



# Case Flow Management



## Towards a Strategy for Ensuring Expedited and Fair Justice

### The Challenge of Case Flow Management

The famous letter of Amir al-Mu'minin Omar ibn al-Khattab to Abu Musa al-Ash'ari—may Allah be pleased with them both—when he appointed him as a judge, later known as the "Judicial Constitution," included his statement<sup>1</sup>:

*"If someone claims a right that is absent or requires evidence, set a time limit for him to establish it. If he presents his evidence, grant him his right; but if he fails, then decide the case against him. This is the most just course and the clearest in dispelling uncertainty."*

This part of the letter indicates that once a case is ready for judgment, the judge must rule on it immediately without delay. It is the right of litigants to be granted time to prepare their defense, as the evidence and arguments they rely on may not be immediately available. However, if the claimant fails to prove his case after being given sufficient time and the judge detects stubbornness and evasiveness, no further extension should be granted, and the case should be decided against him. This principle embodies the essence of justice<sup>2</sup>.

Through this directive, Omar ibn al-Khattab—may Allah be pleased with him—establishes the principle of swift justice, which stems from the idea that every dispute must have a limit to ensure the stability of legal positions and achieve legal certainty. At the same time, it is essential to provide all parties with a fair opportunity to present their evidence, legal arguments, and defenses before a decision is made.

Adopting an effective system for justice administration and court management brings numerous benefits. Improving the case-handling process reduces the time needed for each case and increases the efficiency of the judicial system. Implementing a sound case management system is not only necessary for judicial systems struggling with case overload, delays, or backlog but is also crucial even when the case burden is reasonable. Efficient case management through

the optimal use of court resources facilitates the work of judges, court staff, litigants, and lawyers, ultimately enhancing public confidence in the judicial system.

This paper aims to present key ideas regarding the various strategies and programs adopted by judicial systems to manage case workload, ensuring timely resolution while considering other judicial objectives and considerations. These programs may be based on legislation, internal regulations, or administrative frameworks, with a focus on highlighting best practices in this regard.

Judicial systems adopt different strategies to reduce delays in case proceedings, but they generally fall into three main categories: first, the development of dispute management procedures, including dispute prevention or resolution through alternative dispute mechanisms; second, the improvement of court organization; and finally, the enhancement of the human and financial resources necessary for judicial work<sup>3</sup>.

This paper focuses on strategies and approaches for managing case flow and controlling case backlog.

## Policies for Controlling Caseload

The first step toward effective case flow management is understanding the incoming caseload as a basis for adopting a sound policy to handle it. Proper management of case workload helps allocate the necessary human and financial resources efficiently. In practice, various policies exist for managing and controlling case workload, including:

- **Forecasting and Monitoring**

Courts must have the ability to anticipate their case workload, which helps in understanding expected work demands and allocating the necessary resources accordingly. This workload

can be measured by analyzing historical data and assessing both the volume and complexity of cases.

In the Netherlands, for example, a model called *Lamicie* is used to calculate the workload of judges and court administrators by estimating the time required to handle cases. This model categorizes cases into 49 types, each assigned a specific weight, which is periodically reviewed based on time management studies.

In Spain, the *Modulos de Trabajo* model is used to determine the average time a judge is expected to dedicate to different types of cases. This model is also based on studies related to court time management. It is important to note that all research concerning the estimation of courtload should undergo regular review to ensure accuracy and relevance<sup>4</sup>.

- **Reducing Caseload**

This can be achieved by promoting alternative dispute resolution methods such as mediation, conciliation, early neutral evaluation, and arbitration, which help alleviate court workloads. Some countries, including Slovenia and Croatia, as well as courts in several U.S. states, have implemented court-annexed alternative dispute resolution programs under judicial supervision. Other tools for reducing caseload include excluding small claims from the appeal process by making judgments in such cases final, as well as introducing measures to prevent the misuse of appeal rights. For example, courts may grant appellate courts the authority to dismiss *manifestly ill-founded* appeals based on an initial review of case documents. Penalties may also be imposed for frivolous appeals, such as fines on the appellant. In Norway, for instance, a panel of three judges from the Court of Appeal conducts a preliminary review of appeals within two to three days of their filing. If an appeal is clearly without merit, it is dismissed by a final decision without being referred to a hearing panel. All these solutions must also respect the principle of the right to an effective remedy.

