

**ANALYSIS OF THE METHOD USED FOR MEASURING EFFECTIVENESS  
OF THE COURTS IN POLAND  
ACCORDING TO TYPE OF CASES**

### **7.1. Introduction**

A main problem of the Polish judiciary is the excessive length of the proceedings - some procedures in complicated cases last more than 10 years. This is evidenced by, among others, numerous judgments of the European Court of Human Rights. The proposed changes, although they are a step in the right direction, seem to be insufficient. They do not include the fact that the excessive length of proceedings may have a multi-instance character, and may correspond to the various authorities and courts.

The reasons of the search of solutions in the common judiciary in area of performance measurement is the accession of Poland to the European Union, the necessity to conform to the European procedures and the pressure to reduce the prolixity of the Polish justice in terms of dealing with cases.

In the literature, in which the problem of the examination of the functioning of organizations is discussed, there is no agreement to what are the essential criteria of performance (Cameron, 1981; Lewin, Minton, 1986), understood often as productivity (Kosieradzka, 2012). The examination should include the organizational activity in relation to numerous criteria, however, the performance of an organization is frequently only perceived as its effectiveness (Cameron, 1986; Hitt, 1988).

The management of contemporary organizations based on the paradigm of a constructive unity of theory and practice is clearly connected with the functioning of the organization in the environment (Drucker, 2000). Performance measurement is influenced by the organizational structures, which are undergoing evolution from functional ones, characteristic of the classic approach, to the process structures (Grajewski, 2003, 2007).

The purpose of the article was an analysis of the applied method used for measuring effectiveness of the common courts in Poland in relation to the identified faultiness in the performance measurement.

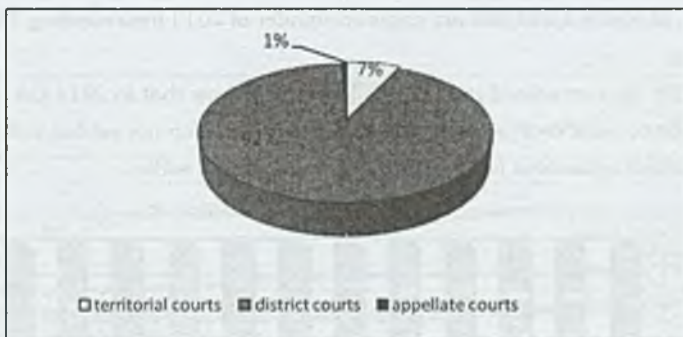
## **7.2. The courts of appeals, territorial and district courts in Poland in total and their effectiveness in the years 2002-2014**

In Poland, the courts are divided into courts: appellate, territorial and district. There appear also significant differences in terms of the quality of particular appeals, in districts and territories, not only in the respect of the areas of their properties, but also in terms of the number of inflowing cases, and the size of the court units.

Now there is 11 courts of appeal, 45 territorial and 321 district courts as the consequence of this state (*Analiza...*, 2010). The available statistics shows that in the case of courts of appeal the difference in the size between the largest and the smallest court is 3,5- fold, in territorial courts it is almost 18-fold, and in the district courts it is 34-fold.

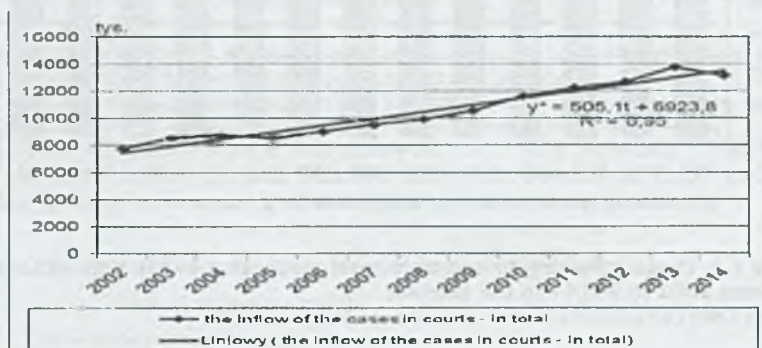
The element of the reform of the Polish common judiciary - reorganization of courts - is a trial of balancing the networks of courts. The balance in the network can be assured when there are no major disproportions between the participating units. Because of the fact that an effective functioning of networks of courts meets an essential social need, it should be pointed out that the access to justice ought to be equal in every district of its activity. Such a presumption has become a base for a widely discussed administrative liquidation of small courts (Odlanicka-Poczobutt, 2013). The data collected by the Ministry of Justice (Petryna, 2012) and the analysis of the advantages and disadvantages of the organization of the common judiciary in Poland, presented in the report of the MCC group, (*Slabe...*, 2012) points to the occurring disproportions, where the most serious problem was too small a number of the size of courts, which had a particularly bad influence on the efficiency of functioning of district courts.

