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School of Industrial Engineering and Management  
Supply chain and operations management

MASTER'S THESIS

**Operations management in courts of justice – outlining functions, challenges  
and development possibilities**

Supervisors: Professor Timo Pirttilä  
Postdoctoral Researcher Petra Pekkanen

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Tiina Puolakka

## ABSTRACT

<b>Author:</b> Tiina Puolakka	
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<p>Professional services are an increasingly important group of economy and related to them there has been identified a fairly new concept called professional service operations management. However professional service operations management is still quite under-researched area which needs further research especially in specific contexts. This study aims to respond to that need by examining courts as an environment for operations management. As a result there is a preliminary structured description of what operations management is and could be in courts. The study also aims to inspire and tentatively classify possible areas for future research.</p> <p>Courts are examined based on three common perspectives for typical characteristics of professional services which can be identified in literature: the nature of customer role, the nature of professional work and the nature of process and product. The examination is based on research data from several research projects conducted in Finland and other European countries. Based on the examination it can be said that the operational environment of courts is highly complex and demanding because the case as an object of operations management tasks is challenging, the process sets strict requirements to the handling of the cases and the workforce is hard to direct.</p>	

## TIIVISTELMÄ

<b>Tekijä:</b> Tiina Puolakka	
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<p>Asiantuntijapalvelut ovat tärkeä osa talouselämää ja niihin liittyen on tunnistettu uusi konsepti nimeltään asiantuntijapalveluiden toiminnanohjaus. Alaan liittyen on tehty melko vähän tutkimusta ja erityisesti kontekstikohtaiselle tutkimukselle on tarvetta. Tämä diplomityö pyrkii vastaamaan tähän tarpeeseen tarkastelemalla oikeuksia spesifinä toiminnanohjauksen ympäristönä. Tarkastelun tuloksena muodostuu alustava, jäsentynyt kuvaus oikeuslaitosten toiminnanohjauksen tehtävistä ja mahdollisuuksista. Diplomityön tavoitteena on myös herättää ja alustavasti jäsentää ideoita mahdollisista aiheeseen liittyvistä tutkimusaiheista.</p> <p>Oikeuksien ominaispiirteitä ja toiminnanohjaustehtäviä tarkastellaan kolmesta kirjallisuudesta tunnistetusta asiantuntijapalveluiden piirteitä luokittelevasta näkökulmasta, jotka ovat asiakkaan luonne, asiantuntijatyön luonne sekä prosessin luonne. Tarkastelu perustuu tutkimusaineistoon, jota on saatu Suomen ja Euroopan oikeuksiin liittyvistä tutkimusprojekteista. Tarkastelun perusteella voidaan sanoa, että tämä toiminnanohjausympäristö on hyvin monimutkainen ja vaativa, sillä oikeusjutut ohjauksen kohteena ovat haastavia, prosessi asettaa tiukkoja vaatimuksia juttujen käsittelylle ja asiantuntijat ovat vaikeita johdettavia.</p>	

## **PREFACE**

Years spent studying in the university have gone by very quickly. When I started my university studies as a freshman, the time of graduation felt like it is going to be light-years away. But here I am now, in the crossroads of finishing my studies and starting a working life.

Writing this master's thesis has been a very interesting but also challenging process. It has given me a lot of new information about the European justice systems and it has also deepened my understanding on the field of operations management. Most of all, it has thought me a great deal of myself and enhanced my confidence to handle future challenges.

First of all, I would like to thank my supervisors Timo Pirttilä and Petra Pekkanen for their committed guidance and valuable feedback throughout the writing process. Special thanks to professor Pirttilä who has devoted so much time to patiently guide me. I would also like to thank the CFMnet-project group who has provided me lot of useful information and insights to courts. I wish to thank my family and especially my parents who have supported and encouraged my education from the beginning, and all of my friends from university who have made these years unforgettable.

Last but not least, thank you Jaakko, without you and the long train trips to Kuopio I spent writing, this master's thesis would have taken a lot longer.

It is often said that being a student is the best time of your life. It has truly been a great period of time, but now I think I'm ready to open a new chapter in my life.

Lappeenranta, December the 3<sup>rd</sup>, 2014

Tiina Puolakka

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## LIST OF ABBREVIATIONS

<i>CFM</i>	Case flow management
<i>EDD</i>	Earliest due date –method for organizing material
<i>FCFS</i>	First-come, first-served –method
<i>LUT</i>	Lappeenranta University of Technology
<i>OM</i>	Operations management
<i>PSF</i>	Professional service firm
<i>PSO</i>	Professional service organization
<i>PSOM</i>	Professional service operations management

## 1 INTRODUCTION

The service sector has a great role in overall economy, and the operations management techniques used in manufacturing have also been applied to service sector industries (Consoli and Elche 2013, p. 477, Kellogg and Nie 1995, p. 323, Heineke 1995, p. 255). A growing segment of the service sector is professional services (Greenwood et al. 2005, p. 662). Professional service organizations are considered as an increasingly important group of industry and for example their employment and share in Gross Domestic Product has increased notably during last years (Goodale et al. 2008, p. 669, Walsh and Gordon 2010, p. 217).

There has been a growing interest in professional service organizations among organization theorists (Greenwood et al. 2005, p. 662). However, little attention has been paid to the operations management of them even though increasing the operational performance has proven to be challenging in many professional organizations (Goodale et al. 2008, p. 670, Heineke 1995, p. 255). Especially operations management of professional services in specific contexts has still been under-researched area which needs more empirical examination (Goodale et al. 2008, p. 669, Harvey 1992, Heineke 1995, p. 255, Lewis and Brown 2012, Von Nordenflycht 2010, p. 155).

This master's thesis aims to respond to the need of more context specific study of professional service operations management (PSOM) by examining courts as a distinctive environment for operations management tasks. Courts of justice are relevant to represent this specific context as there is a recognized need over European countries to make the court activities more effective and efficient (Steelman and Fabri 2008, p. 1). There seems to be need for operations management practices which could enhance the efficiency of these organizations.

## 1.1 Background

The thesis is conducted as a part of a European commission funded research project called *CFMnet: Towards European Caseflow Management development network – Identifying, developing and sharing best practices*. The project aims to create procedures for European co-operation in developing and sharing caseflow management practices. Lappeenranta University of Technology acts as a coordinator of the project. Other project partners are Research Institute on Judicial Systems in Italy, Utrecht University, University of Brescia, and Ministry of Justice of Estonia and Ministry of Justice of Finland. Participating in project workshops has supplied useful information about the European court context. As an addition to the data of project workshops individual interviews about PSOM linked to this CFMnet project have also been made in which two Finnish judges were interviewed.

Another source for the thesis has been an extensive research and development program which has studied the operation and process management practices in Finnish justice systems. This program of “logistics projects in courts” started at 2006 and is still ongoing. The program has been executed by LUT supply chain and operations management research group and it has been done in close co-operation with Finnish Ministry of Justice. The interviews and documentations from project workshops have been analyzed from the PSOM point of view in order to provide new information to the subject.

## 1.2 The main objectives and focus

This master’s thesis aims to deepen the understanding of what operations management is and ideally could be in courts by forming a preliminary structured description of this specific environment. More detailed questions to be examined are:

- *How the features of professional service operations management are defined and classified in literature?*

- *What are the distinctive features of courts as professional service organizations?*
- *How do these distinctive features affect operations management in courts?*
- *What could be potential development possibilities related to operations management in courts?*

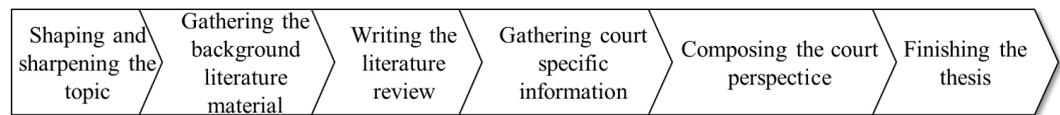
The description of the operational environment of courts will be based on professional service operations management literature and court specific research material from CFMnet-project and LUT logistics projects in courts. It can thus be said that the nature of this master's thesis is theoretical with the support of empirical insights and observations. The final results are supposed to inspire further research on this area by providing possible research propositions.

The focus of this master's thesis is in operations management of courts following civil law tradition. In more detail the courts are examined in European context. The confining is based on the fact that common law tradition (used for example in United States) differs widely from civil law tradition and it would require too much simplifying to discuss both of these traditions at the same time. The civil law tradition was chosen because one of the main sources of information for this thesis is a European commission funded research project which concentrates on the European courts. Civil law tradition is also the tradition followed in Finland so choosing it instead of common law tradition was a practical decision.

Inside court activities the focus will be on civil law procedures rather than on criminal law. The reason for this is also that the European commission funded research project focuses on studying the civil law processes of European countries. In addition studying civil law is justifiable because for example in Finland all of the national courts handle civil cases but only some of them process criminal cases.

### 1.3 Execution of the thesis

The execution of this master's thesis can be presented as a process in which there can be identified six phases: shaping and sharpening the topic of the thesis, gathering the background material for literature review, writing the literature review, gathering the court specific information, composing the court perspective to PSOM and finishing the thesis. The phases of this process are illustrated in figure 1.



**Figure 1** Phases of the writing process

In the figure the phases are separated in order to simplify the presentation of the process. However the phases were in fact partly simultaneous as for example the gathering of court specific information started at the same time as the literature review was written. The main emphasis time-wised was on forming the field of operations management tasks and possibilities from court perspective.

The information used in this master's thesis has been gathered from several sources. The general features of professional service operations management and the basic information about civil law tradition are based on literature review. The court specific information is derived from research projects (presented in chapter 1.1) conducted in LUT industrial engineering and management research groups.

All of the data available has been analyzed throughout this master's thesis process in regular meetings with CFMnet research group members Professor Timo Pirttilä and Post-doctoral researcher Petra Pekkanen.

#### **1.4 Structure of the thesis**

This master's thesis consists six chapters including introduction. The theory related to the subject is reviewed in first two chapters. Three other chapters are focused on the applying of court specific information to the existing information about PSOM.

*In chapter two* the literature related to professional service operations management is discussed. The general features of PSOM are identified and summarized.

*In chapter three* the concept of civil law tradition is presented in order to clarify the background of European courts. The civil processes of different nations are also discussed and compared.

*In chapter four* the general features and objectives of courts are presented and the main distinctive features are identified in order to clarify the background of operational environment. The identification of distinctive features is first based on Finnish courts and later examined on European level.

*In chapter five* the development possibilities of operations management in courts are discussed. The main operational objectives and the nature of processed cases are discussed and the process as operational environment is presented. The operations management tasks from the point of view of three different case groups are concluded.

*In chapter six* the conclusions of this study are summarized and the possibilities for future research are proposed.

## **2 PROFESSIONAL SERVICE OPERATIONS MANAGEMENT**

Today's economy is more and more dominated by services instead of manufacturing. One important group of services is professional services. Lately a new concept named as professional service operations management (PSOM) has been identified. The following chapter will provide a literature review to the origin of the term PSOM. In order to understand the characteristics and challenges of professional service operations management the basic features of wider group of services must be briefly studied. The main focus of this chapter is on the features of professional services and the challenges connected to the operations management of these organizations.

### **2.1 Classification of services**

Services are highly heterogeneous and they have different characteristics than goods. Heterogeneity makes defining of the general service characteristics difficult. However in literature there can be identified some distinctive characteristics of services which affect the management of service organizations and which are more typical than others: intangibility, simultaneous production and consumption, proximity to the customer and lack of inventories (Løwendahl 2005, p. 17-18, Metters et al. 2006, p. 6-7). Naturally these features appear also in professional service context.

Because of the heterogeneity of services, there have been numerous attempts to classify this heterogeneous field by different classification schemes, typologies, and positioning matrices. These kinds of classifications aim to bring order to the field, which can otherwise be quite elusive, and to identify the characteristics which differentiate the service organizations from manufacturing (Cook et al. 1999, p. 318). Through classifications there has also been an aim to identify and name distinct groups of services.

Services have been determined in varying ways over the years (Cook et al. 199, p. 319). According to Cook et al. (1999, p. 321) major share of service typologies has focused on the output of the service. Other focus areas of service classifications have been for example organization, marketing, operations management and quality. A sample of different groups identified in typologies and classifications is presented in table 1.

**Table 1** Groups of services

<b>Author</b>	<b>Basis for classification</b>	<b>Groups of services</b>
Chase (1978)	Amount of customer contact	High contact services Low contact services
Thomas (1978)	Type of service provider	Equipment based services People based services
Mills and Margulies (1980)	The type of interface between the service provider and the customer	Maintenance-interactive Task-interactive People-interactive
Schmenner (1986)	Degree of interaction and customization and degree of labor intensity	Mass Service Service Factory Service Shop Professional Service
Silvestro et al. (1992)	Volume of customers per day and six classification dimensions	Mass Services Service Shop Professional Services
Kellogg and Nie (1995)	The service package and service process structure	Service factory Service shop Expert service
Lovelock and Yip (1996)	The nature of the process and the extent of physical presence of customers	People-processing services Possession-processing services Information-based services
Collier and Meyer (1998)	Management designed service system characteristics and fulfillment of customer wants and needs	Customer routed services Co-routed services Provider routed services

As can be seen from table 1, classifications do share some common features but on the other hand they differ in major ways. The main differences derive from the wide variety of matters acting as basis for classification. Classifications have been based for example on customer interaction, volume of customer, management decisions and type of service provider. Because the basis of classifications varies, also the results derived from the examination differ. This means that groups which were identified in studies have variations. There doesn't seem to be a uniform opinion even about the amount of service groups not to mention the names of the groups. Three classification schemes will be examined closer as an example of variety.

### 2.1.1 The Service Process Matrix

Schmenner (1986, p. 25) has examined service organizations through two elements. These elements are labor intensity and consumer interaction/service customization. Using these two dimensions four different service types can be identified: service factory, service shop, mass service and professional service. Schmenner (1986, p. 25) has used a Service Process Matrix (see figure 2) to illustrate the field of services. As can be seen from the figure, according to matrix professional service has both high degree of interaction/customization and labor intensity. Schmenner (1986, p. 25) also gave examples of professional services, which in his opinion included for example doctors, lawyers, accountants and architects.

		<b>Degree of Interaction &amp; Customization</b>	
		Low	High
<b>Degree of Labor Intensity</b>	Low	<b>Service Factory:</b> - Airlines - Trucking - Hotels - Resorts & Recreation	<b>Service Shop:</b> - Hospitals - Auto Repair - Other Repair Services
	High	<b>Mass Service:</b> - Retailing - Wholesaling - Schools - Retail Aspects of Commercial Banking	<b>Professional Service:</b> - Doctors - Lawyers - Accountants - Architects

**Figure 2** The Service Process Matrix (Adapted from Schmenner 1986, p. 25)

For each of these identified group of services Schmenner (1986, p. 25) also described the challenges connected to the management of them. According to him the degree of labor intensity leads to certain challenges and the degree of interaction and customization requires other managerial solutions. For example in the group of professional services, the manager faces challenges like hiring, training, scheduling workforce and managing growth which are connected to high labor intensity. On the other hand the manager must also deal with challenges like maintaining quality, reacting to consumer intervention in process and gaining employee loyalty which are linked to high interaction and customization.

