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# ***Designing And Implementing Delay Reduction Projects In Courts***

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## **Abstract:**

The paper brings insights into and suggestions for planning and implementing delay reduction projects in courts. On the basis of five case studies, the paper describes possible ways to carry out delay reduction projects and analyzes the critical factors in them during the different change project stages: analyzing stage – planning stage – implementation stage. Critical success factors, guidelines and suggestions for each stage are provided on the basis of the analysis. Also the possibilities and challenges of using outside expertise in improvement projects are discussed.

## **1. Introduction**

Delays and backlogs in the justice system have been undermining the functioning and performance of court processes in many countries for decades. The widespread concern about delays and the realized need for improving process performance has led to a rise in studies and research concerning the possibilities of different types of caseflow management applications. These have produced a variety of proposed solutions aimed at increasing the role of time management and time-frames in court operations (see for e.g. CEPEJ, 2005; Coolsen, 2005; Di Vita, 2010; McWilliams, 1992; Ostrom and Hanson, 2000; Steelman and Fabri, 2008).

In order to enhance the ownership, acceptance and implementation of different caseflow management solutions, there is a need to analyze and study the possible ways and procedures of organizing, designing and carrying out process improvement and delay reduction projects in courts.

The objective of the present study is to bring insights into and suggestions for planning and implementing delay reduction projects in courts. The aim is also to analyze the critical success factors in delay reduction projects and the ways the factors can be taken into account in different stages of the improvement work.

This study is based on experiences and lessons learned in five delay reduction projects carried out in five different Finnish Courts of Justice in the years 2006-2012. These projects have been designed and executed in close co-operation with outside experts in the field of process improvement and operations management, and the management and personnel of the courts. The study utilizes diversified data collected during the research projects: participant observation and field notes in process improvement workshops, interviews, and statistical data.

The paper describes the context and progress of the delay reduction projects, and analyzes the critical factors in them, during the change project stages: analyzing stage – planning stage – implementation stage. On the basis of the analysis, critical success factors, guidelines and suggestions are provided. Also the possibilities and challenges of using outside expertise in improvement project are discussed.

The next chapter provides an overview on the literature related to process improvement programs in professional organizations in general and in courts particular. Chapter 3 introduces the studied process improvement project. In chapter 4 the results of the improvement projects are discussed, and chapter 5 presents the final conclusions.

## **2. Process Improvement Programs in Courts**

As the pressure to improve process effectiveness has expanded also to the operational environment of public sector organizations, the process improvement approach to change has become increasingly studied also in the public sector and in the professional and service organizations. Improvement expectations in these areas concentrate often on decreasing throughput-times, managing time-related issues in the process, and increasing organizational flexibility (Ferne and Rees, 1995; Lowendahl, 2005; Korhonen, 2008; Ongaro, 2004).

The challenges inherent in organizational improvement projects are usually connected to problems in creating sustainable change and building organizational improvement competences. The difficulties are often connected to a lack of earlier experience from similar projects and difficulties in determining the resources, competences and time needed for the project. Resistance to change usually reflects the confusion caused by not knowing (the tangible objective) or not understanding (the implementation process, individual and team involvement). The lack of fully understanding the implications of the intended change and the lack of understanding the reasons behind the need for change causes low

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morale, disinterest and lack of enthusiasm towards the project and changes. To overcome these problems greater emphasis should be put to the project procedures and interventions aiming at building organizational commitment to change and making the change initiatives stick in the organization (see e.g. Cicmil, 1999; Hammer, 2001 Korhonen, 2008; Longenecker et al., 2006; Roberto and Levesque, 2005).

Critical success factors to be considered in achieving these aims have been said to be for example the level of participation, a clear focus and project scope, strong leadership, a sense of urgency, real-time feedback through testing and experimenting, a clearly defined improvement plan, effective training, and effective analysis based on accurate data (see e.g. Hagsgård, 2008; Hammer 2001 Korhonen 2008; Longenecker et al. 2006 Roberto and Levesque 2005).

