



# Networking activities of general judiciary – from theory to practice

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*Over the last three decades, networks – as a field of research – have acquired a significant place among management sciences. Unfortunately, in the judiciary they have become a subject of more careful analyses only recently, which resulted in a large discrepancy of knowledge – both in theory and in its practical adaptation for the needs of the courts. In order to fill this cognitive gap, an attempt was made to identify levels of organizational maturity of common courts in applying a network form of coordination to auxiliary activity. The basis material for the research was provided in 72 interviews with presidents and court heads, and observations of a non-standardized process of information exchange and knowledge sharing within the voluntary court network established during the implementation of the project hosted by the National School of Judiciary and Prosecutor's Office (Krajowa Szkoła Sądownictwa i Prokuratury) Education in time management and court proceedings costs – case management (Edukacja w dziedzinie zarządzania czasem i kosztami postępowań sądowych – case management). 60 regional, district and appeal courts from different appeals cooperated horizontally within the scope of this network. During the project, organizational and management solutions were implemented, such as: improvement of case flow management and efficiency of proceedings, development of effective information policy of courts and management of internal and external communication. As part of the exchange of information and knowledge sharing, the courts used the network form of coordination. The procedure proposed in this article designates five levels of organizational maturity of courts in the implementation of the network form of coordination. The developed procedure can be used to track the progress in the common courts' networking and to inspire the courts to use this form of coordination in practice.*

## Introduction

Courts count among public sector organizations whose primary form of coordination is hierarchy. Within its framework, communication is conducted vertically, on the line: higher courts (court of appeal,

district court) – lower courts (district court, regional court), and to some extent also on the line: the Ministry of Justice – courts. It is based mainly on control, guidelines or commands rather than cooperation or knowledge sharing. There are no fixed platforms and mechanisms for horizontal cooperation and information exchange between courts of the same level between appeals. This lack causes difficulties in promoting the best management practices, diversification of standards and quality of management, reducing the effectiveness of the judicial authorities.

The work of courts of law may be divided into the so-called adjudication activity (basic) and auxiliary activity, which plays a subservient role in relation to the basic activity. The main aim of the basic activity of the judiciary is to issue fair judgments without unreasonable delay passed by an independent and impartial court. Auxiliary activities are focused on ensuring appropriate technical, organizational and property conditions for the functioning of the court, allowing it to perform tasks related to justice and legal protection (activities subject to the head of the court) as well as ensuring proper internal court proceedings directly related to the performance of tasks referred to above (activities subject to the president of the court).

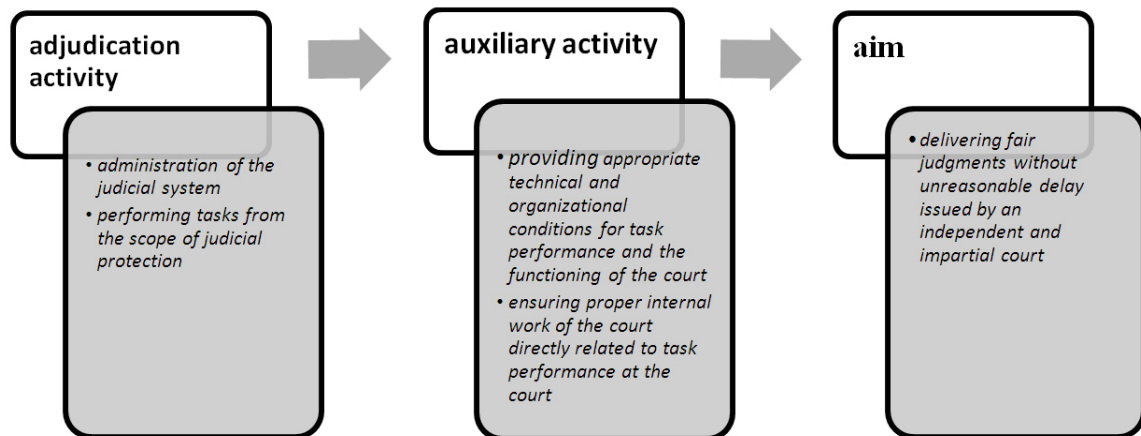
The article attempts to identify the levels of organizational maturity of common courts in implementing the network form of coordination in auxiliary activity. The authors deliberately omitted the issue of network coordination as part of the basic activity, as it is characterized by a specificity resulting from the fact that the basic activity is concerned with administering justice, in which the judges are independent. The exchange of information and knowledge sharing in this area is extremely important, since it can serve to build trust in the justice system by unifying views through consensus as part of different interpretative views. A perfect tool for this sake, serving at the same time as a manifestation of the network management paradigm, may be teams of judges (communities of