### 2.1.2 The service process/service package matrix

Kellogg and Nie (1995, p. 325) have in turn created a service process/service package matrix to facilitate the understanding of services. The service process/service package matrix (see figure 3) integrates the service process (*how* service is created) to the service package (*what* is created). In this way they identified three service process structures: service factory, service shop and expert

service. Expert service is described to have a high degree of customer influence. In their matrix service process structure is coupled with four types of service packages. This means that for example expert services can differ according the service package they offer to the customer.

		<b>Service Package Structure</b>			
<b>Service Process Structure</b>	Unique Service Package	Selective Service Package	Restricted Service Package	Generic Service Package	
Expert Service	<div style="display: flex; justify-content: space-between; align-items: center;"> <div style="width: 20%;">Consulting</div> <div style="width: 60%; text-align: center;">Higher Education</div> <div style="width: 20%; text-align: right;">Package Delivery</div> </div>				
Service Shop					
Service Factory					

**Figure 3** The service process/service package matrix (Adapted from Kellogg and Nie 1995, p. 324)

Kellogg and Nie (1995, p. 327) proposed that their matrix can be used to give guidelines to the strategic positioning of the firm, because it offers insights to the integration of operations and marketing concept. According to them crucial managerial tasks in expert firms are for example hiring, training and retention of employees.

### 2.1.3 The service positioning matrix

Collier and Meyer (1998, p. 1230-1234) based their classification matrix called the service positioning matrix (see figure 4) on the relationship between service system design and the needs and wants of customer. The vertical axis represents the routes inside the service system design and the horizontal axis represents the activity sequence of customer encounter. According these factors Collier and Meyer

identified three service classes: customer routed service, co-routed service and provider-routed service. In customer routed services the customer can select freely from many possible routes of service delivery system, in co-routed services the number of routes is moderate and in provider routed services the options of customer are restricted to a very small number of possibilities.

Fulfillment of Customer Wants and Needs	Customer wants a high degree of freedom and decision making power to select a service encounter activity sequence	Customer wants a moderate degree of freedom and decision making power to select a service encounter activity sequence	Customer wants a low degree of freedom and decision making power to select a service encounter activity sequence
Management Designed Service System Characteristics	Unique never to be repeated service encounter activity sequence	Low to moderately repeatable service encounter activity sequence	Highly repeatable service encounter activity sequence
Many customer pathway Management designs a low degree of control into the service system			
Moderate number of customer pathways Management designs a moderate degree of control into the service system			
Limited number of customer pathways Management designs a high degree of control into the service system			

**Figure 4** The service positioning matrix (Adapted from Collier and Meyer 1998, p. 1231)

According to Collier and Meyer (1998, p. 1224) this service positioning matrix can be used as a guide to the managers to make the decisions about process design and service encounters easier. It is stated that superior performance is connected to the right match of customer needs and service design system which means that the best situation for the organization is to be on the diagonal of the matrix. The matrix is also supposed to provide a new way to the managers to examine service businesses.

#### 2.1.4 The role of professional services in classifications

There are major differences between classifications depending on the starting point of classification. It has been discussed that creating an exquisite matrix to position all the services along is challenging if not impossible because service operations concepts are proven to be more difficult to quantify than manufacturing processes (Collier and Meyer 2000, p. 727). It is even said that “no single definition of service is capable of encompassing the full diversity of services..” (Cook et al. 1999, p. 320).

However, professional services have been mentioned in numerous studies and classifications which can lead to the assumption that professional services can be acknowledged as a distinct group in the field of services. But even though professional services are often differentiated from other services and the group itself is an attempt to simplify the upper level context of services, even professional services still remain heterogeneous. Anyhow there are some general features which can be said to be typical to major share of professional service organizations (PSOs) (in literature also referred as professional service firms (PSFs)). These features are presented in the following chapter.

## **2.2 General features of professional service organizations**

In this master’s thesis the main interest according professional service organizations is on the operations management side of them. In order to understand the operations management of professional service organizations the main distinctive features of these organizations must be studied. Professional services are heterogeneous group and there is a wide variety of different service organizations which can be classified as professional. However there are some typical features which are good to know as a background when this group is discussed.

In literature there can be identified three general fields of characteristics of professional services which particularly affect the operations management of these

organizations: nature of customer, nature of professional work and nature of process (e.g. Lewis and Brown 2012). Because the process in professional service context is so closely linked to the output of the service (the service production and consumption are simultaneous) the third group is extended to be the nature of process and product.

### 2.2.1 Nature of customer

One cannot survey the service literature without noticing the important role of customer. As can be seen in table 1, even numerous classification schemes are based on the unique role of customer in service processes. In general there can be identified two aspects of customer role which are typically mentioned in professional service context: the amount of customization and the amount of face-to-face interaction (e.g. Chase 1978, p. 137, Lewis and Brown 2012, p. 2, Mills et al. 1983, p. 120, Schmenner 1986, p. 21).

Customization, also referred as specification flexibility, refers to the degree to which the service process is adapted to meet individual customer needs (Fitzgerald et al. 1991, p. 61-62). Customization is often based on customer interaction in which the customer actively participates in the process of defining the service specifications (Silvestro 1999, p. 402). Customer interaction and involvement in the process means that the customer can affect for example the time of demand, the precise nature of service and the quality of service (Chase 1978, p. 138). Customers can also give continual feedback which defines selection, sequence and timing of service operations (Kellogg and Nie 1995, p. 328).

In addition, customer often has an important information giving role which means that the customer provides the process information which is crucial to the accomplishment of the task (Mills and Margulies 1980, p. 264). In other words, there is a reciprocal interdependence between the professional and the customer (Mills et al. 1983, p. 120). On the other hand, in professional services the customer is usually unable to evaluate the outcome of the service (Mills and Margulies 1980,

p. 264). This derives from the information asymmetry which lies between the customer and expert. This kind of knowledge gap results from the fact, that the customer doesn't have the same knowledge base as the expert who has been highly educated (Greenwood et al. 2005, p. 661).

Traditionally there have been claimed to be both a high amount of customization and a high amount of interaction with customer in professional services (e.g. Kellogg and Nie 1995, p. 325, Løwendahl et al. 2001, p. 913, Maister 1982, p. 15, Schmenner 1986, p. 25). However there are some examples of the heterogeneity of the customer role. Chase (1981, p. 703) for example thought that most services have both high and low customer contact points. In addition Maister (1982, p. 24) identified three levels of customization in different professional service projects. These levels were named as "Brains", "Gray Hair" and "Procedure".

Projects labelled as Brains deal with a case in which the customer's problem is extremely complex and requires high technical or professional knowledge. This kind of service is creative and innovative and provides new solutions to brand new problems. In the second type (Gray Hair) the service is highly customized but doesn't require high level of creativity or innovation. Customer's problem is likely to be familiar and the service is based on similar activities which have been used before. The service is thus based on the strong experience which has evolved by time. The third level named as Procedure concerns services which serve well-recognized problems with some customization. The difference to other levels is in the process which is more programmatic. In these tasks the customers may be able to perform the work themselves but using professionals to perform the work is more efficient.

Continuum thinking which identifies different customer roles has had emphasis also in recent studies. For example Lewis and Brown (2012, p. 8) have studied that both the amount of customization and interaction varies widely across different professional services. Also Løwendahl et al. (2001, p. 922) have identified a continuum of customization along which professional services can be placed. In

this continuum model professional services which have lower degree of customization are for example services connected to information, market analyses, reports, certification, quality assurance and audits. On the other end of the continuum with higher degree of customization are for example services which are connected to hiring, mediation, negotiation and assistance in implementation. Yet another example of continuum thinking is from Malhotra and Morris (2009, p. 914-915). They present that the client's control over the process and the amount of face-to-face interaction differ across organizations.

### 2.2.2 Nature of professional work

Another characteristic commonly mentioned in literature as typical to professional service organizations is the professional or knowledge-intensive nature of the work. The term professional refers to a symbolic or honorific status which has certain attributes directly associated with its main core (Mills et al. 1983, p. 119). Professionals have certain knowledge base and they usually share common values and norms (Lewis and Brown 2012, p.2, Løwendahl et al. 2001, p. 913, Raelin 1989, p. 216). These norms are considered to be the primary guidance of professionals' behavior (Mills et al. 1983, p. 128).

There is also a strict regulation and control of this knowledge base among professionals which leads to the scarcity of competition (Von Nordenflycht 2010, p. 163). It is said that professionals are not self-appointed but selected by colleagues, professional bodies and marketplace (Teece 2003, p. 896). Thus the role of colleagues is important in professional environment. Often there exists a belief in colleague control of competence and in these organizations the peer-to-peer communication can be more critical than vertical communication (Mills et al. 1983, p. 119, Teece 2003, p. 903).

Professional workers traditionally have certain basic features which affect the management of these types of workers: strong preference for autonomy and ability to discretion in work. Autonomy is claimed to be a common value for professional

workers (e.g. Harvey 1992, p. 3, Mills and Margulies 1980, p. 264, Raelin 1989, p. 216, Teece 2003, p. 906). Autonomy in professional context means primarily the independence to define problems and execute the work (Mills et al. 1983, p. 119).

Raelin (1989, p. 216-217) has studied the aspect of autonomy in more detail and made a suggestion that there exist three types of autonomy: strategic, administrative and operational autonomy. Strategic autonomy means that kind of autonomy which is connected to the freedom to choose the objectives and policies which will guide the organization. Administrative autonomy includes the responsibility for managing one unit's activities and coordinating these activities with other units. Operational autonomy is the freedom of executing the daily tasks within administrative and strategic constraints. From these three types of autonomy, Raelin (1989, p. 217) thinks that professionals typically have operational autonomy.

A professional worker usually uses discretion in his/her work (Cheng 1990, p. 192). This means that the work involves a high degree of personal judgment (Mills and Margulies 1980, Løwendahl et al. 2001, p. 913). This judgment is necessary because the tasks are often complex, performed in an uncertain environment and needed to be customized to differing client situations (Greenwood et al. 2005, p. 663). In addition the professional worker usually is able to self-direction. This derives from the presumption that professionals typically have distaste for supervision and monitoring and that their deep expertise and professional ethics can guide their actions (Teece 2003, p. 907).

Thus the traditional view of professional work is that it is highly autonomous and independent. However this view can be questioned as it is observed that there exists heterogeneity also in the features of professional work. Jaakkola and Halinen (2006, p. 421) have studied the validity of some typical characteristics of professional services and they came to the conclusion that in many professional organizations there is less space for traditional values like autonomy. This is relevant in professional service organizations which operate in sectors which are highly competitive and affected by changing market forces.

Also the nature of the professional workforce can vary from employees with intermediate skills to highly-skilled individuals. Consoli and Elche (2013, p. 493) have stated that both the composition of the workforce and the associated knowledge bases can vary across professional services. This means that some of the work is more or less applying repetitive routines and some of the work is novel problem solving. Thus not all of the workers or all of the work can be generalized in terms of typical professional features.

In addition there have been studies according the different types of expertise of professional services. For example Walsh and Gordon (2010, p. 223-224) identified three types of experts: knowledge-based, collaborative and efficiency-based. Knowledge-based experts can be classified as highly skilled professionals whose work is delivering superior and complex knowledge. Collaborative expert's work is client orientated and focused on meeting the clients' unique needs. Efficiency-based expert in turn provides service which is a mass product to many customers. According to Walsh and Gordon (2010, p. 223) the type of expertise of the worker affects the service delivery. They also state that using knowledge-based expertise is common in professionally oriented service organizations and using collaborative or efficiency-based expertise is common in market oriented service organizations.

### 2.2.3 Nature of process and product

In professional services the process and product are closely linked and therefore examined under the same title. The outputs of professional services can be described as "intangible applications of complex knowledge" (Greenwood et al. 2005, p. 663) and the object of the process is typically information (Mills et al. 1983, p. 127, Wemmerlöv 1989, p. 34). This means that the results are difficult to measure and control (Harvey 1992, p. 1, Mills and Moberg 1982, p. 468).

Traditionally professional services have been assumed to have both high customer contact and influence which affects also the process. Professional services are typically delivered to clients through interaction in continual, varying relationships

and the work takes often place on long period of time (Stumpf et al. 2002, p. 260). Schmenner (2004, p. 339) for example coupled the high degree of variation to high degree of throughput times when describing the features of professional services.

Due to the assumption that the customer has a high influence on process, the professional service process is often described to have high degree of process variation (Lewis and Brown 2012, p. 2, Schmenner 2004, p. 339, Kellogg and Nie 1995, p. 329). Variation is also connected to the fact that usually each task and interaction with client requires new solutions (Mills and Margulies 1980, p. 264). This leads to the situation where the nature of the workflow and the required activities of tasks are hard to predict (Mills et al. 1983, p. 121, Kellogg and Nie 1995, p. 329).

In order to meet the varying needs of customers the professional service process is typically described to be flexible (Chase 1978, p. 139, Silvestro 1999, p. 412). For example Wemmerlöv (1989, p. 31-32) noted that professional services mainly have fluid processes which require flexibility. Kellogg and Nie (1995, p. 328) support this view by stating that the design of professional service facilities needs to be targeted to improve the flexibility.

Thus, professional service processes are traditionally seen as flexible and varying. However from the text above can be seen that the process characteristics in professional services are highly influenced by the nature of the customer coupled with the nature of professional work. This means that the process is as heterogeneous as the customer role and the work executed in the service organization are. For example Stumpf et al. (2002, p. 264) stated that some professional service firms have standardized their service offerings instead of concentrating purely on flexibility. This notion is supported by Lewis and Brown (2012, p. 2), who have studied that all the professional service processes are not necessarily variable. In their study they noticed that the processes varied widely even inside one organization. Some of the processes contained standardized techniques and repeatable tasks while other processes were more flexible.

Also the information processing can have varying means in different tasks. Some tasks may involve only the transmission of information and some tasks may transform the information. The type of information processing affects the need of routines of activities. Transforming information requires more flexible activities while transmission of activities can be executed by more routine activities (Consoli and Elche 2013, p. 493). There can also be identified continuum in the strength of customer relationship and the uncertainty of markets which affects the fixation of the process (Smedlund 2008, p. 867).