The special characteristics of professional public organizations and processes make it even more important, but also more difficult, to achieve the commitment and willingness to change and the ownership and institutionalizing of the change efforts. The autonomous and individual nature of the work makes the achieving of widespread willingness and motivation to improvement a prerequisite for a successful improvement project (Hagsgård, 2008). The need for autonomy, traditional and historical working methods, and the complicating factors inherent in the production process create prejudice towards the suitability and functionality of process improvement solutions. Multiplicity of different stakeholders makes it more difficult to get consensus of what is important and what is the goal, value, and customer of the operations and processes. Due to these complicating characteristics, special attention is needed in the participation of employees, building the process improvement capability, understanding the need for change, reinforcing the change and the crucial role of top management in the improvement efforts (see e.g. Brashier et al., 1996; Cheng, 1990; Fernandez and Rainey, 2006; Hagsgård, 2008; Lowendahl, 2005; Price and Brodie, 2001).

Hagsgård (2008) has reported a successful approach to court improvement emphasizing the importance of internal and external dialogue and communication during the improvement work. The success of the approach rely on widespread participation of different stakeholders, building commitment to improvement, having systematic working procedures, having clear action plans and measures for success, giving time for employees to reflect on changes and giving extra attention to the follow-up and evaluation of the project results. Hagsgård (2008) also highlights the importance of face-to-face dialogue in reaching agreement of improvement needs and efforts, and the careful use of outside experts and consultants in court process improvement.

In the United States, Aikman (1994), representing the National Center for State Courts, has written a handbook about Total Quality Management applications in courts. Four key points in TQM applications can be identified from the handbook. The first is the importance of involving and empowering the staff and thus creating an energized atmosphere and a steady stream of ideas for enhancing continuous improvement. The second is that the concept and technique used need not be highlighted. It is not required that courts use the term "total quality management" in their improvement efforts. A survey among courts proved that courts have used the principles of TQM in their improvement work but adopted and preferred some other label for it. In courts it is important that improvements need not be implemented in some predefined steps and schedule; the time-frame for improvement projects in government units normally needs to be much longer than in the private sector. The change needs to be introduced patiently and persistently, inch by inch. Thirdly, the importance of leadership commitment was highlighted in keeping the improvement work ongoing by endorsing it as the most appropriate management approach. The fourth key point is the need to use objective performance data as the foundations for management decisions and improvement. Courts have usually mountains of data; however, the use of the data is often not suitable to enhance the identification of the causes for problems or identifying the possible solutions.

The present study aims to take into account the prerequisites of successful process improvement work reported in literature and bring new insights and suggestions on how to design and carry out process improvement programs in courts.

### **3. Process Improvement Projects**

This chapter introduces the general progress and content of the action research improvement projects carried out in the case courts, and describes the phases, actions and interventions. The data for this research is based on five longitudinal case studies conducted during the years 2006-2012 in five different Finnish courts. The case courts were the Helsinki Court of Appeal, the Insurance Court, the Helsinki District Court, the Helsinki Administrative Court, and the Supreme Administrative Court. These organizations have the largest caseloads in Finland and they also suffer from the longest delays, and that is why the development projects were directed to these organizations. The case courts, the events in various phases and the gathered data are summarized in table 1.

