# 10. SELECTION AND PROMOTION OF JUDGES TO MANAGERIAL POSITION: WHAT COMPETENCES MATTER?

On the one hand, the institutional independence of the judiciary allows for the implementation of the maximum objective justice, to serve the public interest, on the other hand, due to the limited external influence, the judicial system remains rigid compared to other state power institutions. For example, the modernization of the public administration system, inspired by the ideas and principles of the new public administration, is not subject to the mandatory order of the judiciary. The need for changes in the organizational management of the courts due to the challenges of the external environment can be taken into account by the courts to the extent that the leaders of the courts themselves seem necessary. In public administration organizations, meanwhile, expectations regarding the competencies of public administration managers are close to those known in the business sector.

## Effective Leadership: What Knowledge and Competencies Do Organizational Leaders Need?

The knowledge required for an *effective manager covers different areas of management: strategic management, decision making, process management, quality management, human resource management, organizational behaviour, project management, and more*. These areas cover sub-areas, such as human resource management includes areas of knowledge and skills such as communication, motivation, delegation, negotiation, collaboration, and so on. Meanwhile, some sub-sectors are intertwined. For example, effective communication skills and knowledge of techniques are essential in all areas of managerial work.

One of the most significant variables defining what knowledge and competencies a manager needs is position in the organization's hierarchy. Managers at the strategic level must be able to make complex decisions in response to the complex challenges of the external and internal environment of the institution. Their task is to develop an effective strategy for the organization and to create the right conditions for the organization to achieve its goals and mission. Thus, strategic planning,

forecasting, innovative thinking, resource management, and more are important for senior executives. Personal leadership is also extremely important. Finally, primary, executive level executives need to know how to communicate effectively, collaborate, delegate tasks, inspire, motivate employees, control performance, and address day-to-day performance management challenges.

Researchers recognize that the differences in the competency requirements of employees and managers are difficult for organizations with mental work to define and measure. Employees are an original, collective, deeply influenced resource of an organizational culture that integrates and integrates other resources.[327] As a result, it is difficult to separate the efficiency of managers from the efficiency of employees. It has been observed that there are often situations in organizations where managerial intervention may be unnecessary.[328] This is the case when the components of a particular individual's, work's, and organization's goals act as substitutes for leadership or even as neutralizers of the leader's influence on subordinates. The neutralizing effects of circumstances can occur when no effort, decisions, or behaviour by a manager will lead to progress. This is often the case when employees have high professional skills, competence and experience in their field of work. The ability of employees to perform independently the work required to achieve the organization's goals creates a situation where managerial competencies no longer play any real role.

Managerial influence is not pure, but always in combination with independent variables in the overall model of organizational behaviour. In many cases, these dynamics of the goals, abilities, and relationships of the manager and employees can explain the specifics of productivity, loyalty, commitment, job satisfaction, and intentions to leave the job in individual departments or agencies of the organization as a whole. This also explains why the competencies required for strategic-level managers are more related to so-called "hard" management, while executive-level managers are looking to have very strong communication and other "soft" management skills rather than knowledge of law.

However, it must be acknowledged that science has not yet found a set of managerial competencies that will be successful in different areas of organizations, different levels of organizational governance, different management situations and different contexts of the organisation's external environment and internal employee dynamics. There is also no single and guaranteed way of evaluating and selecting candidates that will ensure that the selected candidate perfectly meets the needs and

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[327] DOZ, Y. (1996) Managing Core Competency for Corporate Renewal: Towards a Managerial Theory of Core Competencies. In: DOSI, G., MALERBA, F. (eds) Organization and Strategy in the Evolution of the Enterprise. Palgrave Macmillan, London. https://doi.org/10.1007/978-1-349-13389-5_7

[328] JERMIER, J. M., KERR, S. (1997). Subsitutes for Leadership:Their Meaning and Measurement – Contecstual Recollections and Current Observations, Leadership Quarterly, 8(2), p. 95–101; de VRIES, R. E., ROE, R. A., & TAILLIEU, T. C. B. (2002). Need for leadership as a moderator of the relationships between leadership and individual outcomes. The Leadership Quarterly, 13(2), p. 121–137. https://doi.org/10.1016/S1048-9843(02)00097-8

specifics of the organization's management, and that the individual's managerial competencies will be revealed in practice exactly as expected.

Research shows that the nature of the legal profession determines the predominance of certain personal characteristics.[329] Judicial proceedings and judges' decisions are restrictive in nature. This influences the need to develop personal skills such as forward-thinking and innovative thinking among judges. Meanwhile, there are no unambiguous codes in the management of organizations, and if such are implemented, the organization does not last long. The organization is a complex, open and dynamic system, so optimal management solutions are virtually impossible to manage, only rational ones. As a result, even the best judge, or perhaps the best, will not necessarily be a very talented leader. The competencies required for judges and managers often differ significantly. Whether a judge of exceptional ability will be able to make an excellent managerial decision does not depend on his or her achievements in the work of the judge.

