

Professional competences of court administration managers in the face of organisational changes

Tomasz Rostkowski, Marcin Witkowski

*Human Capital Institute, Warsaw School of Economics
Al. Niepodległości 162, 02-554 Warsaw, Poland*

DOI:10.13165/VPA-16-15-2-07

Abstract. *The purpose of this article is to attempt an indication of the key priorities in the development of court administration managers' professional competences in the face of strategy-driven modernisation, legal conditions, current problems and the employees' attitude towards changes. The article tries to present the directions for changes in court administration and shows the key results of the conducted research concerning the sources of resistance towards changes among the employees of this group of organisations. It enables to suggest priorities in the development of managerial competence in the Polish judiciary. It is assumed, however, that one of the major challenges is to consider the needs and hardships of particular courts and not of the whole system of justice.*

Keywords: *competence management, management of change, public administration, court administration, managerial competence.*

Raktažodžiai: *kompetencija valdymas, pokyčių valdymas, viešojo administravimo, teismų administracijos, valdymo kompetencija.*

Theory of public management

Currently, in the theory of public administration, there are two schools of thought on ensuring the state's efficient functioning: traditional administration of rational bureaucracy and public management (Mazur 2006) (*public management, new public management*). The concept of „good governance“ is not the „third path“, but should be seen as complimentary to the aforementioned schools of thought. The demands of „good governance“, such as: openness, participation, transparency, effectiveness and consistency of policy and undertaken actions (Czaputowicz 2011)

can be fulfilled both by the traditionally organised public administration, as suggested by M. Weber, and in accordance with the principles of public management.

Characteristics of public administration in Poland

Public administration in Poland has the characteristics of both the Weberian traditional administration and public management. It can be hoped, however, that it is only a temporary state; it can also be assumed, on the basis of observation, that the target model of public administration organisation in Poland will significantly approach the ideals of public management. This means that competence expectations towards public administration managers will become more and more similar to the ones known from the business sector. It has to be noted here that even currently these expectations seem similar: in administration, it is typical to expect from candidates and employees that they will be „result-oriented“, „able to cooperate“, „creative“, and even „client/customer/citizen-oriented“. These expressions, however, often do not mean exactly the same as in the business sector, and the behaviours which pertain to particular levels of fulfilment of these competences, as well as the purposes of their possession and use are different in public administration and in the business sector (Rostkowski 2012, pp. 212 – 221).

The aims of the present article are:

1. to identify the directions for the court administration development in a synthetic way,
2. to present the most important results of research conducted by the authors, concerning the sources of resistance towards changes.

Characteristics of judiciary in Poland

Common courts in Poland are a specific group of organisations which not only resolve disputes, but also provide registration services to the citizens. The structure of these entities is a glaring example of pathology resulting from the conviction that with the use of legal provisions, it is possible to minutely direct the actions of several hundred organisations in Poland, which employ tens of thousands of people. An example of such counter-productive activity is the implementation and constant amending of the almost 600-paragraph long ordinance determining the handling of judicial documents and the functioning of court division secretariats (Ministerstwo Sprawiedliwości 2003). By virtue of law, courts are forced to perform actions which are extremely costly, time-consuming and unnecessary to the citizens as well as to the judges and officials, using office technology based on the standards and devices from the first half of the 20th century. In many courts, it is still common practice to „stitch files“, which sometimes means joining many thousands of pages using a needle and twine, and 10 years ago all courts in Poland functioned in this way. More modern office solutions were simply not approved for use. Similarly, today, a citizen

cannot choose the desired method of communicating with the court (e.g. e-mail, text messages and multimedia messages) and, under the order of the authors of the ordinance, is forced to use the services of postal operators, which is highly inconvenient.

The problems of court administration employee management are regulated by the Act of 18 December 1998 (*Ustawa o pracownikach sądów i prokuratury 1998*) and ordinances (*Ministerstwo Sprawiedliwości 2013, Ministerstwo Sprawiedliwości 2007*). They are an excellent example of smokescreen law, i.e. a situation in which complicated legal provisions which allegedly aim to regulate some area of the state's functioning, in practice award appropriate decision-makers full or almost full freedom of discretionary action and create the possibility of interpreting the provisions in extremely different ways. Reality shows that the solutions recommended in certain courts as good practice can be expressly forbidden to use by other courts.

