

„LUCIAN BLAGA” UNIVERSITY SIBIU
FACULTY OF ECONOMICS

PHD THESIS SUMMARY

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CURRENT CONTRIBUTIONS ON THE
IMPLEMENTATION OF QUALITY MANAGEMENT IN
THE COURTS OF ROMANIA

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CURRENT CONTRIBUTIONS ON THE IMPLEMENTATION OF QUALITY MANAGEMENT IN THE COURTS OF ROMANIA

1.Introduction to the research

The performance justice, so contested and heavily criticized, is a goal that can be achieved only through hard work of evaluating the quality of justice as a system in full remodeling, and constantly identifying ways to improve the work of the courts.

Management is no doubt a new field for all Romanian organizations, judicial organizations making no exception in this regard. On the contrary, the need for quality in justice is acute, therefore management is the one that can provide a broad perspective on the issues the system is facing through specific methods and techniques and especially by highlighting the need to implement them.

In this context the research topic aims to identify and analyze current guidelines in the implementation of quality management in the judiciary in order to improve theories and increase knowledge in the areas studied, the application of quality management to the specifics of the legal system and its organizations, and also based on scientific grounds to highlight solutions to concrete problems.

The thesis proposes an approach of external evaluation of the judiciary as an expression of the implementation of the principle of customer focus to provide concrete benchmarks on the quality of court administration, judicial credibility and effective responses to the needs of litigants. Magistrates must understand that a circumvention of an external evaluation is not possible, the more the courts will react more effectively to the needs of users, the more the quality and prestige of the judiciary judicial service increases, bringing real benefits for all parties involved.

Starting from the reality that the social needs of individuals for legal services are inexhaustible, the work of the courts is practically infinite, the management of quality outlines the main directions and provides the tools necessary for a proper evaluation, of its implementation, swift and efficient, depends both the results of the judicial system and its image.

2.The structure of the research. Scope, objectives and scientific hypotheses

The thesis is divided into a total of 11 chapters spread over 4 parts. The first three parts of the paper intended for the analysis of current state of research in the field and theoretical elements underlying the implementation of an adequate system of quality management, focused on comparative study of international jurisdictions.

Part IV is the applicative part of the thesis. Through the proposed research we intended to identify the elements that characterize the quality management of Romanian courts with the ultimate goal to draw conclusions that can be important benchmarks of best-practices and provide solutions to some of the problems justice in Romania is facing.

The first part of the thesis aims to identify specific needs of the Romanian judicial system and highlight elements that allow the implementation of a quality management system in accordance with specific of legal organizations.

Chapter 1 highlights the importance of analyzing with priority the organization of the judiciary, its mechanisms and its structures to existing features, without which, in our opinion, it is impossible to adapt the management concept to this state sovereignty area. It is considered that the essence of judicial management is the way organizations that make up the judiciary are led, so that the research can not start without the analysis of these entities of the judiciary, and the interconnections judicial organizations (courts) - management.

Also the first chapter points out the particular context in which we will study the interrelationship judiciary-management, respectively the justice reform as a consequence of the accession of Romania to the European Union, a set of rules, principles, institutions and economic instrument to ensure an independent, effective and efficient justice system.

Chapter 2 focuses on quality management treated as the main current landmark in the modernization of public management. So, this part of the research defines quality management and proposes an adaptation of its principles to the peculiarities of the judiciary, foreshadowing the opportunity of implementing it in the Romanian judicial system.

In this context the research was focused on the following *objectives*:

- presenting the current situation of the judiciary in Romania;

- tackling judicial reform and explaining the specific challenges facing the legal system;
- outlining a vision of management on the judiciary in Romania;
- explaining the basic concepts of justice with emphasis on management features deriving from membership of judicial management to public management;
- description of the specificities of the judiciary management;
- identification of judicial managers;
- definition of quality management, highlighting the importance of quality in all areas of life;
- description of the particularity of the concept of quality in relation to the judiciary and follow its evolution;
- treating the importance of implementing quality management in the judiciary as the main recent approach in reforming international public management.