**Table 1 – Summary of the case organizations, events and gathered data**

Case Organization	Helsinki Court of Appeal	Insurance Court	Supreme Adm. Court	Helsinki Adm. Court	Helsinki District Court
Cases/year	4000	7000-8000	4000-5000	8000-9000	60 000-70 000
Employees	170	110	100	150	330
Status (in 05/12)	Finished 03/06–12/09	Finished 08/08- 06/10	Evaluation phase 01/11 -	Evaluation phase 01/11 -	Implementation phase 01/11 -
<b>Events in various phases</b>					
Analysis	3	5	2	2	3
Planning	10	4	2	2	3
Testing	4	1	1	1	
Implementation	6	1	2	2	1
Evaluation	2	2	1	1	
<b>Types of gathered data</b>					
Semi-structured interviews	32	50	20	20	25
	Workshop results, Field notes, Numerical data of caseloads, Project reflection documents				
<b>Methods of data analysis</b>	Content analysis, Quantitative analysis				

The research projects were based on active teamwork and interaction between the researchers and the case organizations. During the development project, there was a group of researchers involved who analyzed the initial stages of the projects, planned and prepared the work group sessions, and also analyzed the results of the sessions. Every case organization formed a work group of 5-10 persons who represented various occupational groups from different levels of the organization: including court clerks, assistant judges, judges, senior judges, administrative staff and department and top management. A coordinating person from the court side was named, who was responsible for choosing the participants to the improvement group. These groups were the core of the development and planned the needed changes together with the researchers. Wider participation was ensured by conducting interviews among court personnel.

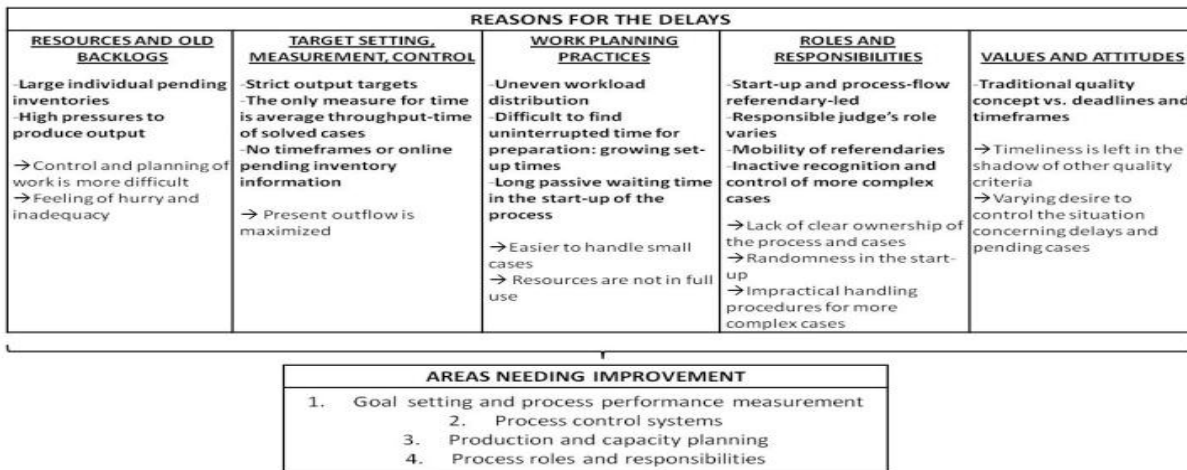
The research projects consisted of the phases of data gathering and analysis, planning, and implementation. Although the phases are here presented as separate, the actual situation was usually that some phases were performed partly simultaneously. The phases and their purposes and lengths are presented in figure 1.



**Figure 1 – Phases of the process improvement projects**

#### 4. Analyzing the Process Improvement Needs

The aim of the analysis phase was to discover and analyze the underlying reasons causing the delays. In this phase, several reasons for the delays were identified. For example, resources and old backlogs and target setting, measurement and control were areas which caused the cases to be delayed. Four main areas needing improvement could be highlighted. These areas were goal setting and process performance measurement, process control systems, production and capacity planning, and process roles and responsibilities. The reasons for the delays and the main improvement areas are presented in figure 2.



**Figure 2 - Summary of the categories of reasons for delays and areas needing improvement**

One aim of the analysis phase was also to create motivation and challenge the existing working methods. In order to succeed in this phase, several critical factors had to be taken into account. These factors were:

1) Addressing the initial motivation

To create ownership towards the process improvement projects, the initial need for change and improvement had to be discussed in order to create widespread willingness and general wanting to change. Without this there would be a danger of “spurious improvement”.