Apart from the above-mentioned false assumption about the omnipotence of the statutory law, there is also the problem of believing that it is possible to standardize organisations of different size and with different problems. Common courts in Poland can employ a dozen or a few dozens of people, but there are also units which employ more than 1000. Workload is similarly varied: besides units which receive so many cases that they cannot guarantee resolving disputes within a reasonable time, which produces the risk of cases against the Republic of Poland being submitted to international courts as a sign of Polish citizens' rights being violated, there are also divisions and courts whose services do not trigger citizens' interest. Unified, legally accepted solutions are, out of necessity, an average of the courts' capabilities and needs; as a result, they do not meet the needs of both smaller courts which often have a smaller workload, and the larger units which struggle with an overload of cases. The problems mentioned above are only examples of the differences between courts, which can also be observed in such areas as: the conditions of the local labour market, available premises, used technology, characteristics of cases submitted to the court or the used work standards, including standards of cooperation between the decision-makers (judges and court referendaries) and officials.

The direction of court administration development in Poland

Up to now, the common judiciary has had a problem with a high level of instability, resulting, among others, from very frequent changeovers of the Minister for Justice and changes to the concept of how the Polish system of justice should function. In the years 1989–2014, the function of the Minister for Justice was performed by 22 people. Such a situation is not favourable to the implementation of a long-term vision of changes to the judiciary. Apart from content-related problems resulting from the constantly changing law, on the basis of which judges adjudicate in cases important for the well-being of citizens, and the incessant extension of the courts' scope of power (extension of courts' jurisdiction), the courts have also struggled with numerous organisational changes.

In the light of the facts above, it needs to be unambiguously stated that court administration is extremely prone to changes. It concerns also such activities as the introduction of modern technologies and streamlining the court administration employee management systems. Eventually, all the aforementioned, centrally-implemented changes have been efficiently brought to life, without significant influence on the continuity of the courts' functioning, which is in their case necessary. Poor preparation of these changes and very short implementation time, which compromised their sufficient preparation (e.g. ensuring the necessary training), indicate that the reasons for the successful fulfilment of the legal requirements by the courts lie first and foremost in the engagement, responsibility and loyalty of court administration employees and other persons, including mainly the judicial staff.

In 2014, a strategy was elaborated and implemented, indicating the paths for the development of the „area of justice“ in Poland. (Ministerstwo Sprawiedliwości 2014) It concerns not only courts, but also prosecution authorities, the Prison Service and the National School of the Judiciary and Prosecution Service. It applies the latest achievements in the public administration theory, including the *Balance Scorecard* (Niven 2008) and analyses of needs prepared on the basis of a common, SWOT-based method. It indicated that the basic area of changes is the turn towards the needs of the citizens – implementation of a managerial model in the judiciary, based on efficiency in action, coherency of courts' operations and cost-effectiveness. Directing the development of the common courts towards a radical increase in the practical use of managerial theory is an obvious execution of the judicial independence principle of the Constitution of the Republic of Poland. Article 45.1. stipulates that: „Everyone shall have the right to a fair and public hearing of his case, without undue delay, before a competent, impartial and independent court.” (Konstytucja Rzeczypospolitej Polskiej 1997). Greater independence of the court bodies, i.e. president – judge and manager – official, is a practical implementation of the necessity to increase the independence of the court as an employer. In this direction, priorities regarding the managerial competence of the directors are distributed differently. What has been regarded up to now as a shortage of competences has become an urgent developmental need. It results also from the need to implement many organisational and technical changes at the same time, which are necessary not only to meet the highest European standards, but also to enable numerous courts to fulfil their obligations towards citizens. In this view, the attitude of the management and regular employees towards the more and more intense changes plays a key role and can induce positive changes; it can also, however, be a serious obstacle on the path to their implementation.

Organisational changes in the judiciary – results of research on effectiveness

From September 2014 to February 2015, research concerning the effectiveness of the implementation of improvements and changes to the system of justice was

conducted. The goal of the research was to define perception and potential with regard to the implementation of organisational changes, and identify the key areas which should be improved in order for the change processes to be successfully initiated, conducted and implemented by court employees.

The respondents were 213 officials on managerial positions from secretariats of judicial divisions and support departments (administration, human resources, IT) and managers responsible for the implementation of particular processes in courts, in which there were carried out significant organizational changes. The results of the research were collected through anonymised questionnaire surveys. Almost 90% of the sample were women, which is a reflection of the personnel situation in courts. However, as regards the years of work at the current workplace, the participants of the research were the most experienced Polish common court administration employees (only less than 10% had less experience than five years), which is due to the target group including people performing managerial functions. The largest group of respondents were people aged 35–44 (42.3%) and 45–54 (27.7%), which reflects the current opportunities for professional development in courts up to managerial positions. On the basis of the data above, it is affirmed that the sample and methodological assumptions allow to declare the results of the conducted research reliable.

