

IDENTIFICATION OF WASTAGE (MISMANAGEMENT) IN RELATION TO THE LEAN CONCEPT IN THE ACTIVITIES OF COMMON COURTS' SECRETARIATS

Monika ODLANICKA-POCZOBUTT

*Silesian University of Technology, Faculty of Organization and Management, Institute of Management,
Administration and Logistics, Zabrze, Poland, EU,
modlanicka@polsl.pl*

Abstract

An important problem of Polish common courts is their recognized delay, that is, the excessive duration of court proceedings. Most non-value activities involve court secretariats, which suggests that solutions to the problem of excessively long proceedings should be sought precisely in this area. An analysis of the implemented processes leads to the consideration of the possibility of applying proven solutions in the area of logistics, related to the elimination of wastage (mismanagement) in production processes. The aim of the article was to identify types of wastage identified in activities performed by the secretariats of common courts in relation to the Lean Thinking concept. Initial recommendations for the elimination of unnecessary activities and excessive processing in the areas of office processes were also presented, which can be used as an instrument of work planning and general control of the situation in the processes of management and administrative supervision over the secretariats' activities. The use of the Lean concept elements in common courts could be important for the transformation of organizations in line with the trend of planned reforms, as it would enable the implementation of specific organizational principles in the court secretariats: discipline in the application of specific principles of work organization, the use of standardized work methods, methodical problem-solving, and change of work orientation from supervising processes towards their continuous improvement.

Keywords: Lean Thinking, mismanagement, common judiciary, court secretariats, delay

1. INTRODUCTION

Referring the centuries-old principles governing common judiciary to currently applied solutions in the field of management and logistics poses a challenge both to the scientific community and to judicial practice. Proper economic development of each country relies to a large extent on a judicial system in which the process of justice and legal protection is implemented efficiently and effectively [1]. This is emphasized by the statement of four-time British Prime Minister William Gladstone who said that "justice delayed is justice denied" [2].

According to World Bank data, the proceedings in business cases in Poland last an average of 830 days, accounting for all activities related to filing pleadings, administrative service, as well as court and enforcement proceedings [3]. Against the backdrop of other countries where the continental judiciary system is in force, an important problem of Polish common courts is therefore its recognized delay, that is, the excessive duration of court proceedings [4]. It should be noted, however, that for the purposes of the research report at hand, the methods used involved an analysis of the data of the process of claiming contractual claims for the District Court of the Capital City of Warsaw. Thus, it cannot be assumed that 830 days is the typical time necessary to enforce due payment in every Polish court. The process of estimating the duration of court proceedings consists of a number of independent factors, such as pending cases per judge or the specificity and nature of a particular case, requiring, for example, expert opinions. In fact, cases of a similar magnitude tend to be settled within the period of 1 to 6 months, depending on the court [5].

The main reasons for the identified delay in the functioning of Polish courts are primarily the basic meaning of "return receipts" from the post, long waiting time for the opinion from court-appointed experts, the practice of postponing subsequent hearings until several months later, the number of pending court proceedings, fragmentation of the judiciary structure, underestimation of the level of workload of judges and court staff, and the still insufficient level of digitization. In addition, budget expenditures and employment figures in the judiciary point to an incorrect allocation of resources [6, p.112-119]. Most of these activities involve court secretariats, which suggests that solutions to the problem of excessively long proceedings should be sought precisely in this area. An analysis of the implemented processes leads to the consideration of the possibility of applying proven solutions in the area of logistics, related to the elimination of wastage (mismanagement) in production processes.

The aim of the article was to identify types of wastage occurring in activities performed by the secretariats of common courts in relation to the Lean Thinking concept. Initial recommendations for the elimination of unnecessary activities and excessive processing in the areas of office processes were also presented, which can be used as an instrument of work planning and general control of the situation in the processes of management and administrative supervision over the secretariats' activities.

2. METHODOLOGICAL BASES

2.1. Lean Thinking in the public sector Lean Office

The development and implementation of the Lean Thinking concept, due to the possibility of being applied in any type of process, has found many supporters in business and service enterprises, including health care [7] and banking (lean banking), which indicates the broader use of lean principles in many areas outside of production [8].