In this context, the question arises as to the characteristics of judicial leaders and how to ensure that the characteristics of candidates are properly disclosed and assessed during the selection process.

## Content of managerial competencies

When managing an organization – administrative staff and organizing the work of specialists, the required characteristics of managers are divided into three groups:

1. **Acquired competences**, which include knowledge and skills acquired in the course of a professional activity. At the time of selection for the position of manager, this knowledge is usually assessed by interview.
2. **Individual personality traits**, which are usually tested using dedicated tools during the selection process.
3. **Adaptive competencies**, i.e. ability to learn and improve. Adaptive competencies can be determined through tests.

As the leadership theories have become one of the most "popular" areas of social sciences over the several past decades, there have been a number of researches, concepts, descriptions, categorizations of managerial or leadership competences developed. Further there are mentioned some of them, which can be regarded as the basis for further development of the model of competences of court leaders.

After extensive research, Ruben [330] defined five main groups of managerial competencies:

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[329] (STEELMAN, D. C. (2002). What really makes managing the courts so challenging. available at: http://jeritt.msu. edu/monograph/JERITT; HAYS, S.W. & COLE BLEASE, G. (1993). Handbook of Court Administration and Management (1st ed.). Routledge. https://doi.org/10.1201/9780203719428

[330] RUBEN, B. D. (2019), "An Overview of the Leadership Competency Framework"; GIGLIOTTI, R. A. (ed.) Competencies for Effective Leadership, Emerald Publishing Limited, Bingley, p. 19–28. https://doi.org/10.1108/978-1-78973-255-920191001.

(i) the analytical competences needed to think systematically and to act effectively, to make decisions, to involve stakeholders and to be able to monitor and evaluate the results achieved;

(ii) self-regulatory competencies, which also include personality traits such as creativity, enthusiasm, self-confidence, tolerance for uncertainty and risk-taking. Self-regulatory competencies mostly predict the quality of managerial performance;

(iii) organizational competencies, which include visionary and strategic thinking, knowledge management, collaboration, delegation, crisis management, administrative and other skills that determine managerial effectiveness. Organizational competencies should be given special consideration in the selection of candidates for management, as competencies in this area determine the effectiveness of the organization and the success of change and development in the organization;

(iv) area of competence, which shall include the subject knowledge and skills necessary for effective management of the organization. The group includes education, experience, knowledge of the sector, the specific organization and its activities, as well as knowledge of professional language and terminology;

(v) communication competencies. This group of competencies includes speaking, writing, listening and asking questions, interpersonal communication skills, team communication and presentation skills in large audiences and in an external organizational environment, intercultural skills, as well as the ability to persuade, focus, build relationships, to lead by example.

McCredie and Shackleton singled out four groups of leadership competencies: outcome-oriented, intellectual competencies, interpersonal competencies, flexibility, and adaptability, and highlighted that some competencies have a threshold role, i.e. predicts good or poorer leadership outcomes. [331]

Srikanth & Jomon [332] emphasizes that not only the available competencies of the manager determine the results of the organization, but also the ability to purposefully change and improve them. The development of managerial competencies must respond to the nature of the tasks assigned to the organization, the context in which the institution operates, and the managerial end-state competencies. The latter are defined as managerial business knowledge, courage to take a position, ability to highlight the best people, insight, dedication to success, ability to act honestly. However, communication and collaboration competencies are probably the most important for the manager, as it is the feedback from the employees that serves the manager in defining the guidelines for the development of managerial competencies and the acquisition of new ones.

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[331] McCREDIE, H., SHACKLETON, V. (2000), "The unit general manager: a competency profile", Personnel Review, Vol. 29. No. 1, p. 106–114. https://doi.org/10.1108/00483480010295844

[332] SRIKANTH, B., JOMON, M. G. (2020) Developing managerial competencies: integrating work design characteristics and developmental challenge, The International Journal of Human Resource Management, 31:22, 2808-2839, DOI: 10.1080/09585192.2018.1474937.