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**Figure 1. Basic and auxiliary activity of courts**

Source: authors' findings.

practitioners) in horizontal arrangements within districts and appeals or between districts and appeals in civil, criminal and economic cases. Network coordination as part of the core business will be discussed in the other article.

In the light of the problem highlighted in the article, attempts have been made to determine the organizational maturity levels of courts of law for the networking forms of coordination, together with the indication of potential benefits for the justice system. The article presents the characteristics of five levels of organizational maturity of courts as units of the judiciary.

### A lacuna in theory

Currently, networks are considered a key aspect of social dynamics and the most appropriate form of action of contemporary societies. A common feature of network mechanisms is a reflective self-organization of independent actors involved in complex relationships in the context of mutual interdependence – assuming that such self-organization is based on continuous dialogue and resource sharing aimed at implementing mutually beneficial projects, as well as at solving conflicts and dilemmas inherent in this kind of contacts (Klijn, Koppenjam, 2011, p. 127). Networks as a research area have gained a significant place in management sciences, including also public management. We are witnessing the development of the second generation of research on network management, which focuses on questions that have yet to be answered. These questions concern the future based on networks of coordination linking different levels of management, meta management of self-regulating networks, the role of discourse in relation to network governance, and the problem of democracy and the potential of network governance (Jessop, 1998, 2002; Kickert, Klijn, Koppenjan, 1997; Rhodes, 1997a, 1997 b; Foucault, 1991; Dean, 1999; Rose, 1999; Rose, Miller, 1992; Kooiman, 1993; Mayntz, 1991; Scharpf, 1993, 1994, 1997; March, Olsen, 1995; Powell, DiMag-

gio, 1983, 1991; Scott, 1995; Torfing, 2010). Research within the subdiscipline of public management concerns primarily public administration. The courts and their potential for network coordination have so far remained beyond the interest of researchers, probably because of the mechanism of hierarchical subordination that characterizes judicial organization.

Networks are increasingly seen as a remedy for the malfunction of the state and its administration as well as a way of dealing with market failures. Their advantages and serviceability are thus emphasized, indicating that:

1. they have the potential to anticipate problems and respond flexibly,
2. they are able to aggregate information, knowledge and to interpret it, which enables making rational decisions,
3. they serve to solve conflicts between their participants by offering negotiated, consultative and decision-making procedures,
4. they facilitate making economically rational and socially legitimate decisions,
5. they enable conducting experiments and searching for alternative and innovative solutions,
6. they boost the flexibility of public actions by means of the resources of external partners,
7. they increase the likelihood of public policies being implemented through the involvement of network actors in shaping the objectives of these policies and the methods of achieving them (Klijn, Koppenjam, 2011, p. 129; Mazur, 2015, p. 40).

Courts (as well as other organizations of both private and public sectors) are embedded in a dense structure of ties with their environment (Czakoń, 2007, p. 18; idem, 2012, p. 22), which includes also other courts. Although the legal frameworks for their creation and for their functioning are identical, the courts are characterized by diversity. And it is not only about the differences resulting from the hierarchy – they differ both in their material resources (depending on size) and in non-material resources: knowledge and

skills of employees, but also organizational culture and the ability to learn (Banasik, Brdulak, 2015, p. 33) as well as reputation and a network of contacts (Banasik, Morawska, 2016, p. 428). Courts should strive to unify the services they offer – both in the areas of case-law and administrative law – as opposed to enterprises, where resources together with their key competences serve to build competitive advantages on the market. Courts do not compete by means of products or services for the client; the local characteristics of the court is determined by regulations. Moreover, a citizen has the right to obtain the same quality of service in every court. The common judiciary is based on a hierarchical form of coordination (Banasik, Kuczevska, Morawska, 2018, p. 4), and the architect of this subordination is the legislator who has decided on at least two-stage court proceedings. The number of courts of appeal and, within their frame, district courts (district) as well as of regional courts subordinate to them depends on the second “architect”, i.e. the minister of justice. The common judiciary now consists of eleven appeals. Defining tasks and determining the number and location of courts in legal regulations operates on a principle of stability, and therefore means immutability, petrification, as well as the inability to respond to changing environment, and consequently may cause regulatory dysfunction.