The concept of Lean Thinking [9,10] has also sparked interest among public-sector organizations [11,12] as a way to reduce operating costs [13] and a shift from analytical tools to strategic orientation [14]. The Lean concept as a way to increase the efficiency of processes and the flow of goods and services - introduced for the first time in practice as TPS (Toyota Production System) - has been successfully used in logistics as a tool for creating value while eliminating wastage in the organization. In contrast to BPR (Business Process Reengineering), which assumes a radical redesign, or a revolutionary approach, the Lean concept opts for evolutionary measures, which seems better suited to traditional common judiciary units.

Common courts exercise justice in all cases, except for those reserved to the jurisdiction of other courts [15]. This principle implies a presumption of competence of ordinary courts to hear and resolve all disputes as long as a clear statutory provision does not delegate those cases to the jurisdiction of other authorities. There are considerable differences in the volume of individual appeals, districts and regions in Polish common courts, not only in terms of their areas of competence, but also in the number of pending cases, and thus the size of court units and extent of state interference. This, consequently, leads to the existence of nearly 400 judiciary units in Poland (11 appellate courts, 45 district courts, and 321 regional courts) [5].

The most suitable tool to be used in common courts seems to be the administrative and office-oriented Lean Office, given that it has at its core the elimination of wastage, or mismanagement, in office processes [16,17]. In a typical organization, administrative activities implemented through the prism of Lean Office include management of office processes with a view to their *leaning*, that is, eliminating existing inefficiencies and constantly improving skills to meet customer needs [10]. As regards office proceedings, Lean tools can be used to control the processes, operations and activities of non-judiciary staff, i.e. office workers [18,19; 6, pp. 373-401].



2.2. Processes carried out in court secretariats

The basis for the activity of court secretariats is the "Ordinance of the Minister of Justice of 12 December 2003 on the organization and scope of operation of court secretariats and other departments of judicial administration" [20]. Based on the applicable regulations in the form of external and internal provisions, a process is initiated upon submitting the application, and it should lead to obtaining a particular outcome (result). The sequential way of implementing the application as a specific type of order, where individual actions occur one after another - in series, rather not simultaneously - extends the cycle of integrated information and documentation flow, supported by logistic processes, subordinated to creating value in the form of a unique final outcome, which can be a decision, a copy or a piece of information. This way of implementing the application as an offered benefit, relying on the performance of tasks in one cell and transferring tasks to the next cell, springs from strictly defined legal conditions contained in Polish legal acts (USP, RUSP) and internal court orders. Depending on the expected outcome in common courts in civil matters, a number of different types of processes can be distinguished: case law, issuing copies, providing information, as shown in **Figure 1**. Auxiliary processes indicated in **Figure 1** are processes carried out by court secretariats.