2) Understanding the scope and scale of changes needed

The basis for understanding the scope and scale of the needed changes had to be created in the beginning of the improvement work. Creating understanding of the problem and its causes increases the motivation and commitment to start the process improvement work systematically, aiming for deeper and more profound changes in operations and attitudes.

3) Getting new perspectives

Because the procedures had a strong and fixed background and history it was possible that there would be difficulties in getting a new perspective to the work processes and to really challenge the existing ways of doing things. Using external expertise is useful, because the external expert can bring a new perspective to operations and have novel ideas. However, this contains a risk of reinforcing prejudice towards the project and decreasing the ownership towards the project. That is why it is important that the external expert does not force some techniques, but merely introduces ideas, possibilities and challenges.

4) Building the capability and continuity for improvement

Two aspects had to be taken into account when the project was planned: the actual staffing of the improvement group and creating understanding in the group of the need of commitment towards long-term and persistent improvement work. Also top management involvement was essential for increasing motivation and bringing in decision making power.

5) Building trust between participants

Professional organizations are often hierarchical, and the employees hold a great deal of professional respect and pride. This is why building trust between the participants is important for creating a good atmosphere. If an outside expert is used, building trust between the organization and the outsider is necessary.

**5. Planning the Improvement Solutions**

The purpose of this phase was to plan the needed changes and actions in order to create solutions for the problems which were identified in the analysis phase.

A prerequisite was to sharpen the target-setting – setting case-differentiated time-frames and targets, and process-phased time-frames and targets. The importance of these time-frames has been reported in many studies (e.g. CEPEJ 2005), but none of the case courts had agreed time-frames nor targets previously.

After that the operational improvement solutions were designed. These solutions can be divided to two groups: work-planning practices and process control – practices. The overall planning process and the most important improvement solution areas are presented in figure 3.

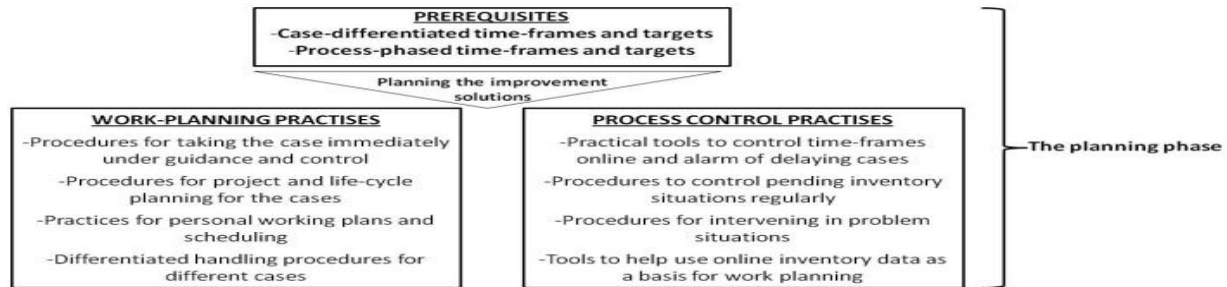


Figure 3 – Planning the process improvement solutions and the most important solution areas

The project group designed new solutions and work-planning tools for both improvement areas. One example of a tool for process control practices is a time-frame alarm-system. The system aims to be a work-planning tool and an important means to equalize throughput-times. The basic idea of this system is that the cases in danger of delay need to be detected earlier, when the overall time-frame can still be reached. The system helps to pay attention to delays happening in the early handling stages, and appropriate interventions can be made. The system is three-phased, with control points with a time-frame set in three different handling phases. The time-frames for these phases and the alarm-levels have been designed in the way that no cases will be pending over 12 months. The idea of the process control points, case-differentiated time-frames for priority and non-priority cases and alarm-levels are presented in table 2.

