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MANAGERIAL APPROACH ON THE ROLE AND RESPONSABILITY OF THE PRESIDENT OF THE COURT AND THE INDIVIDUAL PERFORMANCE OF JUDGES

The purpose of this study is to understand how the quality of the court is bound to the role of the court presidents in Romania, who, for the proper administration of the departments and the divisions of the court, must assume a leadership role. Efficiency depends on how they use their knowledge, their behavior and attitudes as personal example to create an environment in which subordinates, judges and court personnel, are fully involved in achieving the objectives of the institution.

Keywords: *president of court, manager, leader, leader development, individual performance.*

Introduction. It is the president of the court, as the top of the managerial ladder, who, in fulfilling the task, guides and motivates people. The specific assignment of the role and position of the court president and his responsibilities contributes to finding the most appropriate solutions for the management of the courts, so that they provide a high level legal service to all stakeholders.

Court presidents should be leaders and not just managers, characterized by team spirit, ability to be penetrating, to defend their interests in an environment that requires such an attitude, but should also cooperate, a necessary aspect in large organizations with full activity, as the courts are [15, p.95].

Leaders have vision and in order to elaborate a plan they must establish a strategy taking into account the interests of other employees and other groups within the organization [5, p.107].

According to the hierarchical level they belong to, every president manages a distinct entity but interdependent of other district courts. We are dealing with a unit, evolution in normal parameters of each level is critical for the efficient operation of the entire system.

In accordance to this high responsibility the heads of the court must accept the challenge to develop their leadership potential in order to influence the proper function of the institution and at the same time, the individual performance of each member.

Methodology. The objective of this study is to develop understanding of the peculiarities and the role of the President of court and provide solutions regarding how executive leaders can develop in order to create a proper working climate and to increase the individual performance of judges.

The complexity of the issues subject to research determines the need to use a research methodology which incorporates a wide range of methods, techniques, tools and procedures:

- *The study of general and specialized bibliography* in order to base the scientific research and knowledge of the structure and dynamics of studied phenomena and processes;
- *The scientific and empirical observation method* of the managerial presences in the Romanian judicial system focusing on human resources ;
- *Interdisciplinary methods* linking economic, psychological, and legal concepts;

The research aims to improve and increase knowledge of the areas studied through application of management to the specificity of the legal system and its organizations on the one hand, and to find solutions to concrete problems, on the other hand.

The study is concerned with several main key concepts: *president of the court* as manager and *executive*

leader, executive leader development, high-quality and high reliability courts, individual performance of judges.

Judicial Managers are: the President – manager of the court of law, the President – manager of tribunal, the President – Court of Appeal manager, the Vice-presidents, without exceptions judges which are promoted in leading position, based on their skills and experience.

Executive Leader – An individual who has the authority and responsibility to develop and manage a semi-autonomous organization as a whole to achieve the purposes of that organization. From this point of view the presidents of courts must be seen as executive leaders.

Executive Leader Development – The expansion of a person's capacity to be effective in executive leadership roles and Processes [8].

High-quality/high reliability courts–Quality or reliability are terms very difficult to define or measure in the field of justice.

Besides explaining the role of the presidents of the courts in Romania and the qualities required the study tries to explain how executive leaders can develop and transform the institutions they manage into high-quality and high reliability organisations.

The study was guided by the following assumptions:

- Judicial organizations need both management and leadership in order to fulfill their purpose.
- The court presidents as executive leaders are essential to creating and sustaining a quality culture within organizations.
- The president of the court can improve the individual performance by assuming a leadership role, inspiring people, facilitating development and communication.
- Judicial managers can learn to grow, improve and change to become effective in executive leadership roles.
- Quality and reliability in justice are strongly determined by the individual perceptions.

1. President of court, manager or leader?

Some authors make a clear difference between management and leadership and may object to associating leadership with a functional role or an organizational position. Their argument is that leadership is related more to personal power and management has more to do with positional power.