As shown in the goals set, an important part of this research is to make an attempt to define operational concepts that the thesis operates with, addressed through the interrelations judicial system-management. In this context, the identification of management appearances and clarifying the basic concepts of management in the judiciary, drawing attention to the significance of quality management and its role in the judicial organizations represents the greatest challenge of the first part of the thesis.

The second part of the thesis is concentrated on finding a complex perspective on the quality of the judiciary, namely a consideration of all aspects, principles and areas that can influence the overall quality of the judiciary. By shaping a more complete picture of the quality system requirements, the further steps, involving the identification and analysis of certain areas and specific indicators of performance, depend on. This process will allow an assessment of courts as entities by comparing similar judicial organizations, a measurement of the quality of the judiciary as a whole, a highlight of the progress made, a starting point for new improvement measures and even a qualitative comparison of European judicial systems.

Compared to the central hypothesis of research that is required to be verified is that the concept of quality in this field is a very broad concept which requires a

multidimensional analysis, including mainstreaming the national perspective with the European efforts on quality of justice.

The second part of the research is focused on three directions which determined its structure, each direction being treated in a separate chapter.

Chapter 3, entitled *The Register of quality activities. Comparative analysis of quality management in the judiciary of Netherlands, Denmark, Belgium, Hungary, Austria, Romania*, developing the first direction, focuses on analyzing the quality of the judiciary from an international perspective. The chapter approaches the development by the European Network of Councils for the Judiciary of a Quality Management Working Group that has identified common quality benchmarks. The research was focused on the following *objectives*:

- arguing the importance of international cooperation to establish common guidelines on quality;
- explaining the importance of each action under the Registry activities in terms of its contribution in improving the quality of judicial management;
- carrying out a comparative analysis of the areas considered important by the participating States to improve the quality and the particular way in which each judiciary has acted;
- identifying examples of best practice in the application of quality management;
- studying Romania's position towards these guidelines, reporting progress and understanding of non-compliances in quality management.

Thus, the first perspective, reported to the Register of quality activities proposed by the Quality Management Working Group of ENCJ, commented the importance of each quality activity, pinpoints the examples of good practice but also brings real and relevant criticism regarding the way Romania meets the quality requirements.

Although at first view of the Report, Romanian judicial system appears to respect all requirements for quality activities, at a close examination we find many shortcomings and serious deficiencies in understanding the concept of quality management.

First, we found that there isn't a quality planning, such values are not included into a mission and vision of courts, nor are there set strategic objectives related to improving the quality of the courts. We also observed the lack of interest for the parties, basically

the judiciary wants to implement quality management disregarding the primary principle of customer focus, that is impossible. It is important that the judicial system tries to improve certain aspects and fields that will default to increase the quality of the trial, but the quality of the field is a much broader concept.

Chapter 4, following the second direction, studies quality reported to the fundamental principles of TQM, trying to prove the importance of their application in the judiciary and propose a concrete adaptation or forms in which they are found or might be found to improve the quality domain.

The objectives are:

- to justify the importance of the litigants orientation as a particular form of the principle of customer focus;
- to define the principle of leadership in justice, an analysis on the managerial role and responsibility of the president of the court in the performance of individual judges;
- to illustrate the perspectives of quality justice by involving staff, and reconsidering the role of the Registrar;
- to define the process approach;
- to illustrate the principle of systemic approach of management;
- to analyze aspects of continuous improvement, emphasizing the link with the other principles;
- to argue the importance of taking decisions based on facts;
- to identify suppliers and emphasize the existence of mutually advantageous relations.

The implementation of TQM principles adapted, as we proposed, to the specific scope and requirements of the domain completes the dimension of quality in justice. Also, this basic principles ensure the achievement of aspirations of quality in the justice system, customer satisfaction, involvement in quality control throughout the organization and participation of conviction; directed especially towards prevention measures, aims to make things better "first"; accountability and the involvement of everyone in the organization.

Our conclusion is that ignoring one of the principles, all the more if this is the primordial principle of customer focus, will irreparably attract an imbalance in the sense that any other requirements can not be fulfilled properly.