### **2.3 Challenges of professional service operations management**

Operations management (OM) can be described as the actions involving creating, operating and controlling a system which transforms the inputs of resources to goods and services (Naylor 2002, p. 5). OM-decisions typically revolve around topics like design of goods and services, quality management, process strategy, location and layout strategies, human resources, supply-chain management, scheduling and maintenance (Heizer and Render 2001, p. 8). OM-questions naturally differ between goods and services and the aim of this chapter is to shed little bit of light over the OM-challenges typical to professional services.

The general features of professional services presented above (nature of customer, nature of professional work and nature of process and product) affect and pose challenges to the operations management. Especially the customer influence is said to be the most important feature causing operations management challenges (Nie and Kellogg 1999, p. 352).

According to Wemmerlöv (1989, p. 34) professional workers need different planning, control and reward systems than other types of workers. Also Schmenner (1986, p. 25) has emphasized that decisions concerning the management and controlling of the workforce are the most important ones professional service organizations have to make. Thus in professional service operations management

context the OM-decisions are classified under two main themes of operations management: planning and control.

### 2.3.1 Planning of professional service operations

Planning of service process, capacity and job design are commonly mentioned themes in literature related to professional service operations. Concerning process planning, the main issue is usually how to react to the uncertainty of the process. The uncertainty is caused by the high degree of customer influence (Bowen and Jones 1986, p. 429, Chase 1978, p. 138, Mills et al. 1983, p. 121). In uncertain environment the nature of the workflow and the process tasks are problematic to predict and plan (Mills et al. 1983, p. 121, Kellogg and Nie 1995, p. 329). Also the scheduling of the process is hard to make with accuracy because the customer can influence the process whenever he/she wants (Wemmerlöv 1989, p. 32, Verma 2000, p. 20).

Another challenge connected to the uncertainty of the environment is how to do accurate capacity planning. The high customer contact means that if the system's operations aren't based on appointments-only, the capacity of the organization rarely matches the demand (Chase 1978, p. 139-140). Capacity planning is also affected by the fact that services cannot use inventories to secure the availability of the service. It is said that in high-contact services the problem of meeting demand is especially important which makes the resource allocation one of the main topics (Wemmerlöv 1989, p. 30, Lewis and Brown 2012, p. 8). However in professional services substituting labour with technology is challenging if not impossible, because of the high expertise of the workforce (Silvestro 1999, p. 402). Due to uncertain environment and the uniqueness of workforce the service process uses more often a level capacity strategy than other services (Kellogg and Nie 1995, p. 329).

High customer interaction affects also the job design of professional services. Because of high customer interaction it is important that professional service

organizations are able to manage the customer service behavior and also the complex interactions between the service provider and the customer (Goodale et al. 2008, p. 670, 672). The customer interaction can involve a situation where the customer brings relevant information or knowledge to the process. In this case it is possible that the customer has less information than is necessary to perform the task required of them (Mills and Moberg 1982, p. 468). Due to situations like this, the tasks should be designed in a way that if necessary, service provider can interact fluently with clients. However standardizing work is difficult and there can be a wide variety of work practices among professionals (Silvestro 1999, p. 403, Lewis and Brown 2012, p. 9).

### 2.3.2 Controlling of professional service operations

Another important aspect of operations management in professional services is controlling the service delivery. Controlling includes for example goal setting, monitoring and quality issues. Both the nature of the workflow and the requirements of tasks are problematic to forecast in professional services (Mills et al. 1983, p. 121). Due to this unpredictability of tasks it is difficult to set precise time standards (Wemmerlöv 1989, p. 32). Varying tasks coupled with autonomous workforce who performs complex activities makes standards and operational guidelines hard to establish (Mills and Margulies 1980, p. 264).

Yet another challenge related to goal setting in professional service environment is that professional workforce is difficult to manage because of its interest in autonomy and self-direction (Kellogg and Nie 1995, p. 330, Raelin 1989, p. 216). This means that traditional control procedures are hard to use in these kinds of organizations. Because of this autonomy managers need to use more subtle ways to influence the workers (Goodale et al. 2008, p. 670, Von Nordenflycht 2010, p. 160, Lewis and Brown 2012, p. 8). However due to professionalism, shared norms in professional organizational culture can act as an important control mechanism which guide the actions of the workers (Kellogg and Nie 1995, p. 330).

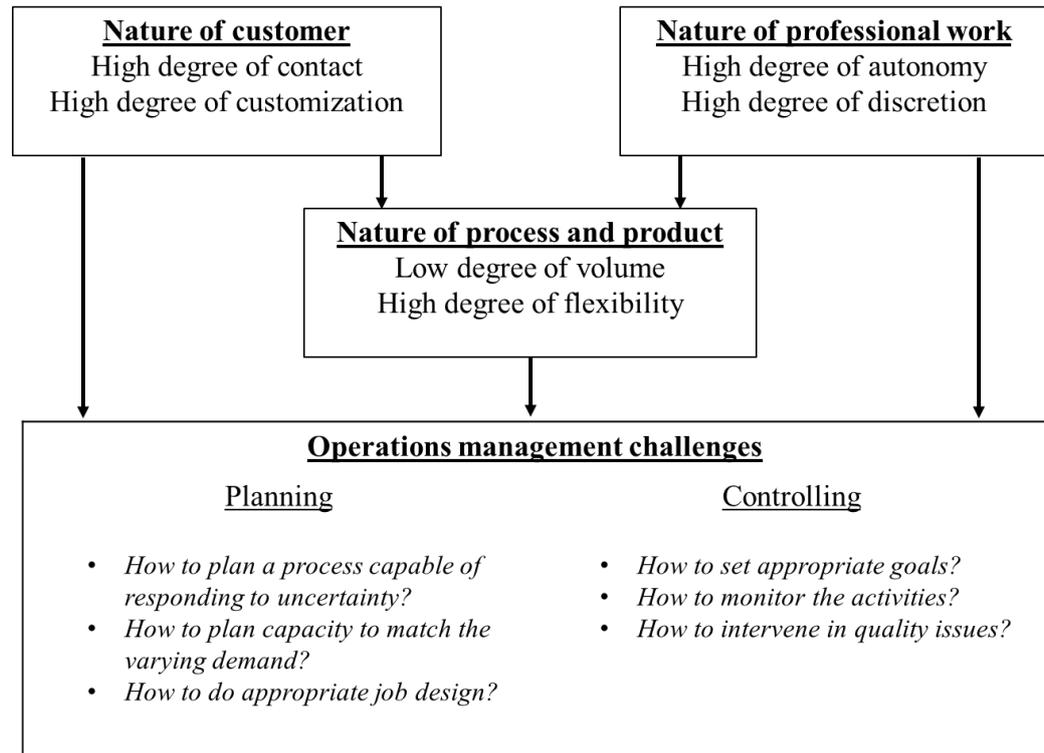
Because the key characteristics of professionalism reduce competition, there are only low competitive pressures among workers. Low competitive pressures result in organizational slack and inefficiency because organizations don't have to operate efficiently in order to survive (Von Nordenflycht 2010, p. 164). Lack of competition and professionals' preference for autonomy make the setting of incentives important in order to control the professional services (Heineke 1995, p. 266).

Besides goal setting, controlling requires monitoring of activities. In professional services the outcome of the service is intangible which means that the outcomes of work are problematic to measure (Raelin 1989, p. 220). This feature coupled with the challenges of goal setting make the monitoring of performance problematic. Traditional supervision procedures may not be suitable in professional service organizations (Goodale et al. 2008, p. 670, Von Nordenflycht 2010, p. 160, Lewis and Brown 2012, p. 8). Another aspect to supervision problems is the variety of working practices for example in a situation where the service is offered in multiple outlets (Naylor 2002, p. 73). Comparing the results is naturally complicated when working practices vary inside the same organization. Due to the variety, controlling in professional services can mainly be based on measurement of time inputs (Lewis and Brown 2012, p. 7).

Because there exists an information asymmetry between customer and the service provider, the customer is often unable to measure the quality of the service (Greenwood et al. 2005, p. 661, Mills and Margulies 1980, p. 264). This means that traditional quality measurement techniques may not be effective so there is a need for alternative mechanisms to signal quality (Von Nordenflycht 2010, p. 161). To tackle this challenge, implicit or explicit guarantees may be used and customer satisfaction can be measured by informal methods like interviews (Silvestro 1999, p. 405). Another solution to quality issues is that in professional service organizations the routine quality control systems are replaced by professional judgment and organizational culture (Silvestro 1999, p. 411, Kellogg and Nie 1995, p. 380).

## 2.4 Traditional view of professional services

According to literature review a traditional view of professional service organizations and operations management can be drawn. The most commonly cited characteristics are summarized in figure 5.



**Figure 5** Traditional characteristics of professional service operations management

The typical characteristics can be divided in three groups which each individually and together affect the operations management of these organizations. Typically there is a high degree of contact and customization with customer. The professional work is often highly autonomous and involves a high degree of discretion. These characteristics set requirement to the process which is usually highly flexible with low volume. Together nature of customer, nature of professional work and nature of the process and product affect the operations management of these organizations.

The operations management in professional services has to pay attention to the unmanageable nature of the workforce and also to the uncertain environment derived from complex interactions with customer and also. The operations management challenges revolve around questions of planning and controlling. More detailed issues are process planning, capacity planning, job design, goal setting and monitoring practices and quality matters.

## **2.5 Heterogeneity of professional services**

Professional services have long been dealt as a homogeneous subcategory among other service types (Jaakkola and Halinen 2006, p. 409). However in recent studies the heterogeneity of this group has been brought out (e.g. Von Nordenflycht 2010, Malhotra and Morris 2009, Smedlund 2008). The traditional view which includes high customer impact, un-manageable workforce and variable processes is more often questioned as the field of professional services has been studied more closely.

Smedlund (2008, p. 867-868) for example introduced a classification of professional services which is based on the nature of the innovation in the professional service firm and the strength of relationship between provider and customer. He identified four types of professional services: operational, experimental, tactical and high-potential. In an operational service, the relationship between client and the firm is weak and the service is fixed. These services are well known in the market and both the content and the result of the service are known by the customer and the service provider. The role of innovation in these services is to enhance the existing routines. Examples of this type of services are for example auditing and banking services.

In experimental service the relationship with client is weak but the service is produced to new markets. This means that the service involves high market or technology uncertainty. The service aims to solve client's specific problem but the service provider doesn't have a ready-made solution to this problem. The

experimental services can gain high profits through radical innovation. Examples of this type of services are for example web services.

In tactical service the relationship with clients is strong but the service delivery is fixed. This means that tactical professional service firm can deliver services on daily basis because it has developed competences and operational processes which make this possible. In this type of service the customer is willing to pay extra in order to get the service delivered successfully. Innovation focuses on creating new ways to serve customers who are committed to the firm. Examples of tactical services are law firms and funeral services.

In high-potential service there is both radical innovation and a strong relationship with client. Customers of this type of service are committed to bear their part of the risk connected to the innovation of radically new services. The high-potential service aims to offer a win-win situation where both the customer and the firm will benefit from the co-operation in the future. An example of this kind of service is SMS text messaging services.

Von Nordenflycht (2010, p. 155-165) developed a theory of the characteristics which can be used to differentiate professional services and to evaluate their implications to the management. The identified characteristics of the professional services are knowledge intensity, low capital intensity and professionalized workforce. He argued that the degree of professional service intensity is based on the presence of these characteristics and differs across professional services.

Based on this taxonomy he identified four categories of professional services named as Classic PSFs, Professional Campuses, Neo-PSFs and Technology Developers. Classic PSFs meet all three characteristics. Classic PSFs can be described as the archetypal professions and examples of this group are for example law and accounting firms. Professional Campuses are more capital intensive than Classic PSFs. The capital intensity is often connected to specialized physical infrastructure. An example of this group is hospitals. Third group is Neo-PSFs which have knowledge intensive rather than purely professional workforce. An example of

Neo-PSFs is management consultancies. The fourth group is Technology Developers which meets the characteristic of knowledge intensity but none of the other characteristics. An example of this type is a service firm whose workforce is mainly engineers and which requires big investments in equipment.

Malhotra and Morris (2009, p. 896-897) studied in turn how differences in the nature of knowledge, jurisdictional control and client relationships in professional services affect the organizational form, pricing and team-working in the organization. They came to the conclusion that the key dimensions (mentioned earlier) influence the organizational characteristics through situational mechanism which leads to the differenced among professional service firms.

## **2.6 Summary of literature review**

Professional services have been identified in literature as a distinct group among services and the importance of this group in industry has been often emphasized. However the research concerning professional services has been quite scattered and there exists multiple different descriptions to professional services and their characteristics.

From majority of the literature a “traditional” view of professional services can be drawn. According this traditional view, professional services are seen to have characteristics like high customer contact and customization, highly autonomous workforce plus unpredictable and non-routine processes. These features lead to the uncertainty of planning and controlling. However this traditional and stereotypical view can be questioned like is done in more recent studies.

There seems to be lot of heterogeneity between professional services which naturally means that examining professional services simply as a one unified group is misleading. The characteristics like customer impact and standardizing of processes can vary widely between different professional service contexts. Even the

autonomy which is often described as the most important feature of professionals can have varying emphasis across these organizations.

There is no doubt that this field of services and operations management still requires further investigation. Especially the context specific research is needed in order to better understand the differences and distinctive features of professional services.

### **3 EUROPEAN ENVIRONMENT FOR CIVIL LAW**

Courts will be examined as a distinctive operating environment for professional service operations management. The specific court environment which is going to be examined focuses on European courts, which means that the civil law tradition needs to be studied more closely in order to understand the special features of this environment. Inside civil law tradition the examination will focus on the civil procedure and a short overview for the subject is thus provided. The selection of civil procedure as a focus point is based on the fact that one of the research projects used as an information source has this similar focus area. In addition the civil procedure is the fundamental procedure for which other special procedures are based on.

#### **3.1 Civil law tradition**

There are two legal traditions which are most followed on today's world: civil law (sometimes referred also as Romano-Germanic law) and common law (David and Jauffret-Spinosi 1982, p. 22, Merryman and Pérez-Perdomo 2007, p. 1). Civil law tradition is older, more widely distributed and more influential than common law. It is the main tradition used in Europe, Latin America and many parts of Asia and Africa. Common law tradition on the other hand is the legal tradition in Great Britain, Ireland, The United States, Canada, Australia and New Zealand and it also has influence on the law of some Asian and African nations (Merryman and Pérez-Perdomo 2007, p. 1-4). This master's thesis will discuss the civil law tradition because it is the tradition used in Europe which is the geographical context of this thesis.

##### **3.1.1 Short overview for the background of civil law tradition**

The background of civil law tradition is not homogeneous. It is composed of different subtraditions which have their origins in several periods of history and which have influenced the meaning of legal rules and institutions making the rules.