Zaleznik (1977), initiating a controversy, sustains that managers and leaders are basically different. In order to his theory leaders are creative and change-oriented, generate excitement among followers, focus on perspective and meaning and deal in ideas and substance [18].

In opposition, managers are role-oriented and process-oriented, mainly preoccupied with methods for getting things done.

The leadership theories differ very much. Other authors, like Peter Drucker or Schermerhorn (as cited by

Compton, D.S.) view effective leadership as equivalent to effective management [8, p. 13].

Jaques and Clement (1991) also do not find importance in differentiating leadership and management: "Good management includes good leadership as an integral part of its function, without which management per se cannot exist [11, p. 17].

Without fully embracing this second opinion we consider a third position which recognizes that management and leadership are different but complementary and represent essential roles that can be exercised by the same individuals.

The specific assignment of justice requires that court presidents should be managers and leaders in order to accomplish such complex tasks.

For court presidents as executive leaders to be effective in the context of justice activities, they need to have skills to assume both management and leadership roles.

In opposition with other organisations where it may be possible for individuals without formal roles to exercise leadership roles by influencing others, judicial organisations like courts are not likely to change course without endorsement by formal leaders. We can draw the conclusion that leadership is the attribute of court presidents.

The chairman of the court must have a range of skills required to all court managers, leadership abilities, and also distinct skills as a result of specificity of court he leads.

Presidents of the courts need to have four major skill sets [14, p. 175] *cognitive skills*, as a support for sorting the information gathered and to anticipate future situations, *interpersonal skills*, vital in evaluating and motivating staff and managing potential conflicts, *communication skills* which enable them to reduce communication barriers and training all staff in the work of the court by promoting participatory management, *motivational skills* related to the ability of the manager to establish clear, realistic objectives and focus staff efforts to the achievement of them.

In another sense, the defining qualities of successful managers are summarized as follows [5]:

- a) *double professionalization*, the manager must possess in both management and specialized knowledge;
- b) *accented creative character*, required by unpredicted cases they are confronted in their work.

Judges are promoted in leadership positions because of their knowledge and experience in the court they operate, finally fulfilling a dual role, both as professional and manager.

Besides managerial actions, presidents of courts are obliged to provide professional guidance. Due to overloaded file work it is likely the court itself would claim to keep some of the previous tasks. There are also circumstances in which they will encourage subordinates to develop their own professional and managerial skills to fulfill the tasks under the supervision of the President. It is very important that the president knows when to act himself, when he needs to train the personnel and delegate tasks.

There is a danger when executing the tasks themselves, the Presidents will no longer be able to demonstrate their leading qualities unless they manage to keep a broad perspective that enables them to manage both team work and their own.

Nevertheless, the attribute of double professionalization makes the President of court an effective ambassador of the departments he leads and use his expertise as a judge to make proper management decisions.

In relation to the hierarchical level of operating, the managerial skills of the president of the court are:

A. President – Manager of the court of law

- Requires a solid grounding in both the purpose of the court and in the management;

- Lack of reluctance to deal with staff, bosses or colleagues about the problems arisen;

- Technical skills aimed at understanding specific tasks and very good knowledge of the activity undertaken in all auxiliary sectors and of the techniques and methods used in their field [19, p. 171].

B. President – Manager of tribunal:

- Developed communication skills;
- Negotiation skills and techniques;
- Evaluator of the crisis, followed by the identification of optimal solutions to extinguish the conflict;

C. President – Court of Appeal manager

- Visionaries and strategists;
- Team spirit;
- Developing plans made under anticipated planning, thus protecting the interests of the other courts.

Note that each hierarchical step requires specific developed activities, skills and tasks. Accordingly, at the court level it is observed the need for technical skills, in the tribunal level enhanced skills in communication are necessary and at the court of appeal level, the complexity of characteristics requires more than any other hierarchical level the president of the court's ability to be not only a manager but also a leader.