- **Restorative Criminal Justice**

Another approach to reducing caseload is to grant prosecutorial discretion to dismiss cases and avoid trial when reconciliation occurs between the defendant and the victim or between the prosecution and the defendant in minor cases. Many judicial systems follow this practice.

- **Case Assignment**

Adopting a flexible case assignment system is among the policies that support effective caseload management. This involves redistributing cases or allowing judges to assist colleagues in cases of illness, annual leave, or other reasons. Such a system should ensure the optimal use of judicial resources, maintain fairness among cases, and prevent *judge shopping*, where parties attempt to have their case assigned to a specific judge. Additionally, it should balance caseload distribution among judges, define responsibilities at each stage of proceedings, and establish oversight mechanisms to ensure that all parties fulfill their duties<sup>5</sup>. For example, in France, a number of judges are assigned to assist the president of the court by temporarily replacing their colleagues in case of absence for any reason. This system is known as the support judge.

In the Netherlands, there is a system called the *Flying Brigade*, which consists of a unit of judges who assist court divisions by handling simple and routine cases. They review these cases and prepare a preliminary draft ruling, which is then sent to the court divisions for approval if they choose to adopt it. This system helps manage the increasing caseload<sup>6</sup>.

- **Allocating Appropriate Resources to Handle Caseloads**

The purpose of understanding and assessing the caseload in different courts and the time required to resolve cases is to allocate suitable human resources, including judges and administrative staff, as well as financial resources such as courtrooms, equipment, and other necessities, in proportion to the workload<sup>7</sup>.

## Managing Caseload Policies

In addition to policies and strategies aimed at reducing caseload, redistributing it, or providing the necessary human and financial resources, it is equally important to adopt policies and strategies for effective caseload management and case flow control. This refers to the set of actions undertaken by the court to monitor and regulate the progress of cases from the time they are filed until their resolution, ensuring the smooth and efficient administration of justice.

Among the policies and strategies that have been implemented and tested in various judicial systems are:

- **Early Intervention and Continuous Monitoring**

This approach ensures that the court, rather than the parties to the dispute, controls and oversees the progress of the case. Early judicial intervention involves the judge taking charge as soon as a case is filed by establishing a management plan. This includes giving directions to the parties, holding meetings to set a schedule for hearings and procedural steps, and assigning deadlines for each stage.

Continuous monitoring means that from the moment a case is registered, its progress is systematically tracked. The court registry subjects the case to a system that allows for regular reviews of its progress. This review process is integrated into a centralized automated case management system that ensures cases follow a structured process. The system includes steps such as recording case details, scheduling hearings, issuing case management orders, and guiding the case through resolution—whether by a ruling, decision, or settlement. It also extends to post-resolution procedures, ensuring no case is neglected or forgotten<sup>8</sup>.

Additionally, continuous judicial oversight includes the possibility of imposing procedural sanctions on parties who fail to complete required actions within the designated deadlines.

- **Differentiated Case Management (DCM)**

Differentiated Case Management (DCM) refers to a system where courts vary their approach to managing cases based on the level of attention required from judges and court staff, as well as the time needed for case resolution. This concept goes beyond the procedural distinctions mandated by law, such as jurisdictional variations based on case type and value, to introduce differences in how cases within the jurisdiction of the same court are handled.

Typically, courts apply uniform procedures and timelines to all cases within their jurisdiction, prioritizing them based on filing dates. However, this approach overlooks case-specific differences, often leading to unnecessary delays for complex cases while simpler ones are resolved quickly. For example, minor regulatory offenses do not require the same level of judicial attention as more serious misdemeanors affecting individuals.

DCM establishes different procedural tracks based on case complexity and the time needed for evidence review and litigation. This allows for a separate track for simple cases and another for more complex matters, with classification criteria based on case size, legal complexity, and the number of involved parties. A preliminary review is conducted immediately after case filing, with the participation of the parties, to assign the case to the appropriate track.

The classification process must be based on clear and transparent criteria, and attorneys should have the opportunity to present their views during this initial phase. Once cases are classified, court schedules can be managed more efficiently, ensuring appropriate staff allocation for each track<sup>9</sup>.

There is no fixed number of tracks for DCM; rather, courts should design tracks based on a realistic assessment of procedural needs, informed by studies of average case resolution times. Courts should also set estimated timelines for each track. For example, if three tracks are adopted—complex, standard, and expedited—then cases in the expedited track might be expected to conclude within six months, those in the standard track within one to one and a half years, and complex cases within two years. Courts can further refine these tracks based on evolving needs.