Another novelty is involved in analyzing leadership as a primordial principle of quality management. This part of the thesis illustrates the importance of leadership in justice as the core component of a judicial management based on quality, seeking specific leadership skills to match the domain and to point out concrete methods for developing judiciary leaders. The personal contribution consists firstly in the transposition of general theories on successful leader's attributes in the field of justice and secondly, the approach has resorted to a qualitative method, a direct collection of data by conducting an interview among the staff of justice. Starting from the argument that qualitative methods contribute to an in-depth analysis of a field, the interview conducted is an important contribution to increase understanding of the area studied, the more that literature neglected this important area. The chapter ends with formulating proposals on leadership development in the form of recommendations for a competent leadership.

Chapter 5, following the third strand of the research argues the importance of including in the concept of quality the defining principles of justice itself. Thus, for a more complete perspective, the paper examines the quality of the values of the field of justice. Research was concentrated at this stage on the following objectives:

- to justify the need of considering the independence and accountability of the judiciary as benchmarks of the quality of the domain;
- to analyze the judicial transparency and accessibility in the context of improving judicial management through the computerization of courts;
- to explain the notions of celerity and reasonableness, the peculiarities of time management and to make proper recommendations;
- to treat the problem of ethics as a notion of quality, tackling corruption.

Thus, the last perspective of quality justifies in its own manner the need for including in the concept of quality the defining values of the domain, namely: independence and accountability, transparency and accessibility, timeliness, ethics. It should be stressed that the debate on the celerity principle included two new approaches,

by reporting the speed issue to the procedural changes on the one hand and treating the subject through the area of time management, on the other hand.

We underlined on this occasion that although the time, namely the reasonableness of procedures is one of the most important values protected, the judicial manager unfortunately missed a valuable aid, specifically, time management. This new perspective proposed can be a starting point for new theories and management principles to the specific customizations of judicial activities.

The three perspectives of quality are intertwined and interrelated, this multidimensional analysis adds knowledge in understanding the requirements on quality in the domain of justice.

The multidimensional analysis of the quality was the starting point of the next approach focused on analyzing how the Romanian judicial system evaluates the quality but also on identifying examples of best practice in European jurisdictions.

The third part of the research aims to demonstrate the importance of having a comprehensive system of quality assessment by identifying areas that have a decisive role on the performance of the judiciary, the development of specific indicators and measurement instruments as varied.

Chapter 6 deals with the aspect of quality measurement in a broader context, that of the common effort of European countries to find common qualitative benchmarks by creating groups and international bodies for cooperation to improve the quality of justice in the European area and beyond. This joint approach has a special significance, being a real tool in favor of public policies in justice for the benefit of European citizens.

Chapter 7 and Chapter 8 focus on knowledge of quality patterns of the jurisdictions with experience in this field, with justice and citizens confident in the performance of judicial services, namely the Dutch and Finnish systems, as an aid observable for Romanian justice.

Chapter 9 is dedicated to the quality system applicable in Romania, studied alongside the European models chosen, the Netherlands and Finland. We emphasize that this comparative analysis highlights how simplistic the Romanian system of quality measurement is by reference to the Dutch and Finnish systems for the evaluation of justice. Yet we show appreciation and trust in the initiative of the Romanian state to

participate in the development of new qualitative benchmarks and performance indicators.

Consequently, the system of quality assessment applicable to Romanian courts is studied both in evolutionary terms, following the passage from "quality procedures" to a complex system, and through benchmarking with best practice examples in the field, the Dutch and Finnish quality systems.

The research within this party was based on the following key objectives:

- presenting the European context regarding the quality of justice, highlighting the need of each state to identify qualitative criteria to measure the quality both internally and finding common quality benchmarks to compare quality systems;
- highlighting the importance of an international perspective and international cooperation on the quality of justice;
- description of the Dutch and Finnish systems as benchmarks in quality;
- presentation of quality assessment procedures in the Romanian courts;
- identifying limitations and highlighting the progress made by Romania for enlarging the perspective of quality and finding suitable benchmarks and indicators;
- analyzing the implications of cultural aspects in implementing a quality management system based on examples of good practices.