A counterbalance to the hierarchy may be voluntary court networks, oriented to the creation, acquisition, dissemination and use of knowledge, and the implementation of mutual learning processes and processes of commercialization of knowledge and information - i.e. innovation networks. We can follow the antecedents for the innovation network in common courts by referring to the multicentricity of the law. A departure from a hierarchically ordered and monocentric model of the legal sources system, which can be depicted as a pyramid or a ladder has recently been observed. The network architecture is possible both in a vertical system (court – interested party), as well as in a horizontal system (court – court or court – law corporations). In a horizontal

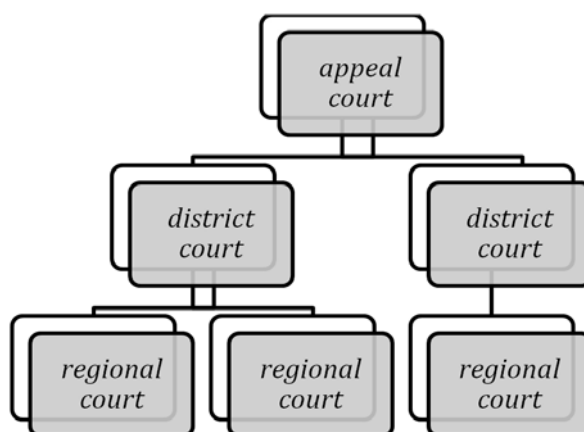
configuration, homogeneous networks (court – court) or heterogeneous networks (court – law corporations) are possible. The task of heterogeneous horizontal networks should be to search for innovative solutions among organizations that are close to organizational law courts, while their adaptation to the needs of courts could take place within horizontal homogeneous networks. The study of social expectations and anticipatory identification of problems, as well as flexible response to them, would be implemented as part of heterogeneous vertical networks.

### Research Methodology

In order to identify the levels of organizational maturity of the network forms of coordination:

1. The research problem, subject matter and scope of the research (preliminary stage) were determined and literature studies were conducted, involving analysis of source documentation, historical materials and reports made available by the National School of Judiciary and Public Prosecutor's Office (Krajowa Szkoła Sądownictwa i Prokuratury), Ministry of Justice of the Republic of Poland and studies prepared by international organizations.
2. Interviews with respondents were carried out from November 2015 to March 31, 2016 (72 free interviews with presidents and court heads). In a free interview, sometimes also called an in-depth ethnographic interview, the interviewer is free to arrange the sequence of questions, and the way they are formulated depending on the circumstances of the interview. The interview was conducted on the basis of a questionnaire standardized in a greater degree.
3. Investigations were made into a non-standardized process of information exchange and knowledge sharing through voluntary court networks between pilot courts during the implementation of good managerial and organizational practices.

Figure 2. Hierarchy in Common Courts



Source: authors' findings.

Analysis of the results of a pilot consulting project on the implementation of modern methods of common courts management, carried out in 2011–2015 as *PWP Edukacja w dziedzinie zarządzania czasem i kosztami postępowań – case management (Education in the field of time management and costs of proceedings – case management Project POKL 05.03.00-00-012/1)*, became an inspiration to enhance the study of network coordination in common courts.<sup>1</sup> As part of a pilot project in sixty selected common courts (district, regional and appeal courts), with the support of external experts, a project “good practices” was implemented,<sup>2</sup> which proposed management improvements in the areas of communication, human resources management and the use of modern technologies to monitor the flow of cases through the court and finances. External experts, in cooperation with the presidents and directors of the pilot courts, were identifying process, organizational and social innovations, describing them and then implementing them in all pilot courts. The pilot was complemented by workshops supporting the implementation of the “good practices” in the area of improving the service of the client, managing the flow of cases and workload in the department, the use of modern technologies in the justice system, work organization in the judge’s caseload, human resources management and court finances as well as modern leadership in the judicial systems. As part of the pilot, communities of practitioners, consisting of presidents and heads of the pilot courts, were also established.<sup>3</sup> Presidents and directors met regularly and voluntarily to develop management solutions that would be optimal from the point of view of the organization of justice. These meetings constituted a sort of a platform for vertical and horizontal exchange of ideas and experiences. Participation of decision-makers in the communities of practitioners guaranteed a practical implementation of the developed solutions. As a result of the pilot, a network of pilot courts was established. As part of the pilot project, a discussion forum was cre-