Boyatzis, human resources management authority, emphasizes that some, and in particular, "soft" managerial competencies are crucial. He emphasizes the role of cognitive, emotional, and social intelligence in work.[333]

Personnel professionals and researchers use the model of Woodcock and Francis[334]to determine the adequacy of managerial management competencies in specific organizations, in which the authors distinguished 11 competencies necessary for managers, divided into three groups: personal competencies, social competencies, and professional competencies. The essence of the model is that the manager must not lack any of the listed competencies. Otherwise, there are negative consequences: from the inability to make the right decisions to the inability to manage one's emotions and the behaviour of subordinates in difficult situations. On the base of a comprehensive review of publications, Szczepańska-Woszczyna & Dacko-Pikiewicz argue that many studies of this period also show that effective leadership requires the combination of competencies related to cognitive functioning (e.g., the ability to analyze, synthesize, and solve problems) and group functioning (interpersonal skills, communication skills, ability to motivate others).[335]

However, the assessment of knowledge, skills and, in particular, competencies during the selection of candidates for management positions is complicated by the fact that the application of competencies in practice is significantly influenced by circumstances, whether positive or negative. These include the attitude of the new manager to the job, the compatibility of the job and the employee (manager), the compatibility of the job-related attitudes and competencies of the manager and his / her subordinates, and other situational and contextual factors formed during the selection, promotion, and appointment due to perceived procedural fairness.

## Side effects of competency assessment and factors influencing managerial behaviour

One of the most influential aspects in the process of selecting candidates for office is *procedural justice*, also known in the literature as *procedural fairness* or *organizational justice*. Procedural justice is a multidimensional concept that explains an individual's patterns of behaviour. Managed procedural justice performs a regulatory function in order to formulate or reinforce certain attitudes of an individual and to increase (or decrease) the likelihood that an individual will choose one or another

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[333] BOYATZIS, R. E. (2011). Managerial and Leadership Competencies: A Behavioral Approach to Emotional, Social and Cognitive Intelligence. Vision, 15(2), 91–100. https://doi.org/10.1177/097226291 101500202

[334] WOODCOCK, M., FRANCIS, D. (1982). The Unblocked Manager: A Practical Guide to Self-development, Gower, Aldershot.

[335] SZCZEPAŃSKA-WOSZCZYNA, K., DACKO-PIKIEWICZ, Z. (2014). Managerial competencies and innovations in the company – the case of enterprises in Poland. Business, Management and Economics Engineering, 12(2), p. 266–282. https://doi.org/10.3846/bme.2014.240

pattern of behaviour. In other words, procedural fairness is a prerequisite for managed and predictable employee behaviour.[336]

As regards the selection of candidates for management positions, in particular the assessment of their abilities and competences, the procedural fairness (or injustice) perceived by candidates varies depending on the tools and procedures used in the selection.

Cropanzano and Wright note that the outcome of the selection also depends on aspects of procedural fairness such as the openness, clarity and transparency of the decisions made during the selection, the social objectivity of the selection, and the ethics of the relationship. The latter aspect includes polite and equal treatment of candidates. The consequences of perceived injustice on the part of candidates can range from relatively less unprofitable ones, such as the desired candidate not accepting the job offer, to relatively unprofitable ones in the short and very long term, such as poor selection and recruitment, poor organizational identity. In addition, researchers note that perceived injustice discourages individuals from seeking employment opportunities. This explains the lack of candidates in certain areas of the organization, in particular for the post of head of institution.[337]

In most selections, when testing a candidate for a managerial or other position requiring high personal responsibility, one of the evaluation stages involves testing the candidate. In principle, testing allows the implementation of one of the principles of procedural fairness – to apply the same evaluation procedure to all applicants and to substantiate the objectivity of the generalized estimate. However, relying solely on testing is dangerous. The validation of the questions during the development of the tests and the instrument are adjusted so that only the logical units with the highest statistical scores remain in the final version of the test. In this way, some individual characteristics and aspects may be left overboard, which may have unintended effects during testing if the applicant becomes an employee. In general, it is difficult to ensure that test questions and tasks are relevant to a particular situation, i.e., related to the position for which the employee is being sought, while in the selection of a candidate, the reliability of the test in predicting the candidate's potential is the most important criterion for selecting a tool. Cropanzano and Wright emphasize that the chosen test of personality characteristics and abilities must correlate with the job in question, otherwise a procedure is created that wastes resources and does not make value.[338]

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[336] SINGER, M. S. (1992). Procedural justice in managerial selection: Identification of fairness determinants and associations of fairness perceptions. Soc Just Res 5, p. 49–70, https://doi.org/10.1007/BF01048377

[337] CROPANZANO, R., WRIGHT, T. A. (2003). Procedural justice and organizational staffing: a tale of two paradigms, Human Resource Management Review, 13(1), 2003, p. 7–39, https://doi.org/10.1016/S1053-4822(02)00097-9

[338] CROPANZANO, R., WRIGHT, T. A. 2003. Procedural justice and organizational staffing: a tale of two paradigms, Human Resource Management Review, 13(1), 2003, p. 7–39, https://doi.org/10.1016/S1053-4822(02)00097-9

Another important moment in the effective testing of knowledge and skills is the prerequisites for candidates to focus and think purposefully on their tasks. Applicants must have access to the content of the competencies required for the position / position. The test used in the selection should be such that the candidate can link the test questions and tasks to the job for which he / she is applying.