Key assumptions can be summarized as follows:

- The quality of justice can not be ensured without a complex rating system that identifies areas of activity and evaluation relative to the basic principles of justice, a set of specific performance indicators and measuring instruments varied and appropriate.
- The quality can not be reported only to internal quality benchmarks in the context of globalization and Romania's EU accession is needed rallying appropriate quality criteria.
- International cooperation for developing quality measurement systems and benchmarking shows real benefits in generating knowledge in quality.
- The Dutch and Finnish quality assessment models due to their complexity and results, can be implemented successfully by other jurisdictions.

- Romania is developing appropriate qualitative benchmarks for current requirements, as an effect to interstate cooperation for quality.
- Models of good practice should be tailored according to the national specific, the success of a quality management system depends decisively on analyzing the cultural factors and reconfiguring the Romanian justice sector values.

Quality management should be viewed as an important pillar of judicial reform, an important contribution intended to enable courts to administer effectively by following some common quality standards but preserving the freedom to lead independent and find appropriate solutions for improvement.

The Rechtspraak Q and Finnish model of quality assessment in the judiciary are leading quality management systems, jurisdictions with tradition in the field who have proved that in non-economical organizations quality can be measured and the results are a starting point for improvements.

In recent years, Romania has shown an encouraging progress using the experience of the pioneers of quality management, as can be seen from the comparative analysis, and making an important transition from quality procedures to a complex system of quality measurement. Even if areas and performance indicators used have multiplied, we must note that the Romanian model still experiences some deficiencies. We turn first to the disregard of the primary principle of judicial services customer orientation, bypassing any external evaluations and any subjective indicators.

In the Netherlands' and Finland's case, we have noticed a high degree of orientation towards the litigants, the citizen's perspective is highly prized, as demonstrated by completing any objective data of the areas / domains of quality with subjective indicators and data that reflect the client's perspective about justice. For these systems becomes essential that judicial justice service's users have their say in most matters, for example the issue of time limits. In this case, as in areas such as the interaction with court staff and their behavior, conformity of the premises, requires individuals to be treated not as passive spectators but as actors. Their demands and needs require a public involvement of the citizen in the decisions and processes that affect them.

Even if we welcome Romania's approach to assess judicial quality in terms of performance indicators that reveal the effectiveness and efficiency of the legal activity, objective data generated by the Statis program, it is also important to consider the perception of the beneficiaries. It is no longer acceptable that individuals may be left in a state of absolute insecurity regarding the time required for examination of cases and that they do not have the opportunity to express their opinion regarding the reasonableness of the length of proceedings, the expectation and even influence these terms.

The situation is similar in other areas determinant for the quality of justice- as the independence of judges – and we consider that objective indicators used by Romanian judicial system are not enough, they must be supported by indicators and subjective data. Specifically, we support the example of the Netherlands which not only verifies the fulfillment of certain formal requirements but also assesses how these procedures are updated and available to the individuals and the way these aspects (in this case the independence of judges) are perceived by judicial customers. The same approach is also distinguished in the Finnish system.

We discovered that Netherlands and Finland pay great attention to the staff 's behavior and interaction with the court parties. For Romania this area of quality finds no proper consecration, being only encountered in the individual evaluation of magistrates, where an evaluation committee assess the conduct of judges in judicial activities through direct observation method. So, besides the fact litigants have no word to say about judges behaviour and there is no indicator to measure their satisfaction about the treatment given, the evaluation is totally ineffective since the presence of the comittee is known and the magistrate rated having always an appropriate behavior.

Another aspect that emerges from the comparative study is the consideration by the Dutch and especially Finnish of the courts' headquarters itself as important qualitative criteria, concern unmet for Romania. The Finnish system requires that premises, mainly hall courts arrangements to be reported to the needs of different categories of individuals. The complainants, basically victims of criminal cases, witnesses, defendants must have their own reserved area in the waiting hall of the court until the hearing begins in order to avoid pressure. All these requirements emphasize the concern for the citizen, for his dignity and even his safety.