Factors of the effectiveness of organisational changes

The first substantive part of the research survey concerned the respondents' assessment of the selected factors influencing the effectiveness and efficiency of the implementation of organisational changes in common courts. Content of the question: „In reference to your workplace, please rate every element on a scale from 1 to 5, where: 1 – I firmly disagree; 2 – I rather disagree; 3 – I don't have an opinion; 4 – I rather agree; 5 – I firmly agree”. Below, the results of the main research areas, which have the greatest influence on the effectiveness of change processes in the system of justice, are presented and discussed.

Table 1. Factors of the effectiveness of organisational changes – survey results

Factor	Average mark
The organisation in which I work efficiently reacts to the changes taking place in its surroundings (e.g. changes in law, changes in Clients'/Business Partners' expectations, etc.)	3.6
The organisation in which I work reacts efficiently to internal changes (e.g. innovations submitted by employees, organisational and technological changes, etc.)	3.2
Changes in the organisation are implemented effectively.	3.4
Organisational changes lead to a greater effectiveness.	3.5
I am committed to implementing changes/improvements in the organisation in which I work.	4.4

Factor	Average mark
I think that my co-workers are committed to implementing changes/improvements in the organisation.	4.0
The goals of the organisation are well-known to me.	4.5
I think that the goals of the organisation are well-known to my co-workers.	4.2
The aims of the recently implemented changes were well-known to me.	4.0
I think that the aims of the recently implemented changes were well-known to my co-workers.	3.8
I think that organisational changes are desirable for the fulfilment of the organisation's goals.	4.2
I am open to changes.	4.6
I think my co-workers are open to changes.	4.0
I am afraid of negative consequences of the implemented changes.	3.1
I think my co-workers are afraid of the negative consequences of the implemented changes.	3.4
I hope that the implemented changes will have positive effects.	4.3
I think my co-workers hope that the implemented changes will have positive effects.	4.1
I eagerly take up higher risk to be able to achieve greater effects.	4.2
I think that my co-workers eagerly take up higher risk to be able to achieve greater effects.	3.7
I trust the people in charge of the organisation.	3.8
I think my co-workers trust the people in charge of the organisation.	3.6
I think that I have real influence on the organisation.	2.8
I think that my co-workers have real influence on the organisation.	2.7
I am satisfied with my current job.	4.2
I think my co-workers are satisfied with their current jobs.	3.8

Source: Own work on the basis of research results.

The aspects concerning the appropriate level of reaction towards external changes (e.g. changes in law, customers' and clients' expectations, etc.) and internal changes (e.g. innovations put forward by employees, organisational and technological changes, etc.) were assessed as medium (respectively 3.6 and 3.2 points on a 5-point scale). It reflects the low flexibility of the judiciary in regard to the aforementioned stimuli. Moreover, the efficiency of the current organisational changes' implementation and the gains in effectiveness induced by its results are perceived on a neutral level (respectively 3.4 and 3.5). A positive phenomenon is the high declared openness (4.6) and commitment to change (4.4). It reflects the high potential

to achieve positive results of employee's active participation in the organisational improvement processes.

The knowledge of the goals of the organisation's functioning (4.5) is beneficial for the course of the processes, while appropriate communication of the goals of the undertaken actions (4.0) needs greater attention. The currently low level of anxiety in this field is inseparably connected with the frequent occurrence of anxiety regarding negative consequences of changes, which naturally decrease the effectiveness and efficiency of the conducted projects. Despite that, respondents indicated that they hope for positive effects of changes (4.3) and are ready to take risks in order to achieve greater effects of everyday work and the functioning of the organisation they work in (4.2).

The question of trust towards the managers of the given organisation was presented as one of the elements with room for improvement (3.8). It is connected with the highly hierarchical structure of the organisations and the whole system of justice – for example, the majority of change implementation processes result from top-down guidelines to which the managers have to adapt and which they have to apply to their court, often in a shape imposed from above. A positive phenomenon is the high satisfaction with the current work declared by the court administration managers (4.2). Respondents indicated also that they feel they have little influence on the organisation (2.8). Certainly, more active generation and implementation of bottom-up innovations at the level of the particular position or organisational unit will result in a better use of the potential for effective and efficient implementation of organisational changes in the Polish judiciary. Moreover, employees should be aware that most of the correctly functioning improvements originated from a concept and its implementation at the level of individual organisational units and further practical experience exchange.