The success of DCM relies on early case assessment at the time of filing, using information provided by the parties. A designated court officer conducts a quick screening to assign cases to the appropriate procedural track, ensuring that each case follows a management approach suited to its complexity and timeframe.

The United States has implemented DCM at both the federal and state levels, leading to a significant reduction in pending civil and criminal cases and an increase in case resolution rates<sup>10</sup>.

- **Effective Procedures for Case Preparation**

Efficient case preparation in judicial systems that incorporate a preparatory stage plays a crucial role in facilitating case resolution. To achieve this, case management during this stage should adhere to the following principles:

- **Setting Short Deadlines:** Courts should establish short, well-defined timelines and inform parties and their representatives that all requests for postponement or schedule adjustments must be submitted before the set date. Such requests should only be granted if there is a valid and reasonable justification. Appropriate measures should be taken against attorneys and litigants who fail to adhere to deadlines and procedural requirements.
- **Addressing Reasonable Requests Promptly:** Courts should attempt to accommodate reasonable requests from litigants and attorneys early in the process to prevent them from resurfacing during trial sessions, thereby avoiding unnecessary delays.
- **Realistic Timeframe Management:** The scheduling of preparatory procedures should be realistic, ensuring that any granted extensions allow for the necessary actions to be completed within the designated period. Additionally, continuous review of case management procedures should take place to assess the reasonableness of the burdens placed on litigants and their representatives, as well as the financial costs they incur.

- **Effective Management of Court Hearings**

The credibility established by holding hearings within their scheduled timeframes will contribute to ensuring that litigants and their attorneys are prepared for these sessions. It may also pressure them to seek an amicable settlement outside the courts. Moreover, the optimal

use of court time in managing hearings will drive the progress of cases and facilitate their resolution in a timely manner. Several mechanisms enable this effective management, including:

- **Accurate Case Scheduling Policy**

This pertains to determining the number of cases that a court can hear in a single session. One possible approach is to schedule hearings for cases regardless of the likelihood that some may be settled before the hearing procedures begin. This could result in surplus time due to case settlements or dismissals. The alternative approach involves scheduling hearings for a greater number of cases than the court can actually handle, anticipating that some cases will be settled beforehand. However, this approach may lead to an overload when many new cases arise, preventing the court from hearing all cases and increasing congestion.

To avoid the risks of both approaches, the optimal solution may be to adopt a reasonable setting factor (RSF) that balances the time requirements for hearing cases with the number of newly filed cases. RSF refers to "the lowest number of cases per session that allows the court to effectively control and manage the pending caseload in terms of volume and case age." This factor depends on the flexibility available to each court.

One example of case scheduling policies is the *smart docket system* used in Wrentham Court, Massachusetts, USA. Under this system, judges and civil mediation personnel assign each case a trial rating, which is based on the nature of the case and previous experiences regarding its likelihood of proceeding to trial without settlement. Specific percentages are assigned to cases that are expected to be settled or dismissed without a final ruling. Based on past rates, a certain percentage of over-scheduling is determined, ensuring a realistic approach that prevents unnecessary case postponements while also avoiding excessive unused court time<sup>11</sup>.

- **Case Adjournment Policy**

One of the key factors in establishing credible and well-structured case hearing schedules and ensuring effective litigation session management is minimizing the number of cases postponed from one session to another without necessity. Frequent postponements encourage lawyers and litigants to be less prepared for hearings, as they anticipate that the case will be postponed.

A lack of preparedness—whether in terms of documents, memoranda, bringing witnesses, or presenting arguments—often leads to further postponements. This results in inefficient use of court time and an increased number of cases being scheduled for later sessions, making it difficult for the court to complete its hearings on time. Consequently, lawyers begin to expect delays, further discouraging adequate preparation, creating a cycle of postponements. The solution to this issue is to limit the acceptance of postponement requests to the narrowest scope, ensuring that they are only granted when there is a genuine and reasonable excuse. Additionally, case scheduling for future sessions should be done carefully to avoid overburdening the court and preventing it from handling cases efficiently.

- **Concentrated Approach**

A key element in effective session time management is adopting a concentrated approach. This approach ensures that sessions proceed sequentially without unnecessary fragmentation, allowing for the completion of procedural steps within clearly defined timeframes for exchanging submissions and presenting arguments. The court should not merely react to the litigants' behavior in proving their case but should instead actively manage the proceedings.

