperation among judges, court staff, and other stakeholders, leading to a more cohesive and effective judicial system.

The CEPEJ-SATURN methodology is already in use in several countries, demonstrating its practical effectiveness and adaptability in diverse judicial contexts. Its success in these countries provides a strong precedent for its potential benefits in other judicial systems, including Ukraine's.

EVALUATION OF THE DRAFT METHODOLOGY IN LIGHT OF THE CEPEJ – SATURN METHODOLOGY

When comparing the draft methodology developed by the SJA with the one recommended by CEPEJ – SATURN the following points can be made:

Level of Detail and Structure:

- The CEPEJ-SATURN document offers a comprehensive and well-organized methodology. It incorporates both time-based and points-based approaches, providing a framework for assessing judicial efficiency and performance. The structured nature of the methodology ensures that various aspects of judicial processes are covered thoroughly.

- In contrast, the Ukrainian methodology is more simplified, focusing primarily on average times and coefficients. It lacks the extensive categorization and detailed breakdowns present in the CEPEJ-SATURN methodology.

Assessment Approaches:

- CEPEJ-SATURN emphasizes the importance of continuous assessment and refinement. The methodology encourages regular updates and adjustments

based on new data and evolving circumstances. This dynamic approach ensures that the methodology remains relevant and effective over time.

- The Ukrainian approach tends to be more static, relying on predetermined average times and coefficients. It does not emphasize iterative refinement or continuous improvement to the same extent as the CEPEJ-SATURN methodology.

Categorization and Refinement:

- CEPEJ-SATURN includes extensive categorization of different types of cases and judicial activities. This categorization allows for a more nuanced analysis of judicial efficiency and helps identify specific areas for improvement. The iterative refinement process ensures that the methodology evolves and adapts to new challenges and data.

- Ukrainian Methodology lacks the extensive categorization seen in the CEPEJ-SATURN document. The focus on average times and coefficients without detailed breakdowns means that the methodology might overlook specific nuances and variations in judicial processes.

Emphasis on Data-Driven Decision Making:

- CEPEJ-SATURN strongly advocates for data-driven decision-making. The use of time-based and points-based approaches allows for precise measurement and analysis of judicial performance. This data-driven approach facilitates informed decision-making and targeted interventions.

- While Ukrainian Methodology does utilize data in the form of average times and coefficients, the approach is less data-intensive and lacks the depth of analysis found in the CEPEJ-SATURN methodology.

Detailed categorization is a crucial element in developing an effective methodology for judicial assessment and efficiency improvement for several reasons:

- It allows for a **nuanced analysis** of different types of cases and judicial activities. This ensures that each category is assessed according to its unique characteristics and requirements.

- Different categories of cases (e.g., criminal, civil, administrative) often have distinct timelines, procedures, and complexities. Detailed categorization allows for the development of **tailored metrics** that accurately reflect these differences, leading to more precise and relevant assessments.

- By breaking down judicial processes into detailed categories, it becomes easier to identify specific bottlenecks or inefficiencies within each category. This enables **targeted interventions** to address these issues effectively.

- Detailed categorization helps pinpoint areas that require improvement, allowing resources and efforts to be directed where they are most needed what leads to **focused improvement** rather than applying broad, generalized solutions.

- Detailed categories enable **more accurate benchmarking** of judicial performance across different jurisdictions or time periods. This facilitates comparative analysis and the sharing of best practices.

- With detailed categorization, it is easier to **track performance** over time within specific categories. This helps in assessing the impact of reforms and in making data-driven decisions.

- Detailed categorization enhances **transparency** by providing clear and comprehensive reports on judicial performance. This helps in building trust among stakeholders, including the public, legal professionals, and policymakers.

- With specific categories, it is easier to hold different parts of the judiciary **accountable** for their performance. This accountability can drive improvements and ensure that standards are maintained.

- Detailed categorization allows for a **more efficient allocation** of resources by highlighting which areas require additional support or investment. This ensures that resources are used optimally to improve overall judicial efficiency.