In the courts are recorded fundamental issues of divisions: criminal, civil, labor law, social insurance and business law. As we can see from the data presented in Figure 7.1. the inflow of cases indicates that the vast majority of the inflow of cases concerns district courts (over 92%), and the remaining courts accept only 7% of cases (territorial courts), and the courts of appeal - 1%.



**Figure 7.1. The number of pending cases (with remains from the previous period), and cases solved in the Polish courts in 2014**

Source: Own calculations based on (Data..., 2015).



**Figure 7.2. Inflow of pending cases in the Polish courts in period 2002-14**

Source: Own calculations based on (Data..., 2015).

The upward trend in the number of inflowing cases is clearly visible in the surveyed period 2002-2014 (as it is illustrated in Figure 7.2.), with the exception of 2014, where there was a slight decline. In the audited period from one year the number of pending cases increased an average of 505.1 thousand.

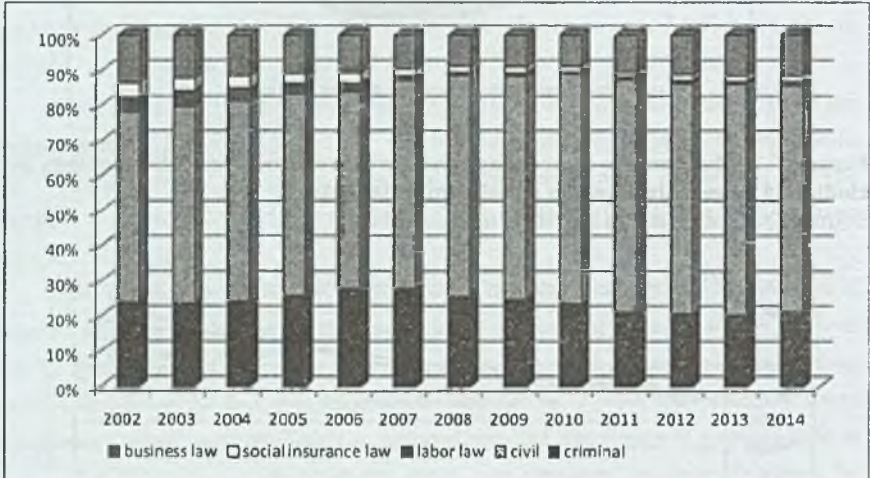
On the basis of the data contained in Figure 7.3. we can see that most civil cases had inflowed into courts, from year to year an average to 438 61,00, (the trend function  $y^* = 438.61 t + 3428.7$   $R^2 = 0.95$ ), followed by criminal cases, on average every year 77.118,00 (the trend function  $y^* = 77.12 t + 1942.5$   $R^2 = 0.83$ ).

Courts in Poland - in total - were pending in 2014 16,780,000 cases, including cases remaining for consideration from the previous year (which accounted for approximately 5% decline in the number of cases compared to the previous year



(2013)), of which 2,229,230 are cases remainder of 2013 (representing 13% of cases to settle).