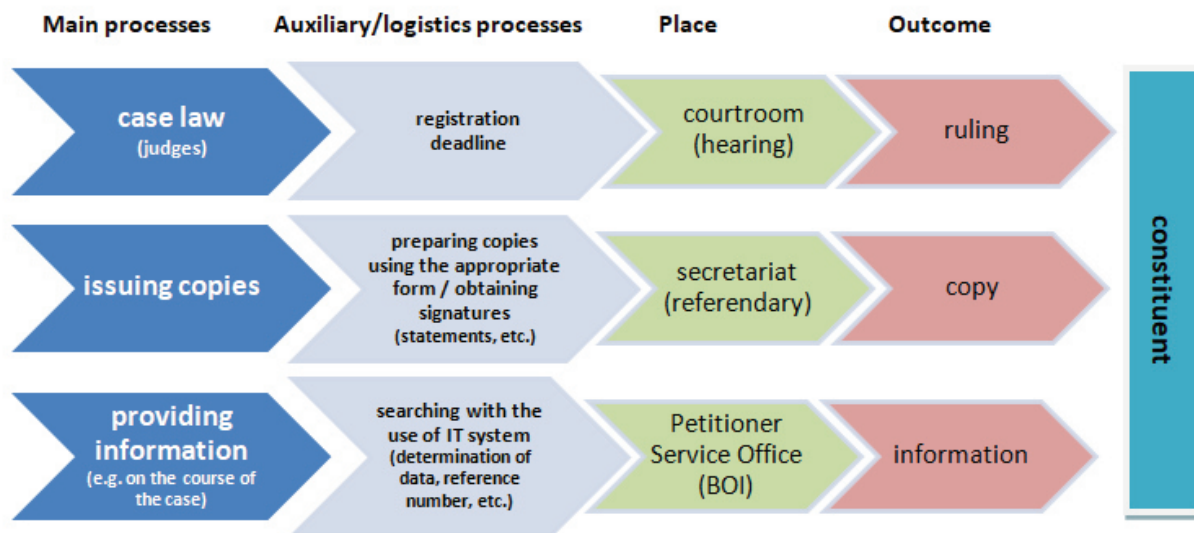


Figure 1 Types of processes in common courts by expected outcome [own study]

The above types of processes are further differentiated by the different types of applications which initiate court proceedings: claims, requests for copies, requests for information. Thus, an outcome may have the form of a ruling, a copy, or a piece of information. The differences in the significance of these outcomes are important, and they indicate reference to the workload - the number of activities and the degree of employee involvement, which differ substantially in each case.

The need to arrive at a specific outcome in the implementation of statutory functions initiates the process of justice and legal protection. The initiator of this process is **the constituent**, who has a legal interest in taking action [6, pp. 79-80]. The terms *customer/client* and *consumer* refer, generally, to the buyer of an either mass or individual good or service, but with reference to products offered by companies. In administration, the concept of *petitioner* appears, but it no longer applies in legislation that utilizes the concept of *citizen*. A client or customer thus becomes a *constituent* in the legal context (cf. constituent - principal, ordering party, client (cat. Law) [21]. A constituent is the recipient of the outcome in the form of a ruling, whereas the recipient of a copy or information is the well-defined **petitioner** (sometimes also *interested party*). A petitioner is not a constituent, but only a citizen in a court, who usually lacks basic skills and knowledge, such as on how to draft a letter, pay a court fee, get to the courtroom or which secretary to turn to. A *citizen* who is not yet a party to a

dispute can be understood as a *client* or *customer* and treated as a *client* or *customer* in a typical organization [22]. Such person is serviced by the aforementioned petitioner service office, or BOI in Polish [20] - specially established cells in district courts and large regional courts, in which information can be obtained on the manner of bringing the case to court, the amount of court fees and other costs, and on the course of ongoing proceedings. Assistance received from a BOI employee allows relieving secretarial staff and eliminating non-value activities.

On the one hand, work in the secretariats of common courts resembles that in a typical production system - cases flow as part of the process from one "production" cell to another, waiting in queues and creating "bottlenecks". On the other hand, however, obtained outcomes (and not products) are "hand-made" by highly qualified, independently working professionals [6, pp. 373-377]. Each outcome is unique, and the duration of the various stages of the process is fundamentally different in most cases, plus there is a considerable difficulty in determining how much time a given case will require. In addition, the judges must be independent so as to ensure the objectivity of their rulings.

The culture of both administrative and office work is fundamentally different from the culture of typical production areas, which makes it difficult to identify the actual roles and tasks of individual positions and to identify the existing types of wastage. Although changes in office processes may be easier to implement due to the fact that the requirements for real physical processes and necessary equipment are usually smaller than in production areas, all administration/office employees directly linked with a given process must be involved in the implementation of the Lean concept for it to deliver the expected value. According to the Lean concept, value in common courts can therefore be defined as *the ability to provide the final outcome (ruling, copy, information) to the constituent in a timely manner, without unnecessary delay* [6, pp. 194-197]. One of the stages of implementation of this concept is the identification of wastage, that is, irregularities in the implementation of office processes.