Regardless of the hierarchical level, the support of the president of the court strongly influences the organization of the judge's work and his individual performance. He must show a much broader and more complex vision and mainly to analyze the performance of individual judges formally exceeding accepted standards and benchmarks. Fair assessment of subordinates must consider all factors of the work environment: resources available, the distribution of tasks, relations within the institution, peers and staff.

The reality however is that judges feel burdened with work and lack of support from management. [17], [16].

There are serious discrepancies between how president perceives his role and the expectations of judges, especially related to their organizational problems which may lead to an inadequate work environment, thus playing a decisive role in lowering individual performances.

Leadership is the energy behind every court system and court accomplishment. Fortunately, and contrary to what many believe, leadership is not a mysterious act of grace. Effective leadership is observable and, to a significant extent, learnable. Academic debate about the difference between leadership and management has resulted in consensus that a difference exists, but it is not a matter of better or worse. Both are systems of action. In the memorable words of Warren Bennis, "Managers do things right. Leaders do the right things." [3, p.39].

Effective courts have an obvious need for both management and leadership. Management means complexity while leadership means creativity, change and development. Managers know how to get things done, supervise and control in order to maintain predictability, stability and continuity and responsibility. Leaders inspire others to act upon ideals, missions, strategic intent, and purpose.

2. The roles of the president of the court as an executive leader

President of the court as the leader and coordinator of human resources has several roles:

a. Decisive role in the career development of the judge

Career is a complex phenomenon that involves both individual responsibility and accountability of the institution itself, being essentially a problem of management of the court to which the president of the court is called upon to respond in terms of his role as a mentor. "Developing a successful career is based on performance, dedication,

desire for change, self-control, continuing education and, perhaps above all, support from a mentor" [17].

In conclusion, the court's president plays a decisive role in the career of the judge, being primarily a professional model and a standard of personal conduct. It also has the role of organizing mentoring, court president should create opportunities for orientation and professional development of judges, to facilitate the feedback on performance development and directions for further training.

This requirement involves facilities in training and professional development, continuous assessment and guidance of the personnel and the establishment of measures to create an environment conducive to individual learning and self-improvement process performance. There is a reciprocal conditionality between human and professional quality of court staff and the quality of intra-organizational environment [7].

b. The identification of training needs and professional development.

Continuous professional training of judges as well as that of auxiliary staff of the court must be regarded as a prerequisite for ensuring the quality of justice and the effective and uniform application of the law. This process is done both centrally, through the National Institute of Magistracy and through training programs conducted in the court.

The role of the President is to know all the options for training of judges, to facilitate meeting the individual needs of each judge with the relation to the Institute, to assist the evaluation committee in identifying training needs of staff judges for planning courses and specialized seminars.

If the president had initially at most an informal role, regarding seminars for professional training of judges, current requirements demand his active involvement and planning them in such a way that the participation of judges be possible without crippling or overloading the court. Also considering his active role in training and educating subordinate judges, the president, along with establishing immediate needs of professional training should identify an appropriate program adequate to the needs through evaluations and finally, to measure and assess the efficiency of professional development. Unfortunately we found that in practice the last stage of evaluation is missing or limited to checking the working documents, not if the purpose of training sessions was achieved. The lack of a real and thorough evaluation deprives the process of training of its finality thus threatening to turn into a pure formality.

c. The delegation of duties

Presiding judge may delegate by order service part of his duties to subordinate judges, tasks that exceed their basic function, thus, this delegation generates discontent due to the time consuming effort with non-judicial activities.

Overloading judges with causes is a reality which, as mentioned above, is difficult to manage and threaten the judicial act. If besides specific tasks, the judge is loaded with administrative tasks, the result will surely be doubtful.

The solution lies in the reach of the court president, who must adopt an adequate staff policy, consisting of changing practice in the judiciary and transferring administrative duties to auxiliary personnel within its competence. Therefore the first task of the court president is to know the level of training and competence of the staff, and then plan and wisely allocate their administrative duties.

