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Action Research – collaboration of practitioners and researchers for the development of knowledge in common courts

Common courts are hermetic organizations, "separated" from their stakeholders by procedures based on legal provisions and the fact the basic form of communication with courts is through formal legal means. The hermetic nature of courts means that these organizations are perceived as non-transparent, and as such, they do not inspire trust among stakeholders. The social reception of courts is negative, although the efficiency of court proceedings is assessed positively in communications issued by the European Parliament, the Council of Europe, the Central Bank, the European Economic and Social Committee, and the Committee of the Regions¹. The answer to this may be the concept of courts' community engagement outside the legal sphere. In its implementation, a research strategy in the form of Action Research (AR) may be useful. It assumes the collaboration of practitioners and researchers in solving a specific problem. An AR study was conducted at the District Court in Gdańsk, with a view to answering the question whether public organizations – in this case, courts - can engage in pro-social activities that go beyond the basic scope of their judicial function, and if so, in which areas. The study covered the time horizon between June 2013 and March 2018, that is, a period of over five years. Analysis of research results shows, first, that AR can be applied to public organizations, and second, that intervention resulting from the use of this research method is effective. Despite the changes in court management and political changes, pro-social activities are still being undertaken in courts, having become an organizational routine.

Introduction

Courts are hermetic organizations which respond reluctantly to changes taking place in their local environment. The court's inward orientation is viewed by the very organization as a value in itself, as well as an important asset in retaining the autonomy and independence of both judges and courts. However, the increasingly open structure of courts and bilateral

¹ Communications of 2014 and 2015, EU justice scoreboard. A tool for promoting effective justice and economic growth, Communication of 20 March 2014 and of 9 March 2015 from the Commission to the European Parliament, the Council, the Central Bank, the European Economic and Social Committee and the Committee of the Regions, Brussels.

communication with stakeholders through the implementation of the concept of a socially engaged court (a close equivalent of the Anglo-Saxon *community court*) could positively influence trust in courts. **According to the original proposition developed by the authors**, a socially engaged court is one that voluntarily undertakes long-term activities for the benefit of its stakeholders, related to their expectations with regard to job satisfaction and growth opportunities. In addition, it initiates a number of activities that integrate the local community in which it operates. Thus, a socially engaged court becomes a partner, coordinator and initiator of various initiatives for the benefit of society as a whole and its own employees. A socially engaged court strives to raise awareness and engage stakeholders in activities and the decision-making process. At the same time, it is an economically, legally, ethically and philanthropically responsible entity. Last but not least, by clearly communicating the activities to all interested groups, it becomes transparent (Banasik, 2017).

In order to address a research problem whose goal was to answer the research question of whether public organizations – here, courts - can engage in pro-social activities, in which areas, and whether or not such activities affect how the organization is perceived by its stakeholders, an action-research (AR) strategy was used. This choice of this method was motivated principally by three factors. First, it was assumed that subjects participating in the study, along with their knowledge, are as important as the knowledge of the researcher themselves. Knowledge of organizational issues in courts was acquired from entities with whom interactions were established during the study. Second, AR aims to identify and solve a specific problem of the investigated organization. Third, the method remains neutral to paradigmatic divisions and quantitative-qualitative methods (Agar, 1980/1996). A clear advantage of the adopted research method is the possibility of discovering facts in the practical solving of social problems in order to improve the quality of activities undertaken in response to them. AR assumes collaboration between researchers, practitioners and laymen (Bums, 1994, p. 293). This process involves systematically collecting data from everyday practice and analyzing it to decide on the future shape of this practice (Wallace, 1998, p. 4). Therefore, when analyzing different approaches to AR, two similar views were adopted which best reflect the essence of the assumptions underlying the solution of the research problem implemented in the area of a single court open to a change in the approach to community engagement. First of all, U. Flick proposed that AR is to bring about a change within the studied area and get participants to initiate changes (Flick, 2010, p. 189, Greenwood, 2012, p. 115). Secondly, according to A. Bryman and E. Bella, AR is the approach in which the