Table 2 – The control points, time-frames and alarm-levels set for normal and priority cases

	Reason for alarm	Recipient of the alarm	Alarm- levels (days pending)			
			Normal case		Priority case	
			Lower	Upper	Lower	Upper
Control point 1	Referendary has not been selected for the case	Court Clerk	130	180	60	80
Control point 2	The decision draft has not been delivered to the Judge division	Referendary	180	240	80	110
Control point 3	A decision has not been made for the case	Judge	270	360	120	150

With the help of the alarm-system, a person can easily control his/her own inventory situation and plan the work according to the age of the cases. The data system also enables the managers to monitor the overall situation of pending cases and inventories easily online, as the pending case listings are available from the data system by the whole court, the departments, persons, subject groups, complexity, priorities and decision divisions. If the pending time of a case has for some reason exceeded the set time-frames in some control point, the alarm system symbol appears in the case listing in the data system for the particular person responsible for the next advance phase in the handling. If the case has exceeded the lower alarm- level, the symbol in the listings is one exclamation mark, and if the case exceeds the upper-alarm level, the symbol is three exclamation marks. An example of the basic scene in the data system is depicted in figure 4. In this example a judge's pending inventory listing is presented with the alarm-system symbols: age in days, exclamation marks, green diamonds for priority cases and black diamonds when the case is evaluated as complex.

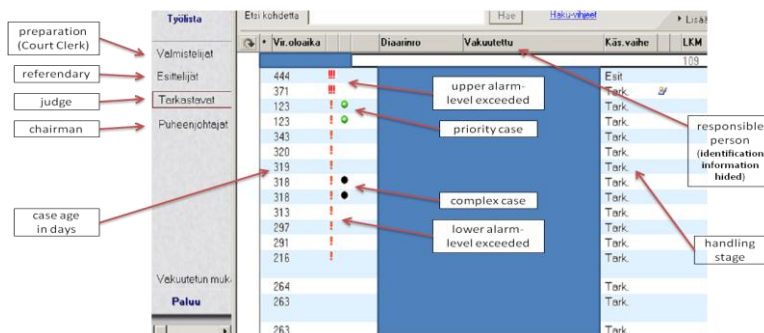


Figure 4 – Example of the alarm-system symbols in a judge's pending inventory listing in the data system

The critical factors in the planning stage of the improvement work are issues that should be incorporated in the improvement initiatives to create functional and acceptable process improvement solutions. The factors are:

1) Tailoring the solutions

The exact needs can differ from organization to organization, and that is why it is important that the planned solutions are based on the analysis made earlier to create ownership towards the solutions and to increase commitment. The external expert can bring ideas and keep the planning work going on, but the members of the organization need to plan the exact context of the improvement initiative.

2) Introducing change incrementally

In professional organizations there is a fear that the improvement solutions will only complicate the already highly complicated work and require extra work and efforts, and thus the willingness to try and understand new things may decrease. This is why the solutions should be kept simple and introduced incrementally, keeping the new information at an acceptable level and using appropriate language.

3) Building flexibility to the solutions

The old methods of working are usually deep-rooted and due to the autonomous nature, everyone has created a way of their own in carrying out the work. When the solutions are planned to be flexible so that everyone can utilize them easily, the adoption and acceptability of the solutions increases. This means that the solutions are more in the nature of helpful tools, collectively agreed rules, guidelines and procedures.

4) Building automatically directing solutions

Due to the autonomous nature of the work, the acceptable and functional solutions should be based on self-control and self-management of the employees, which automatically directs their work and is not based only on direct supervision. The solutions need to be genuinely helpful in carrying out the work and present in everyday operations.