3. Executive Leader Development

The main question of this study remains: *How do individuals develop to be effective executive leaders in order to change courts in high quality and reliability organizations?*

Meaningful development events were identified studying the literature and different reports of several

working groups or associations aiming to improve judicial management. According to the National Association for Court Management, the largest organization of court management providing proficiency in the administration of justice, the recommendations to grow leadership competency are based on personal characteristics, acquired knowledge, skill, and ability developed and refined through study, reflection, observation of others, practice, and, above all, experience.

To conclude, in order to develop future leaders, a combination of work assignments and experiences, mentoring and coaching, training and education is needed.

The study encourages court presidents to accept the responsibility for development and improve the following areas:

- Act with Credibility, stay Committed, Be Patient & Persistent
- Prepare Development Plans, Create Focus Through Vision and Purpose
- Handle the Insecurity of Specialization
- Seek Coaching and Mentoring, Education and Development,
- Manage Interdependencies: Work Beyond the Boundaries
- Create a High Performance Work Environment,
- Do Skillful and Continual Evaluation

Act with credibility, Stay Committed, Be Patient & Persistent

Court presidents must be action and results oriented in order to reach effectiveness. They must be transparent thus all their actions are predictable and credible.

They must behave in a reliable manner, demonstrate ethical principles and put their values into action. "They say what they mean, they do what they say, and everybody knows it." [13].

Court leaders must be fully committed to the organization and its performance by showing persistence and perseverance.

Mastering technical skills along with honesty, responsibility, perseverance and ethics makes them credible. They understand themselves and demonstrate personal integrity. Thus self-understanding and personal credibility determine whether everyone involved in the judicial process, judges and auxiliary personnel will accept the president of the court as a true leader on a long run.

Prepare Development Plans, Create Focus Through Vision and Purpose

It is the vision and the purpose that make the difference between the success and the failure of the courts more than the lack of resources or technical knowledge. The strategy and future plans must be designed, conveyed, properly understood, and put into practice. All the efforts should be focused on critical priorities.

The court presidents must establish visions and high standards, think strategically and tactically, preparing and following development plans.

The president in his quality as a leader must use the power of his office to motivate and persuade the subordinates to contribute to the judiciary's enduring missions and values.

The role of the President is to coordinate activities within the court employing the most appropriate motivational policies to guide the judge and maintain his efforts towards professional development throughout his career. For this goal to be achievable the president should strive to create a framework conducive to the development of self-motivation as a force guiding individual conduct and his whole behavior. A judge properly motivated channels his aspirations, and especially his efforts to achieve performance targets being creative and innovative.

Therefore, to achieve the ideal of quality, the president must know and encourage knowledge needs, lifelong learning and professional development of judges, endless needs in the context of a work so complex and dynamic.

Unfortunately Romanian justice system puts in the way of court managers barriers affecting motivation of the judge and consequently the quality of his work, namely: inadequate conditions of work in the courts, professional overloading and the insecurity of judge's specialization.

Working conditions have long been conceptualized as extrinsic motivators. Ignoring them, the "hygiene factors" [10] generates dissatisfaction and lack of job satisfaction entails diminishing motivation and performance.

Other motivational theories [12] that talk about a hierarchy of human needs show that individual motivation for self-crossing is subject to the satisfaction of necessities or basic needs, physiological, preceded by the need for recognition and respect.

Finally, theories of intrinsic motivation (Ryan, 1985) are a direct link between performing consistent activities supported by external incitation and internalization reasons. Intrinsic motivation to fair and impartial justice can not be achieved only through participation in socio-professional acts and practices fair and impartial, then passing through the stage where you feel internal obligation to act fairly and impartially and finally reaching the self identification with fair and impartial justice [9].