ated, which served the project participants as means of exchanging views and experiences. It provided easy and quick access to compiled knowledge. The analysis of the results of research conducted in pilot courts indicated that there existed a considerable potential in the judiciary for creating voluntary court networks. Their main goal would be to connect its members, facilitate common activities and learning, and, in consequence, to create new solutions to existing problems. The research shows that judicial cooperation neglecting the existing hierarchical subordination is possible (Banasik, Morawska, 2016, p. 430). The multi-entity character and complexity of the organizations under investigation causes many difficulties, not only when analyzing the functioning of emerging networks, but above all, in defining them as a subject of research that can be examined, measured and systematized.

Networks created as a result of project implementation:

1. are voluntary (network members remain independent and interact only when needed; the links between them are loose and sporadic; these networks assume a loose form of cooperation and their primary purpose is knowledge sharing),
2. do not have a separate management unit, organizations make decisions on equal terms,
3. they are at an initial stage of development, in which relationships are built, standards set, and directions of action determined. It is difficult to talk about a high degree of trust, links with other networks or strong relationships (Banasik, Morawska, 2015, pp. 35–57; Banasik, Morawska, 2016, pp. 421–436).

It can also be assumed that as a result of the project, the concept of network in the surveyed entities is used as the basis for introducing innovations and new ways of managing complex interactions (Brzóska, 2014, p. 46).

<sup>1</sup> A more general description and results of the research in the field of the potential of common courts in the implementation of the network coordination form are presented in the publication: Banasik, P., Morawska, S. (2015), *Zarządzanie (współzarządzanie) sieciowe i zarządzanie sieciami w wymiarze sprawiedliwości – wyzwania*, *Studia i Materiały. Wydział Zarządzania Uniwersytetu Warszawskiego*, pp. 98–112.

<sup>2</sup> The following “good practices” were implemented as part of the pilot: 1. Managing the tasks of court referendaries, 2. Managing changes in employees’ attitudes, 3. Electronic ordering, 4. IT tools for internal communication, 5. Managing court records in digital form, 6. Analysis of activities in the case law, 7. Management of employee knowledge and competences, 8. Non-financial instruments of motivation, 9. Standardization of workstations, 10. Examination of satisfaction of court employees, 11. Staff audit, 12. Participatory model of court management, 13. Management of employee innovation, 14. Improvement of the case law support system, 15. Management of recruitment and adaptation of employees, 16. Organization and functioning of the Customer Service Office, 17. IT system of resource reservation, 18. Management of the system of periodic employee evaluation, 19. Audit of computer security, 20. Management of IT resources and services, 21. Improvement of the court image, 22. Court in the social environment, 23. Organization of accounting in the environment of new technologies, 24. Court as a self-learning organization.

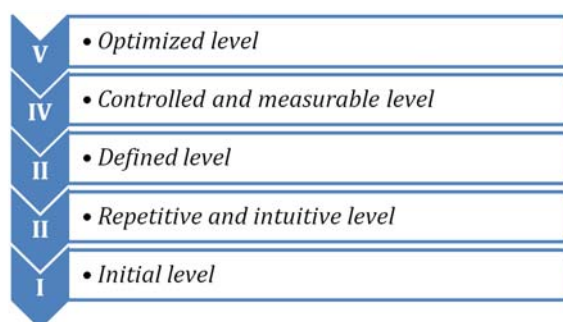
<sup>3</sup> A community of practitioners is defined as “a group of people who share interest in a specific area and who increase their knowledge about it through permanent, regular interaction. A community of practitioners can be treated as a platform for both formal and informal communication based on the involvement of all participants and focused on increasing their knowledge.