These subtraditions are Roman civil law, canon law, commercial law, the revolution and legal science. The Roman civil law is the oldest subtradition and it is often referred as the basis of the legal system (Merryman and Pérez-Perdomo 2007, p. 6-8). The canon law is the second oldest subtradition and it has its own emphasis on civil law tradition due to the fact that Roman Catholic Church was the main religious authority in Europe. The third historical source of the civil law tradition is commercial law. Commercial law has its background in Italy where the European commerce dominated at the time of the Crusades. Commercial law was thus a pragmatic creation of merchants (Merryman and Pérez-Perdomo 2007, p. 11-13).

The revolution which took place in the 18<sup>th</sup> century had a great effect especially on the public law of civil law nations. The age was influenced by rationalism and nationalism, and natural rights, the separations of powers, antifeudalism and statism were important parts of the revolution which made their mark on the law (Merryman and Pérez-Perdomo 2007, p. 15-19). When considering the civil law tradition it can be said that "...legal scholars are the dominant actors of the civil law" (Merryman and Pérez-Perdomo 2007, p. 60). One of the most important schools is legal science, in which the main idea is that the materials of law can be dealt like natural sciences. Legal science highlights the importance of concepts and classes in law and the main characteristics of legal science are for example scientism, conceptualism, system-building, abstraction, formalism and purism (Merryman and Pérez-Perdomo 2007, p. 61-66).

The modern civil law tradition was formed when these three historical subtraditions were affected by revolutionary law and legal science (Merryman and Pérez-Perdomo 2007, p. 14). However these components had different types of impacts in different countries. This is why there is no such thing as the one and only civil law system. Instead every civil law nation has its own legal system. Sometimes there may be even multiple legal systems within one county. Thus one cannot expect to be able to examine the exact procedures or process steps of the one common civil law tradition. Instead legal tradition acts as a system which gives the perspective and historical background to understand these individual national legal

systems (David and Jauffret-Spinozi 1982, p. 18, Merryman and Pérez-Perdomo 2007, p. 2).

### 3.1.2 Characteristics of civil law

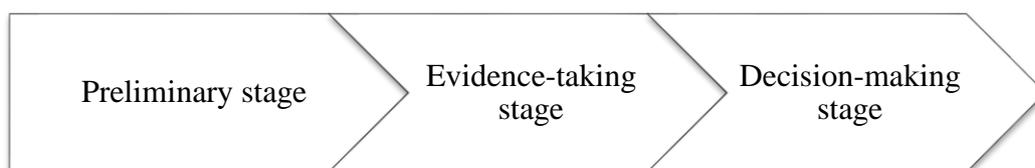
There are lots of differences between civil law nations and there doesn't exist two similar civil law systems in the world which would operate in exactly the same way. However there are characteristics which are common to these systems and which make them different than common law nations. One of these characteristics is the sources of law. In theory in civil law tradition the accepted sources of law are statutes, regulations and custom. This means that prior judicial decisions can't be considered as sources (Merryman and Pérez-Perdomo 2007, p. 25). Another characteristic is the ideology of codification. In civil law world the ideal legislation is complete, coherent and clear so that there are neither gaps nor conflicting provisions (Merryman and Pérez-Perdomo 2007, p. 30).

These two features are closely linked to the role of judges. In civil law world the judges are seen as functionaries whose function is to apply the law and who don't have lawmaking power. Judges are appointed from law school graduates and they can rise in the judiciary according the time they have been working (Merryman and Pérez-Perdomo 2007, p. 36). Judges don't have power to interpret. This leads to another characteristic which is that the interpretation of statutes is ideally allowed only by lawmakers. This ideology comes from the revolutionary idea of separation of powers (Merryman and Pérez-Perdomo 2007, p. 39).

The main official classifications of the civil law tradition are private law and public law. Private law can be further divided in two: civil law and commercial law. Civil law means the law of persons, the family, property, obligations and inheritance (Merryman and Pérez-Perdomo 2007, p. 68).

### 3.2 Generic civil procedure

In civil law tradition the civil procedure is the basic procedure which has been acting as a base to other special procedural systems. Typically the civil proceeding is divided into three stages which are separate. These stages are represented in figure 6.



**Figure 6** General stages of civil procedure

The typical stages of civil procedure are preliminary stage, evidence-taking stage and decision-making stage. In preliminary stage the pleadings are delivered and a hearing judge is appointed. In evidence-taking stage the evidence is taken by hearing judge who also prepares a written record. In decision-making stage the judges who make the decision consider the record, receive briefs from counsels, hear the arguments made by counsels and make the decision (Merryman and Pérez-Perdomo 2007, p. 112-113).

In the civil law nations there is no single event of trial. Instead the proceeding can be seen as series of isolated meetings between judge and counsel. This lack of one single event in which all the evidence and documents are presented makes the proceeding less concentrated than in common law. The lack of concentration leads to the fact that pleading is usual and the issues of cases are often defined as the proceeding advances. Another feature of typical civil law proceeding is that the deciding judge won't receive the evidence or prepare the record. The civil law procedure is often primarily written even though the trend is moving towards orality (Merryman and Pérez-Perdomo 2007, p. 113-116).

In civil justice there is a wide variety of important and fundamental principles which influence the civil proceedings. These principles can be grouped under four main categories:

1. Regulating Access to Court and to Justice
2. Ensuring the Fairness of the Process
3. Maintaining a Speedy and Effective Process
4. Achieving Just and Effective Outcomes (Kramer and van Rhee 2012, p. 33).

Regulating access to court and to justice involves matters like access to justice, right to choose a lawyer, confidential legal consultation, protection against spurious claims and defenses and promoting of settlement and alternative dispute-resolutions. Ensuring the fairness of the process is related for example to the judicial independence and impartiality, publicity and procedural equality. Judicial control and delay avoidance on the other hand are part of maintaining a speedy and efficient process. Achieving just and effective outcomes bundle themes of giving reasons, accuracy of decision-making, effectiveness and finality of the decisions. (Kramer and van Rhee 2012, p. 33-34)

### **3.3 Examples of national civil procedures**

Civil procedures differ widely between different civil law nations. As an example of heterogeneity three civil procedures from different countries are reviewed. The selected examples are from Finland, Italy and Estonia and they are based on the material from CFMnet project's workshop.

#### **3.3.1 Finnish civil procedure**

In Finland all the incoming civil cases follow the same civil procedure code. The procedure however can be simplified for summary cases (undisputed cases).

Finnish civil procedure (see appendix 1) consists three stages which are initiation and written preparation, oral preparation and main hearing. These three stages are

quite similar to ones presented in general procedure. In initiation and preparation – stage the plaintiff files an application of summons which starts the process. This stage includes written preparation in which both parties deliver documents necessary to the process. Some cases can be processed only in written but usually initiation and preparation is followed by oral preparation. In oral preparation a preparatory session is arranged. In this session both parties and the judge come together to discuss about the case. After oral preparation there is a main hearing.

In Finland the settlement is possible in all stages of process. The settlement is encouraged and nowadays only approximately 20 % of disputed civil cases are decided by judgment. The judges are trained to fulfill settlement tasks. This means that the role of executing settlement tasks among other duties has become more and more important in judge's work.

The judge has an active role in Finnish civil procedure. Especially the role is emphasized in the preparation phase. One important duty of a Finnish judge is to do a summary of preparation. The written summary includes all information about the matters like claims and evidences processed in the preparation. A good summary makes the processing of case more efficient as it aims to clarify the whole case situation to both parties. It can even facilitate the settlement making.

### 3.3.2 Italian civil procedure

In Italy there have been major challenges in processing times of civil cases. The length of the process is approximately four to five years. One reason to the length is the complexity of civil procedures: there are up to 31 different civil procedures.

On average the disputed civil case procedure has been divided in five stages (see appendix 2). These stages are mediation stage, introductory stage, assessment stage, collection of evidence and decisional stage. In mediation stage the mediator organization organizes a meeting in which the settlement is discussed. If the parties

don't make a settlement the case is moved to introductive stage. The mediation stage is not obligatory to every case.

The introductive stage is the real start of the process. There are two ways in which the process can begin: either there is a claim filed to the court or the claimant summons the defendant. In both cases the answer of defendant is followed by the first hearing in the assessment stage. The first hearing is the most important hearing. In the first hearing the parties discuss about the case and the main picture of the case is formed.

From the first hearing the case can be progressed in different ways. In some cases the judgment is made in the assessment stage but most of the cases go either straight to the decisional stage or to the collection of evidence. The collection of evidence –stage has also a hearing in which the evidences are introduced. This stage is followed by decisional stage in which there are multiple options how the process can progress. In short the case can be decided either by a single judge or a panel of 3 judges. The way of processing depends on the nature of case. If the case is decided by a single judge there are three options of procedures: written, mixed or oral procedure. In mixed and oral procedure there is final hearing in which the decision is made.

In Italy the meaning of hearings is emphasized. Every civil case has at least one hearing (the first hearing). This means that there is no procedure which is purely done in written. The mediation in Italy is executed by mediation organization and the mediation is a separate stage at the beginning of procedure. This mediation stage was established four years ago and the aim of this stage is to decrease the amount of cases going to the actual processing. In addition to this schema of disputed civil cases there are also separate procedures for injunction orders and small claims in Italy.

### 3.3.3 Estonian civil procedure

In Estonia the average length of civil process is approximately 156 days. This means that the delays of cases are not seen as a problem in Estonia. In disputed civil cases the process has been divided in four stages (see appendix 3). These stages are named as submission of claim, preliminary proceedings, assessment and decision.

In stage of submission of claim the claim is filed to court. This stage is followed by preliminary proceedings –stage in which the processing type of the case is decided. The possibilities are written procedure, simplified proceedings or the normal procedure. Written procedure can be chosen if both parties agree to use it or if the main claim is up to 3 200 euros. The simplified proceedings are used if the main claim is up to 2 000 euros. In other cases the claim is served to defendant and a preliminary hearing is arranged if necessary.

When the defendant has responded the case moves to assessment stage in which the main hearing is organized. If necessary, assessment stage includes also an additional hearing for expert's opinions or witnesses. The assessment stage is followed by decision stage, in which the final decision is made.

In Estonia the first processing phases of claims are often done by court clerks which reduces the work load of judges. The progress of the process is based on certain deadlines. There are deadlines assigned to judges concerning for example the time needed to giving the judgment. Otherwise the judges can schedule the process. This means that judges can give deadlines to the parties concerning for example delivering the documents. The judges can also individually decide how strictly they demand the obeying of deadlines.

### 3.3.4 Comparison of Finnish, Italian and Estonian civil procedures

Finnish, Italian and Estonian civil procedures are all based on the same fundamental principles of civil law. The procedures follow roughly the same general stages which were presented in chapter 3.2. The preliminary stage, evidence-taking stage and decision-making stage can all be found inside the three example procedures although they may have been named differently. However there are some major differences between the civil procedures of these example countries.

The processes described in appendices 1 to 3 are naturally simplified schemas because there are always some exceptions which require different process solutions. Yet the process schemas give a good general view to the civil procedure of disputed cases of these example countries. From these schemas it can be seen that even though the main stages include similar features like hearing both parties equally, taking evidence as documents and so on, there are major differences which affect for example processing times in each country.

As discussed earlier, the process progresses through quite similar stages in all of these countries although these stages may be divided and named differently. However the number of phases differs a lot between each country. For example in Italy there are much more alternative process options inside the general civil procedures for example in decisional stage than in Estonia.

Another feature which differs a lot between these example countries is how the mediation is arranged. For example in Italy the mediation is done by mediator organization as in Finland the mediation is executed by judges who have been trained to manage this task. In Finland the case can be moved to mediation procedure at any time of the process and the mediation is highly encouraged. In Italy the mediation is an obligatory stage for certain cases and it is done prior to the actual processing.

Although the principle concerning judge's autonomy is a base value for work in all of these countries there are still differences in the role the judge takes between Finland, Estonia and Italy. For example in Finland the judge has an active role in the process. The Finnish judge is obliged to do a written summary of the preparation which actively guides the main hearing. The summary may even advance the making of settlement. In Estonia the judge is also active as he/she has a power to set the deadlines for parties to deliver documents and thus guide the progress of the process. In Finland and Estonia the judge's work thus consists also of other tasks like scheduling and managing mediation. In Italy the role is more traditional as the main duty of the judge is to do the judgment at the main hearing.

The hearings have different roles in these example countries. For example, in Finland and Estonia there are also purely written procedures which means that there isn't a hearing in every case. On the contrary in Italy there is always at least one hearing in disputed civil cases according to the schema. The main hearing can also have different meanings. In Finland the main hearing is mainly based on the summary of the preparation made by the judge. The preparation of the case has thus even a bigger role than the actual hearing. In Italy the first hearing is the most important phase of the process in which the case is tentatively defined.

Connected to the role of the hearings is the role of preparation made in the process. The preparation can be either based on written documents or oral preparation. In Italy there is always oral preparation which is done in the first hearing. On the contrary in Estonia and Finland it is possible that the judgment of some cases is based on only written preparation. The importance of preparation also varies in these nations. For example in Finland the preparation is in a crucial role as the preparation is summarized and used as a blueprint to the main hearing.

The interaction with the case parties differs between Finland, Estonia and Italy. This means that the parties are allowed to deliver different amounts of documents and evidences. The difference is mainly derived from the fact that the amount of documents accepted varies between these countries' legislations. There are also

differences in the flexibility of how strict the judges are about deadlines. In Estonia for example the judge can demand the parties to deliver the documents in the determinate time and if the parties don't deliver the documents they are dismissed. Closely connected to this amount of flexibility is the cultural way of behavior. In Estonia there are no problem with postponements of documents as in Italy the culture is much looser.

The main differences between Finland, Italy and Estonia are summarized on table 2. As can be seen from the table, there are quite a lot of differences between these countries. The differences have an effect on the progress of the process. They are also linked to the length of processing times. For example the multiple processing ways and culture of postponement makes the approximate Italian procedure longer than Estonian or Finnish procedure. Different procedures require different operations management decisions. In spite of these differences there is a possibility that the best practices of different countries could be applied to others.