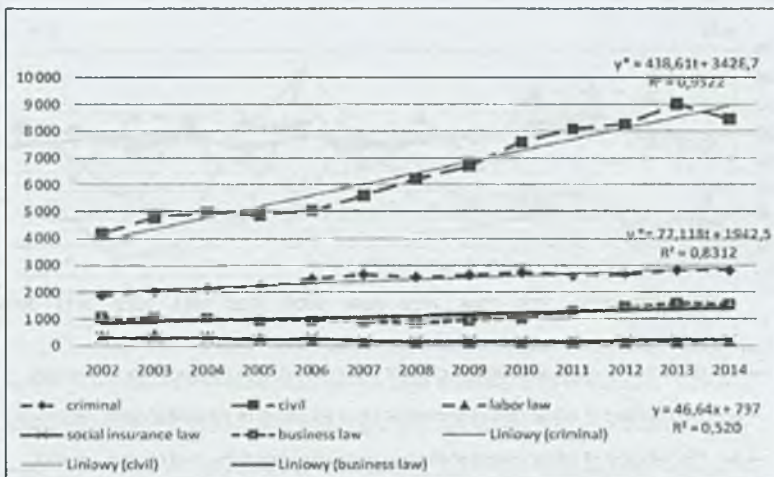
The data contained in Figure 7.3. and 7.4. show that in 2014 the courts have had to settle most civil cases - 9,992,600 cases (of which not settled with 1,394,600 cases, which accounted for about 14% of civil cases to settle).



**Figure 7.3. Cases inflowing to courts in total, according to the type of cases in the years 2002 to 2014 - in the interest**

Source: Own calculations based on (Data..., 2015)

The dynamics of solving was lower than the growth of inflow, which manifests itself in the effects of an increase in the number of unresolved cases.



**Figure 7.4. Number of pending cases (with remains from the previous period), and cases settled in the Polish courts in 2014 - in total**

Source: Own calculations based on (Data..., 2015.)

### 7.3. The key performance indicators in the Polish judiciary - The courts of appeals, territorial and district courts in Poland in total and their effectiveness in the years 2002-2014

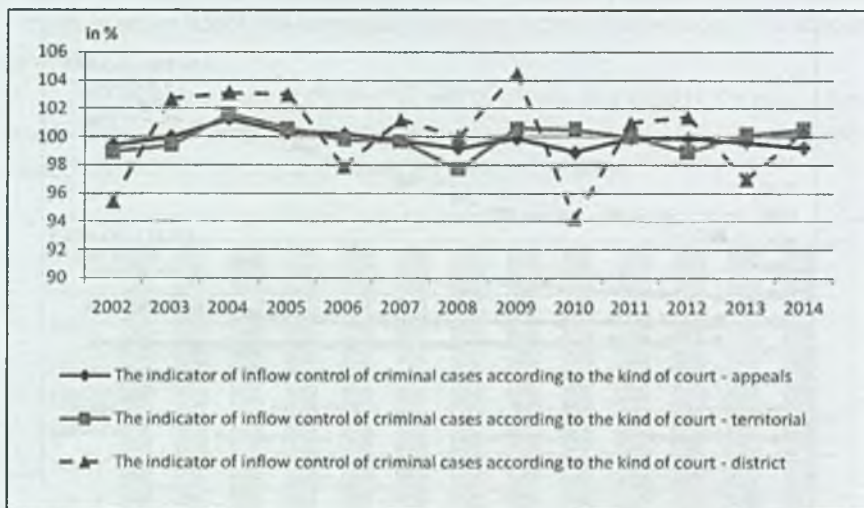
In Polish judiciary the basic indicators of judicial efficiency are:

- an indicator of inflow control (Ic),
- an indicator of residue (Ir).