A visible tendency in the obtained results is the difference between the assessment of the respondents' own attitude and that of their co-workers – the most visible examples are the questions of engagement in the processes of change (self-assessment 4.4 vs. assessment of co-workers 4.0), openness towards changes (4.6 vs. 4.0), willingness to take risks to achieve better results (4.2 vs. 3.7) and the anxiety regarding negative consequences of the implemented changes (3.1 vs. 3.4). This phenomenon is probably linked, on the one hand, to the subjectively better perception of oneself in comparison to the surroundings, and on the other hand to the assessment of the co-workers in general by their managers, who take a greater part in the processes of change and have better-developed competences in this area.

Sources of resistance towards organisational changes in the judiciary

The second substantive part of the research survey concerned the respondents' assessment of the selected factors influencing the effectiveness and efficiency of the organisational changes' implementation in common courts. Content of the question: „Sources of reluctance towards changes: Please mark the 4 most frequently encountered sources of reluctance towards changes in the current workplace“.



Graph 1. Sources of reluctance towards changes – survey results

Source: Own work on the basis of research results.

As the key, most frequently occurring reasons for a negative attitude towards organisational changes in common courts were larger workloads after implementing new solutions or changes (20% of responses), which is linked mostly to the necessity to acquire new skills and knowledge for the sake of correct task performance in the new situation, and the uncertainty associated with the situation after the change (18%), in particular anxiety that the current situation will deteriorate as a result of the change process, which is linked to the feeling of very limited opportunities to influence the organisation and the undertaken actions. The next indicated reasons for resistance were: the perception of current solutions as appropriate and correctly functioning, which is beneficial (11%), high cost of changes and high probability of costs surpassing the benefits (10%), as well as being surprised with the implemented changes (9%), which is connected to insufficient information about the plans or conducted activities.

In the judiciary – a highly bureaucratised and subordination-based organisation – a low level of anxiety associated with losing the current power and competence (2%) seems to be astonishing. However, in the organisational changes implementation process itself, a factor of significant influence seems to be the feeling of a lack of control (6%) expressed by the people who hold a stake or participate in the changes; it is connected to the inability to influence the conducted activities and decisions. Then, one in twenty-five responses indicated that the source of reluctance towards another change is the previous negative experience – failed or unfinished modernisation processes.

Conclusion – the needs of management competence development in the Polish judiciary

The conducted research and multi-year observation of the Polish legal system's functioning as well as an analysis of the strategy to modernize the Polish justice area indicate the need to perform deliberate, planned actions in order to strengthen leadership competences. This proposal concerns both managers on high positions in the hierarchy and natural leaders – key line employees who are able to initiate improvements from the level of their position or organisational unit, but also efficiently implement top-down changes. (Kupers 2007) The aim of using the broadly-defined leadership competences in the change processes in the judiciary should be to fulfil the goal of correct implementation of the imposed changes into the practical functioning of the organisation and its components, as well as to create bottom-up improvements. (Rostkowski 2006). Main conclusions resulting from the theory of public management, the theory of change management and research outcomes:

1. The areas which should be included in the complex development processes are:
 - Motivating and inspiring co-workers;
 - Planning actions and monitoring results;
 - Developing the subordinate team;
 - Leadership communication;
 - Process optimisation in the organisation;
 - Project management.
2. What is necessary to succeed is the development of managerial competences in such a way that will immediately bring visible effects, supported by the highest management (president and director) of the court.
3. The directions for developing managers' competences cannot be treated as development of universal competences, i.e. similar to those in other organisations, such as companies. The specifics of a court encourage defining managerial competences separately, taking into account the existence of an actual diarchy. Managerial competences in the justice system should be considered as specific competences, which means that they differ for particular professional groups employed in courts.
4. Certainly, the theoretical structure of training programs should be based on the same theories to ensure coherency; however, their practical application, used training tools, as well as the organisation of the process, as indicated by practical experience, should be adapted to the needs of courts and particular groups of employees.
5. It is worth to note that in view of research, the prerequisite for the success of the new change projects in the system of justice is changing the managers' attitudes. In order for it to be possible, managers need to acknowledge their key role in supervising their teams and improving their organisations.

