

A MODEL OF EFFECTIVE CRIMINAL CASE MANAGEMENT AS A GUARANTEE FOR PUBLIC ORDER AND SECURITY

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Introduction

The beginning of the 21c has seen the ascendance of market ideology, strife for management decentralization, a growing dependence of authorities on the rapid development of the civil sector. All this presupposes profound changes in the public paradigms, which in turn affect the organization of the unitary authority on a global scale.

Similar processes also run in the Republic of Bulgaria. In the forefront are the needs for decentralization of the government policies, based on particular public programs and projects. The changes affect the independent authorities in the country in different ways. We believe that the judiciary is the one most affected. It is under constant monitoring by national and international organizations and does not leave the public control focus. There is an increased interest by the media towards the work of the courts. But it rarely resides on the grounds of professional knowledge and objective assessment of the facts on the cases. Quite a few of the media often impose their theses without ever relying on objectivity and professionalism to make their conclusions. In this way insecurity is instilled in the public and civil premise, certain staunch values are debunked, the aspect of public policies is redirected and the supremacy of the law is brought in question. This process is the strongest as regards to criminal justice, since in it the views of the parties in the lawsuit collide as well as the expectations of society concerning law and order. The passive policy of the judiciary allows for grading

of reproof which, alongside with the above-mentioned components, influences the security of the business environment and the investment rate in the country.

The so delineated processes require a model of efficient management of criminal cases within the premise of clarity of the judgments and impartiality of the proceedings. This is first and foremost a current issue and secondly – an important element of the change of the court's public image. The researcher task inevitably goes through the process of reading the content of the "legal reform" and analyzing the theoretically substantiated indices of court performance, verified in a number of legal systems.

Method

This research is based on the general scientific method of dialectical reasoning and the comparative-legal analysis of the indicators of court performance. The Case study method has also been used which gives a profound and detailed survey of case management with a focus on criminal cases, with exactly formulated specifics.

Judicial Reform – Definition and Parameters

Theoretically, the judicial reform obeys certain rules. They are classified as per their priority. The most widely used is the neoliberal strategy, implemented by the World Bank and the International Monetary Fund. It has been defined by three clear-cut quantifiers: 1) technical

assistance for the courts; 2) investment in the infrastructure; 3) investment in information technologies. The understanding of the adequacy of such an approach rests on Douglas North's theory according to which economic performance hinges on institutions, such as functioning courts of law, that protect property and contractual rights¹.

The strategy which equates the judicial and the legislative reform also has a large number of supporters. It is acknowledged by donors of programs for changes, aiming at transforming the judicial institutions into more competent ones, with better performance and responsibility. Here it is appropriate to mention John Rawls' theory based on liberalism and social solidarity and a few others offering a different attitude towards the same issue – the absence of an activator and instigator of the changes coming from the structural units of the judicial systems.

In our opinion, focus must be placed on Prof. Stephen Golub's position on the issues of the judicial reform². In his paper *Make Justice the Organizing Principle for the Rule of Law Field*³, Prof. Golub criticizes the largely accepted by the international development agencies technical concept about the courts. He claims that the results scintillate between minimum change and open disappointment. According to the author, the rule of law⁴ has a particular goal – to guarantee security of contracts and investments which stimulate the national economic progress. Thus, such a filter will bring about possible consequences – alleviating poverty and promoting freedoms.

All the above, on the one hand, demonstrates the profound differences between the concepts of a judicial reform – from those fully economic to the ones relating to the benefit and security of society. Sharing this innovative view proclaimed by Prof. Golub, we herein maintain that the efficient management of criminal cases is one of the most important tools for instilling trust in the judiciary with a direct impact on the measuring of the rule of law over public security and the rate of investments. It does not obey any technocratic or financial rules, but requires the construction of a flexible model reflecting the current needs of the environment.

Approaches to the Evaluation of Court Performance

Efficient judiciary is based on the rule of law, guarantees statesmanship and serves as a prerequisite for the development of civil society.