researcher and the client collaborate in the examination of the problem and in developing a solution based on these observations (Bryman and Bell, 2007, pp. 427-428; Sekaran and Bougie, 2013, pp. 103, Saunders and Lewis and Thornhill, 2007, p. 591, Eriksson and Kovalainen, 2010, Cooper and Schindler, 2008, p. 699). It is possible for the researcher to be associated with the very organization they are investigating (Chrostowski and Jemielniak, 2008, p. 48). In the process of doing so, the acuity of their observations and critical approach to the problem will not necessarily be compromised, although different views may be found in the literature (Kostera, 1996; Czarniawska, 1999). AR is generally considered to have been initiated by K. Lewin, who argued that research on community engagement should rely on the "examination of general principles and diagnosis of specific situations" (Lewin, 1946, Adelman, 2006, pp. 7-24). Since the 1940s, AR has been used to describe various processes which involve the element of intervention in organizations and which have a dual goal: to identify practical changes and to develop knowledge - albeit with a varying degree of intensity, depending on the stream (Huxham and Vangen, 2003, pp. 383-403). Having said that, differences between the streams do not seem to be particularly relevant. AR has one common denominator, and that is understanding the organization and its management, and then formulating relevant conclusions which can provide more general information that may prove useful to other organizations and in other fields (Checkland and Holwell, 1998, pp. 9-21). An intervention made by the researcher is a means to achieve the research goal. Meanwhile, conceptualization of experiences creates a result in the form of theory (Huxham and Vangen, 2003, 383-403). Another aspect speaking in favor of applying the AR method was the fact that it is an important source of research documentation and a source of knowledge about the organization's community engagement (Herr and Anderson, 2005). Interventions prompt spirals of cycles in which specific activities are pursued: (1) planning the activity to improve existing processes, (2) implementing the activity, (3) observing the outcome of the activity in the context in which it appears, (4) drawing conclusions from these effects for the further planning and implementation of subsequent activities (Kemmis and Taggart, 1982, p. 7). The object of this study, the Regional Court in Gdańsk, was selected by means of targeted selection, bearing in mind that it is one of the largest courts in Poland (with 153 judges and 3 referendaries, over 300 administrative employees and 82 side judges), but also because of the court's enthusiasm about the study, whose goal was to investigate the actual possibilities of undertaking by this court - and by district courts subordinate to it - activities related strictly to community engagement. This implied selecting areas for possible collaboration with external stakeholders, followed by an analysis of the costs and benefits of

such cooperation, and a subsequent support which needs to be provided to the court in the updating of its change management process, consisting in expanding its competence to encompass activities that go beyond the administration of justice. Lastly, the methods of cooperation that will prove the most effective and will bring benefits not only to the court, but also to external stakeholders, will be selected.

The study covered the time horizon between June 2013 and October 2018, that is, a period of over five years. The data collection procedure was subordinated to the requirements of triangulation of sources and respondents (Gibbert, Ruigrok and Wicki, 2008, pp. 1465-1474). Triangulation, alongside a deliberate selection of the sample and a meticulous approach to data transcription, is considered the basic way to ensure the reliability of interpretative and qualitative research. As indicated by W. Czakon, this allows to obtain a credible and faithful description of reality, and thus paves the way for the formulation of proposals of generalizations (Chakon, 2012, pp. 211-212). However, generalizations cannot always be put forward under AR. The limitations of applying AR in management sciences are determined primarily by its characteristics, which allow developing general theories only to a narrow extent. This method is more suitable for explicatory attempts applied to specific situations (Ćwiklicki, 2016). The key strength of AR is the precise insight and the possibility of analyzing scenarios not guaranteed by other research strategies (Bryman and Bell, p. 429). As part of the conducted research, successive observations of the phenomena taking place within the organization were carried out, and so were a number of interviews with the court's management, conversations with various groups of stakeholders and quantitative surveys with stakeholders on the subject of collaboration with the court and the quality of this cooperation. Discussions with external experts as well as internal and external stakeholders on the acceptance of the changes introduced, their effectiveness and impact on the perception of the organization were also conducted in the research process. Given the dynamic nature of the study, some of the findings were modified, or replaced by new findings and reflections, during the process of change implementation.

