INCREASING COMPETENCE –
AN ETHICAL DUTY
OF CIVIL SERVANTS

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Abstract

The need to cultivate ethical competences and to exercise ethical expertise has become a general feature of the present time. Under the positive influence of the development of minimal ethics as a characteristic of post-modern society, important changes are taking place at the level of the organizational culture. The development of Ethical Codes, the increased importance of Ethical Commissions bring about the obligation of those University Departments which offer programs of specialization in public policies and public administration to propose complex programs in which ethical competences and ethical expertise are developed, as structural elements for professionalization and professional development in the public sector. In this sense, a continuous effort for implementing the features of the deontological codes and of participating in trainings for specializing in the issues of professional ethics for civil servants is required.

Keywords: ethical codes, professional ethics, competence, ethical expertise, conduct of civil servants.

1. Ethical Codes – an instrument for optimizing the profession

The conduct of civil servants in Romania establishes a series of nine principles, with different relevance and variable applicability, which civil servants must respect in their daily activity. Among them a central principle is: 'Professionalism, a principle according to which civil servants shall be responsible, competent, efficient, honest and conscientious in pursuing their duties' (Law no. 7/2004, art. 3, letter d). Therefore, in the process of professionalization of each individual involved in public sector activities, the educational institutions, that have a role to train professionals in public sector, the organizations in which these professionals are doing their job, and these professionals themselves should prioritize the merging of professional competences with ethical competences and ethical expertise.

Professional ethics codes are important instruments in accomplishing a favorable ethical context for decisions of optimizing ethics management in public administration. One of the objectives of the Code of conduct is the growth of ethical competence and professionalism. This must be an instrument that works in a combination implied by the institutionalization of ethics in public administration. To reach such a goal, an increased effort is necessary in implementing public policies that favor this undertaking. It is concurrently necessary to have ethics management in each institution, with an emphasis on the continuous formation of the personnel through ethical trainings and institutional development in the spirit of the values assumed by each institution in part and the public system as a whole.

Based on the conclusions of many authors, Jeremy F. Plant synthesizes a few of the ways to circumscribe deontological codes: (1) codes are guides that help civil servants to distinguish between right and wrong; (2) codes emphasize the ethical standards of the conducts of those in public administration and therefore produce a higher level of trust in the institutions; (3) codes are meant to offer guidelines on interpretation of the situation where different values are conflicting, being an instrument for ethical decision; (4) codes define the ethical conduct of civil servants, strongly correlating professional standards and public action (Plant, 2000, p. 311).

Jeremy F. Plant notices that one of the important debates regarding codes in public administration concerns the existence of a confusion about three possible significations we associate with deontological codes and the purposes we attach to those: juridical systems, moral systems or instruments of symbolic communication (Plant, 2000, p. 311). Beyond such possible confusions, it is important to start with the premise that ethics is a distinctive dimension of the life of organizations and that it is closely related to performance in public administration.

Bogdan Diaconu reveals the importance of ethical codes in close relation to the managerial function and the development of professional ethics: (1) *The ethical code as a component of organizational culture.* In this sense, the ethical code is the depository of the values of the organization, it does not only set the principles, the norms, the rules that guide conduct and ethical decisions, but also formulates the apotheoses of the organization. The code sets the ethical context where the personal and professional

development of individuals takes place; regulates the way to protect shareholders, managers, administrative apparatus employees and organization, seen as responsible subject interests; guides the organization towards various public categories and towards the whole society; develops the image and the prestige of the organization by correlating the interest of the organization with serving public interest (Diaconu, 2009, p. 140). (2) *The ethical code as an instrument of decision.* It concerns the fact that once they are adopted, ethical codes become instruments of decision for all administrative structures and individual options, through a close correlation of the articles of the code and the functioning and internal regulations policies with legal articles. Codes are described as instruments of prevention and solving conflicts. Consequently, the ethics commission must dispose of a series of clear regulations and a series of ethical or administrative sanctions that should be clearly specified in the text of the code. Beyond the general articles, 'what must be well described, publicly repudiated, discouraged and sanctioned are the immoral practices, especially generalized ones such as bribery, backstairs influence, nepotism, preferential relations' (Diaconu, 2009, p. 142). (3) *The ethical code as a management instrument in human resources.* Because it aims at making decisions and shaping actions in all levels of organizational structures, from the simple employee to the higher level of administration board, the ethical code 'must guarantee justice and equity in: employment, promotion, internal integration, prize giving, eligibility' (Diaconu, 2009, p. 142). (4) *The ethical code as an instrument of branding and marketing.* The code has important functions in establishing relevant relations with other institutions, various organizations, and various public categories that must be involved in ethical relations and are loyal to the ethical and responsible principles of the organization (Diaconu, 2009, p. 143).