**Table 2** The main differences between Finnish, Italian and Estonian civil procedures

Main differences	Finland	Italy	Estonia
Mediation practices	<ul style="list-style-type: none"> <li>• Move to mediation procedure can happen at any time of the process</li> <li>• Mediation is executed by judges</li> </ul>	<ul style="list-style-type: none"> <li>• Mediation is a separate phase at the beginning of civil procedure</li> <li>• Mediation is organized by a mediator organization</li> </ul>	<ul style="list-style-type: none"> <li>• Mediation isn't a separate phase of civil procedure</li> </ul>
The role of judges	<ul style="list-style-type: none"> <li>• Judge has an active role</li> </ul>	<ul style="list-style-type: none"> <li>• The role of the judge is traditional</li> </ul>	<ul style="list-style-type: none"> <li>• Judge is responsible for setting deadlines</li> </ul>
The role of the main hearing	<ul style="list-style-type: none"> <li>• The role of the hearing is smaller than the role of the summary of preparation</li> <li>• There are also purely written procedures</li> </ul>	<ul style="list-style-type: none"> <li>• First hearing is the most important phase of the process</li> <li>• There is at least one hearing</li> </ul>	<ul style="list-style-type: none"> <li>• There are also purely written procedures</li> </ul>
The role of preparation	<ul style="list-style-type: none"> <li>• The preparation has more important role than the main hearing</li> </ul>	<ul style="list-style-type: none"> <li>• The preparation is based on hearings</li> </ul>	<ul style="list-style-type: none"> <li>• There is both oral and/or written preparation</li> </ul>
Flexibility in serving the documents	<ul style="list-style-type: none"> <li>• The deadlines are usually demanded to be obeyed</li> </ul>	<ul style="list-style-type: none"> <li>• The deadlines have flexibility</li> </ul>	<ul style="list-style-type: none"> <li>• The deadlines are demanded to be obeyed</li> </ul>

## **4 DISTINCTIVE FEATURES OF COURTS FROM OPERATIONS MANAGEMENT POINT OF VIEW**

Courts form a unique environment for operations management. In order to understand this operational environment, the distinctive features of courts affecting operations management must be studied. In courts there are some general features and external objectives which are good to know as a background. There is also lot of variation inside the court environment. The more detailed examination requires that these variations between different judiciaries are understood. General features as a background, more detailed features of courts can be identified and suggestions for the most important features affecting operations management of courts are formed.

### **4.1 General features of courts**

Courts have some general features and external objectives which affect the operations and management practices in this area. The context specific examination of courts is based on courts following civil law tradition. The general features of these kinds of courts are linked to the legal culture and variety of the operational contexts.

#### **4.1.1 Legal culture and external objectives**

The environment of courts and law is highly complex and regulated by norms and principles. One factor to the complexity affecting on the background is the fact that the law can be seen as more than just a system of rules. The operating context of these rules is legal culture which is formed from different institutions, professions and values. This means that the judges' acts are based on the legal culture and that the judges will often be examined not as individuals but as a part of an institution (Bell 2006, p. 6).

Courts aim to serve the society. This means that the judicial activities are closely bound to the external community. The external community influences judiciaries' activities and acts as both an audience and a body to whom the judiciary is responsible to (Bell 2006, p. 10). This means that the definition of audience, in other words customers is difficult in judicial environment. Other interest groups besides the society are for example litigants, witnesses, attorneys, victims of crime, police agencies, state officials and tax payers. The customer definition is also affected by the fact that in each case there are always at least two parties as litigants. In fact the service is directed to the matter needing a solution between these two parties instead of being straightforwardly directed to customers.

What is truly distinctive in courts especially compared to other professional services is that because of the societal context, there is no market pressure or competition amongst courts. Thus courts can be seen as monopolies. This means that the customer is in a position where he/she is not able to choose the service provider.

Legal culture is also strongly affected by professional values and norms which are based on tradition and history. One of the most important values in courts is the judicial independence. (Bell 2006, p. 26). Two other respected values which are highly emphasized in courts are the importance of certainty and equity in the law. (Merryman and Pérez-Perdomo 2007, p. 48-49). Both certainty and equity are values that are intended to secure the quality of the legal process. (Merryman and Pérez-Perdomo 2007, p. 48-50).

#### 4.1.2 Variation in courts

There exist multiple ways in which the courts can vary. First of all, the judicial systems vary in different nations even inside civil law tradition countries. In some countries there is a unified judiciary within a jurisdiction and in others the judiciary is divided into groups like constitutional, administrative, civil and criminal branches (Bell 2006, p. 20).

Second, inside these judiciaries there are multiple dimensions of variety which are connected to procedures, tasks and cases. If there is for example only one judiciary, the procedures in it have naturally lot of variation because it deals with cases from divorces to murders. The most significant difference according procedures is between civil and criminal cases which both require their own procedural steps. In addition the process can differ in nature. This means that there can be either oral or written processes. Oral processes are more typical in criminal cases and civil cases are more often executed written.

The tasks performed in the judiciary have variety which affects substantially its character. Tasks have also an effect to the operational context of the judges. The operational context is composed from elements like material conditions, the workload and the interactions between legal and non-legal actors (Bell 2006, p. 30). The judicial tasks can vary from routine to non-routine.

The cases processed in courts can vary in two different ways. There can be variation in volume, which means that some processes have to deal with fewer cases than others. Another dimension is that there can also be variety in the content of the cases. Some processes have to deal with only few types of cases as others have to deal with wide variety of cases.

## **4.2 The main features of courts affecting operations management**

In addition to the general features presented in chapter 4.1 there can be identified more detailed features of courts which have an effect to operations management. The identification of these specific features is based on the data from a research program which has started at 2006 and which studies the operations management practices in Finnish justice systems. The data from the research program has been analyzed in internal meetings with Professor Timo Pirttilä and Post-doctoral researcher Petra Pekkanen.

The main source of the research data used in this chapter is interviews made in five Finnish courts: the Helsinki District Court, the Helsinki Court of Appeal, the Helsinki Administrative Court, the Supreme Administrative Court and the Insurance Court. These courts are the five largest courts in Finland. The case courts operate in different roles in the judicial system which means that there are certain differences between them. However the main principles of professional organizations can be applied to all of them.

The Finnish justice system can be divided in three levels. The first level is District Courts in which both civil and criminal cases are handled. The next level is the Courts of Appeal. The decisions made in District Courts can be appealed to Courts of Appeal which means that most of the cases handled in Courts of Appeal are appeals against the decisions made in District Courts. The final level is the Supreme Court which deals the cases which are appeals against the decisions made in Courts of Appeal. There are also Administrative Courts and the Supreme Administrative Court which deal the cases connected to administrative acts. In addition to these courts there are certain special courts: the Market Court, the Labor Court, the Insurance Court and the High Court of Impeachment.

Based on the research program data typical features affecting operation management of courts could be identified. These characteristics can be categorized under same three groups which were identified in literature review. These groups are labelled as nature of customer, nature of professional work and nature of process and product.

#### 4.2.1 Nature of customer role

As in all service operations, also in courts the customer plays an important role. There can be identified three fields of characteristics which are the most dominant in a court environment: customer's role as an information provider, customer's varying interest to participate to service and customer's way to interact with service provider.

### Customer's role as information provider

In courts the accomplishment of tasks requires information provided by customers and often delivered as documents and reports. However the nature of this information giving role can vary from active to passive. The ambition of customer to achieve benefits according the case affects the role he/she tries to deploy. The court can also restrict the role of customer according its principles. In every court case there are always two parties. Because equality is one of the most important values in courts, both of the parties must be able to deploy similar roles. This means that if the claimant of the case has an active information giving role, also the defendant has to be given a chance to provide information actively.

Both active and passive roles cause challenges. If the customer is passive in giving the information the progress of the process suffers. This means that the customer doesn't provide information which would be important in order to move the case to the next step of the process. For example in Insurance Court it was said that the customers deliver further clarifications gradually which lengthens the processing of the case.

On the other hand the customer can have even too active role which means that he/she provides too much information and that the providing happens too often which is the case for example in the Insurance Court. This causes interruptions to the process. If information giving isn't restricted in any way the customer can deliver new information at any time or the neglect the given instructions. This makes the process highly unpredictable. Because of the equality of the parties every time that one party provides new information, also the other party has to be provided to do the same thing. This complicates the process and causes delays and idle times.

In addition the quality of the information provided varies between customers. Especially in situations where the customer doesn't have an advocate the quality of the information can be poor and customers may deliver information which is irrelevant to the case.

### Customer's varying interest to participate

What is distinctive in courts is the fact that the customer can have varying interests to participate in the service. In some cases the customer may be unwilling to take part to the process. The unwillingness can be shown in troubles to reach the customer or to get the customer to the meeting. Also scheduling meetings can be challenging when one of the parties isn't interested to settle the date. For example in the Helsinki Court of Appeal it was said that it can be difficult to reach the customer and even when the customer has been contacted he/she may cancel the participation which naturally causes challenges to the actual processing of the case.

### Customer's way to interact with service provider

In courts the interaction between service provider and the customer is restricted in order to secure the objectivity of the judge. Different documents send by the customer represent the actual parties who are only physically present in certain stages of the process or not even then. Thus the customer can't be in direct contact with judge whenever he/she wants. Instead the customer contacts are mainly the responsibility of office personnel. This is shown for example in the Helsinki District Court where the secretaries and other administrative personnel have emphasized that the customers contact them a lot. Another example of the restricted interaction is from the Insurance Court where the secretaries said that difficult customers can be frustrated and even threatening in their interaction because even though they can't give customers detailed information about the processing of cases, they still have to deal with the complainings because customers can't contact judges.

These three fields of characteristics vary between different cases and courts. The main features of customer role concerning Insurance Court, the Helsinki Court of Appeal and the Helsinki District Court are summarized on table 3.

**Table 3** The main features of customer role in courts

	The main features of customer role in courts		
	Providing information	Participation	Interaction
Insurance Court	<ul style="list-style-type: none"> <li>• Customers deliver further clarifications gradually</li> <li>• Customers deliver further clarifications often</li> <li>• Customers deliver irrelevant information</li> </ul>		<ul style="list-style-type: none"> <li>• Difficult customers' interaction is threatening</li> </ul>
Helsinki Court of Appeal		<ul style="list-style-type: none"> <li>• Customer is difficult to reach</li> <li>• Customer cancels participation</li> <li>• Finding suitable date is difficult</li> </ul>	
Helsinki District Court		<ul style="list-style-type: none"> <li>• Customer is difficult to reach</li> <li>• Customer cancels participation</li> </ul>	<ul style="list-style-type: none"> <li>• Customers contact frequently by telephone</li> </ul>

As can be seen from the table, the emphasis of the features differs between the example courts. In Insurance Court it is typical that the challenges are related to the information giving problems. Customers send further clarifications frequently and the information sent can be irrelevant to the case. In Helsinki Court of Appeal and Helsinki District Court the main challenges concern the issue of customer's interest to participate. The main challenge is to reach parties to be sued and to get them to the hearings.

These differences are partly based on the cases coming to the courts. The most dominant factor causing variety in customer role is whether the processed case is civil or criminal and whether the process is executed in writing or orally. It can be said that in most civil cases the customer takes an active information giving role. The customer doesn't always have an advocate which means that the information provided can be irrelevant and poor in quality. Without legal representative it is also more probable that the information is delivered little by little. When the customer

acts like this, there is a danger that the process involves lot of unnecessary work. The process is hard to predict and thus the planning of process is challenging. The Insurance Court processes civil cases which are straightly connected to customer's income and health and the customers don't have legal representatives. This is why the features of information giving role are emphasized in it.

On the other hand in criminal cases challenges revolve around customer's unwillingness to participate in the process. The main problem is to get the customer to the meetings at the right time. The customer may stand up from hearing which requires re-scheduling and planning a new hearing. This requires coordination of all parties and causes extra work. The Helsinki Court of Appeal and the Helsinki District Court process both civil and criminal cases which is why these features typical to criminal cases are dominant in them.

#### 4.2.2 Nature of professional work

There are different personnel groups in courts: judges, assistant judges, managers, court clerks and office personnel. These groups have naturally differing characteristics. The focus of this chapter is on workers categorized as professional: judges, assistant judges and managers. When the features of professional work are examined it can be identified that the most determinant ones are autonomy, values and working habits.

##### Autonomy and objectivity

One, maybe even the most dominant characteristics of professionals is their preference for autonomy. In courts this feature is highly emphasized as the autonomy of the judge is crucial in order to secure the objectivity of the decisions. The preference for autonomy is shown as distaste towards direction and supervision. This feature for identified in almost all of the research project courts. In courts the managers are often older colleagues which mean that also the managers share the same preference for autonomy. For example in Insurance Court,

Helsinki Administrative Court and Helsinki District court it was said that managers don't dare to intervene to the work of the judges. This may be result from the fact that they are also judges' older colleagues and they know that direct supervision is not appreciated.

#### Varying working habits

The autonomy of professionals can lead to a situation where each worker has his/her own working habits. This is shown for example in the Insurance Court and the Helsinki District Court. Because of varying working habits, standardizing of work is difficult. When working habits are individual also the supervision of work is challenging. In courts the working culture is based on the autonomy and the usual perspective is that everyone has a right to work in a way they want. Every worker is naturally individual which means that for example their working paces differ considerably. For example in the Insurance Court and the Helsinki Court of Appeal it is noticed that the delays of cases are often caused by some individuals' too precise and hence slow way of working. Varying working habits also make replacement of workers difficult. This means that in case the worker is ill, the cases he/she is handling have to be freeze because there are no ways to substitute the worker.

#### Quality as guiding value

Professional workers share common values which guide their execution of work. In courts the ultimate value is the quality of the decisions. For example in the Helsinki Administrative Court it was said that in order to secure the quality the length of time can be sacrificed. In the Helsinki Court of Appeal it was said that factors decreasing the quality are either changes in personnel or working too quickly. Thus it is thought that in order to make objective and equal decisions, the judge must have appropriate time to process the case.

The judges' autonomy is also based on quality. This means that in order to deliver fair decisions the judge must work autonomously. It is presumed that delivering qualifying decisions requires autonomous work of judges which is not directed or supervised by managers. The judges are seen to be capable of self-direction because of the quality conception which guides their actions. However for example in the Helsinki Administrative Court it was said that some judges do over quality which lengthens the processing times.

The main features concerning professional work in Finnish courts are summarized on table 4. The features of professional work don't have quite as much variation as did the features of customer role. There is rather similar emphasis on features in every court.

However there seems to be contradictions inside the content of quality in these courts. It has been said that one aspect of the quality is the length of the processing time. For example in the administrative court the length of the case is said to be the most important factor of quality. On the other hand it is also said that the quality of the case cannot be sacrificed even if it requires lengthening the case. It can thus be interpreted that the content of quality is unclear as it is sometimes defined as speed and sometimes with features like equity.

In courts quality acts as a guiding value which should be the base of the judge's self-direction. However for example in Helsinki Administrative Court it was said that some individuals do over-quality in their decisions. In this case the quality is over emphasized which leads to the over precise work and lengthy cases. This means that self-direction has its downsides and it could be proposed that there should be also other kind of directing practices.