The research was divided into two time segments - stages. Each stage was assessed separately and relevant conclusions were drawn, which were then taken into account in the subsequent stage of the study. In each of the stages, opinions voiced within the organization were considered so that the draft plan of action could be updated on an ongoing basis to the benefit of the organization. Mainly, however, the research was to consolidate the change introduced and make all actors aware of the real benefits that reinforce their mutual trust in

each other's qualifications. More specifically, the study was designed as follows. First, the change was planned. Subsequently, activities were undertaken while the process and consequences of the change were analyzed. At the end of the first stage, reflections on these processes were made and the consequences of the implemented activities were determined. Once there, activities were planned again, implemented, after which consequences of their implementation were analyzed. This stage was also summarized by conclusions and reflections (Kemmis and McTaggart, 2009, p. 781). In addition, the study was intended to answer the question whether it is necessary to increase the court's community engagement, and if so, in which areas. In seeking the answer to this question, a tool in the form of a questionnaire was used, which was addressed to relevant stakeholders. Research in this area was therefore quantitative. It should be clearly emphasized this is the first time a study has been carried out in Poland exploring the possibility of social engagement by courts and the impact of this involvement on the community. It seems that the information obtained from the court's stakeholders about the quality of collaboration and the areas of joint activities and mutual benefits may be helpful in shaping the knowledge about the perspectives and directions of change necessary to establish proper relations between courts and stakeholders. It may also be indispensable in shaping the appropriate attitude in courts and developing a catalog of standardized activities that blend into the essence of the functioning of a single court, creating as a result what could be termed "the good practice" of social engagement. This knowledge can also contribute to the formulation of postulates about the necessity to introduce legislative changes by creating a top-down catalog of standardized, socially expected activities enabling courts to become a social partner to stakeholders in the local community.

As already indicated, the research process began in mid-2013, following the change in the management composition at the District Court in Gdańsk. Until then, the organization used to be engaged in relatively few initiatives related to pro-social activities, which was largely affecting external stakeholders. An example of one such initiative was *Salon Mediatora* [Mediator's Saloon], i.e. meetings of various entities focused around the idea of mediation and alternative dispute resolution methods. In 2013, the initiative was only starting to generate interest and it was not known whether it would stand the test of time. An interview conducted with the originators of this initiative indicated that the need was signaled by external stakeholders who were mediators wanting to disseminate knowledge about mediation techniques and launch a discussion forum for various entities to improve the tools used in

alternative dispute resolution methods. Furthermore, the goal was to convince all parties to court proceedings to the legitimacy of mediation as a less expensive, quicker and more amicable form of settling court disputes. Another initiative involved collaboration with a court in Germany so as to forge mutual exchange of experience between judges ruling in various substantive legal areas, but also regarding the methods of court management. The initiative, dating back to 2012, was not actively pursued and only one exchange of judges took place, while the project's further continuation was being questioned.

In connection with this, the new management were confronted with the following dilemmas:

1. First, should the court conduct activities in the context of community engagement, that is, activities outside the basic scope of its function related to administering justice? If so, how should these activities be implemented and who should be their initiator? What benefits will the court and stakeholders get from collaborating outside the direct judicial process? Will the consequences of such cooperation reflect negatively on interested parties? Will the court increase its legitimacy to act in the local community? Will activities undertaken by the organization generate new knowledge in the network of links between courts operating within one district? Is there any potential for courts to undertake pro-social activities for the benefit of external stakeholders? How should these activities be undertaken, first, so that the court is perceived as a reliable, competent partner? How do these activities evolve over time?
2. Second, so that that pro-social activities become a permanent part of the court's agenda?
3. Third, so that these activities can trigger a change in attitude among internal stakeholders, i.e. so that stakeholders do not question them, co-create changes, and later use this knowledge in the judicial process?

First stage: June 2013 - October 2014.

Reflections: The first stage of the study was relatively short but highly intense both in terms of undertaken activities as well as relations with stakeholders. It was assumed that this stage will identify and hierarchize court stakeholders, both in the area of basic court activities and pro-social activities. Attempts were also made to determine the preferences of each of the stakeholders in relation to the court. In the course of this stage, foundation was also laid for

the second research period in which the concentration, stabilization and systematization of the activities in building relations with the target groups of recipients was achieved.