These four ways are evoked by Bogdan Diaconu as forms of a possible optimization of ethics oriented towards the development of professionalism by offering solutions, imposing decisions and generating efficient changes for all those involved: individuals, organizations, various public categories. An important aspect of ethical and efficient action is correlating the deontological codes proposed by the professional associations with the ethical codes of the organizations.

Starting from a principle oriented position, Valentin Mureșan considers there is a series of advantages in elaborating an ethical code based on principles: (1) 'Principles include moral values and are largely recognized throughout the world, beyond professional borders'; (2) 'Principles circumscribe the sphere of the moral'; (3) 'Together with principles we have a certain guide to extend the code'; (4) 'With the largely recognized ethical principles, we have the sense of belonging to a mutual ethos' (Mureşan, 2010).

A classical text that tries to operate the principles that must be at the basis of ethical conduct in public administration is that of William C. Beyer. He is convinced that those who work in public administration cannot accomplish their mission unless they aim to attain public welfare; he manifests a preoccupation with the ethics that governs their conduct, but also for the terms of their employment, and the condition in which

they develop their activity. Starting with this, William C. Beyer suggests a series of principles that should guide the activity of those working in public administration: '(1) He should at all times be courteous, especially in his dealings with citizens who come to him with complaints or for information, assistance or advice. (2) He should give the best that is in him to the work he is called upon to perform. (3) He should deal fairly with all citizens, and should not accord to some more favorable treatment than to others. (4) He should not limit his independence of action by accepting gratuities or favors from private citizens who have business dealings with the government. (5) He should never be a party to any transaction which would require him, as a representative of a department of government, to pass upon the quality or price of goods or services which he, in some other capacity, is offering for sale to that department. (6) If a public servant is asked by his superior to do something which would jeopardize the vital interests of the public, he should first endeavor to dissuade his superior from pressing the request, and if this method proves unsuccessful he should tender his resignation, stating publicly his reason for doing so. (7) A public servant who is charged with the enforcement of a law with which he is not in sympathy should either sub-ordinate his personal views or resign from the service. (8) He should work in full cooperation with other public servants in furthering the ends of government and in promoting public welfare. (9) He should be true to his obligations as a custodian of public property and regard its misuse or waste as serious an offense as the direct misuse or waste of money from the public treasury' (Beyer, 1922, pp. 156-157).

All these elements are significant for combining attitudes that are relevant for professionalism in public administration with ethical principles. However, another tendency is also present, to reject the idea that ethics and its validation through ethical codes could offer significant results in pursuing an efficient public activity. These critiques depart especially from the weaker character of the measures of a deontological code in relation to the rules imposed by law. Moreover, those that criticize the function mode of codes and the exaggerated importance given to them, claim that deontological codes should actually propose employees the highest standards the profession has, regarding competence as well as ethics (Lewis and Gilman, 2005, p. 191).

Ethics management, seen as part of public management, emphasizes the importance of control exercised through ethical codes, legislation, other control forms and mechanisms, understood as external modes of influence of civil servants. In this context, ethical behavior is especially encouraged rather than proposing policies regarding the sanctions imposed for the infringement of the codes of conduct (Maesschalck, 2005, p. 96).

Beyond any ethical minimalism, we must bear in mind that some codes are formalized as laws or juridical regulations. In this case, the infringement of elements of the code can attract sanctions or even conviction to a certain number of years in jail. 'Legislated codes provide legal penalties and protections as necessary and effective constraints on official power, public authority, and the potential for abuse of administrative discretion.

Administrative standards and procedures assist decision making and managers by providing an operational framework tied to workaday realities' (Lewis and Gilman, 2005, p. 191).

Even if they imply coercion, even if they envisage various types of sanctions, deontological codes are not an inquisitorial instance. They do not come to punish, but to trace the limits of the comfort of the professional activity and the benefits that derive from a mutual ethical conduct in the workplace. They come to clarify on the level of ethical standardization, implication and evaluation. Consequently, codes should be regarded not as an instrument of coercion, but more like a structure of ethical standards that offer security to those under the power of an ethical code. It is natural that the employees of an organization know what are the expectations of the organization regarding the norms of conduct, principles and values embraced by the organization, the level of tolerance and the degree of sanctioning in relation to possible infringements of the respective regulations, what is the support regarding solving ethical dilemmas or conflicts, what type of loyalty and what degree of responsibility implies being part of that organization and so on.