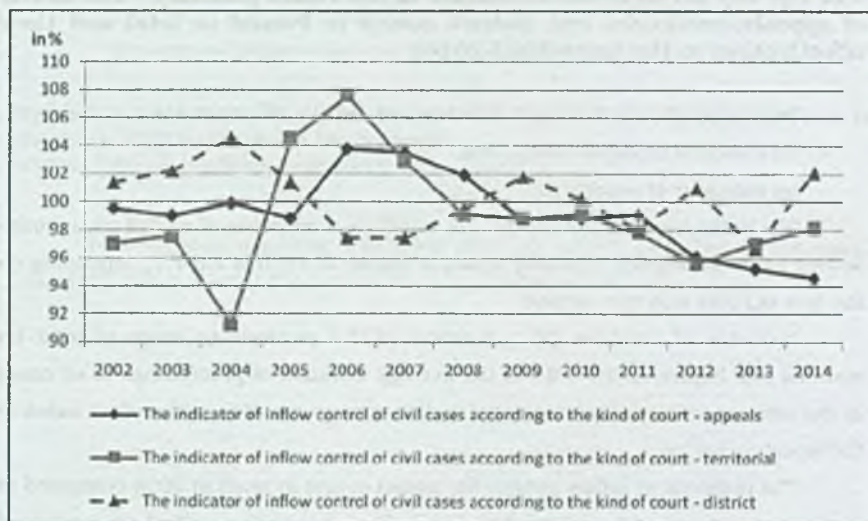
The indicator of inflow control (Ic), which is a reference of settled cases to inflowing cases during the reporting period is shown in Figures 7.5-7.9, depending on the type of court and type of case.

Indicator of residues (Ir) - duration of the proceedings cases in total (in months) (see Figure 7.10-7.14) - is the average duration of proceedings of all cases in the next reporting period compared to the average monthly inflow of all cases in the reporting period.

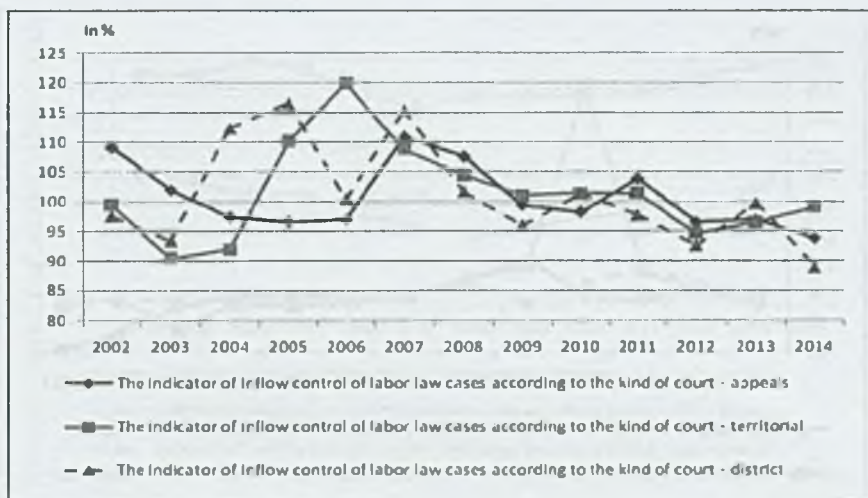
The indicator of inflow control (for Polish courts in total) in 2014 compared to 2013 has improved and amounted to 101.4. That means that settled an average of 101.4 cases per hundred inflowing into the court. In 2013, the indicator of inflow control reached 96.1.



**Figure 7.5. The indicator of inflow control of criminal cases according to the kind of court in the years 2002 to 2014**  
 Source: Own calculations based on (Data..., 2015).