**Table 4** The main features of professional work in courts

	The main features of professional work		
	Autonomy	Variety in working habits	Quality as supreme value
Insurance Court	<ul style="list-style-type: none"> <li>• Judges don't like to be directed or supervised</li> <li>• Managers don't dare to intervene to problems</li> <li>• Working times can be scheduled freely</li> </ul>	<ul style="list-style-type: none"> <li>• Everyone has own working habits</li> <li>• Too precise way of working causes case delays</li> </ul>	
Court of Appeal	<ul style="list-style-type: none"> <li>• Judges don't like to be directed or supervised</li> </ul>	<ul style="list-style-type: none"> <li>• Too precise way of working causes case delays</li> </ul>	<ul style="list-style-type: none"> <li>• Working more quickly will harm the quality of the work</li> <li>• Changes in personnel decrease the quality</li> </ul>
The Supreme Administrative Court	<ul style="list-style-type: none"> <li>• Working times can be scheduled freely</li> <li>• Judges don't like to be directed or supervised</li> </ul>		<ul style="list-style-type: none"> <li>• Quality requires appropriate processing time</li> </ul>
Administrative Court	<ul style="list-style-type: none"> <li>• Judges don't like to be directed or supervised</li> <li>• Managers don't dare to intervene to problems</li> </ul>	<ul style="list-style-type: none"> <li>• Too precise way of working causes case delays</li> </ul>	<ul style="list-style-type: none"> <li>• Quality requires appropriate processing time</li> <li>• Doing "over quality" in decisions</li> <li>• The length of time is sacrificed for quality</li> </ul>
District Court	<ul style="list-style-type: none"> <li>• Managers don't dare to intervene to problems</li> </ul>	<ul style="list-style-type: none"> <li>• Too precise way of working causes case delays</li> <li>• Everyone has own working habits</li> </ul>	

#### 4.2.3 Nature of process and product

The end-product of the court service can be defined to be the judgment. This means that the product is highly intangible. The process and the product are closely

connected and the process can be seen as part of the product. The nature of customer and professional work affect the process which means that the characteristics of process are mostly derived from the earlier features. The main characteristics of process are identified to be fixed process stages, variations in the urgency of cases and variations in the complexity of cases.

#### Fixed process stages

The process stages in courts are partly fixed. The main reason for this is the fact that the process is defined by law. In Insurance Court and Helsinki Court of Appeal it was mentioned that according to law there has to be certain law based stages in the process. For example in Finland law obligates that along the process both parties must be provided equal opportunity to deliver evidence and to respond to other party's delivered documents. On the other hand the process is also fixed by the court because of the need for equity and fairness. The process structure is designed in order to secure the objectivity of the work by ensuring the possibility to do independent decisions and by including peer control and feedback procedures. This kind of fixed workflow causes resource bottlenecks. For example in the Helsinki Administrative Court and Helsinki District Court it was mentioned that the process takes more time as the case cannot be proceeded if the decisions of earlier stages haven't be delivered.

#### Variations in the urgency of cases

In courts the processes are often highly variable. There are two fields of variation: variation in urgency and variation in complexity. As was mentioned in the Insurance Court and Helsinki District Court, some cases arriving to the court need to be dealt very quickly as others don't have specific time needs. An example for urgent case is a custody dispute situation where one of the parents is foreign. The urgent cases are often dealt first like mentioned in the Helsinki Administrative Court and the Supreme Administrative Court, which means that the less urgent

cases are dealt when there is time to process them. Hence the processing time of these less urgent cases is often longer than it maybe should be.

### Variations in the complexity of cases

On the other hand the incoming cases can also differ from their complexity. Some cases are simple requiring only standard procedure as others can be highly complex including for example multiple sources of evidence. The throughput time is related to the complexity of the case. For example in the Insurance Court it was said that in complex cases the processing time is long and it is often interrupted as other cases are dealt in between.

In Finland the main issue of varying cases is that the simple cases are more likely picked first to be processed than complex cases. For example in the Helsinki Court of Appeal, the Helsinki Administrative Court and the Supreme Administrative Court it was mentioned that complex cases may be neglected because of the quantity goals. This is because the performance of the judge is measured by the quantity of the decisions which means that because simpler cases are quicker to process they are dealt first in order to meet the annual goals. In addition simpler cases are often easier to schedule to the working plan, as they don't require as much available working time as complex cases.

Another feature lengthening the total processing time of complex cases is the fact that urgent cases are always dealt first, which means that processing urgent cases can interrupt the processing of a complex case. This causes challenges considering that for example in Insurance court and the Supreme Administrative Court it is said that the cases have become more complex and they require more working time. It can be said that the amount of available time to process complex cases should be somehow enhanced.

The variations in complexity have an effect to the unpredictability of the cases. Different sized cases have different requirement needs. There are simple cases

which are quite similar to each other. On the other hand there are also complex cases which can be unpredictable. In complex cases the total needed processing time is hard to predict when the case comes in like was said in the Insurance Court. The required processing time can also change during the process. For example the parties can provide new information which requires more assessment and preparation. In addition also the content of the case can change when new evidence is delivered. This means that scheduling and planning of the process is difficult.

The main features of process in Finnish courts are summarized on table 5. The variations in the complexity of cases are recognized in all of the studied courts. However there seems to be different emphasis on this feature between different courts. Variations in the complexity are highlighted especially in the Insurance Court and the Supreme Administrative Court. The reason for this is the fact that the customer role causes more challenges in these courts than others, because all of the cases processed in these courts are civil cases. In civil cases the customer is often more active concerning the case because it is closely bounded to the personal matters. Due to the activity of the customer, he/she often delivers further clarifications, which complicates the process.

**Table 5** The main features of process in courts

	The main features of process		
	Fixed process stages	Variations in urgency	Variations in complexity
Insurance Court	<ul style="list-style-type: none"> <li>• Process has certain law based stages</li> </ul>	<ul style="list-style-type: none"> <li>• Cases have different urgency needs</li> </ul>	<ul style="list-style-type: none"> <li>• Complex cases are regular part of work and they require time</li> <li>• Easy cases are processed fluently but complex cases cause problems</li> <li>• More cases are complex than earlier</li> <li>• The complexity of the case is difficult to estimate at the beginning</li> </ul>
Court of Appeal	<ul style="list-style-type: none"> <li>• Process has certain law based stages</li> </ul>		<ul style="list-style-type: none"> <li>• Easy cases are dealt first in order to meet the goals</li> </ul>
The Supreme Administrative Court		<ul style="list-style-type: none"> <li>• Urgent cases are dealt first which lengthens processing times of other cases</li> </ul>	<ul style="list-style-type: none"> <li>• More cases are complex than earlier</li> <li>• More work is invested in complex cases</li> <li>• Complex cases are neglected because of quantity goals</li> </ul>
Administrative Court	<ul style="list-style-type: none"> <li>• Process requires decisions from earlier stages in order to progress</li> </ul>	<ul style="list-style-type: none"> <li>• Urgent cases are dealt first which lengthens processing times of other cases</li> </ul>	<ul style="list-style-type: none"> <li>• Easy cases are dealt first in order to meet the goals</li> </ul>
District Court	<ul style="list-style-type: none"> <li>• The process is affected by earlier stages</li> </ul>	<ul style="list-style-type: none"> <li>• Some cases need to be dealt faster than others</li> </ul>	<ul style="list-style-type: none"> <li>• Easy cases are processed fluently but complex cases cause problems</li> </ul>

### **4.3 European context to the identified features**

The main features of operations management in courts were drafted in previous chapter. The draft was based on the Finnish justice system. These features are now examined in the European court context.

The European level examination is based on the CFMnet project which studies the courts' caseflow management practices in different European countries. The data is mainly derived from the kick-off meeting and the first workshop of the project. In the first workshop there were participants from the following European countries: Finland, Estonia, Italy, Netherlands, Spain and Portugal. Thus it can be said that this examination is based on semi versatile representation of European justice systems.

From the discussions there could be identified three major fields of challenges which were mentioned several times: managing the parties, managing the workforce and managing the process flow. These three challenges are similar to the features which were identified earlier in the Finnish context but named as nature of customer, nature of professional work and nature of process. This means that the three fields of characteristics were supported by participating European countries as well.

#### **4.3.1 Managing parties**

Managing parties in civil procedures was a commonly agreed challenge. In general all of the representatives from participating countries thought that defining customer in courts is a difficult task. Courts serve both the society and the individual citizens which mean that the customer can be defined in multiple ways. However this definition of customer is primarily a philosophical question and for simplifying the discussions the mutual agreement was that the customer in this context is defined to be the parties of the case.

Another feature which was commonly recognized in these countries was the customers' varying interest to participate in the process. In civil cases there are always two parties which have different interests towards the case. This means that for example the defendant may be unwilling to participate and co-operate with the court and the other party and on the other hand the claimant of the case may be even too willing to deliver information to the process.

Providing information by delivering documents and interacting with the court were seen as challenges related to customers. For example in Portugal the process has been tried to improve by restricting the interaction by setting stricter deadlines for parties to deliver evidences. If these deadlines wouldn't exist the evidence should be accepted at any time of the process. In addition in Estonia setting deadlines in order to guide the document delivery of parties is controlled by the judge.

In Spain the customers' interaction related to the appeals has been minimized by setting stricter rules for appealing. For example in order to make an appeal the customer must have serious reason for this action. Another way to decrease the amount of appeals is that if the amount of debt is under 3 000 euros the appeal cannot be done.

On the other hand, in Netherlands there has been an aim to facilitate the process of leaving the application for a summons. The main goal is that the process is simplified and made electronic so that everyone could make the summons. This means that the role of advocate in starting the process will decrease.

#### 4.3.2 Managing the workforce

Managing the workforce in this context concentrates on managing the judges. Connected to the work of judges two main fields of features were identified: the management of autonomous workforce and the differences in the role of judge. The judges were seen as autonomous and impartial actors. These features affect the managing of judges. For example in Portugal the management of judges is executed

by setting objectives. However in general because of autonomy there are no ways to punish the judges if the objectives are not achieved.

On the other hand the impartiality affects also the management done by the judges. In general the judges don't dare to intervene to the process and for example setting restrictions is seen difficult because the underlying idea is that the judge is impartial and autonomous. This kind of attitude is hard to change because it is based on the professional cultural identity of judges and the judges are have been used to work in certain ways for a long time.

However there are differences in the role of the judges between different countries. For example in Spain the judge is strictly separated from administration and the core competence of the judge is to do judicial decisions. In Portugal and Estonia on the other hand the judge is engaged to the administrative tasks which mean that in addition to judicial decision making the judge is responsible for example of monitoring objectives and setting deadlines. Thus in many countries the judge's work includes lot of other activities than what is thought as the traditional competence.

#### 4.3.3 Managing the process

Managing the process was seen as key issue because there have been difficulties with too long processing times in these partner countries. However shortening the total processing times is challenging because the judicial process cannot be compared to manufacturing process and it is restricted by law. The time of each case cannot be predicted which means that planning the process is difficult. There are also typically multiple participating organizations and parties in the process which means that the process requires lot of coordination of parties.

Especially in Italy, Spain and Portugal the incoming case volume is massive which partially lengthens the processing times. In Italy there are multiple possible procedures and even in one civil procedure there is lot of variation on the progress.

In Spain and Portugal there have been efforts to systemize the procedures. For example in Portugal the cases are now decided only by one judge as previously there was also an option of three judges. In Spain the handling of documents has been made electronic in order to make the process more efficient.

The process is affected by the variations in complexity and urgency. For example in Estonia the basic procedure is very simple and efficient but in the case of complex cases the procedure takes naturally more time. In Netherlands the variations of urgency has been tackled by setting a separate procedure for very urgent cases in which the decision can be made during one day.

#### 4.3.4 Results of examination

The three fields of characteristics were studied by examining their relevance in European context. The results whether the original suggestions were supported by this examination are summarized on table 6.

The original suggestions for the distinctive features of courts which affect the operations management were the following:

*Suggestion 1: Customer has a role as information provider*

*Suggestion 2: Customer has varying interest to participate on the process*

*Suggestion 3: The amount of customer interaction is restricted*

*Suggestion 4: Professional has a desire for autonomy and objectivity*

*Suggestion 5: Professionals have varying working habits*

*Suggestion 6: Quality is the guiding value of professional work*

*Suggestion 7: The process is guided by legislation*

*Suggestion 8: The process is affected by variations in urgency*

*Suggestion 9: The process is affected by variation in complexity*

*Suggestion 10: Processing times are unpredictable*

**Table 6** Generalization possibility of the distinctive features of courts

	Original suggestion	Supported by European examination
Nature of customer role	1. Customer has a role as information provider	Yes
	2. Customer has varying interest to participate on the process	Yes
	3. The amount of customer interaction is restricted	Yes/No
Nature of professional work	4. Professional has a desire for autonomy and objectivity	Yes
	5. Professionals have varying working habits	Yes/No
	6. Quality is the guiding value of professional work	Yes/No
Nature of process and product	7. The process is guided by legislation	Yes
	8. The process is affected by variations in urgency	Yes
	9. The process is affected by variations in complexity	Yes
	10. Processing times are unpredictable	Yes/No

Most of these suggestions were somewhat supported by the examination of European courts. However four suggestions were not fully supported. The suggestion 3, concerning the restrictions of customer interaction, did have support for example in Portugal, Spain and Estonia, but in Netherlands the aim is to make the applying for summons easier which can increase the amount of interaction. The suggestion 5, varying working habits of professionals, weren't clearly mentioned during the workshop discussions which means that this suggestion couldn't be

marked as purely supported feature. However there was discussion about the power of judges according to which it was mentioned that some judges may be lazier than others and this should be taken into account if the judge is the one who is responsible for setting the deadlines to the process.

Another feature which didn't have full support was the suggestion 6. Quality as a principle value wasn't mentioned. However characteristics connected to the value were discussed. For example the impartiality of the judge and the importance of appropriate processing times were commonly agreed. The judge has to be impartial in order to deliver legitimate decisions. Legitimate decisions equal high quality. On the other hand quality can suffer from too long processing times so the appropriate handling time is an important factor of quality. Last, the unpredictability of processing times (suggestion 10) wasn't purely mentioned during the discussions so it cannot be marked as fully supported. However, the variations in urgency and complexity and the role of the customer were mentioned to cause difficulties to the planning of the process which is close to unpredictability.

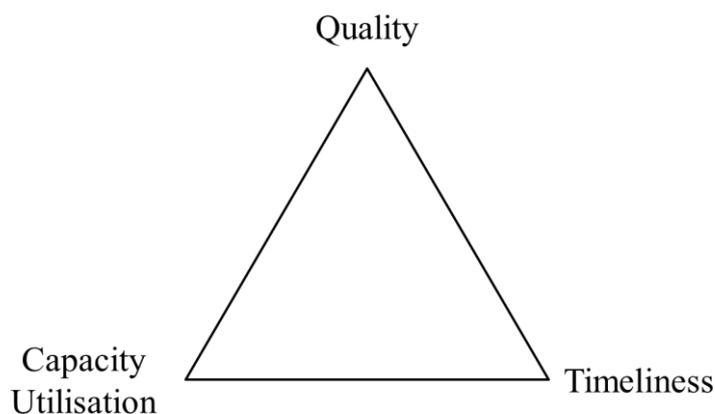
According this examination the features identified in previous chapter are partly supported by the examination of European context. The effects of these features to operations management of courts will be studied in next chapter.