Seek Coaching and Mentoring, Education and Development,

A true leader inspires others, he coaches, mentors and develops people. He continuously searches for teaching opportunities using his relevant experience and knowledge, he assumes the role of a mentor. One of his main purposes is to help people develop their unique capabilities and get recognition for their accomplishment, to make them see their weaknesses and leverage their strengths.

A leader is not afraid to encourage people to use their own leadership abilities by giving them meaningful assignments and responsibilities. He delegates and empowers people. He does not hold back people from opportunities of advancement.

Handle the Insecurity of Specialization

Specialization requires specific preparation of a judge giving him a competence in a certain area of law, in which its specialty is linked directly and intimately with the competence of the court within which he operates.

Applying the principle of specialization to ensure compliance with the principle of continuous training, continuity of panels of judges and the principle of optimal workload, it is the "safety net" for obtaining and strengthening the values of impartiality and expertise of judges [17].

The change of judge's specialization is based on the need of the system to move judges from one section to another in accordance with the principle of optimum workload in courts and the quickness of case solving in courts and in relation to dynamic processes and rapidly moving legislation.

The flexibility of the system is a requirement to cope with change, courts require judges opened to change specialization and even see this as a professional gain. Reality demonstrates, however, that as in many other areas, people tend to be reluctant to change, newness. Understandable, as long as practice in a particular area certainly brings sufficient knowledge to work effectively and even minimizes the effort of preparing the case. Changing specialization involves increased labor and limited independence until the judge fails to acquire sufficient professional knowledge to work effectively in the new domain. When specialization is required in a short time a

professional conflict of interest arises with several negative consequences for the work in court.

Presiding judge should avoid and, when this is not possible, manage such crises. This is possible through careful planning to provide resources needed for the proper functioning of the court and establishing and maintaining a professional environment conducive to the dynamic changes in the courts. The President shall develop programs of motivational training and self-development efforts to the orientation towards a lifelong training of the judge. He must identify judges willing to change specialization, including to elect those who would most easily adapt to change, to avoid changing the field of jurisdiction of the judges in a short time, a situation that always generates great dissatisfaction and professional discomfort.

Manage Interdependencies: Work Beyond the Boundaries

Judiciary involves besides the work in courts a number of other entities, intrinsic components of the system: Prosecution, Police, Union Bar, Forensic Institute, Probation Service, the Board of Guardians, the General Directorate of Social Assistance and Children Protection, NGOs, and not least the prison network.

Operating and decision-making interdependencies with other justice organizations must be managed efficiently and fairly.

Among all these a conceptual framework should exist to ensure that all institutions involved in the justice beyond specific embodiment, understand their skills and goals and work together to achieve unique ends, the administration of justice.

Court managers must lead beyond the boundaries of the court. They must anticipate developments that will affect court operations and create and support coalitions to maintain routines, to produce just dispositions, and to make positive change.

The partnership, a relatively new concept, must be seen as a synergy, "a cooperative effort and collaboration management between contracting parties related to completion of a project in the most efficient way possible by setting common objectives, maintaining open communication channels and solving together all problems that occur" [1, p. 551].

Create a High Performance Work Environment

Successful courts have leaders who inspire trust and teamwork and who understand group process and use groups well.

Reality shows that achieving a high level of performance by establishing a proper working environment is sometimes difficult.

The pressures of court presidents to induce a brisk pace of solving litigation in court, in such a way to correspond to qualitative parameters, may have undesirable effects. It is true that prompt treatment of cases is one of the main guarantees of effective exercise of fundamental human rights on access to justice and is at the same time, an important indicator of the quality of justice.

To guarantee the observance of the requirements to resolve the case within a reasonable time the legislator has instituted disciplinary sanction art.97 of Law 303/2004 republished, without preoccupation to ensure adequate human resources in order to face a larger number of processes with a continuous increasing complexity. Efforts permitted by law to resolve cases within a reasonable time have led judges to establish another hierarchy of professional priorities.