The criteria for the efficiency of court performance have been classified by different scales. Intrinsically, they constitute a supernational standard within which each of the grading scales has been adapted to reach concrete results.

The origins of the evaluation of court performance are to be found in the beginning of the 90s of the previous century in Singapore. The measures implemented within the judiciary are structural and strategic. Structural measures relate to changes within the system, and in view of the subject of the paper, we will limit ourselves to pointing out only those aiming at overcoming all unlawful interference and pressure on magistrates and improving coordination within the institution. Strategic measures include managerial vision, strategic planning and high human factor performance. They have their own significance resulting from the decade long educating the public has undergone in the sphere of judicial procedures, access to them and case management. A direct consequence of that is the raised trust in the courts and the correct understanding of court judgments, which has attracted quite a lot of investments in the country because of the low corruption index and the general feeling for existing law and order.

At the same time, there are long delays of case proceedings and lack of confidence in the courts in the USA as well. The National Centre for State Courts /NCSC/ with the support of the bureau of Justice Assistance with the Department of Justice of the USA have developed Trial Court Performance Standards (TCPS)⁵. A secondary factor for choosing to create said standards is the deteriorated quality of the acts of court.

The standards first appeared as an evaluation and management mechanism in 1987. They were originally meant for courts of first instance only. They contain 68 criteria in 22 quality standards. Focus is also placed on public communications, public trust and satisfaction – the judges in courts of first instance are responsible for creating trust in the public that the justice system is accessible, objective and honest. Even though they were implemented in twelve state trial courts, the standards were unsuccessful because of their undue complexity. The systemic conclusion is in favor of the simplified and understandable communication with the users of court services and the observers of the penitentiary processes.

A similar conclusion is only natural if we compare TCSP with the concept court performance reform in Singapore. Such a comparison will

establish a distance between the mission of the courts and the functional goals of the standards.

In 2000, the National Centre for State Courts moved to create a new practical instrument. It is used by the courts to increase the quality of the performance, the services rendered and the communication processes – CourTools. Its main weakness is the absence of interaction between the different criteria.

Based on the results of this tool, the High Performance Court Framework model was developed, which was successfully implemented in Singapore. Its systemic value is upgraded with the ambitious Court Excellence toolbox, yet again developed by the NCSC. As we have pointed out, the last indicator, even though very strict, is already being implemented as a model for efficient court management in the ASEAN region⁶. It focuses on the readability and accessibility of the court procedures. It also works with criteria for trust, efficiency and efficacy, based on diverse evaluation mechanisms.

At the beginning of the 90s in the UK, legal standards were introduced containing instructions for justice administration management and improving the accessibility to justice; introducing procedural maps for managing the behavior of large groups of people – witnesses, victims of crime, etc. At the same time, The Netherlands and Finland also developed their own national legal court management standards. Within only two years (1999–2001) a group of Dutch scientists developed a system of court performance indicators. It was based on the Trial Court Performance Standards (TCPS) and the standards of the Singapore system, which served to create and structure a system of simpler and easily adaptable performance indicators. As a result, a specialized software product called Sample Quality Panel was developed, which however proved to be overly technocratic.

We deem it necessary to submit for consideration the developed by the American Bar Association (ABA ROLI) Judicial Reform Index (JRI). Intrinsicly, it is an innovative tool for evaluating the judicial reform and the independence of the judiciary in newly emerging democracies and transition economies. The JRI depends on established international performance, which makes it applicable as a global evaluation tool. As of 2001, ABA ROLI uses the JRI in over twenty countries in Europe and Asia. A wealth of practical experience is gathered, which has influenced the tool extremely positively.

The JRI evaluates the judiciary and the independence of the courts through the prism of 30 indicators/factors. Each one of them contains thematically particularized standards – quality of education and qualification of judges, the judiciary, financial resources, structural guarantees, transparency and efficiency and efficacy of court performance. The results of the individual evaluations are gathered in a standardized evaluation report, containing an expert conclusion.

