

PUBLIC SECTOR ETHICS

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Abstract: In terms of the Explanatory Dictionary of Romanian language, ethics is defined as, among others, the entirety of rules of proper moral conduct corresponding to the ideology of a particular society or organization. In this article we try to catch some of the key issues of definition, application and implementation of the concept of ethics in the public sector.

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Ethics is one of the main branches of philosophy and can be called the science of moral reality. It seeks to elucidate moral issues through a cognitive approach.

Ethics, according to a dictionary definition³ is "the study of theoretical and practical aspects of morality, all norms of moral conduct corresponding to the ideology of a certain category or society".

Antonio Ramiz in his work called "Ethics in business"⁴ considers ethics a science that helps us to know the man, his behavior and society as a whole.

An understanding of ethics is critical and essential for us as individuals, because a healthy ethics is the very essence of a civilized society. Ethics is the foundation on which all our relations are built. Ethics is not about intrinsic links we have with others - we all have links towards one another – but about the quality of these links.

Ethics proposes decision strategies, decision patterns. Traditional ethical theories generate decision tools useful for management, in the decision process.

Public officials exert the power of decision in their daily work, in many ways. Either it involves in managing actions of public resources, in their role of interface with citizens or the context of their position of establishing policies, ethics is a vital factor in creating and maintaining trust in Government and its institutions.

The need for ethics

In all territorial-administrative units, the State created public institutions, centralized and decentralized, to represent it and act to achieve its interests, but also of the respective population.

³ Florin Marcu - Marele dicționar de neologisme, Editura Saeculum, 2006.

⁴ Antonio A. Ramiz - La etica en la empresa, Madrid, Instituto de Estudios Economicos, 1994.

Today, it is more and more discussed about the moral responsibility which should be assumed by the State authorities and institutions towards the involved communities or only affected by its decisions. There are also more and more underlined the social investments which the State must make, as a response to the growing requirements of the communities they belong to and in which they operate. As a result, the growing requirements of citizens create a growing involvement of ethics in administration and public institutions.

Ethics within authorities and / or public institutions is not only about enforcing the law, it means introducing it into everyday decisions, but also into the long and medium management strategies and other rules, mostly optional.

Ethics serves as the basis for the general testing of practices, conventions and conduct of public officials so that citizens can be sure that their interests are satisfied and the process of law is respected. In this context and beyond, ethics is a key factor in the quality of governance.

Public sector's ethics but must be understood as an activity and not as a statute. Encouraging ethical behavior is not just to settle a list of rules or a statute to be achieved. For any organization in the public system, ethics means a continuous management process that supports Government's activity and that is becoming an increasing essential element for the proper functioning and development of the process of government.

Therefore, ethics in public administration requires a set of decision tools useful in setting the strategy of authorities / institutions in solving the conflicts between the groups that interact. More than solving or preventing some conflicts, public sector ethics involves finding a balance between the needs and concerns of various interest groups, as well as between interest groups and society as a whole.

Ethics tools in public sector

Any organization is based on a set of ethical values which are grouped in an unwritten code on the basis of which the moral assessments of organization members' conduct take place.

In addition to these values universally recognized, organizations should clearly establish a code of internal and external conduct, code that must be officially known and recognized by all holders of interests.

If for private companies the code of ethics differs from one company to another and is approved by their managers, for public institutions (the public officials and other employees), the code of ethics is unitary and approved by law.

The Code of Ethics for a public sector institution must be built around some clear *objectives*, described from the start:

1. promotion of values, of ethical principles;
2. Creating an appropriate ethical climate of the professional activity, in line with the goals and mission of the institution;
3. preventing and resolving ethical conflicts;
4. discouraging unethical practices, punishing deviations from institution's values.

The International Code of Conduct for Public Officials enacted by the Resolution 51/59 entitled "Action against corruption" of the UN General Assembly in December 12, 1996 is recommended to Member States as a tool of guidance for their efforts against corruption. It provides principles (integrity, impartiality, fairness, indiscriminate, and so on) and general rules on the conflict of interests and

disqualification, declaration of assets, acceptance of gifts or other favors, confidential information and political activity.

Many governments have revised their policies on ethical conduct in public service, being concerned both so worsening the problem of corruption and the decline of trust in public administration. In order to assist these governments, the Organization for Economic Cooperation and Development (OECD) has developed a set of principles to assist countries to analyze their institutions, systems and mechanisms to promote ethics in public service.