Proper arrangement of the court's relations with its stakeholders required analyzing the impact of these relations on its core and pro-social activity. This, in turn, enabled determining a **hierarchy of stakeholders by their importance**. The study assumed that each of the stakeholders may have both a positive and negative impact (on a five-point scale) and an attempt was made to determine the likelihood of them having an impact (on a scale of 0-1). A supposition was made that the sum of the impact values and the product of this result multiplied by the impact likelihood value will make it possible to determine the weight of individual stakeholders. Determination of the type and intensity of this impact could be the basis for **the hierarchization of court stakeholders**. This division concerns the impact of stakeholders on both the core (judicial) and social activity of the court. No such research has been carried out in the field of justice so far, making it an interesting research topic that is certainly worth exploring. A correct analysis of the hierarchy of stakeholders can contribute to the proper shaping of the court's relationship with the local community, focusing on important tasks and avoiding the implications of making inappropriate initiative choices. The process of determining the importance for individual stakeholders began by specifying the positive and negative impact that stakeholders may have on the court with respect to its core activity. The following criteria were taken into account when developing the scale: strength (power), legitimacy and urgency (insistence), nature of relationship, position in relation to the court. The weighting of individual court stakeholders was preceded by a discussion in which the court's management, external experts as well as stakeholders themselves participated (Banasik, 2016a).

Second stage: October 2014 – October 2018

Reflections:

The results and summary of the second stage of the study led to a reevaluation of the impact and influence of individual stakeholders on the court's pro-social activity. This was not applied, however, to the court's core activity, as it fell outside the scope of the scientific deliberations. Not only that, measuring the impact of community engagement on a positive "judiciary advantage" would require adopting a much longer time horizon and a broader scientific perspective that extend beyond the scope of this study. Compared to the previous stage, the position of stakeholders such as schools, academic circles and partners increased in

the broader sense of the judicial area. The agreements, initiatives and activities launched by these stakeholders to promote legal culture (through different activities), exchange of views and integration with the local community were so significant that they became important stakeholders in relation to the court. What is more, their overall activity can be viewed as permanent and expected by both the court and stakeholders themselves. Also stronger became the position of mediators gathered around *Salon Mediatora* at the District Court in Gdańsk, whose engagement focused on propagating the idea of mediation and whose activity was so significant that it became a permanent part of the court's community engagement agenda. District courts in Gdańsk were also markedly involved in these activities. It was not observed throughout the research period that the stakeholders with whom the court permanently collaborated had, or intended to have, a negative impact on the court's image. However, this possibility cannot be fully ruled out. It turned out to be true that interactions with court stakeholders cannot be perceived solely as a way to respond to the expectations of the local community, but also as a kind of energy exchange resulting from the emerging collaborative synergy. Each of the stakeholders with whom the court collaborates seeks these contacts, shares ideas, discusses initiatives and ensures their smooth and efficient implementation. A significant qualitative change was also observed. Stakeholders are responsible for part of the activities, and the court – which initially controlled every stage of the initiatives - became merely a participant or co-organizer of these activities, entrusting their coordination to other stakeholders. However, the collaboration at hand is "...a continuous result of the exchange of information and communications, through which the created network shapes relations with stakeholders, supporting the implementation of its goals and contributing to the creation of public/social value" (Frączkiewicz -Wronka, pp. 8-9).

In the course of the study, it was assumed that the involvement of stakeholders should be preceded by a determination of the strategic goals of such engagement. Engaging in activities with all stakeholders, or for all issues, was neither possible nor desirable. It would mean exceeding the available resources, also making a proper response to the needs of stakeholders very unlikely, which in turn would lead to frustration or the marginalization of undertaken activities. Therefore, it is important to rank stakeholders and issues in terms of their importance, so as to guarantee a good management of time, resources and expectations, which will also give these activities a certain social value.

It seems that in the case of a court, the basic strategic goals of engagement include:

1. gaining knowledge about long-term tendencies in the behavior of stakeholders and understanding their needs related to the administration of justice, which should be characterized by urgency and loyalty towards parties to the proceedings,
2. collaboration as part of a partnership with stakeholders for shaping the culture of compliance with and understanding of the law,
3. collaboration as part of a partnership with stakeholders for shaping the culture of case settlement,
4. establishing relationships that are key to ensuring the stability of employment of internal stakeholders,
5. strengthening the authority of the court,
6. improving relations with the public,
7. marking a partner presence in the local community.

