

# A matter of time

## Throughput time in non-family civil disputes

### Summary

The time needed for the settlement of civil cases in the Dutch courts has been subject to complaint for over a century. In recent years, several new procedures have been designed in order to speed up processes. One of these, the *versneld-regime* procedure (accelerated regime procedure) which was implemented in 1996 by eight courts under an experimental status, gave rise to this study. In this procedure, which is applied only by request of parties, the writ is subject to additional requirements and has to contain more specific information than is requested in normal procedures. Early in the process a meeting is being held in which an amicable settlement is being tried, information is being gathered and/or the further proceedings are being planned. Furthermore, in this special procedure a number of procedural sidesteps are being ruled out and in principle, no delay will be accepted on a standard term of six weeks for every procedural step.

Since no reliable information was available on the actual time taken by normal procedures in the nineteen Dutch courts, the measuring of throughput time, on the basis of samples of cases from 1994 to 1996, has been a substantial part of the research. The results show firm differences between courts. The fact that in some courts procedures are quite slow says little about the way people in those courts work - it is mainly a result of the number of older cases that are waiting to be processed. Since the personnel budgets for each court are being established on the basis of the number of new cases that come in each year, it would take years of hard work to eliminate the old stock. Speeding up trials the way the experimental procedures do would mean that in the short term the stacks of cases to be processed grow, causing even more delay.

Knowing this, it's hardly a surprise that the decision to take part in the experiment was taken mainly by courts that already were fast. On case-level, cases in the experimental procedure were generally processed twice as fast as cases in the normal procedure; also, the experimental procedure was substantially faster than two older 'alternative' procedures that were also meant to speed up processes. It should be taken into account however, that the experimental procedure had been presented as being suitable for smaller cases only, and that it was used in less than 10 percent of the new cases. The use was higher in slower courts, in courts that did not favour other 'alternative' procedures and courts that spend more energy in the implementation of the procedure. Over time, popularity grew, and one court reached a use of 18 percent of the new cases in 1997.

To establish the overall effects of the experimental procedure, efficiency and throughput time over the second half of the first year of the experiment have been compared with the same period in the year before implementation. Overall, the throughput time had not changed. This means that, whilst cases in the experimental procedure were settled faster, cases in the normal procedure had slowed down. On efficiency there was a small positive effect. In the long run, the researchers predict a positive effect on both throughput time and efficiency, at least if a sufficient number of cases are being presented. That these predicted effects are not already found after a half year of experimenting, is due to the time spent on implementation activity (which temporarily reduces the time spent on dealing with cases) and the small amount of cases presented for the experimental procedure.

The researchers conclude that the most effective measure to speed up the process is a temporary increase of personnel in the slower courts, so that old stocks can be done away with. For those courts, alternative procedures will be of little help. For courts that already have control over their work stock, all three alternative procedures can contribute to a further acceleration. It is advised however not to prescribe one of these procedures, but to let courts make their own choice given their local context; the results obtained with the various alternative procedures vary according to local preferences and possibilities. The additional requirements to the writ, set in the *versneld-regime* procedure, deserve a place in procedural law; it would benefit all cases. A general standard should be set for throughput time, an adequate monitoring of throughput time should take place, and the achievements should be an item in the planning-and-control meetings between the Department of Justice and individual courts.

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### Een kwestie van tijd; onderzoek naar de doorlooptijd in handelszaken

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