## **5 OPERATIONS MANAGEMENT DEVELOPMENT POSSIBILITIES IN COURTS**

Operations management has to secure the main objectives of the organization and to perform them in the given environment. The distinctive characteristics of courts affect the operations management possibilities. The preconditions and restrictions to operations management derived from the main objectives and process requirements are discussed first. After setting the general view more detailed operations management task possibilities are introduced.

### **5.1 Main objectives of operations management**

When an ideal court process is discussed likely features to arise often concern the quality of the decisions and the length of the processing times. The main objectives of operations management in courts can be presented as a triangle in which the focus points are quality, capacity utilization and timeliness (see figure 8). This means that operations management aims to secure the quality of the service, to find an appropriate level of capacity utilization and to secure the timeliness of the process. Operations management should thus support the achievement of these supreme objectives in a balanced way which doesn't either over-emphasize or neglect any of the objectives.



**Figure 7** Main objectives of OM in courts

### 5.1.1 Quality

Quality in this context means that the output of the service is fair and that the process leading to the output enables qualifying decision making and case processing. The quality is a supreme value in the court environment. This means that valuing quality guides the actions of the court. This leads to the situation where the quality may easily gain even over-emphasized status which dominates other objectives of operations management. In order to make the court process more efficient it is thus crucial that these two other objectives, capacity utilization and timeliness, are supported by managerial solutions.

However the quality cannot be dismissed because the actions of the court have to be reliable and fair in order to serve the society. Factors of quality which operations management aims to influence are the amount of contiguous processing time of each case and the overall processing time of cases. This means that in ideal case the person who processes the case should have contiguous time to handle the case without interruptions of other cases and operations management solutions should secure the appropriate amount of this contiguous time. On the other hand in order to deliver qualifying service, the overall processing time of each case cannot be too long which means that operations management solutions should aim to make the process more efficient.

### 5.1.2 Capacity utilization

Capacity utilization refers to the degree of utilization of the workforce processing cases. From operations management point of view the workforce should be utilized as effectively as possible. However in court environment there is often an attitude according to which efficiency and quality are in contradiction. It is thought that making decisions efficiently means that decisions are made sloppily which decreases the quality. In addition it is also said that a typical court worker has to have a pile of cases in work queue in order to work efficiently. This means that the

capacity utilization cannot be over-emphasized because if the workers have too much time their efficiency may decrease.

Another feature connected to the capacity utilization is the fact that the workload of cases in courts varies widely which means that the capacity requirements of cases are very versatile. Versatile capacity requirements affect the measurement of efficiency. Because complex cases require lot of processing time, two workers with the same amount of cases may have very different workloads if one worker processes only simple cases and the other complex cases.

### 5.1.3 Timeliness

By timeliness it is meant that the total processing times of cases should be appropriate. Timeliness in court environment doesn't mean a situation where the approximate processing time of all cases is as short as possible. Instead because of varying case requirements timeliness in courts means that every case is processed as quickly as it is appropriate for the concerning case. This means that there should be no cases however complex they are which are forgotten to the queue and processed over too long time.

The aim of operations management is to define time goals and to monitor how these goals are accomplished. In court environment the variations of cases have to be taken into account and the time goals should be chosen according each case's significance and urgency.

## **5.2 The object of operations management decisions**

In courts the object of operations management are the incoming cases. The object can be examined from two perspectives: from the point of view of a single case and from the point of view of the total caseload.

### 5.2.1 A single case point of view

An incoming case has two distinctive features which affect the operations management. First, the capacity requirements of the case are hidden when the case arrives. This means that the case's requirements of direction cannot be known in advance and they are revealed only when the case is being processed. We call this feature "opaque capacity requirements", in which the main challenge is that the amount and type of work cannot be planned in advance.

Second, each case has always two parties. For example in civil cases there are always the claimant and the defendant. These two parties have different interests to participate to the process which has to be taken into account in managing the case. This feature poses restrictions and demands to the processing of the case because both of the parties have to be heard and handled equally. These two features of a single case alone make the operations management challenging, let alone when the cases are examined as a group.

### 5.2.2 Total caseload point of view

In addition to managing just single cases, operations management has to manage the whole bulk of cases processed in court. This total case load has lot of variation. The incoming and processed cases can vary in complexity and in urgency and this variety in case requirements poses challenges to the operations management.

The amount of variation and the degree of complexity varies between different courts. For example in Finland in District Courts the incoming cases have a wide variety of all degrees of complexity, but the amount of easier cases is bigger than complex cases. In The Supreme Court almost all of the processed cases are complex. On the contrary for example in Insurance Court almost all of the cases are on the easier side. The nature of the cases a court process, affects the operations management solutions suitable for them.

The cases can also vary in the amount of urgency. Some of the cases coming to courts are highly urgent like cases in which the defendant is already under arrest but there is new evidence which could prove the defendant innocent. These highly urgent cases require individual managerial solutions because they have to be dealt immediately but on the other hand the processing of other cases shouldn't suffer because of urgent cases are dealt instead of the more standard ones.

### **5.3 The operational process**

As manufacturing firm's operational environment is the factory where the products are produced, court's operational environment is the judicial process where the cases are handled.

#### **5.3.1 Characteristics of operational process**

In courts the process can be called as semi-structured process. This means that the process is restricted by certain regulations mainly based on law. Because of these restrictions the process must have certain stages and the process has to progress in certain order. Consequently the process cannot be designed freely in order to make it for example more efficient.

In addition the process consist often external participants. By external participants we refer to for example parties, attorneys and expert witnesses. Process thus includes coordination of several participants. Because of the external participants, the control of the process is not only in the hands of the court. The flow of the process is unpredictable and self-directive. This means that the progress of the process varies according each case. The stages of the process must thus be applied according the case requirements.

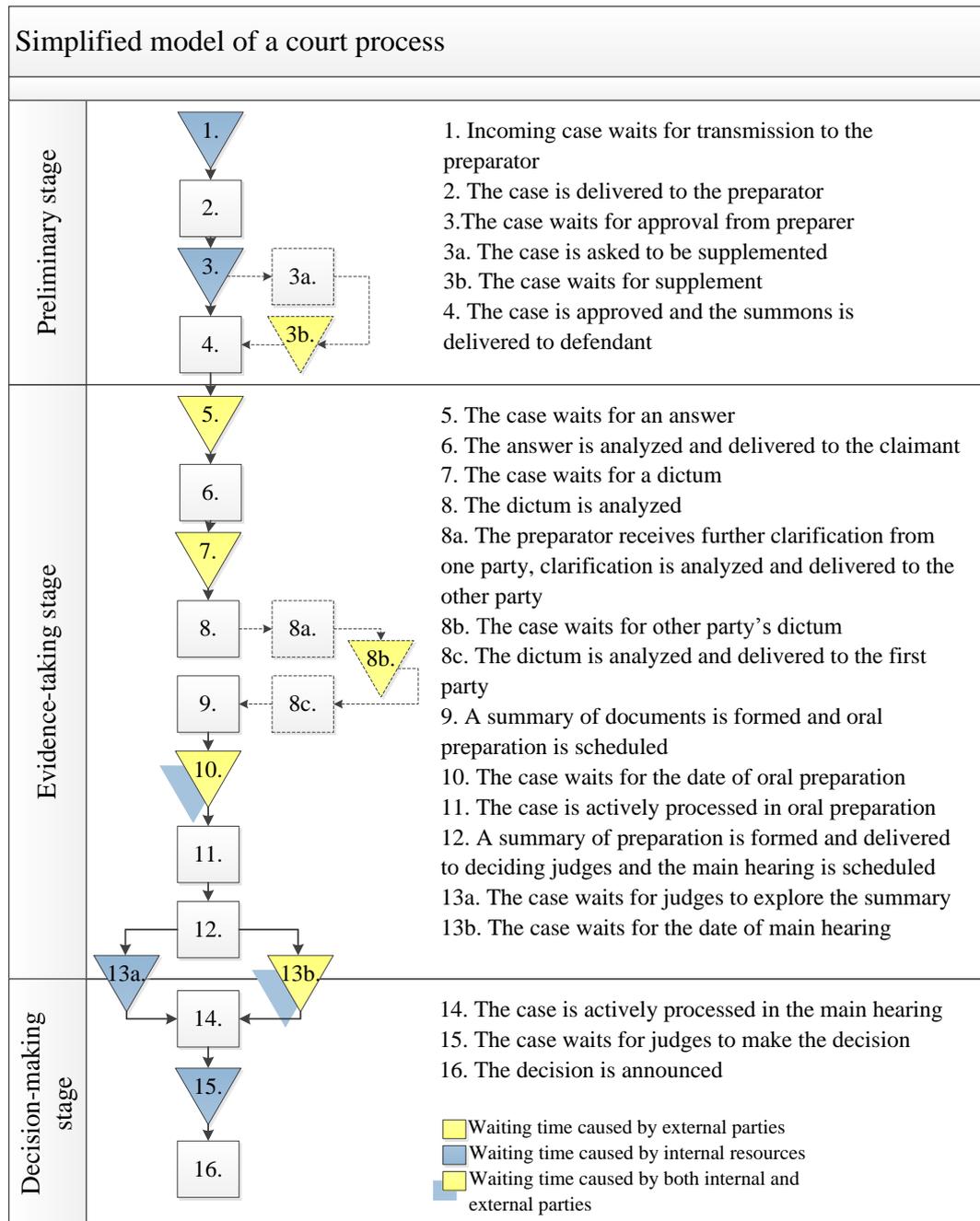
When these features are coupled together the operational environment of courts can be drawn: courts have to operate in an unpredictable external environment with restricted internal processes. This poses challenges to the operations management

as the planning of the process in advance is difficult. Because of the uncertainty the forecasting of capacity requirements and scheduling the work is challenging.

### 5.3.2 Simplified model of a court process

The main objectives, features of cases and characteristics of operational process affect the actual process flow of each case. The process flow of each case is directed by decisions based on case's particular requirements. Because of the semi-structured process design the directing decisions differ between each stage.

Court processes vary widely between different countries, different courts and even between different cases. This means that the phases requiring managing also vary between processes. In order to simplify the discussion about the process stages and operational decisions connected to them, a simplified model of court process is formed and discussed in more detail. The type of the case which is being processed isn't defined in the model. The process is based on the general stages of court process which are preliminary stage, evidence-taking stage and decision-making stage. An illustration of the process is presented in figure 8.



**Figure 8** Simplified model of a court process

In the figure the process is composed from parts of active processing (square) and waiting (triangle). The waiting times are divided in three classes according the reason of wait. Yellow triangle reflects that the waiting time is caused by external party, blue triangle reflects that waiting is caused by internal resources and bicolored triangle means that both internal and external parties cause waiting time.

The process starts when the case arrives to the court in preliminary stage. First, the case has to wait that the office personnel delivers the case to the appropriate handler. When the case has been delivered to that person it may have to wait in a pile of other cases that the person who is supposed to prepare the case has time to explore the case. When the case has been tentatively explored the preparer can decide whether the case is accepted for further processing. The preparer may also ask for further clarification to the summons and in this situation the processing of case has to wait for the applicant to send the further clarification. If the case is accepted to further processing, the preparer will send a summons to the defendant.

In evidence-taking stage the case has to first wait for the defendant to answer to the summons. Because all the court cases have always at least two parties, the answer of the defendant is next send to the claimant who is asked to make a dictum to this answer. This means that the process has multiple phases in which the progress of the process is dependent on the activities of external party and whether he/she delivers the information on time. It is also possible that one party has forgotten to send some information he/she thinks is relevant and wants to deliver it afterwards. In this case if the further clarification is accepted it has to be send to the other party and he/she has have to have a chance to send a dictum to the new information.

After all necessary documents have been delivered the preparer makes a summary of the documents and schedules a time for oral preparation. If the schedules of parties, preparer or the required court room don't match the case may have to wait until the first suitable date is available. In the oral preparation the case is actively processed and prepared for the main hearing. After the oral preparation the preparer makes a summary of the preparation and delivers it to the deciding judges. The main hearing is also scheduled. Before the case can move to the main hearing it may have to wait for the judges to explore the summary of the case and also for suitable date if schedules of parties, judges and other participants don't match.

When the case moves to the main hearing, it can also be seen that the process has progressed to the decision-making stage. In the main hearing the case is actively

processed. After the main hearing the case has to wait for the judges to make the final judgment. When the judgment is made, it is announced to the parties.

As can be seen from this description and illustration the waiting points in the process are caused either by internal structure and resources or by external participants. This means that the operations management decisions have different means in these categories. The more detailed tasks and practices are described in the next chapter.

## **5.4 Operations management tasks**

In courts operations management tasks have to answer to the needs of the overall objectives of the court. The main aims of the operations management are to secure the quality by ensuring the sufficient preparing time for each case, to enhance the capacity utilization and to control the time targets. The central managerial tasks are linked to the “product range” of the court, in other words the type of the case. These tasks and possibilities to improve the managerial decisions are examined from three perspectives, which are managing bulk cases, managing complex cases and managing urgent cases. In order to improve the operations management in courts, there should be launched certain policies which would make the operations management decisions possible. These upper level policies are examined first followed by more detailed examination of the operations management tasks.

### **5.4.1 Upper level policies for operations management**

There can be identified at least three fields of policy requirements which should be taken into account in courts. First, each case group should have certain time target. This means that the time targets should be determined according the requirements of each case group. These time targets should be inter-organizational because the lengths of cases result from the work of different actors (e.g. judges, lawyers, administrative staff, and expert witnesses). All of these participating actors should

know and respect the given time targets in order to keep the processing times appropriate.

Second, there should be launched a certain policy for how to manage the external resources like parties, attorneys and expert witnesses. This policy according managing external participants should give guidelines on how to set deadlines for delivering documents. It should also define how to intervene if these deadlines are not obeyed.

Third, objectives and goals of performance should support the operations management decisions. Performance goals should be linked to the overall objectives of the court which means that they are connected to the measurement of quality, efficiency and timeliness. For example quantity of resolved cases may not be an appropriate measure for efficiency, because it will cause that the complex cases are neglected. Similarly the average of total processing time of all the resolved cases may not be a good measure for timeliness, because it ignores a situation where complex cases are stuck in the process queues. The main idea concerning goal setting policies is that numerical goals should not be needed. Instead the performance should be monitored continuously and the possible problems should be tracked and fixed. In order to enhance the performance of the workers the data of the processed cases should be available to all of the workers. This way peer pressure can guide the performance to the hoped direction.