The above list of strategic goals of stakeholder engagement is not exhaustive. Instead, it is an original proposition put forward by the authors. The first goal refers to the court's core activity. The remaining goals go beyond the primary functions expected to be fulfilled by the court (see Banasik, 2016a)

Discussion of results. Applied value of findings.

Research on the social action of the District Court in Gdańsk using the AR method gave rise to extensive empirical material whose synthesis and reference to theoretical proposals enables developing the existing state of knowledge about the organization itself, its organizational potential, opportunities to interact with external stakeholders, as well as mapping stakeholders and their impact on the functioning of the court.

Assigning weights (scales) to stakeholders can be further used to analyze specific strategies, goals, projects and to determine implications arising from their implementation for individual interest groups. It is, of course, impossible to account for the expectations of all stakeholders to the same extent, and the hierarchization helps indicate the impact of which stakeholders can be crucial for the court at a particular moment in time. A strong relationship between a business and stakeholders is a resource that creates corporate value. It is safe to assume it should not be much different for courts. In 1937, G.H. Preinleisch pointed to the importance of connections and systems in a company as one of the factors influencing its

value (Marcinkowska, 2006, p. 197). Put simply, dismissing the needs of stakeholders as irrelevant may prove to be a costly approach.

Collaboration with stakeholders demonstrated that, in the area of the court's social engagement, the needs of stakeholders are met, with some stakeholders becoming consciously more important than others along the way, which springs from the very nature of the organization, comprising individuals with specific intentions and needs (Banasik, 2016b). Regardless, however, the activities were undertaken multidimensionally, and their outreach had a wide range of impact. It seems that, through constantly prompting action, the court became a source of new values, and importantly, values which stakeholders seek or may seek. Knowledge, organizational efficiency in the field of social engagement and a tendency to reflect in building partnerships and collaborative synergy grew to be viewed as important elements determining the adopted agenda. The court's social engagement was not preceded by a single stimulus or any initiative in particular. Respondents pointed to the growing common understanding of the need to undertake such activities, but also the challenges for public organizations, including courts, related to organizational social responsibility. However, the initial stage was focused on correctly defining the areas of possible cooperation. It is worth emphasizing, and what may not be so strongly marked in other organizations, the existence of a long-term history of social ties between individual representatives of legal corporations as organizations forming an interorganizational network. This bond often goes back to college days, legal training or was built on the same community values. Having said that, the basis of these ties should not be perceived negatively. On the contrary, the alignment of goals and identification with activities are pivotal in developing the clear common vision of a modern, up-to-date justice system. It is also important to build mutual trust based on the reputation of decision-makers and on professional legitimacy (Banasik, 2016c, pp. 15-30).

The case of the District Court in Gdańsk made it clear that, in managing this organization, the traditional understanding of the role of the court as merely a judicial body must be abandoned. The court and related stakeholders are, primarily, a set of organizations or individuals who share common goals worked out in the course of their collaboration. These goals, however, require constant monitoring, updating through analyses, and maintaining good relations with the community, especially local. In all this, stabilizing and destabilizing factors such as the actions of executive bodies, political parties or the media must not be overlooked. Courts (and, more broadly, justice) are and will always be the focal point of any political game, which will affect – to a greater or lesser extent - how it is perceived by

stakeholders. Pro-social activities may therefore be for courts a designate of profile raising and image improving, in spite of the actions of other entities. They can also be their distinctive feature and the source of positive perception by the recipients, becoming a routine adopted in the course of gaining social experience and determining the strength and organizational efficiency.

Undertaking activities by an engaged court requires allocation of specialized human, financial, tangible and intangible resources. As it turns out, financial and tangible resources are not a *sine qua non* condition of action. All it takes to step out the usual pattern of activity is good collaboration and acquiring resources from other stakeholders. In the opinion of stakeholders gathered around *Kapituła Środowisk Prawniczych* [Chapter of Legal Communities], the appointment of a small consultancy and management team made it possible to coordinate joint activities much more efficiently and to give them the dynamics consistent with expectations (Banasik, 2015a). This is especially important because, outside of court, what matters is relay information to thousands of people associated in individual corporations and groups of other stakeholders. The direction of selected pro-social activities adopted by the District Court in Gdańsk seems to be model. However, it requires continuous testing and structuring in order to achieve a satisfactory outcome for all stakeholders. Some of these activities should perhaps take the form of top-down solutions, while others must be tried out in local communities. This, however, requires further scientific investigation involving a larger group of courts.