**6. Implementing Improvement Solutions**

The attitude of the personnel affects the success of the implementation phase. The attitudes were mainly positive, but also opposite attitudes existed. The approval of changes improved all the time and the opposition diminished as the benefits of the initiatives became clearer. Also the role of the top management was seen as crucial in the adoption and implementation of the change efforts (see the quotes from the interviewed personnel below).

*“The example of the managers is the number one in the implementation. That is the way it is achieved; the managers need to commit to this, utilize the new procedures themselves, spur, demand and demonstrate...”*

*“At first the concept of logistics sounded a bit far-fetched. But during the project, meetings and conversations, everyone started to realize that these are useful, sensible and reasonable issues. When you can influence the things coming up, the resistance to change breaks down and people start to see the rewards...”*

*“Most of all, the logistics project was a project influencing attitudes towards time... and thus all the results of the project will take enormous amount of time to become visible...”*

The opinions of the factors affecting the implementation were gathered by interviews in the evaluation phase. The analysis concerning the factors that affected the success of the implementation revealed both factors that helped the adoption and factors that hindered them. These factors are summarized in table 4.

**Table 3 – Factors affecting the adoption and implementation of process improvement initiatives**

<b>FACTORS FACILITATING THE ADOPTION</b>	<b>FACTORS HINDERING THE ADOPTION</b>
<ul style="list-style-type: none"> <li>• Commitment and willingness to change – current and important issue</li> </ul>	<ul style="list-style-type: none"> <li>• Opinions concerning suitable working methods on professional organization</li> </ul>
<ul style="list-style-type: none"> <li>• Visible involvement and commitment of top management and wide participation of different personnel groups</li> </ul>	<ul style="list-style-type: none"> <li>• Large case inventories and the time-consuming start-up of the planning</li> </ul>
<ul style="list-style-type: none"> <li>• External expertise and new improvement methods</li> </ul>	<ul style="list-style-type: none"> <li>• Detailed and complicated planning solutions</li> </ul>
<ul style="list-style-type: none"> <li>• Enough time to adopt and internalize changes</li> </ul>	<ul style="list-style-type: none"> <li>• Attitudes towards changes</li> </ul>
<ul style="list-style-type: none"> <li>• Easily acceptable and adoptable solutions</li> </ul>	<ul style="list-style-type: none"> <li>• Too many changes and improvement projects going on at once</li> </ul>
	<ul style="list-style-type: none"> <li>• Old and new operation models overlap</li> </ul>

Overall, the critical factors in the implementation phase are issues that need to be addressed to make the adoption of the solutions more widespread and build the conditions for achieving sustainable change. The factors are:

Getting peer support and experiences

Spreading good experiences and best practices among the employees is crucial in order to convince

1) Establishing a permanent process improvement team

The continuity of the improvement needs to be ensured during the improvement work in order to maintain the momentum of the changes and to continue the improvement efforts. By establishing a permanent team, it is possible to keep the change initiatives alive, evaluate and monitor them and make corrective actions if needed.

2) Connecting the changes to the strategy and rewards

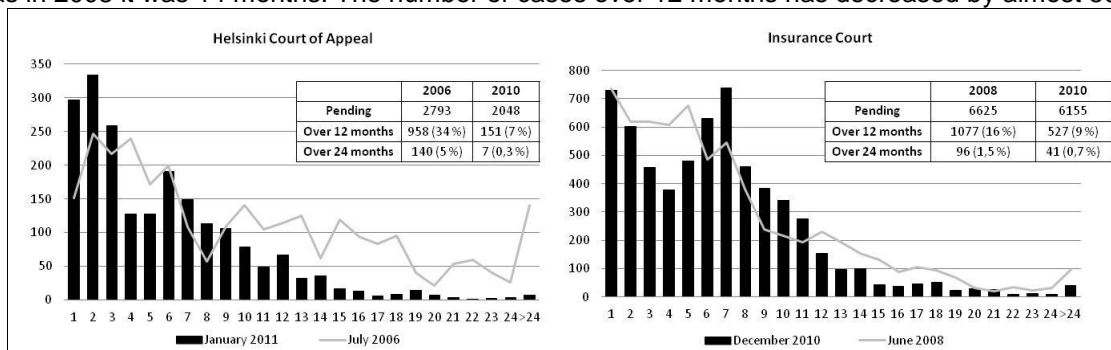
It is critical that the organization's strategy and operational targets are not in conflict with and do not contradict the improvement efforts. Achieving sustainable change requires that the improvement efforts are connected with the organization's goals and reward structure.