In addition there should be a suitable electronic case management system which would support the overall policies and facilitate the execution of both individual and managerial tasks. The online system should include all the necessary data of the processing of cases and it should be available to the whole personnel.

#### 5.4.2 Managing bulk cases

Operations management tasks can be examined from different point of views. The main perspectives chosen to the examination are whether the management has to deal with urgent cases, complex cases or with bulk cases. In this examination bulk means cases which are simple, not urgent and small to medium sized. The main aim of operations management for these cases is the prioritizing of the cases. The prioritizing is based on First-come, first-served (FCFS) principle which is required by law. However this principle cannot be followed in every case situation because the cases have different time requirements. Hence it can be suggested that this bulk is prioritized according Earliest Due Date (EDD) principle. The operations management tasks of bulk cases can be divided in individual level (single judge/preparer point of view) and managerial level (manager point of view) tasks.

##### Individual level

On individual worker's level the operations management tasks are connected to two aspects: how to manage the worker's own job queue and how to manage the external waiting times. The management of worker's own job queue should be based on EDD principle. This principle requires that each case group should have its own time target based on group's requirements. According EDD principle the cases in the queue should be taken into process in order of their due date, so that the case which has the earliest due date is processed first. The due dates should be available in the electronic case management system so that it would be easy to prioritize the cases.

External waiting times mean situations where the processing of the case is paused because the case has to wait information from external participants (for example parties). The management of external waiting times is based on following the deadlines assigned to external participants. The deadlines and waiting times should be marked in the case management system so that the given schedules and missed

deadlines could be easily spotted. In case the deadlines are not obeyed the worker should have means to intervene to the delivery.

Managing bulk according EDD principle seems like a simple solution. However the prioritizing of the cases can be interrupted because of aims to enhance the capacity utilization. For example if certain judges are booked for a hearing day in which they aim to process several cases, a case with longer due date assigned to these same judges may have to be moved to the processing earlier in order to schedule it to this certain hearing day. Another example of disruptions in prioritizing is a situation where a preparer of the case has to start the processing of the case earlier than would be necessary because the next level worker (for example deciding judge) doesn't have enough cases in process.

#### Managerial level

By managerial level tasks we refer to tasks connected to both management of department and management of individuals. The managerial level tasks concerning the bulk cases are linked to the tasks presented as individual level tasks. This means that the manager should be responsible of following and controlling both the departments' and individual workers' job queues and also the external waiting time queues. The main task of the manager concerning the bulk should be to follow and control the amount of cases in these queues and also the age profile of these queues. By following the queues the manager should be able to notice if there are problems with either too long queues or too old cases in the queue.

In case there are problems linked to the processing of bulk cases the manager should have means to intervene the working. If the queues are too long or the cases are too old in the queue the possible solutions a manager can make are to either distribute the workload to other departments or to increase the capacity by adding workforce or using temporary workforce as an addition. However these are only temporary solutions and the manager should always figure out what causes these problems or bottlenecks in the process and try to find a permanent solution to the problem.

### 5.4.3 Managing complex cases

In addition to bulk cases there are also complex cases which require different managerial decisions. Complex cases are large, time consuming and unpredictable cases which total processing times are often too long. Because the processing of the case takes a large amount of time from the worker finding continuous processing time for a complex case can be challenging. This means that the processing of a complex case can be interrupted by smaller and more urgent cases. Because of these interruptions the worker can forget the facts of the complex case which means that he/she has to explore the same case several times. The aims of operations management tasks concerning complex cases are to secure the appropriate processing times of these cases and to enhance the capacity utilization by decreasing the amount of unnecessary work and double checking.

#### Individual level

From individual worker's point of view the operations management tasks resemble managing projects. First of all, the worker should explore the case when it arrives in order to examine the capacity requirements of the case. The rough scheduling should be done so that "project steps" like the date of preparation and the date of hearing in addition to the actual total processing time could be decided in advance. The worker should follow these time targets of milestones in order to reach the total time target of the case.

The worker should also book continuous preparing and processing time to the case so that his/her other cases wouldn't interrupt the processing. This requires scheduling and coordinating also worker's other daily tasks. On the other hand managing complex cases requires also managing the external waiting times which means that the worker has to follow the obeying of delivery deadlines and intervening to the neglecting of the deadlines.

### Managerial level

The manager's task concerning the complex cases is to follow these individual cases and the progress of them. The manager should notice if there are problems with reaching the time targets of cases and he/she should have means to intervene in problems. The processing of complex cases requires especially coordination of internal and external resources because the cases are long and the preparation and hearing dates have to be booked early in advance. The process of complex cases may also have multiple participants, whose actions and schedules should be coordinated. This means that the manager should for example coordinate the booking of the needed court room and also the schedules of participating actors.

Manager's task is also to secure workers' possibility to continuous processing times. The continuous time which is needed to process complex cases means that the worker should have possibility to make long bookings in his/her schedule. This may be difficult if worker's schedule is full of small separate cases or if there is a possibility that an urgent case may mess up the scheduling. One solution to make the scheduling of continuous processing times easier is to differentiate the distribution of the cases so that one department processes only complex cases. In this way the urgent cases won't interrupt the processing of the cases because they are processed by other departments.

#### 5.4.4 Managing urgent cases

Third special case group requiring its own managerial decisions is urgent cases. Urgent cases are typically smaller scale cases, which means that there are no complex cases among urgent cases. On individual level the processing of urgent cases is quite straightforward and simple, because of their smaller size and because these cases have to be dealt immediately which means that processing of urgent cases doesn't have problems with delays.

However managerial level tasks are more challenging. On manager's point of view the most important operation management tasks concerning urgent cases are to secure the quick processing times of these cases and to prevent urgent cases from interrupting the processing of other cases.

One solution to the problem of urgent cases interrupting processing of other cases could be differentiation. Differentiation can be made in several ways. One example is that the processing responsibility of urgent cases is assigned to one department for certain amount of time so that the responsibility rotates between different departments. This kind of "duty" shift can be used also for individuals instead of whole departments. Another example is a permanent differentiation in which one department or certain individuals deal all of the urgent cases whenever they arrive.

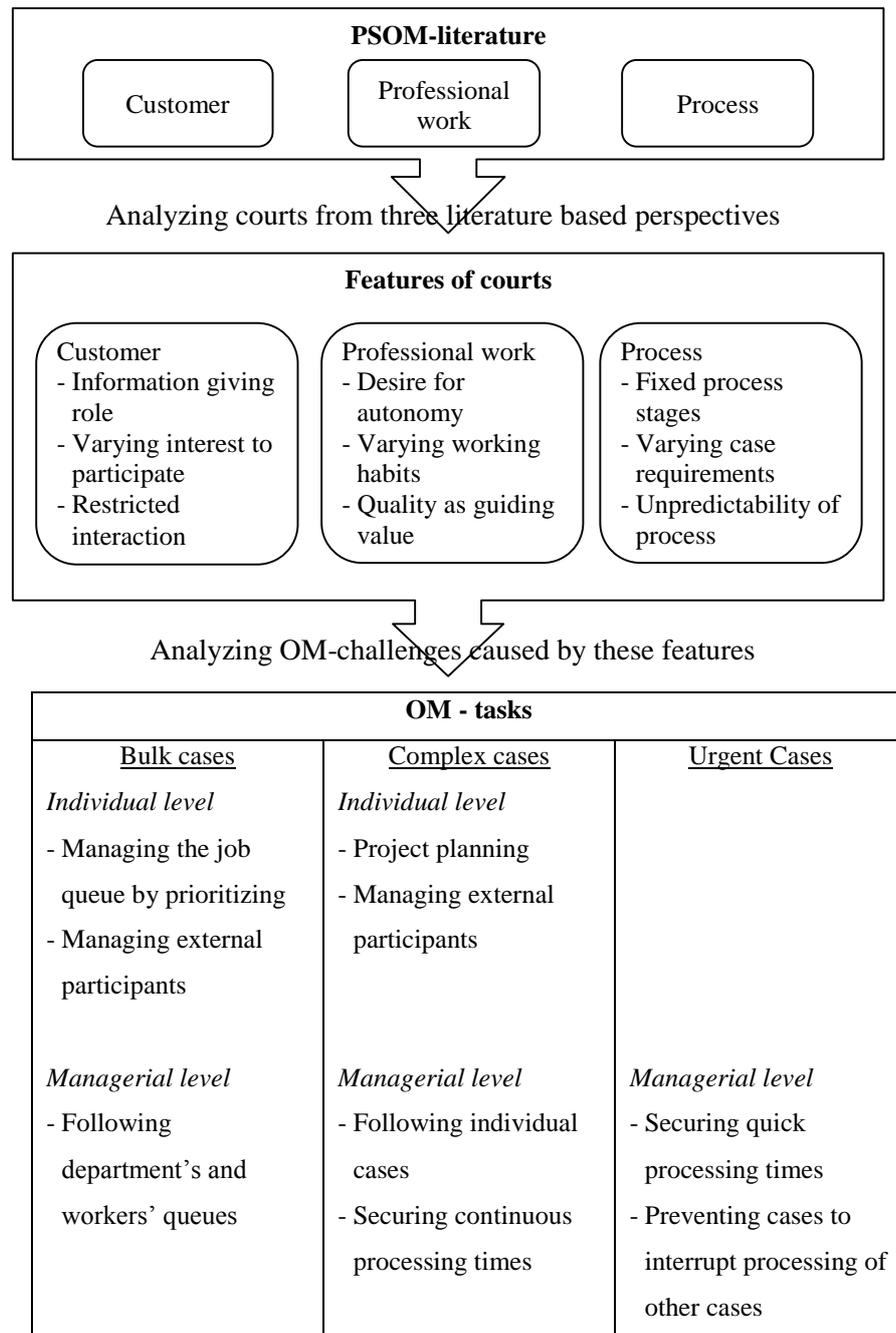
## 6 CONCLUSIONS

The main aim of this master's thesis was to form a preliminary but structured description about the possibilities and limitations of operations management in courts. The features of courts were examined based on typical characteristics mentioned in professional service operations management literature. Through these identified court specific characteristics the operations management tasks of courts could be discussed. Based on this description, possible topics for future research are proposed.

### 6.1 Main results of the study

Three common perspectives for typical characteristics of professional services could be identified based on literature review: the nature of customer role, the nature of professional work and the nature of process and product. These identified groups were used to examine the characteristics of courts as professional organizations. The examination proved that courts have some distinctive features which affect operations management decisions and tasks. The identification process of the main OM-tasks is presented in figure 9.

In courts the customer has an important information giving role as the customer provides the process information which is crucial to the processing of the case. However the high amount of interaction typical to professional services is restricted in courts in order to secure the objectivity of the judge. In courts there are always at least two parties in one case as customers and these customers may have different roles in the process. The customer can be either active or passive. Active customers may disturb the process by delivering information too much and too often. On the other hand passive customer may be even unwilling to participate and hence complicates the case processing by neglecting deadlines or being out of reach.



**Figure 9** Identification of OM-tasks

The desire for autonomy typical to professionals is even highlighted in courts. The need of autonomy is based on traditional values which have emphasized the independence of judges in order to secure the objectivity of the work. There exist distaste towards directing and supervising in legal culture as judges wish rather be self-directive. Autonomy leads to varying working habits as every individual is

used to work in a certain way. In addition to autonomy, quality of the work is a highly respected value and it can be used to guide the actions of the workers.

Court processes are restricted by legislation. According to law, there has to be certain individual stages in the process. This means that the actual structure of the process cannot be re-designed in order to improve the service. The process is also highly unpredictable as the cases coming to the process may vary in urgency and complexity having different processing requirements. These features of courts form a challenging environment for operations management as the processes has to be performed in an unpredictable environment with fixed internal structures.

The object of operations management tasks and the process environment in which the tasks must be performed have their own effect to the execution of operations management. Cases as object of operations management decisions are complex. Even one single case causes challenges because it has opaque capacity requirements. When the cases are examined as a group their wide variety causes even more challenges. The fixed stages of the process cause delays and waiting times as the progress of the case is paused at times because of internal or external reasons. Because the structure is defined by law the operations management decisions have to have solutions which are connected to other parts of the process than structure.

The main objectives of courts can be described to be good quality, proper capacity utilization and timeliness. The aims of operations management are connected to these upper-level goals of the organization. This means that operations management tries to ensure the quality of the decisions, to increase the efficiency by enhancing capacity utilization and to secure the appropriate processing times of the cases.

The actual development possibilities of operations management tasks can be discussed from the perspective of three different types of case groups: bulk cases, complex cases and urgent cases. The tasks connected to each case group are divided

in two levels: tasks concerning individual worker and tasks concerning the manager.

For bulk cases the main task on individual level is to manage the worker's own job queue and also the queue caused by external waiting times. Manager's task is to follow these queues and to control them when necessary. In the case of complex cases the individual worker should handle the cases like projects which requires for example early scheduling and following the project steps. The manager should follow the progress of individual complex cases and to ensure the workers' possibility for continuous processing time. For urgent cases the actual processing of the case is simple from the individual's point of view. The manager on the other hand should secure the workers' possibility for quick processing and most importantly to prevent these urgent cases from interrupting the processing of other cases.

This court specific examination from operations management point of view provided a structured view to the field of challenges related to court's operations management tasks. As a result it can be said that the operational environment of courts is highly complex and demanding because the case as an object of operations management tasks is challenging, the process sets strict requirements to the execution of handling the cases and the workforce is hard to direct. This description of the challenges could inspire and tentatively outline further research possibilities in the field of operations management in courts.

## **6.2 Possibilities for future research**

This study aimed to provide insights to fill the gap existing in context specific professional service operations management examination. As the knowledge concerning the main features and challenges of PSOM increases, there is a need to go deeper in details in different professional service contexts. The existing studies have mainly concentrated on private sector, but based on this court specific

examination the features of public bureaucracies could also be included to PSOM research.

The examination of courts raised three lines of interest for further research. First, one interesting research topic is goal setting and performance measurement in courts. The public nature of these organizations reduces the competition and complicates rewarding systems. In addition it blurs the actual goals of the organization as there exist multiple interest groups. The investigation on this area could concentrate on examine both the existing and possible procedures on goal setting and performance measurement.

Second possible direction for further research is to study the managing of courts' product range. The fact that courts have to process both bulk cases and varying cases sets challenges to the operations management, because courts aren't able to choose the nature of the cases coming to the process and in this way to differentiate their action to certain customer segment. It would be interesting to study these challenges and possibilities connected to the combination of both mass production and project production.

Third, because of the unmanageable nature of judges and the managerial challenges derived from this feature, the roles of manager and individual in operations management decisions could be studied. The examination should concentrate on the differences in the managerial duties of actual manager and individual. It would be interesting to define what could be managers' possibilities to influence and control the work of autonomous workforce and how this controlling should be executed in legal culture.

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