All above-mentioned tools for increasing court performance are of great importance in court management. In the process of their implementation in practice, different results are achieved in comparison with the particular national and public standards. A fixed component in them is the efficiency of the communication community-court axis at the basis of which lies the readability of the acts of the court. With a high rate of validity, the efficient management of the standards relating to criminal cases leads to a tangible feeling of justice and equality of the citizenry before the law.

Survey of Cases (Best Practices in Singapore Court Management)

In 2014, the World Bank published its report *Doing Business 2015 – Going Beyond Efficiency*. It claims that Singapore is the economy with the most business-friendly regulations among the 189 economies of the world. Among the economic components of the business environment that are evaluated are two indicators concerning case management in the judiciary of Singapore. The same report also reveals that in 2015, the priority of the country with the most business-friendly regulations is the improving of the legal administrative services⁷. This illustrates the significance of the sustainable and predictable judicial system for the business and investments in each country.

We also find as significant the data in the *Transparency International survey Corruption Perceptions Index 2014: Results*. Singapore ranks seventh in the world in the perceived level of corruption in the public sector⁸. That same country ranks third in the world for 2015, surpassing in competitiveness⁹ a large number of other leading economies.

There are a number of international studies which give current and positive statistics about the economy of Singapore¹⁰. However, they are invariably presented in unison with the judicial reform in Singapore, which is a leading good

practice on a global scale.

The beginnings of the evaluation of court performance in Singapore were laid in 1990. The first steps in the reform project were all non-systemic (utilities, increase of the number of employed people in the system, etc.), but they did not bring about the anticipated result. Thus a final decision was made for a cardinal transformation of the court system and the cases.

Between 1992 and 2001, nine annual reports on the activity of the courts in Singapore were developed, published and realized. At the basis of each one of them, the following scale was placed:

1. Increasing the trust in the system;
2. Increasing the efficiency of justice;
3. Improving the administration of justice

and the service standards provided to the public, based on future planning and taking into consideration the existing demographic, economic and technological factors¹¹.

For the purposes of this report, we are going to use the Third Annual Report dedicated to increasing the access to the judicial system in general and to the court services in particular. Priority is given to the service users. They fall into two categories – direct users (parties to a case) and indirect users (those who attend proceedings to witness courts at work). The second group of indirect, or passive users influence the processes ongoing in the courts by guaranteeing with their presence that cases are solved upholding the rule of law¹².

Sending such messages for systemic sustainability, especially coming from unbiased users, is an important guarantee for improving and maintaining high levels of public trust.

Such practices are not unique to the Singapore legal system only. They are widely spread in American courthouses as well¹³. It is namely through donation programs from the USA that the practice of the so-called “civil society watch” found its own resource in Bulgaria. Unfortunately, it does not enjoy sustainability or public attention. However, it plays an important role in the process of increasing public confidence in the work of the court.

In its essence, civil society watch is civil control over the work and activity of the courts. It obeys the principles of transparency and accountability of the judiciary. The civil watch process aims at strengthening judicial responsibility through increasing the number of those witnessing the procedures inside the courtroom.

Model of Efficient Case Management at Varna Appellate Court through Civil Society Watch

The absence of sufficient guarantees for transparency of the court proceedings is one of the reasons of the existing doubt in the Bulgarian public that the administration of justice in the courtrooms is done based on corruption. We do not argue that the process of justice administration is a hidden side in the culture of the society and that is why it remains misunderstood. However, we believe that the establishment of transparency in the proceedings and the clear articulation of the processes with obvious legal results can lead to a change. Civil observers have the use of similar terminology with the one used by the parties to cases and other interested parties. Creating conditions for communication between them would increase confidence in the existence of equal standards for access to the courts and would lead to a different type of understanding of the court activities. This we perceive as one of the most reliable mechanisms for overcoming the suspicion towards court performance in Bulgaria.

Motivated by the necessity for efficient management of criminal cases in Varna Appellate Court, we have initiated legal watch over them. In its resource, we have established an existing possibility to activate the dialogue between the institution and the civil society. Parties to this public partnership are the humanitarian universities in the city of Varna on the one hand, and on the other – the Appellate Court.