Conclusion

In conclusion, the study has highlighted the need to focus the activities of judicial organizations not only on the core area related to the administration of justice (which is, of course, the most important area from the point of view of the role of this organization), but also on the area that can boost courts' social acceptance, namely community engagement. The AR method ensured specific, significant results related to the change of the organization's approach to the new area of activities, which became an important element of its agenda, although this still needs to be tested in the course of further activities and collaboration with stakeholders.

Based on the analysis of the empirical material accumulated during the research, it turned out that the introduced changes had a significant effect, expressed in the intensified cooperation of various stakeholders, on the perception of activities carried out by other

judicial organizations and the related willingness to replicate some initiatives on their part (*Salon Mediatora*, a cooperation system for legal education). Conclusions regarding the results of the research possible to implement are supported, among others, by the fact that the solutions and proposed approach have passed the "worthiness test" and the findings have resonated positively with the community.

The pro-social activities of the District Court in Gdańsk show that these are not only possible, but also necessary for maintaining proper relations with its stakeholders. Such activity can be undertaken by both larger and smaller judicial organizations. Smaller courts, regardless of their position in the judicial structure, have the possibility, if not duty, to improve the quality of their functioning through the promotion and organization of pro-social activities. This conclusion is all the more justified if the following assumptions are made:

1. every court, regardless of its size and position in the judicial structure, operates on the same grounds and assumptions; it also has a similar internal structure, which consists of substantive departments and branches;
2. in every court there is the same structure of human resources: judges, referendaries, side judges, officials and service employees;
3. the training (but also access to education and knowledge) and selection of employees in every court is similar or the same (as in the case of judges and referendaries),
4. every court has the same access to acquiring material and financial resources, and the difference in their size results solely from the size of the court (excluding appeals courts that redistribute these resources);
5. the choice of court managers in each court is carried out based on the same statutory principles;
6. the main resource of every court is its knowledge and statutory competence to solve social problems in the process of administering justice,
7. every court has the same stakeholders, and the difference in the strength of interaction and building relations with them stems solely from the size of the court and its position in the judicial structure.

The veracity of these assumptions determines the possibility of generalizing conclusions resulting from the AR case study of the District Court in Gdańsk. After all, there are no legal obstacles for courts to include pro-social activities in their current agenda, even if

the available resources prevent these initiatives from having a wide outreach. Collaboration with other courts and external stakeholders is always an option, too. Ultimately, it is court managers who decide which activities are going to be pursued and whether they will be undertaken at all (Banasik and Morawska, 2015b, pp. 29-48). *AR is not only a research method or a research strategy for solving a research problem, but also an effective tool for developing knowledge and implementing changes in a public organization.*

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Key words

action research, social (community) engagement of courts, pro-social activity, judicial activity

Abstract

Action Research (AR) is not only a research method or a research strategy for solving a research problem, but also an effective tool for developing knowledge and implementing changes in the organization. The aim of AR is to bring about a change within the studied area and get participants to initiate changes, in which the researcher and the recipient collaborate in investigating the problem and developing a relevant solution. AR assumes the collaboration of researchers, practitioners and laymen, and consists in systematically collecting data from everyday practice and analyzing it in order to decide on its future shape. The AR study was conducted in a public organization, namely the District Court in Gdańsk. The subject of the AR study was extrajudicial activities – pro-social activities undertaken by the District Court in Gdańsk. The study was to answer the question whether public organizations – in this case, courts - can engage in pro-social activities, and if so, in which areas. The study covered the time horizon between June 2013 and March 2018, that is, a period of over five years. As part of the conducted research, successive observations of the phenomena taking place within the organization were carried out, and so were a number of interviews with the court's management, conversations with various groups of stakeholders and quantitative surveys with stakeholders on the subject of collaboration with the court and its quality. Analysis of research results shows, first, that AR can be used in public organizations, and second, that intervention resulting from the use of this research method is effective. Despite changes in management and political changes, pro-social activities are still being undertaken in courts, having become an organizational routine. Research findings additionally supplement the current knowledge about the possibility of undertaking pro-social activities by public organizations, including courts. They fall within the scope of strategic management in the subdiscipline of public management.