3) Creating improvement strategy for the organization

If there are many different types of improvement projects and efforts going on simultaneously, it influences the willingness, attitude and motivation of the employees to improve and makes it difficult to find the needed capabilities and resources to the improvement groups. That is why organizations should make a clear improvement plan based on analyzed improvement needs.

**7. Results of the Projects**

The results achieved through the action research projects were very good and promising. The results of the two finished research projects (Helsinki Court of Appeal and Insurance Court) are summarized in figure 5. Good results are expected also from the other projects. As can be seen in the figure, in the Helsinki Court of Appeal the average throughput-times nearly halved from 2005 to 2009. The proportion of cases pending over 12 months dropped to 7% and there were factually no very old cases. In the Insurance Court the average throughput-time dropped to approximately 10 months in 2010, whereas in 2008 it was 14 months. The number of cases over 12 months has decreased by almost 50%.



**Figure 5 – Age of pending cases (Helsinki Court of Appeal, 19 January 2010 and Insurance Court, 31 December 2010)**

When the changes were analyzed on the basis of the opinions and outlooks of the personnel, the general opinion was that the situation was now considerably better concerning delays, backlogs, throughput-times, work distribution, and thus the general working climate. Also the atmosphere concerning the subject of delays is now more open and it is easier and more common to talk about the issues surrounding it. All in all, according to the analyzed opinions the main changes in the case courts took place in the following:

- Management control practices

This was said to be one of the biggest and most concrete changes during the project. The set time-frames and the designed work-planning tools, for example the alarm system, have facilitated the management control over throughput-times and delays. The tools have made the management duty of controlling the progress of cases easier and thus more common and more regular. It has also become more accepted that the management will intervene with problems concerning delays and backlogs more actively.

*“Controlling is easier, intervening with problems is easier and the climate surrounding these issues is generally better. It feels fairer to manage these issues and intervene when everyone knows the agreed rules...”*

- Personal work control and systematic planning procedures

The alarm system is also helpful for all personnel in controlling their own personal pending inventory and planning the work. It has made the controlling of the situation of the cases a weekly routine, and it has changed the procedures of planning the order of work according to the age of the cases.

*“Before I take even a single case from my case shelf, I take a look at the inventory listing and what it looks like... what cases there are on top of the list and what sort of diamonds and exclamation marks there are... whether there is something that needs special attention or reaction right away...”*

- Attention and active process start-up for complex cases

The marking of the complex cases has made them come forward from the mass of cases. The marking has provoked interest towards the case, making it more motivating to take it from the case file. The marking has also made it easier to distribute the complex cases more evenly to the referendaries and judges and helped to estimate the time needed for the handling, and thus reserve enough time for these cases beforehand.

*“I have started to feel a kind of duty to handle also the more complex cases in the same time as other cases because there are these labels. I do not feel that it is unpleasant or offending, it has simply changed my attitude towards them.”*