The fourth part of the thesis focuses primarily on the main principle of quality management, the customer orientation principle. Underlining again the importance of the progress made by Romania we support the establishment of a system for measuring quality, flexible, inspired by examples of good practice but reported always to the specifics of the Romanian judiciary and very important to the Romanian litigants requirements, a system that is not afraid to use as the most important reference for improving the quality of justice the very perspective of the users.

So, the contribution of this last part is a proposal of an external evaluation model based on customer and professionals of justice's perception in the field. Building a questionnaire and supplementing it with focused discussion, we made possible the realization of a field research that helps identifying complex problems and understanding the needs of litigants and very important the development of measures to improve judicial management.

Chapter 10, a short introductory chapter, foreshadows the role and importance of the applied research- a model of external evaluation of quality justifying the indissoluble link between the management of the courts, the quality of justice and the perspective of individuals on the quality of judicial services.

Chapter 11 can be considered the most important contribution of the thesis, an applied research that generates a model for integrating the perspective of litigants in evaluating the quality of justice, thus using a subjective approach in the development of appropriate measures to improve the justice system and hence the judicial management.

The research is an applicative one, quantitative and qualitative, which aims at studying the customer perspective of justice and the need to integrate it into a system of external evaluation of the justice system on the basis of areas and specific indicators based on subjective data.

This approach is centered on the following main objectives:

- The determination of those issues, those areas of management of the courts which might influence the perception of citizens about the quality of justice.
- The diagnose of satisfaction of citizens who have recently benefited from the services of justice, related to selected areas and indicators.

- To set a hierarchy of indicators according to their importance in evaluating the quality of justice by customers and highlighting their contribution to the improvement of judicial management.
- To formulate measures to improve judicial management.

The main research hypotheses were as follows:

- Most areas selected and subjective indicators have great importance in the assessment of the client of justice.
- External evaluation may lead to a diagnostic of the quality of the services of justice, a comparisons between similar instances, highlighting examples of good practice.
- The research results make possible to prioritize quality indicators and thus areas which require special attention from the judicial managers.
- Indicators that generates subjective data are relevant in improving court management and lead to effective measures to improve judicial management.

The most important conclusion of the research is the validation by the litigants and professionals of all areas and indicators selected. The external evaluation choosing aspects that determine the quality assessment of court proved their opportunity as litigants appreciated all indicators as having great importance (for each indicator the selected degree of importance for individuals was high and very high in more than 70% of cases). So, an important personal contribution is building a model of external evaluation regarding the functioning of justice, a concrete way of implementing the quality management through the integration of customer orientation in the courts.

The research carried out a diagnosis of the functioning of the courts selected from Alba Iulia Appeal Court of Justice's district from the judicial customer's perspective, being a current study on the perception of citizens and professionals directly involved, a valuable tool for judicial managers. The results of the research made possible a comparative analyses between courts underlining the examples of good practice. We believe that the SWOT analysis performed during the focused discussion and the proposed measures can be integrated successfully in the judicial management of the courts studied and beyond.

The study brings as a novelty the establishment of a hierarchy of indicators stating what quality benchmarks are the most important to the customers of justice, and thus which are the areas where intervention is requested with priority.

Finally, the research complements the usefulness of the approach with a proposal of adapting an instrument of quality, the BSC system, aiming to mainstream external evaluation in a complex system, valuable by the very essence to position the organization's strategy at the heart of performance measurement. Starting from the reality that quality management in Romanian courts was taken fragmented ignoring the importance of a strategic planning of quality and the principle of customer orientation, the research makes a pertinent proposal demonstrating also the possibility to adapt it to the requirements and specificities of the judiciary.

Another important step is to draft a plan for implementing the quality management based on the logic model, step that demonstrates the practical utility of research. The Guideline proposed in implementing the plan is intended to be a useful instrument for courts managers, an example to show how, starting from the expectations of Justice customers and the resources needed, it is possible to define actions to improve the functioning of courts, to set measurable results of actions and expected results in the short, medium and long term.

In conclusion, the theme *Current contributions in the implementation of quality management in the Romanian courts*, brings an actual and new opportunity in shaping a vision for quality based on theories of quality management and best practice examples of European countries with experience in this field and hence with justice performance tailored to the specific context of Romanian legal system.

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