3. EXPERIMENTAL PART - IDENTIFICATION OF TYPES OF WASTAGE IN OFFICE PROCESSES IN COMMON COURTS

The research concerned the performance of the activities of the secretariats of common courts in the field of civil matters. The types of wastage, or mismanagement, occurring in the organization under investigation in the area of office processes are defined on the basis of source documentation, historical materials and reports made available by the Ministry of Justice of the Republic of Poland, studies prepared by international organizations and direct interviews with the Polish Deputy Minister of Justice, presidents and directors of certain major district and regional courts in the Silesian Voivodeship.

Qualitative research was used in the investigation, which included the analysis of the collected empirical material in the form of an instrumental case study, knowledge obtained as a result of participant observation, introspection, direct non-standardized interviews, shared reports, and historical materials. The focus was on the features of objects, and on processes and meanings. The research was conducted at both aggregated and individual level. The instrumental case study was carried out in one of the largest Polish regional courts, meeting the criterion of typicality in the scope of activities performed, which allowed the replicability of the obtained results.

As a result of the conducted research, it was found that in each of the implemented types of processes there are specific, often repetitive office functions, the course of which has a significant impact on the duration of proceedings. The types of wastage identified in the area of office processes in relation to the input of court secretariat employees and the amount of resources used at each stage of the process are presented in **Table 1**.



Table 1 Identified types of wastage in court secretariats [own study]

Type of wastage	Effects of wastage	Examples of wastage
Anticipation	Uncertainty about the quality of information	- <i>information queued for processing, - information created too early or unavailable, delivered with delay</i>
Overproduction of information	Processing of more information and/or earlier than required by the subsequent process	- <i>unnecessary information, - printing information earlier than required</i>
Unnecessary transport	Unnecessary or excessive transport of information (manual or electronic)	- <i>communication errors, various sources of information, physical transport of documents for acceptance, unclear flow, poor space layout</i>
Unnecessary traffic	Unnecessary or excessive movement of employees, no direct access, information passed to an inappropriate source, reformulation	- <i>moving to and from rooms with documents, printers, going to meetings, disrupting the workplace, searching for information</i>
Overprocessing	Excessive iteration	- <i>unnecessary transformation of information, unclear criteria, differences in processing time between employees</i>
Overstocking	Excessive collection of information	- <i>information processing in excess of "one-piece-flow", batch processing, periodic task execution, complicated information recovery</i>
Unused human resources	Incomplete utilization of the capacities and skills of secretarial staff	- <i>narrow scope of duties, requirement of many approvals, lack of cooperation</i>
Corrections and unnecessary outcome	Incorrect or incomplete information and "checking" work, lack of required quality	- <i>resuming work, returning to the previous step, errors detected in further stages of the process</i>

All activities within the framework of the process of implementation of statutory functions and legal protection (the basic process implemented by the courts) that do not create value for the Constituent are considered wastage. This approach is consistent with the assumptions of the Lean concept. Information queued for processing (i.e. information created too early, unavailable or delivered with delay), or uncertainty regarding the quality of information is just as wasteful as the processing of more information and/or earlier than the subsequent process requires it. Overproduction of information, causing excessive waiting time, unnecessary or excessive information transport (manual or electronic) causes communication errors, and many sources of information and multiple physical transport of documents for acceptance causes the flow to become unclear, resulting in poor spatial planning. Unnecessary transport and unnecessary traffic, meanwhile, are the product of too many iterations. Excessive collection of information, alongside under-utilization of the capacities and skills of secretarial staff, often leads to unnecessary outcomes and requires many adjustments. Repeated work, return to the previous step, errors detected in the later stages of the process all stem from incomplete, ambiguous and inaccurate information, while the lack of a determined verification mode makes for chaotic work "checking" accompanied by lacking quality standards [6, p. 378). Constant corrections, in turn, trigger the production of unnecessary outcomes, in addition to the uneven utilization of human resources. This prompts a profound analysis of the way the court's work is organized, the way the cases are dealt with, and of the very course of judiciary proceedings. As part of these measures, opportunities should be sought to reduce the duration, unnecessary traffic, unnecessary processing and overproduction of information, and above all, to ensure full utilization of the capacities and skills of secretarial staff.