## Discussion of the obtained results – levels of organizational maturity for networking observed at courts

The conducted research enabled to identify five levels of organizational maturity of courts. The level system is shown in figure 3.

Table 1 presents a description of individual levels of court maturity for network coordination observed in the courts participating in the project.

**Figure 3. Levels of organizational maturity of courts**



Source: authors' findings.

**Table 1. Description of the levels of court maturity for the practice of *Networking in the common court***

Maturity level	Characteristics
I <i>Initial level</i>	<ul style="list-style-type: none"> <li>– In the last 24 months, no inter-organizational cooperation (relationship) has been established with other courts, going beyond formal business relationships between courts;</li> <li>– in the last 24 months no inter-organizational cooperation has been established with other organizations in the field of justice (prosecutors, notaries, lawyers, legal advisers, universities, non-governmental organizations);</li> <li>– in the last 24 months, within the framework of hierarchical networks, employees did not participate in thematic networks (communities of practitioners).</li> <li>– In the last 24 months, irregular meetings of presidents or court heads in appeals or districts were held within hierarchical networks.</li> </ul>
II <i>Repetitive and intuitive level</i>	<ul style="list-style-type: none"> <li>– In the last 24 months, inter-organizational cooperation with other courts has been established, going beyond formal business relationships between courts in the area of appeal;</li> <li>– within the last 24 months, inter-organizational cooperation was established with other organizations of the area of justice (prosecutors, notaries, lawyers, legal advisers, universities, non-governmental organizations) as part of bilateral contacts;</li> <li>– cooperation within the network is irregular;</li> <li>– in the last 24 months, within the framework of regulatory networks, court employees participated irregularly in thematic networks (communities of practitioners), the court was an absorber of knowledge in the framework of inter-organizational cooperation;</li> <li>– In the last 24 months, irregular court meetings of presidents or court directors within a district or appeal were held within hierarchical networks.</li> </ul>
III <i>Defined level</i>	<ul style="list-style-type: none"> <li>– In the last 24 months, inter-organizational cooperation with other courts has been established in the court, going beyond formal business relationships between courts in the area of appeal;</li> <li>– in the last 24 months, inter-organizational cooperation was established with other courts going beyond formal business relationships between courts of various appeals;</li> <li>– in the last 24 months, inter-organizational cooperation was established with other organizations of the field of justice (prosecutors, notaries, lawyers, legal advisers, universities, non-governmental organizations);</li> <li>– cooperation within the network is irregular;</li> <li>– in court in the last 24 months as part of hierarchical networks, court employees participated in thematic networks (communities of practitioners), the court was an absorber of knowledge in the framework of inter-organizational cooperation;</li> <li>– in court in the last 24 months, monthly meetings of court presidents in the districts and appeals were held as part of hierarchical networks.</li> </ul>

**Table 1 – cont.**

Maturity level	Characteristics
<p style="text-align: center;">IV <i>Controlled and measurable level</i></p>	<ul style="list-style-type: none"> <li>– In the last 24 months, in the court, inter-organizational cooperation was established with other courts, going beyond formal business relationships between courts in the area of appeal;</li> <li>– in the last 24 months, inter-organizational cooperation with other courts was established, going beyond formal business relationships between courts of various appeals;</li> <li>– in the last 24 months cooperation within the court has been established as part of cooperation with other organizations in the field of justice (prosecutors, notaries, lawyers, legal advisers, universities, non-governmental organizations);</li> <li>– cooperation within the network is regular – network actors (their representatives) meet once a month;</li> <li>– in the last 24 months court employees have regularly participated in thematic networks (communities of practitioners), as part of hierarchical or cooperative networks;</li> <li>– the court was an absorbent and transformer within the framework of inter-organizational cooperation;</li> <li>– in court in the last 24 months, monthly meetings of court presidents in districts and appeals were held as part of hierarchical networks.</li> </ul>
<p style="text-align: center;">V <i>Optimized level</i></p>	<ul style="list-style-type: none"> <li>– In the last 24 months, the court has become an integrator of inter-organizational cooperation;</li> <li>– in the last 24 months, inter-organizational cooperation was established with other courts going beyond formal business relationships between courts in the area of appeal;</li> <li>– in the last 24 months, inter-organizational cooperation with other courts was established, going beyond formal business relationships between courts from various appeals;</li> <li>– in the last 24 months cooperation within the court has been established as part of cooperation with other organizations in the field of justice (prosecutors, notaries, lawyers, legal advisers, universities, non-governmental organizations);</li> <li>– cooperation within the network is regular – network actors (their representatives) meet regularly within the set calendar of meetings, knowledge transfer takes place via an online platform;</li> <li>– in the last 24 months court employees have regularly participated in thematic networks (practitioners’ communities) as part of hierarchical or cooperative networks;</li> <li>– the court was an absorber, transformer and creator of knowledge within inter-organizational cooperation;</li> <li>– in court in the last 24 months, regular meetings of presidents or court heads in districts and appeals have taken place within hierarchical networks.</li> </ul>