A distinctive method to maximize the efficiency of court time is to hold a pre-hearing management meeting no later than two weeks before the scheduled hearing. This meeting, attended by the litigants or their representatives, can address various procedural matters, such as issuing decisions on discovery or

documents production if these were not resolved during the case preparation phase. It also helps clarify the legal and factual issues in dispute, identify undisputed matters, facilitate the exchange of documents and memoranda, review initial and interim motions, and resolve them before the hearing.

Furthermore, this meeting allows for the exchange of witness lists, the scheduling of witness testimonies to avoid redundancy, discussions on admissibility of evidence, and addressing any special requirements for the hearing, such as the need for interpreters or remote testimony via telecommunication or online networks. Necessary arrangements and technologies should be put in place in advance to ensure smooth proceedings.

The judge can enforce this structured approach by setting reasonable yet flexible deadlines for different procedural stages, such as document exchange, submission of memoranda, witness testimonies, oral arguments, and final rebuttals. These deadlines should be predetermined in consultation with the parties to ensure fairness and reasonableness according to the specifics of each case. If necessary, deadlines can be adjusted during the proceedings, but only in exceptional cases and to the least extent possible<sup>12</sup>.

- **Effective Management of Judicial Information**

This includes adopting modern technologies to track case progress and monitor completed steps, as well as accessing necessary information for case resolution available in other courts or certain government agencies.

- **Effective Case Management Reports**

Case flow management reports serve two functions: on the one hand, they provide information on the proper utilization of available court resources, and on the other hand, they establish performance measurement standards that court administrators should rely on to identify and resolve issues.

These reports must be accurate and allow the court to evaluate its performance against predetermined standards and objectives. They should also be accessible to judges and court

administrators. For case flow management reports to fulfill these functions, they must possess the following characteristics:

- **Accuracy and Comparability of Data**

Case flow management reports will only be useful if the data on which they are based is accurate and consistent. Inaccurate data may result from missing information or incorrect data entry. To ensure data accuracy, a team of specialists should be tasked with reviewing and verifying the entered data and the criteria used by employees in the data entry process, enabling the detection and correction of errors.

It is also important to clearly define the key stages of case proceedings to avoid confusion among data entry personnel. This includes specifying when a case is considered registered, pending, or concluded. A case may be concluded by a final ruling, dismissal, failure to renew it within the legally stipulated period, or any procedural occurrence that moves the case from an active to an inactive status.

Additionally, administrative procedures should be standardized to ensure that the data is reliable and accurately reflects real-world judicial operations.

- **Defining the Type of Data to Be Recorded and Included in Reports**

Given the diversity of case types, their different categories, and the varying procedures followed in each case, along with potential procedural complications, court employees may become uncertain about what data should be recorded or omitted.

Entering excessive data may lead to an overload of codes and unnecessary complexity, resulting in an unclear depiction of the court's case management process. Conversely, insufficient data may produce the same issue.

Therefore, it is essential to clearly define the data that should be entered into the court information system, adopting standardized definitions and codes to prevent errors and avoid either an excessive or insufficient amount of data.

- **Effectiveness**

This relates to including data that court administrators and judges need to assess the current situation and use the information in reports effectively to manage caseload. Reports should neither be overloaded with unnecessary data nor lack sufficient details to provide a realistic picture of case management in the court.

The most essential data that reports should include are details about individual cases. Judges must have information about the cases they will hear at least a week before the parties appear in court. The court's weekly schedule should specify the names of the parties, types of cases, their categories, and hearing dates.

Additionally, reports should provide data on the court's overall case workload, including completion rates, the volume of pending cases, backlog indicators, the average age of pending and resolved cases, and the postponement rate. These metrics help measure whether case management objectives are being met at the court level or across the judiciary as a whole.

Regarding postponements, it is preferable that reports include qualitative, analyzable data on granted adjournments, detailing their type, reason, and the party requesting them. Such data will help judges understand the volume of granted postponements, enabling them to manage the caseload more effectively.

The success of case management reports in fulfilling their function depends on the conviction of those managing cases about their importance in achieving efficient judicial administration. It also relies on the accuracy of the data contained within and how the information is presented—it should be concise and simple for administrators to handle effectively. To ensure reports contribute to efficient case flow management, they should be issued periodically, whether annually, semi-annually, or quarterly.

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