The very observation is carried out based on general criteria which do not require that civil observers assess the competence of the judges. The observation and monitoring is directed at: accessibility of the court facilities and rooms, conditions in the courtrooms – visibility, acoustics, behavior of the court formations, clarity of the legal acts within the case proceedings and the claims of the parties, undue sarcasm, manifestations of bias towards the parties, keeping the schedule of the court sittings, accessibility to the electronic services for citizens.

These watches are done by young people – students in the humanitarian universities and higher educational establishments in the city (students of economics, psychology, public and business administration, etc.) on their own initiative. Attendance of the courtroom is never previously planned. Under the conditions of sudden control by the public, judges stay constantly in the public eye.

The presence of college and university students in the courtrooms has brought about a change in their points of view about the way the judiciary functions. The real opportunity to have their independent opinions heard by the representatives of the media has brought a state of peace in the premise of public communication.

Through the implementation of the questionnaire approach and under full anonymity, we have determined the significance of the court environment for the objectivity of the perceptions of the observers in the courtroom. For instance, absence of good acoustics leads to unintelligibility of the court rulings during the hearing or sitting, which on its turn creates a feeling of existing bias towards the parties to the cases. Correcting this shortcoming does not require any great effort but will lead to a very positive change in the public perceptions about the work of the judges.

The mechanism of legal civil watch that has been undertaken for implementation, started with the criminal cases in the court. The observers established in their own way that the court works obeying all procedural regulations and rules and is not affected in any way by the social position of any of the parties to the case. In our

feedback from the universities and colleges, we see a great increase in public awareness and in the attendees of the courtrooms and a change in their confidence towards the efficiency of public control.

The so-outlined model of criminal case management has really proven efficient and effective. This initiative has not been going on very long so far, but in its short six months of existence, it has shown remarkable results. The readiness of the judges to publicly and openly communicate through the accessibility of the court environment, the clarity of procedures and clear articulation of the rulings and judgments have found a true partner in the civil society, among its most active members – young and well-educated people who take great interest in the security of their living environment.

We absolutely consider this to be an opportunity to increase the trust the public places in the institution and to achieve sustainability of the investments. Depending on the advancements in the sphere of the legal reform in the different judiciaries and national realities, we believe we have laid the beginnings of a model for effective and efficient criminal case management in Varna Appellate Court.

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- ¹² Malik H.W., quot. S., p. 41.
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Anotācija

Raksts veltīts jautājumiem, kas saistīti ar efektīva Bulgārijas tiesu darbības modeļa meklējumiem krimināllietu iztiesāšanā, lai nodrošinātu tiesiskumu, sabiedrisko kārtību un drošību. Autori analizē terminu “tiesu sistēmas reforma” un “jurisdikcijas reforma” atbilstību procesa raksturojumam. Ar “situāciju analīzes” metodes palīdzību pētīta Singapūras pieredze tiesu darbības pilnveidē. Rakstā kā pozitīvs piemērs raksturota Varnas Apelācijas tiesa, kurā saskaņā ar teorijas atziņām un praktisko pieredzi veikti tiesas darbības efektīvizēšanas pasākumi.

Annotation

Der Vortrag legte die Notwendigkeit, ein Modell für ein effektives Management von Strafsachen als Mittel zur Gewährleistung der Rechtsstaatlichkeit, der öffentlichen Ordnung und Sicherheit in Bulgarien zu finden.

Präsentiert die theoretischen Grundlagen des Konzepts der Justizreform und in der Praxis Skalen setzen, um die Wirksamkeit der Gerichte Mess.

Verwendete Methode ist „Fallstudie“ für die Präsentation guter Praxis in Singapur. Basierend auf der theoretischen Grundlage ist nach oben Vorbild um effektiv zu verwalten von Strafsachen Berufungsgericht – Varna, mit den entsprechenden Ergebnissen mit der praktischen Anwendung.