4. RESULTS, DISCUSSION AND RECOMMENDATIONS

Identification of activities that do not bring added value - wastage in activities performed by court secretariats - in line with the Lean concept is an important stage in seeking solutions conducive to reduction of recognized delay, understood as an excessive number of unresolved cases and excessive duration of court proceedings.

Simultaneously, indication of the possibility of reducing the duration of court proceedings by eliminating wastage in office processes carried out by court secretariats, contributes to the area of management of court secretariats since it provides the approach that takes into account the Lean solutions which are already developed and oftentimes implemented in the area of activities of different types of organizations.

Elimination of wastage in office processes carried out courts could take place through the development of standards for the implementation of individual activities, and as such, it could also contribute to the determination of principles for the standardization of work at individual positions [23]. Standardization of work would make management no longer a spontaneous reaction to unexpected problems, becoming instead a stable process of eliminating sources of problems, maintaining changes and ensuring continuous improvement. Solutions based on the standardization of work in line with the identified types of wastage, can be adapted within existing IT systems which support the implementation of office activities in the surveyed organizations, given that the biggest issue remains the lack of standardization of entries made into the software and the fact there is no possibility of importing data. The reorganization of the work of court secretariats and the standardization of entries made in the existing software would allow for an efficient review of all cases across departments (each of which handles roughly 5000-7,000 cases on annual basis) and for the printing of lists with delays for each of them. The basis for the success of the proposed solutions in the courts will therefore be the reorganization of work and the training of those responsible for introducing the changes. The identification of wastage in the activities performed by court secretariats, as a step in working out the foundation for work standardization, is also important from the point of view of process improvement. Last but not least, it will make it possible to compare workloads and make human-resource shifts towards the correct allocation of resources.

An important solution to eliminate wastage in the office activities of the secretariats is the creation of petitioner service offices (BOI), which relieve the court secretariat at the stage of accepting the application that initiates court proceedings. This will make it more likely for the judge to receive a letter without formal gaps, and for pleadings drafted by the constituent to meet the relevant requirements (the procedure to supplement the formal gaps of the pleadings often lasts several weeks). Furthermore, it should also eliminate the need to receive petitioners by the secretariats of individual court departments, which should then lead to limiting the number of downtimes in the proceedings, thus removing from their scope unnecessary activities and unnecessary traffic.

5. CONCLUSION

The excessive duration of court proceedings, which is the main problem of the judiciary in Poland, still constitutes, according to the author, an important subject area of theoretical and practical research. The use of elements of the Lean concept in common courts could be of significant importance for the transformation of organizations in line with the trend of planned reforms, as it would enable court secretariats to implement the elements of organizational culture such as:

- discipline in the application of specific principles of work organization;
- application of standardized work rules;
- methodical problem-solving;
- a shift in work orientation from merely supervising processes towards their continuous improvement.

However, elements of the Lean concept should not be viewed as universal, and their application can be discussed mainly in the model approach. In practice, it is possible to apply selected solutions tailored to the needs of the organization, such as increased supervision over the implementation of activities, greater control of case files, improvement of data exchange and obtaining reliable information. It is important to read data from official documents on an ongoing basis, as well as to keep databases up to date, generate event calendars and provide current information to all employees involved in a given case.



A next step would be the development of activities in the areas of management, such as the use of standard schedules in typical cases and the creation of special schedules consisting of milestones, determining when certain activities must start and when they must end. This is important both from the standpoint of the efficiency of the courts and the implementation of proceedings. While Lean solutions should indeed be used as an instrument of work planning and general control of the situation in the processes of management and administrative supervision, it would be worth implementing them across all units to ensure compatibility.

The proposed solution is important for improving office (auxiliary) processes, but it is not directly related to the quality of rulings. Still, it may affect the duration of the proceedings, since the indicated activities constitute a significant part of those. Due to the multifaceted nature of the problem, requiring synergy of theoretical and practical action in the long-term perspective, not all issues have been presented in this article in detail, which paves the way for further research to fill this gap.

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