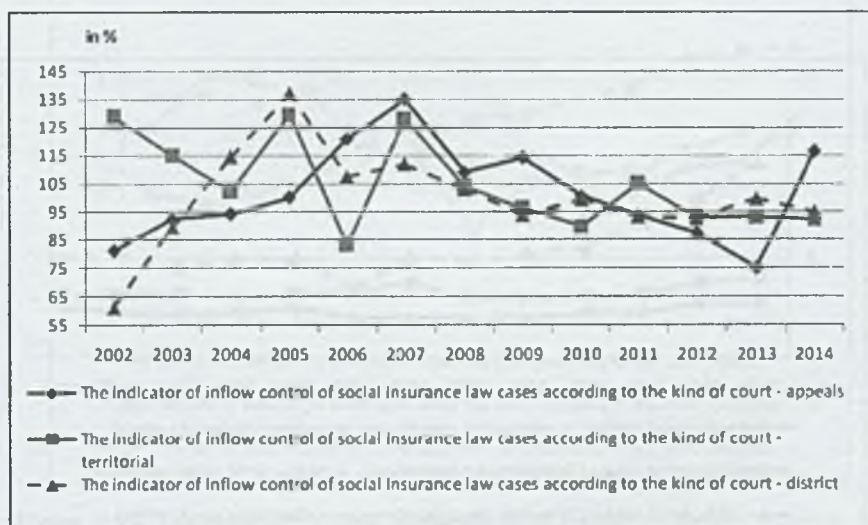


**Figure 7.6. The indicator of inflow control of civil cases according to the kind of court in the years 2002 to 2014**  
 Source: Own calculations based on (Data..., 2015).



**Figure 7.7. The indicator of inflow control of labor law cases according to the kind of court in the years 2002 to 2014**

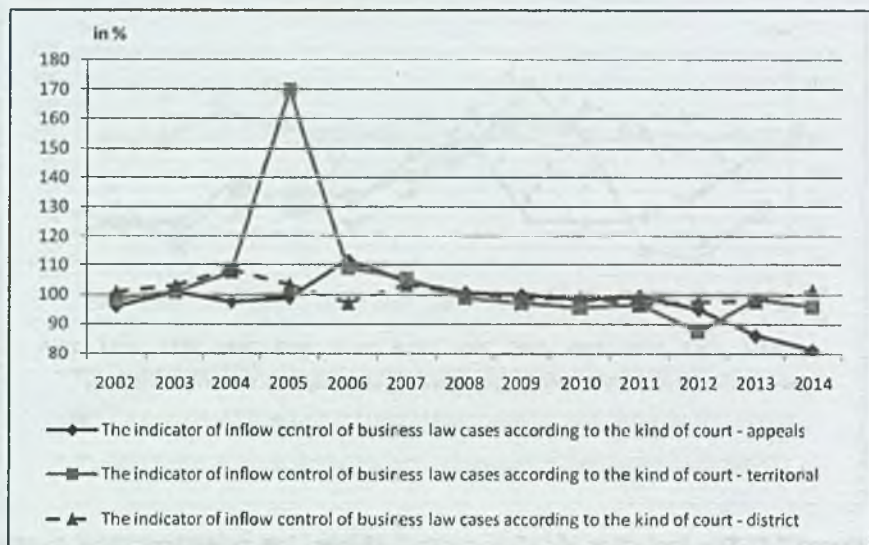
Source: Own calculations based on (Data..., 2015).



**Figure 7.8. The indicator of inflow control of social insurance law cases according to the kind of court in the years 2002 to 2014**

Source: Own calculations based on (Data..., 2015).





**Figure 7.9. The indicator of inflow control of economic cases according to the kind of court in the years 2002 to 2014**

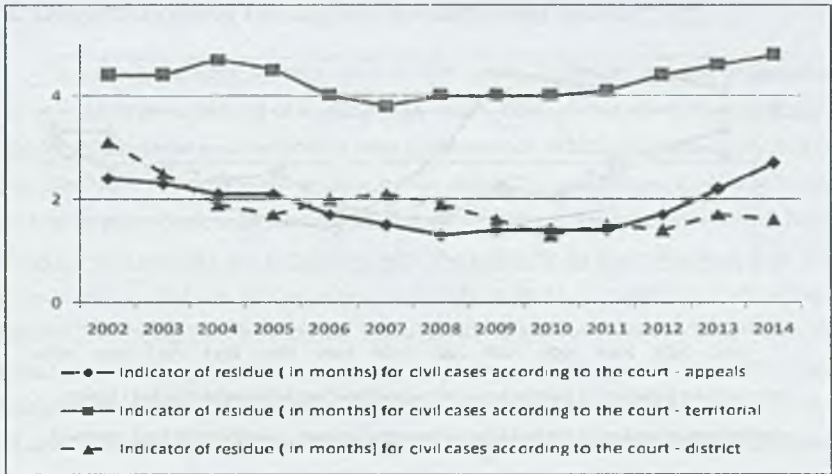
Source: Own calculations based on (Data..., 2015).