Along with increasing volume and complexity of cases, judges are forced to reduce the time assigned for each trial brief, thus remaining solely responsible for the quality of decisions and how the law is interpreted and applied. Time pressure, under the requirement of keeping the same level

of procedural terms of 3-4 weeks for the administration of proofs for trial courts, to a much greater causes for each judge, bore another phenomenon: the judges have shortened the time allocated for each file [17].

In these circumstances the assessment of the President's activity is absolutely necessary and in terms of his quality of judicial work in court. The introduction of this criterion by concrete indicators and significant weight for the whole evaluation will increase President's concern for the act of justice and will cause him to be more careful with the amount of work that judges are charged with, the training level of judges and the support staff. The evaluation of President's activity through qualitative results of the work of subordinate judges need to be regarded as motivating. Equally the decrease of efficiency and interest of the judges, reflected in the quality of their work, must attract the responsibility of the President as well.

Do Skillful and Continual Evaluation

This principle is tightly interdependent with the previous one, creating an environment that encourages performance can not be achieved without a continuous evaluation.

Effective court leaders, therefore, evaluate and use continuous diagnosis to measure court performance and progress toward planned targets. They want to be aware and continually ask themselves about how well they are doing.

Beside monitoring performance the leader must provide feedback to people, clear, accurate information that promotes improvement, based on effective communication.

The most important contribution of the president of the court in his state of leadership is the investment in human capital as the most important resource of the organization, the only one able to generate new energy and give value to all other resources. President (Belbin, 1981, as cited Chirică, 1996) is "the person who chairs the team and coordinates its efforts. He must be disciplined, focused and balanced, a good evaluator of people and activities, a man who is effectively through his ability to notice the availability of individuals and seize the opportunities to exploit them, and all these features are [6].

Conclusion. Benefits of an effective management of the court based on developing leadership will be found both in assessing the overall activity of the court and the qualitative assessment of individual performance. The court activity will reflect the existence of a suitable work environment, based on human relationships build on trust

and mutual respect, good communication between judges and auxiliary personnel, joint efforts and special attention given to training and staff's receptivity to change.

Work climate should become a priority for the president of the court as an indicator that is required to be introduced and included in the individual evaluation sheet along with the judge's past performance, both for evolutionary comparison of the magistrate and as a reflection on how the managers of the court fulfill their duties and take the appropriate decisions.

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УПРАВЛІНСЬКОГО ПІДХОДУ ПРО РОЛЬ ТА ВІДПОВІДАЛЬНІСТЬ ПРЕЗИДЕНТА СУДУ І ІНДИВІДУАЛЬНИЙ ДІЯЛЬНОСТІ СУДДІВ

Метою даного дослідження є understans, як якість Суд зобов'язаний у ролі голів судів в Румунії, які, для належного управління департаментів та підрозділів суду, повинні взяти на себе провідну роль. Ефективність залежить від того, як вони використовують свої знання, свою поведінку і ставлення як особистий приклад, щоб створити середовище, в якому підлеглі, судді та працівники суду, повністю залучені у досягнення цілей організації.

Ключові слова: президент суд, менеджер, керівник, розвитку лідера, індивідуальної роботи.

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УПРАВЛЕНЧЕСКОГО ПОДХОДА О РОЛИ И ОТВЕТСТВЕННОСТЬ ПРЕЗИДЕНТА СУДА И ИНДИВІДУАЛЬНИЙ ДЕЯТЕЛЬНОСТИ СУДЕЙ

Целью данного исследования является understans, как качество Суд обязан в роли председателей судов в Румынии, которые, для надлежащего управления департаментов и подразделений суда, должны взять на себя ведущую роль. Эффективность зависит от того, как они используют свои знания, свое поведение и отношение как личный пример, чтобы создать среду, в которой подчиненные, судьи и работники суда, полностью вовлечены в достижение целей организации.

Ключевые слова: президент суд, менеджер, руководитель, развития лідера, индивидуальной работы.