Carol W. Lewis and Stuart C. Gilman consider that we can associate codes with three general objectives and each of these can direct us towards different models of interpretation of the importance of the codes: (1) inside the organization, codes encourage conducts based on a very high ethical standard; (2) they are the instrument of ethical communication with a special effect regarding the degree of the growth of trust in the organization in question from various public categories the organization communicates with and serves; (3) they come to the aid of those faced with making ethical decisions (Lewis and Gilman, 2005, p. 191).

In his turn, Joseph F. Zimmerman reveals the fact that, in the act of governing, ethical codes have become important instruments for implementing public policies. They follow three objectives: (1) 'Maintaining high ethical standards in government service, (2) increasing public confidence in the integrity of public officials and employees, (3) assisting officials and employees in determining the proper course of action when they are uncertain about the propriety of a contemplated action, thereby preventing them from unwittingly entangling public and private interests' (Zimmerman, 2001, p. 222).

Thus, codes have a special impact in shaping conduct as well as in making decisions. Codes come to establish rules of conduct and ways to perpetually improve them, have the role of making available for the public instruments of ethical standards, of rewards and sanctions, even if, it is true, just as the case of laws, they do not offer any guarantee that once the codes are adopted, they will automatically act upon those that are the aim of the regulations present in the codes in question (Lewis and Gilman, 2005, p. 192). But, as we notice in the case of laws, applying sanctions for regulation infringement does not derive from the necessity of consciously assuming or not assuming the regulations of the code, but from the fact that they act in the ethical context in question.

2. Ethical training as an instrument of professional development

Codes become more and more important for those working in public administration because codes are seen as a result of public expectations regarding the values that professionals in public organizations must promote. Therefore, Jeremy F. Plant reveals that we have, on the one hand, professionalization, which determines ethics to become a daily preoccupation, and on the other hand, a request from the public regarding responsibility and the standards of conduct of professionals in public organizations. Codes are seen as part of a training process of civil servants regarding competence, honor, integrity, serving public welfare and so on (Plant, 2000, p. 327).

Thus, codes play an important part in eliminating trust deficit. It is well known that there is a better internal communication within the organizations where individuals are treated with respect and at the same time such organizations manage to build trusting relations with the community easier. Trust in relations with the community is based on a complex process of communication, consulting and collaboration, which implies, among others, drafting ethical codes and offering ethical trainings (Menzel, 2000, p. 360).

An important part of ethics management implies knowing and applying the articles of the ethical codes. This is how the importance of ethics management training programs is revealed. Trainings on ethical problems are not only meant to solve the situation that arises because of the ethics deficiency that is created in a professional environment, but also have the role of permanently emphasizing the importance of ethics and to offer punctual solutions in solving the ethical problems that arise, to engage each individual in the process of promoting ethics in the workplace (Menzel, 2000, p. 358).

Those working in public administration are not submitted to the strong control that should come from professional associations, as it happens in other cultural spaces with various professions that have the right to license and to give the right to professional practice in the respective professions. This is probably why at the moment of hiring we do not have imposed rules to verify the fulfillment of all ethical standards, but they are implied as being taken for granted, until the contrary evidence. These standards can be easier verified by the employer rather than the professional association, which greatly diminishes the responsibility the public administration professional has regarding her/his profession *per se*, regarding the professional association. Concurrently, we can notice that in the case of civil servants 'training in the application of a given public sector's code of ethics is typically of minimal duration and relevance, even though it usually provides the primary mechanism for exposing new officials to the *core values* of the institution' (Whitton, 2009, p. 238).

Hence, it is imperative that a greater attention must be paid by public institutions to continually train personnel in domains concerning the growth of professional competence, and the acquiring and development of ethical competence has an important role in this matter. Valentin Mureșan suggests the need for three types of ethical training: (1) conformity training, that has as fundamental purpose the understanding of moral principles and rules and then acting according with these, understood as an adequacy to rules, principles, laws and so on; (2) formation training of moral dispositions, that

has as main purpose the introspection of rules, development of virtues, cultivating ethical situational thinking and so on; (3) training for development of moral thinking, that especially concerns the necessary forming of ethical competence and developing abilities and methods of ethical decision (Mureşan, 2010).