In the latter case, interviews are considered an even fairer method than screening tests. Everything else is a biographical evaluation. The selection based on the CV evaluation is considered by the candidates to be the most procedurally incorrect, as this method does not allow a reliable link between the applicant's potential and his performance. Meanwhile, the practical skills test is perceived as the most correct. The latter method enables the candidate to perform the work, allows him to control the process and result of the task. As a result, the individual's decision on suitability for the position is often considered by the individual to be sufficiently objective.

A separate problem of selection for a management position is the decision of who and how should perform the assessment of the competencies of a candidate for a management position. Personnel selection professionals usually have tasks that mimic the situations and challenges of managerial work. As a result, candidates for the job and professionals seeking promotion in the workplace can not only demonstrate their abilities, but also realize how correct the assessment is. Meanwhile, the preparation of the recruiting organization itself for the selection process and the tools available to assess the competence of the candidates are limited.

The most complicated situation arises when the need to select a candidate for the position of head of the institution is addressed. Even specialists with long experience in the institution and heads of departments of the institution are not ready to predict the compatibility of work and potential employee with the manager, their decisions are based on their own, limited experience and imagination rather than knowledge of what competencies are desirable. In addition, with the participation of representatives from a body vertically above the structure of the judiciary in the selection panel, the likelihood of avoiding bias, favouritism, paternalism, and so on. begins to raise questions. The problem could be alleviated if the selection board set up by the institution or group of institutions uses tailor-made, objective and transparent methods and procedures for assessing the suitability of candidates for the post, as this aspect is critical.

When considering the problem of "the right employee in the right place" and specifically the problem of assessing the competencies of applicants, it is necessary to pay attention to the competence of the assessors themselves and the information provided to applicants on the assessment method, process, and tools.

To achieve sustainable selection and promotion results, it is important to understand the selection specialist, i.e., the role of the evaluator. The influence of the assessor's abilities on the candidate's ability insight is key. The results of the research, in more than two-thirds of the cases, did not reveal the characteristics identified during the selection in the actual activities of the employee in the organization. This suggests that it is not enough to acquire methodologies widely used by recruitment

agencies or to use scientifically validated personality tests. The point is that the results of the tests require competent interpretation, so those in the selection process should have a good understanding of the relationship and limitations of the test and the job being applied for.

Although the world is globalizing, the cultural factor in the country remains relevant. A study by Lara, Mogorron-Guerrero & Ribeiro-Navaerrete[339] found that attitudes towards managerial competencies are similar in the US and Europe, while studies in Asian countries show that attitudes towards managerial competencies are distinctive. Despite the many similarities, some cultural differences in the comparison of managerial competencies and attitudes towards desired characteristics also exist at EU level. Due to their specific mission and the regulation of their activities, the courts are even more affected by cultural differences among countries. Thus, it is important to take into account the influence of the socio-cultural environment in the selection and promotion process of judges when selecting tools and methodologies for assessing candidates' competencies, accepting evaluators' interpretations and evaluation conclusions, and anticipating candidates' perceptions of procedural fairness.

## Set of court leader competences and methods of their assessment

On the basis of the analysis of the existing practices of selection of court presidents in different countries and concepts of managerial role in the organization, required competences to lead the organization, further the framework of court leadership competences is provided.

The framework outlines four competences which cover the main managerial responsibilities and two core characteristics that are essential for any good leader:
– Strategy (Setting direction) – Leads with vision and strategy, Accelerates future competences
– Execution (Delivering results) – Drives for results competence
– People (Engaging employees) – Empowers people competence
– Integrity – Integrity competence
– Self-regulation – Self-regulation competence

For each competence there is a description of what it means in practice, defining its behavioral indicators:

*Leads with vision and strategy:*

– Sets the organization's vision supporting core courts system values and mission.
– Translates organization's vision into long-term strategy.

[339] LARA, F. J., MOGORRÓN-GUERRERO, H., RIBEIRO-NAVARRETE, S. (2020) Vadovavimo kompetencijų žinios: tarpkultūrinė analizė tarp Amerikos ir Europos studentų, Ekonominiai tyrimai-Ekonomska Istraživanja, 33:1, 2059-2074, DOI: 10.1080/ 1331677X.2019.1585271