Source: authors’ findings.

**General recommendations for networking in the judiciary**

The “networked” structure is above all a great challenge to making independent decisions and taking responsibility for one’s own actions. In this case, it is not a full control, but an appropriate management style and appropriate tools that support employees and give them space to engage team members in the functioning of the organization, as well as the development of intra-organizational activities, that is, the ability to see the needs, generate and improve ideas as well as the ability to use opportunities and take risks.

Unification of activities within the framework of auxiliary activities of courts in districts and appeals (using the practice developed in the study) would foster increasing trust in the justice system, while appointing groups trained and responsible for activities in this area could contribute to actions aimed at quality management. Collaboration in teams would also have a positive impact on relationships, and in connection with closer cooperation and knowledge sharing – perhaps also on the quality of case law. The effectiveness and efficiency of the network depends on the work of all its elements, so it is important to have a fast flow of information and materials within the existing network (Odlanicka-Poczobutt, 2016, p. 45).



Basic recommendations for the network practice form of coordinating cooperation in courts:

1. development of tools for active search for the best solutions in the dynamic transfer of knowledge between all network participants at all its levels, which in turn is expected to result in the increase of applicability, including more effective acquisition of knowledge, its unification and consensus between different interpretative views;
2. development of tools for knowledge transfer and creation of a database available to members of the network;
3. developing a model of horizontal and vertical organizational cooperation between district, regional and appeal courts as well as between courts and external stakeholders of the judiciary;
4. improving the efficiency of information and knowledge exchange;
5. creating a set of tools supporting the development of inter-organizational cooperation and enabling the use of information, knowledge, skills, competences and motivation to improve and perfect courts – project management, stakeholder analysis, benchmarking, outsourcing, mentoring, coaching, strategic scorecard and kaizen;
6. presentation of management concepts that support the development of inter-organizational cooperation: project management, innovation management, knowledge management, human capital management, strategic management, process management, change management and value management.

Potential benefits that could be acquired are:

1. joining the courts, facilitating joint activities and learning, and consequently creating new solutions for existing problems;
2. evolution of the court towards an open organization involving stakeholders of the judiciary in solving specific problems (implementing the concept of crowdsourcing – drawing ideas from judiciary stakeholders);
3. use of intellectual resources, existing outside the court, to carry out innovative changes in the processes and manners of its functioning;
4. building social capital through the development of communication with all judiciary stakeholders;
5. expansion of networking in the judiciary – transfer of “good practices”;
6. promoting the court as a knowledge-based organization that uses networks for internal and inter-organizational learning;
7. supporting the image-building activity of the court – moving away from the image of a bureaucratic-oppressive institution towards an institution of social trust;
8. support of court information activities;
9. inclusion of other entities in the construction of a judicial area on partnership principals;

10. activating court employees and enhancing their competences.