Bearing in mind the dose of relativism that a society rebuilt on minimal ethics permits (Lipovetsky, 1996; Sandu and Ciuchi, 2010; Sandu, 2012), bearing in mind the increase in deontological codes of professional associations and of various organization that adopt their own ethical code, it is natural that in public administration arises the issue of the necessity of general guidelines and a unified ethical context so that the particular organizational provisions of the deontological codes destined for those working in public administration are drafted. Although we live in the age of the decline of duties, although the strong sense of an absolutist moral or of a thorough and unique theory of obligations can no longer function in the new society, we cannot disregard the fact that public administration offers us the ethical context where we can speak of the existence of multiple duties that the various categories of workers in the public system have. Beside the general sense of the duties we have regarding ourselves or regarding otherness, from the perspective of 'a minimal ethics', a 'weak ethics', we can talk about a series of duties those who want to work in public administration have. Among these duties we mention: (1) duties to the profession, the organization we are part of, the various categories of public the organization serves; but also, (2) duties to ourselves in the lines of personal development, professional completion, perpetual growth of ethical competence. From the perspective of professional ethics is important to stress on the obligations of civil servants as ethical and juridical duty: 'The civil servants are required to fulfill with professionalism, impartiality and according to the law, their duties and to withhold any act that could incur prejudices to natural or juridical persons or to the prestige of civil servants body' (Law no. 188/1999, art. 43, paragraph 1).

The introduction of the Ethical Code through the means of a juridical codifying such as the Law no. 7/2004 is a new argument to underline the imperative character of the measures of the Code, the essential connection between ethical action and the well-functioning of institutions (Cuceu, 2012), between the quality of the leader as bearer of the organization values in a context in which 'both marketing and leadership got a new meaning for public organizations' (Ţigănaş *et al.*, 2011, p. 212) and the quality of the legislative content that should be based on the idea that 'laws are necessary to be constantly adjusted depending on the evolution of crime, the mode of expression, risks and vulnerabilities' (Copot *et al.*, 2012, p. 110). Thus, ethical action, ethical expertise or exercising ethical competences is involving both moral and legal or constitutional values (Toader and Toader, 2012). This juridical manner of exercising ethics in the professional space has as model the medical field. This overlapping of ethical and juridical is done through the tradition of professionals' practice, but also under the pressure of the international documents ruling the bioethical problems (Ioan, 2011; Cojocaru, 2012). Using that model, in public administration ethical action is overregulated by becoming

an action that is voided by any possibility to subjectively choose, and that is found under the pressure of obligation brought by the law.

One must depart from the premise that in all democratic societies 'the formal training of a professional, whether in law, medicine, or ministry, is one of the first and most striking characteristics of the practitioner, a characteristic which decidedly sets him apart from everyone else within his community of service' (Morgan, 2010, p. 116). This concern is all the more important in the context in which we assume that a laicization of ethics is needed, at least when we have in mind the public space (Iliescu, 2010; Frunză, 2011), in the conditions in which the relation between secularism and resurge of religious tends to become pretty ambiguous in contemporary public attitudes (Yildirim, 2010; Ciomoș, 2010; Herțeliu, 2012).

If we accept that universities 'may be understood as fundamental organizations to any nation even while needing to modernize their approaches to institutional management' (Mainardes, Alves and Raposo, 2011, p. 140), than it is obvious that universities must contribute to a significant extent to providing a competitive environment in economy, in politics, in administration. One of the ways could be that of developing the system of lifelong learning, which became a central concept in the EU ideal to build a society based on knowledge, communication and ethical values. It is necessary to understand that 'the lifelong learning concept aiming to equip learners with the skills and competencies' (Popescu, 2012), which should lead both to an increase in professionalism and to an improvement of ethical competences. In this sense, the ethical training practiced in the university programs on public administration should be supplemented with educational programs, postgraduate programs and trainings on ethical topics, with the declared purpose to form ethical competences and to build ethical expertise. No program of university training in public administration can afford not to offer such courses dedicated to specialists in public administration that are already on various steps of their professional careers. This is an important way in which the departments of public administration from universities may participate to the community life.

These kinds of elements or more other alike are the basis of the new ethical standards we must have in sight while elaborating institutional strategies and deontological codes. Good governing, efficient administration of public affairs implies the fact that in the system we the employees are 'good people with the character, vision, and courage to do the right thing' (Lewis and Gilman, 2005, p. 270). Hence the special importance the managerial function has, from an ethical perspective, in drafting, adopting and implementing the ethical codes and all other elements that derive from this. At the same time, the necessity of developing professional completion programs appears as evident, and should be constantly included within these programs of ethical training.

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