OECD urges the Member States to ensure functional institutions and promotion systems of ethical conduct in public service. The principles identify functions of guidance, management and control, under which there are checked the management systems of public ethics. These principles reflect the experience of OECD countries and the views concerning the stable management of ethics. The principles are meant to represent a necessary tool for countries to adapt to national conditions.

Recommendation⁵ No. R (2000) 10 of the Committee of Ministers to Member states on codes of conduct for public officials on 11 May 2000 provides that raising ethical values are important means to prevent corruption. Member states governments have to promote, subject to national legislation and the principles of public administration, the enactment of national codes of conduct for public officials based on this Recommendation. The Group of States against Corruption (The Group of States Against Corruption) (GRECO) monitors the implementation of this Recommendation.

Also, EU attaches a great attention to fighting against corruption and establishing some mechanisms for effective management and public service ethics. And the Compact⁶ of Stability Pact Anti-Corruption Initiative for South Eastern Europe explicitly provides the commitment to promoting good governance and reliable public administrations, particularly promoting implementation of recommendations on public service ethics and codes of conduct. One of the conditions faced to all EU candidate countries was enacting a code of conduct for public officials.

Under the influence of the European Code, in February 2004 there were set the foundations of creating a regulatory framework for morality and ethics in public administration in Romania, through the enactment by the Parliament of the Law no. 7/2004⁷. The enactment of this regulatory act represents an important step in the reform of public administration in Romania.

Parliament's explicit objectives related to this law are to shape public administration in Romania by:

- promotion of some standards of conduct and integrity among public officials;
- informing the citizens on rules of behavior that should be expected from these officials;
- changing mentalities;
- alignment with European standards.

The Code establishes essential rules of conduct, obligatory for all civil officials, emphasizing a way to conduct that wasn't, until now, institutionalized or respected, such as avoiding the conflict of interests and using the position for its own interest.

This code is both a tool for information on professional conduct to which citizens are entitled to expect from public officials, as well as a means of creating a

⁵ [http://www.coe.int/t/dghl/monitoring/greco/documents/Rec\(2000\)10_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/documents/Rec(2000)10_EN.pdf)

⁶ <http://www.ipp.md/files/Proiecte/IAPS.doc>

⁷ http://www.primariaarad.ro/html/ron/infointerespublic/legislatie/LEGE_7_din_2004_republicata.pdf

climate of trust and mutual respect between citizens and public officials on one hand, and between citizens and public administration authorities, on the other hand. From the perspective of public officials, the Code is a clear collection of rules of conduct, which requires public officials to ensure an equal treatment of citizens before public authorities and institutions, professionalism, impartiality and independence, honesty and fairness.

The Code sets out in detail the rights and obligations of civil officials in the exercise of public functions, including the prohibition of public officials to seek or accept gifts, services, favors, invitations or any other advantage, which are for them in person, for the family, parents or persons with who they had business relationships or of political kind, which may influence their impartiality in the exercise of public functions they held or may be a reward in relation to those functions. The violation of this principle is what the Criminal Code is regulating as being a crime, "bribery".

The Code provides that its violations by public officials may lead to disciplinary responsibility, when by the acts committed in violation of rules of professional conduct, it creates prejudices to natural damage or legal persons. The attribution of coordinating the application, as well as of controlling the applications of the regulations provisioned in the Code rests with the National Agency of Public Officials (NAPO). NAPO can be informed about the infringements of the regulations of the Code by any interested person. The discipline committees have also the right to examine such facts and to propose administrative measures. If the facts of a public official are provided by the Penal Code, they will be subject to search to the competent authority.

Without overlooking the positive aspects of law, it still must be referred to the lack of elements. Up to date, the application of the Code is slow, partly because the sufficiently clear legislative provisions are missing, that would lay down the penalties for the infringement of its provisions. In the absence of such clarification, the motivation of public officials to adopt and apply professionalism, integrity and impartiality required by law is deficient.

Conclusions

Since public sector ethics is an ethics of applicative type, inevitably includes a number of values specific to each culture. Despite the differences between countries - both cultural and regarding political and administrative systems - there is an increasing convergence on the meaning of the concept of good conduct or correct conduct, in a word: ethics. Immanuel Kant estimates that, for any purpose, actions have moral value only if they are governed by normative principles which compliance ensures an action of necessary and universal character. Therefore, in the current period characterized by confusing conducts of ethical perspective, more important than theoretical debates on values, is the way of transposition into practice, in everyday work, the principles of morality and applied ethics.

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