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### Conclusions

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Creating modern, flexible solutions in place of hierarchical structures gives organizations the opportunity to more efficiently obtain resources, reduce costs and increase operational excellence. It also enables more effective learning, and helps to avoid barriers, reduce risks and limit uncertainty. It is worth noting that all these factors translate into the speed of action, i.e. the shortest possible response time of the organization to change occurring in its environment. This is the greatest advantage of the network. The courts are an interesting research object; they create open systems, where organizations are not atomized, and constitute an element of a constantly expanding complex network in which processes of value delivery to various stakeholders are implemented. At the same time, the environment of courts as judicial units is not nameless, and thanks to the relationships of various entities inside voluntary networks – it can be perfected. The results of the research indicate that it is possible to use the network form of coordination in courts – even though hierarchical subordination forms the organizational basis, and communication is mainly based on controls, guidelines and instructions. Cooperation within the network can contribute to the organizational efficiency of public judiciary through a rational use of resources and harmonious cooperation of all organizational elements. The practice of network coordination in common courts can contribute to the use of this form of coordination and help in assessing the level of court maturity on the way to networking.

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## Abstract

*The development of the concept of the network, which is used both to explain complex decisions made in the area of implemented policy and as a basis for introducing innovations, is currently of significant importance for organizations. The analysis of network relations may contribute to increasing the efficiency of managing complex interactions that also arise in the sphere of entities participating in activities aimed at satisfying social needs, which is why the common courts that constitute the system of justice is the subject of interest.*

*The purpose of this article was to determine the levels of organizational maturity of common courts for the practice of cross-referencing within the justice system, the formulation of general recommendations in this area, and indication of potential benefits. The research involved direct interviews and participant observations as a result of the project POKL 05.03.00-00-012/11, entitled PWP Education in the field of time management and court proceedings costs – Case management. Nearly 10% of all courts in Poland were subject to the survey. The research results became the basis for determining the levels of organizational maturity of the courts.*

*The results obtained indicate the potential for the judiciary to create horizontal organizational links, the purpose of which is to connect members of the organization, facilitate joint activities and learning, and consequently create new solutions to existing problems. The research shows that the level of maturity is varied, but judicial cooperation is possible, cutting hierarchical subordination as a voluntary inter-organizational network.*

**Keywords:** network, networking, justice, common courts, levels of organization maturity

## Networking activities of general judiciary...

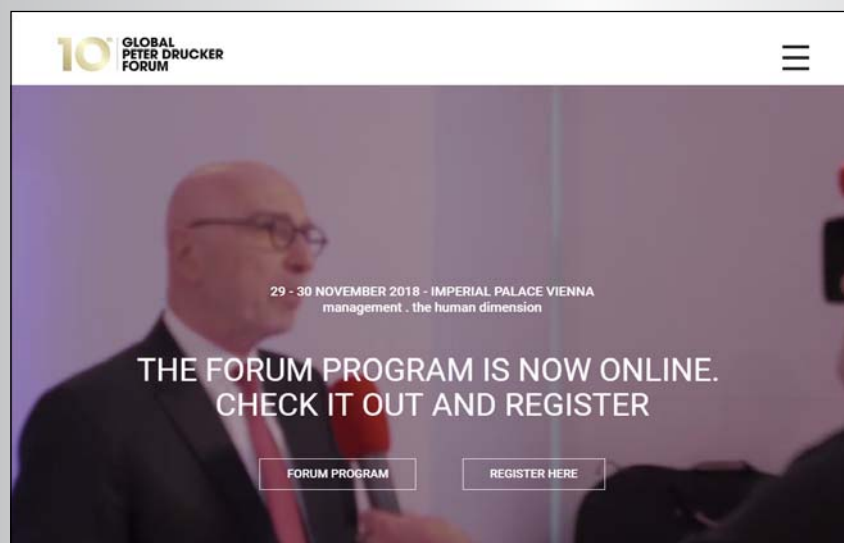
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## WE RECOMMEND

10 Global Peter Drucker Forum: 29-30.11.2018, Vienna, Austria



“What would robots do if humans took over?” The joky question posed by Shagun Tripathi at the Global Peter Drucker Forum 2018 raises a fundamental issue. It prompts us to remember that the economy, technology, business and government are not givens – they are shaped by human choice. Yet it also forces us to recognize that the human perspective has been increasingly sidelined in the way we think about and enact the relations between technology and society, leaving the most precious, human, potential undervalued and underused. “Taking over” means actively

shaping the organizations of the future and taking on a different mind-set: Should leaders in the 21st century become as good in understanding the human dimension as they are in grasping the latest scientific discovery, technology or management technique? Should they be able to frame challenges differently and ask different questions? At best, should we more actively manage the creation of our own future?

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