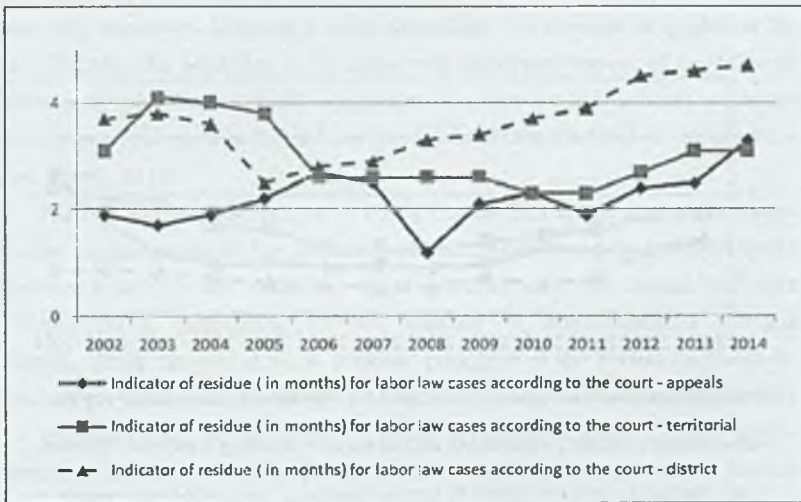
**Figure 7.10. Indicator of residue (duration of the proceedings in months) for criminal cases according to the court in the years 2002-2014**

Source: Own calculations based on (Data..., 2015).