References

1. Czaputowicz, Jacek. 2011. „Zarządzanie w administracji publicznej w dobie globalizacji” in *Administracja publiczna. Wyzwania w dobie integracji europejskiej*, edited by Jacek Czaputowicz, Warszawa: PWN
2. Kupers, Wendelin. 2007. „Perspectives on Integrating Leadership and Followership” *International Journal of Leadership Studies* Vol. 2 Iss. 3
3. Mazur, Stanisław. 2006. „Historia administracji publicznej” in *Administracja publiczna*, edited by Jerzy, Warszawa: PWN
4. Niven, Paul. 2008. *Balance Scorecard step-by-step for government and nonprofit agencies*. New Jersey: John Wiley & Sons
5. Rostkowski, Tomasz. 2012. *Strategiczne zarządzanie zasobami ludzkimi w administracji publicznej*. Warszawa: Wolters Kluwer
6. Rostkowski, Tomasz. 2006. *Rozwój kompetencji przywódczych w Polsce*. Warszawa: Szkoła Główna Handlowa
7. Ministerstwo Sprawiedliwości. 2014. „Strategia modernizacji przestrzeni sprawiedliwości w Polsce na lata 2014-2020”, Warszawa: 2014
8. „Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997” (Dz. U. z 1997 r. Nr 78, poz. 483, z 2001 r. Nr 28, poz. 319, z 2006 r. Nr 200, poz. 1471, z 2009 r., Nr 114, poz. 946).
9. Ministerstwo Sprawiedliwości. 2003. „Rozporządzenie Ministra Sprawiedliwości z dnia 12 grudnia 2003r. w sprawie organizacji i zakresu działania sekretariatów sądowych oraz innych działów administracji sądowej (Dz. Urz. MS z dnia 31 grudnia 2003 r, z późn. zm.)”
10. Ministerstwo Sprawiedliwości. 2007. „Rozporządzenie Ministra Sprawiedliwości z dnia 10 grudnia 2007 r. w sprawie szczegółowych zasad i trybu postępowania przy dokonywaniu ocen kwalifikacyjnych urzędników i innych pracowników sądów i prokuratury (Dz. U. Nr 247, poz. 1838)”
11. Ministerstwo Sprawiedliwości. 2013. „Rozporządzenie Ministra Sprawiedliwości z dnia 16 kwietnia 2013 r. w sprawie stanowisk i szczegółowych zasad wynagradzania urzędników i innych pracowników sądów i prokuratury oraz odbywania stażu urzędniczego.”
12. „Ustawa z dnia 18 grudnia 1998 r. o pracownikach sądów i prokuratury” (Dz. U. z 2011 r. Nr 109, poz. 639, Nr 113, poz. 659, Nr 203, poz. 1192, z 2013 r. poz. 829.)”

Tomasz Rostkowski, Marcin Witkowski

Teismų administracijos vadybininkų profesinių kompetencijų ypatumai organizacinių pokyčių kontekste

Anotacija

Straipsnyje keliamas tikslas pamėginti atskleisti svarbiausius prioritetus teismų administracijos vadybininkų profesinių kompetencijų tobulinime, modernizavimo strategijų ir kintančių teisinių sąlygų kontekste, identifikuojant esamas problemas ir vyraujančias darbuotojų nuostatas šių pokyčių atžvilgiu. Šiame straipsnyje taip pat mėginama nubrėžti

pokyčių kryptis teismų administracijoje ir pristatyti atlikto tyrimo rezultatus, susijusius su teismų administracijos vadybininkų pasipriešinimo pokyčiams priežastimis. Atliktas tyrimas suteikia galimybę išskirti ir pasiūlyti prioritetingas vadybines kompetencijas formuojant jų tobulinimo rekomendacijas Lenkijos teismų sistemoje. Vis dėlto vienu iš esminių iššūkiu išlieka būtinybė atsižvelgti į konkrečių teismų, o ne į visos teisingumo sistemos poreikius ir problemas.

Tomasz Rostkowski – Professor at Human Capital Institute, Warsaw School of Economics.
E-mail: tomasz.rostkowski@sgh.waw.pl

Marcin Witkowski – Master of Strategy and Finance Management, Warsaw School of Economics; Change Management Expert at Core Business Institute.
E-mail: marcin.witkowski@core-business.pl

Tomasz Rostkowski – Varšuvos ekonomikos mokyklos Žmogiškojo kapitalo instituto profesorius.
El. paštas: tomasz.rostkowski@sgh.waw.pl

Marcin Witkowski – Varšuvos ekonomikos mokyklos Strategijos ir finansų vadybos magistras.
El. paštas: marcin.witkowski@core-business.pl

Straipsnis įteiktas 2016 m. sausio–vasario mėn., recenzuotas, parengtas spaudai 2016 m. kovo–birželio mėn.