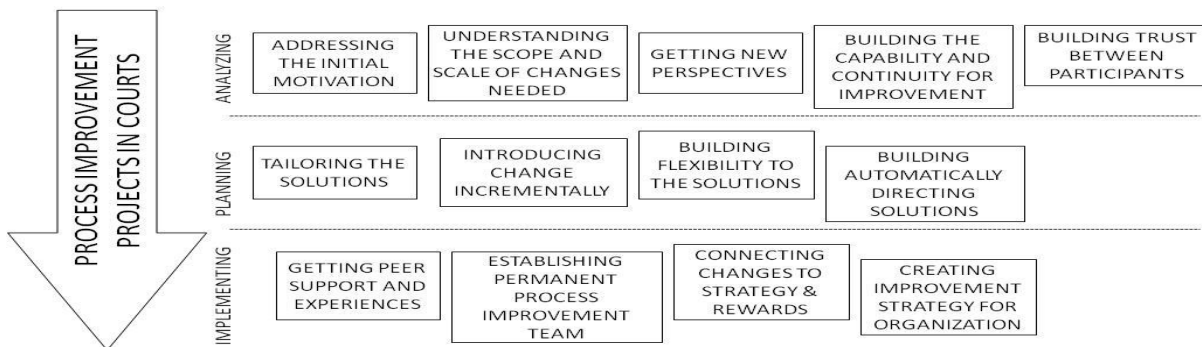
- Case ownership

One very noticeable change was identified to be the taking of greater responsibility for the cases and commitment to the timely handling of all cases. Now the case has a responsible person from start to finish who is responsible for making the handling decision, planning the stages and scheduling the process according to the time-limits. This has made it easier to follow the principles of advance planning and scheduling.

*“Now we have on view all our cases and their situation and status. Previously the judges had the case listings on paper but they were not seen anywhere. At the same time that they were not seen, they did not bother anyone either. Now everyone keeps the inventories more in control and follows the situation.”*

## 8. Conclusions

Based on the lessons learned from the process improvement projects, the present study aimed to contribute to the discussions of process improvement applications in courts by increasing the knowledge concerning critical and influencing factors which need to be highlighted in different stages of process improvement work. Especially, the study aimed to recognize and highlight the critical factors which need to be taken into account in the improvement work in order to apply process improvement techniques effectively and at the same time create ownership towards the solutions. The identified critical factors and areas in different stages of process improvement work in courts are summarized in figure 6.



**Figure 6 – Critical factors in process improvement work**

The study has contributed to the discussion of process improvement applications in courts by confirming critical factors previously highlighted in the literature and bringing new insights into the factors that need to be addressed and incorporated in the process improvement work in order to enhance the application and acceptance of the solutions.

The study has confirmed that especially the widespread participation, role of top management, building commitment, giving time to adopt changes and building systematic procedures to analyze improvement needs, build action plans and evaluation efforts (see e.g. Fernandez and Rainey, 2006; Hagsgård, 2008) are the most important prerequisites for successful improvement approach.

The study has brought new suggestions especially on how to incorporate and transfer these different prerequisites and characteristics of successful improvement in to a more practical road-map for carrying out improvement work in courts: what areas and factors need to be highlighted in different phases of the process improvement work, how the critical



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factors can be incorporated into the different stages, interventions and solutions of the process improvement projects and what is the role of an external facilitator in assisting process improvement work and in enhancing ownership towards the solutions and improvement.

The possible approaches and models of process improvement in courts still need further research and empirical evidence. In order to create a more concrete approach and model to process improvement, the different process improvement interventions carried out in courts should be studied and reported using longitudinal approaches. This way the approaches and solutions that genuinely create the basics for sustainable change instead of quick, short-term improvements, could be more easily revealed and distinguished.

One important research topic connected to the process improvement model is to study further the possibilities and challenges of using external expertise in process improvement work in courts. Based on this study, the possible roles, interventions and methods of the outside expert aiming not only to act in transferring possible improvement solutions but building the organization's capabilities to analyze their own processes, to design solutions and to create a continuum for the improvement work should be further studied. The research should create suggestions and guidelines for external experts to enhance courts' willingness and enthusiasm to improve and to gain ownership towards the solutions. In addition, the external expert's role in transferring best improvement practices and lessons from one court to another should be highlighted more in process improvement studies.

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