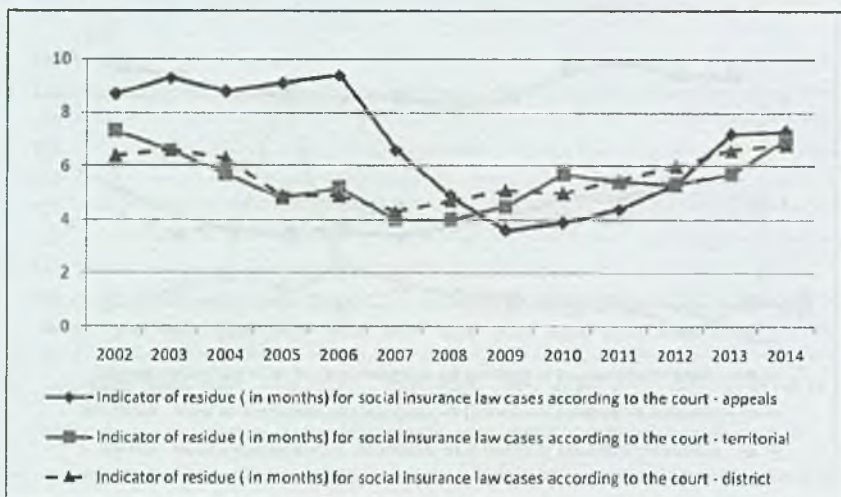




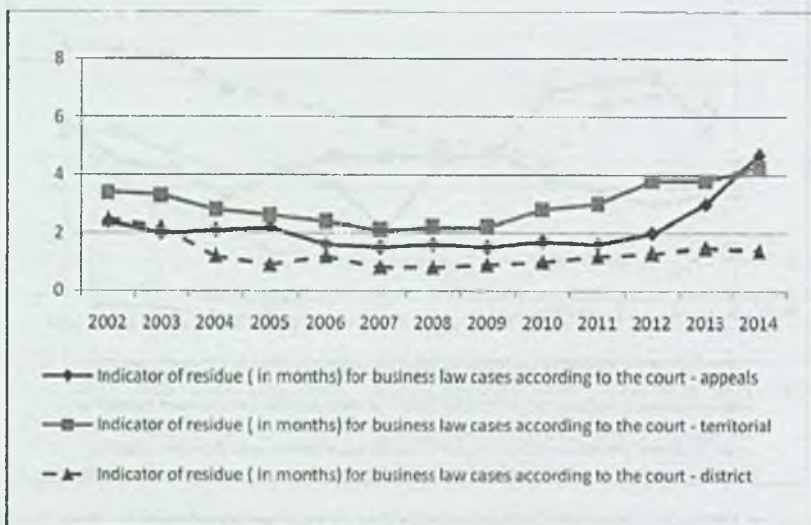
**Figure 7.11. Indicator of residue (duration of the proceedings in months) for civil cases according to the court in the years 2002-2014**  
 Source: Own calculations based on (Data..., 2015).



**Figure 7.12. Indicator of residue (duration of the proceedings in months) for labor law cases according to the court in the years 2002-2014**  
 Source: Own calculations based on (Data..., 2015).



**Figure 7.13. Indicator of residue (duration of the proceedings in months) for social insurance law cases according to the court in the years 2002-2014**  
 Source: Own calculations based on (Data..., 2015).



**Figure 7.14. Indicator of residue (duration of the proceedings in months) for business law cases according to the court in the years 2002-2014**  
 Source: Own calculations based on (Data..., 2015).

#### **7.4. Disadvantages of the applied measurement system**

The measurement system used in the Polish judiciary provides information only about the present level of dealing with cases, and are not used in controlling or planning. The statistics describes a past performance, which allows for reacting only on the basis of historic presenting of the data. The indicators show solely what cases have been dealt with and on what date, but there does not exist an indicator defining which periods are connected with the prolixity (is it a remaining case from the year before, or from two or more years before) and what cases are presently in progress. The programs to increase productivity of courts have led to the fact that the output efficiency measures are very emphasized. This has further led to inappropriate measurement of output quantity and efficiency without understanding and analyzing the causal effects on other aspects of the organization's performance. The most serious disadvantage of the measurement system applied to the Polish common judiciary is the lack of taking into consideration the time of the realization of the processes.

The defective information that the measures give on process performance also makes it more difficult to comprehend the causal relationship between performance and measures. There is a clear need that this concept of quality is broadened to include the lead-time as a major and important aspect of quality and the recipient's satisfaction. A good suggestion to improve the process performance measurement system was formed on the basis of the findings in literature (Pekkanen, Niemi, 2012).

The only solution aiming at directing the measurement to the processes has been the measurement of the workload of the secretariats of particular court departments, which should enable an equal distribution of the clerical staff between the departments, depending on the number of responsibilities (Odlanicka-Poczobutt, 2013), developed by W. Hajduk, president of the Territorial Court in Gliwice of the previous term, presently the Deputy Minister of Justice (Hajduk, 2011).

The search for the possibility to create a system of measuring the standards of operating in the common judiciary is real necessity. The processes and operations in courts are usually complex and abstract, and employing simplified indicators defining the final results distorts the measurement.



## 7.5. Conclusions

The analysis of the inflow of cases of different categories to the courts of particular levels allows for the conclusion that the process of equalizing the distribution of the inflow of cases to particular courts needs search for the possibility to create a system of measuring the standards of operating in the common judiciary is connected with major difficulties and still remains undone. The complex and abstract processes and operations in courts can't be described by simplified indicators defining only the final results, because it distorts the measurement. The metrics used in the judiciary are not used in controlling or planning. Past performance described by the statistics doesn't show which periods are connected with the prolixity (is it a remaining case from the year before, or from two or more years before).

The faultiness of the applied method causes the transmission of a falsified image of the results of the courts' activity and an increasing dissatisfaction of the society. The basis of the effective work of courts should be a properly conducted analysis and measurement, which is supposed to constitute an element of the motivation to enhance efforts in terms of improving the activity.