- It provides a strong basis for **justifying budget** requests and for planning future investments in the judiciary by demonstrating where and why resources are needed.

- The judicial process is inherently complex. Detailed categorization helps in breaking down this complexity into **manageable parts**, making it easier for analysts, administrators, and policymakers to understand and manage the system.

- It also aids in the **development of specialized training** programs for judicial staff, tailored to the specific needs and challenges of different categories of cases.

- This approach ensures that the **methodology remains adaptive** and responsive to new developments, leading to continuous improvement in judicial efficiency and performance.

In summary, detailed categorization is essential for achieving precision, identifying specific issues, enabling comparative analysis, enhancing transparency and accountability, optimizing resource allocation, managing complexity, and supporting continuous improvement in judicial assessment methodologies.

CEPEJ-SATURN CASE WEIGHTING INDICATORS

The methodology provides for the set of indicators that allow for implementing the effective and reliable system of weighting cases which is crucial for proper allocation of human and other resources. The following indicators are applied:

- nature of the claim and type of proceeding: differentiation between simple and complex cases.

- claim monetary value: higher stakes indicate increased complexity.

- number of claims/complexity of motions/line of defense: multiple claims or complex defenses require more judicial effort.

- number of parties/defendants/lawyers: more parties increase complexity.

- number of witnesses: more witnesses generally mean longer and more complex trials.

- amount and range of expertise/number of experts: cases requiring expert testimony or multiple experts indicate higher complexity.

- number of foreseen sittings/predetermined audiences/hearings: anticipated number of hearings impacts overall time needed.

- international/cross border nature of the case: additional legal complexities and procedural steps.

- need for interpretation/translation: adds layers of complexity.

- novelty of legal issues: cases raising new legal questions or lacking precedent.

METHODOLOGY FOR CASE WEIGHTING

1. Initial setup
   a. definition of case categories: identify and categorize cases into broad groups (e.g., civil, criminal, administrative); further subdivide into specific sub-categories.
2. Measurement methods
   a. event and time-based measurement
      i. event frequency: how often specific events occur.
      ii. event complexity: average judicial time spent on each event.
      iii. data collection: use surveys or time logs to gather average times.
      iv. calculation: sum the provisional times of events to estimate total judicial effort required.

   b. Points-based measurement:
      i. simple complexity scale: assign simple (A) to complex (A) grades.
      ii. detailed scoring system; examples:
         1. 1 point per party involved.
         2. points based on complexity of legal issues.
         3. points for monetary value of claims.

       4. additional points for expert involvement, number of witnesses, need for translation, etc.

3. Example calculation of a case type: complex contractual dispute
   a. parties involved: 4 (4 points)
   b. claims: 3 claims with complex legal issues (12 points)
   c. monetary value: high stakes (4 points)
   d. experts needed: 2 (4 points)
   e. witnesses: 5 (5 points)
   f. number of hearings: predicted 6 (12 points)
   g. translation needed: yes (3 points)
   h. new legal issue: yes (5 points)

   Total Points: 49 points

4. Application
   a. assign judges based on cumulative points to ensure balanced workloads.
   b. use the points system to allocate resources and manage caseloads efficiently.

The Ukrainian methodology, while structured, mainly uses predefined coefficients and average times which might not fully capture the dynamic nature of case complexities. Integrating the CEPEJ-SATURN indicators can provide a more nuanced and adaptable system potentially leading to:

- better resource allocation: more precise allocation of judges and resources based on detailed complexity assessments.
- increased transparency: clear criteria for case weighting can enhance trust among stakeholders.
- enhanced predictive power: use of advanced analytics can improve the accuracy of future workload predictions.

CONCLUSION

While the Ukrainian methodology provides a structured approach to estimating the number of judges needed and ensuring resource allocation, the CEPEJ-SATURN methodology offers a more comprehensive, flexible, and technology-driven approach to case weighting and workload management. Implementing a system similar to CEPEJ-SATURN could potentially enhance the efficiency and transparency of the Ukrainian judicial system. It would also allow to better estimate a number of judges needed with a workload of cases.