

The Ethics of the Civil Servants in the EU

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Abstract: *This paper has been drawn up for the project: “Partnership for designing a model of an intelligent public management, interactive and transparent to build a more efficient local public administration in Romania” and is dealing with the ethical problems that might occur in the day to day professional activity of the civil servants in the EU countries. Owing to more complex and difficult tasks and fierce competition, the system considered to react slowly to the citizens’ needs has to be reformed and replaced with a more flexible one, easily adapting to change. Such a reform would imply vague borders between public and private, an independent management, oriented towards efficiency and performance, a less bureaucratic hierarchy, recruiting and promoting people on merit and payment according to their skills. Concepts like stability and continuity and a special status of the civil servant, in order to be protected from political influence, have become less important.*

Within the EU there is a great variety of types of organization of the public administration. A lot of countries still prefer traditional values and getting over to the modern model is still mistrusted. Lack of permanent control and an independent management can increase the number of infringements and not the other way round. Nevertheless, there are countries where the model is functioning very well, for example the Northern Countries. The values and principles that should guide the activity of the civil servant are: honesty, integrity, impartiality, citizen oriented, professionalism, public interest prevails personal interest, avoid conflicts of interest, openness, transparency etc.

A code of ethics at European level should contain all these values and principles, and Romania has to become aware of it in making the public sector more efficient.

Keywords: *values, moral principles, code ethics, corruption, integrity, meritocracy, public private partnership*

Introduction

The revival of ethics at the turn of the century has been triggered to a great extent by the fluctuation and change of social values. The traditional role played by institutions, such as: the school, the family, the church has diminished dramatically, even in Western countries, being followed by a vacuum of authority and an accentuated lack of sense of direction. There is a stringent need of a social bond, where public virtues would prevail and counterbalance irresponsible individualism. (Lipovetski, 1983)

We will analyse the changes that have occurred in the public sector, as they are integral part of a broader picture and they could not be dealt with apart from the transformations at societal level. Gergen/Kellerman have identified the following trends:

- problems concerning security have become topical again;
- globalization is expanding;
- the informational revolution is catching on;
- the diversity is increasing;
- the leadership culture is changing;
- there is no longer a clear-cut distinction between the public and the private sector;

Besides all these aspects the end of the Cold War has spread democratic systems and the market economy all over the world in countries previously led by dictators and has introduced another type of relationship between the state and its citizens that would lead to a more responsible and committed public behavior, based on new social and moral values.

The public administration sector is prone to an unethical behavior in countries that have become members of the EU recently and also in consolidated democracies even more than the political scene and the business environment. That is why strict regulations should be imposed based on values and principles like *integrity, accountability, transparency, professionalism, efficiency, impartiality, justice, etc.* These values seem not to differ too much on an European scale, their perception is rather different from country to country because of their inherited cultural traditions. Thus, there are huge differences between legal systems, the quality of the laws and regulations and the instruments used to fight against the deeds and events which are contrary to the moral principles. The way whistleblowing is resorted to can be set as an example. It requires a high degree of civic consciousness and courage, virtues that are still lagging behind in young democracies. So, very few citizens will dare to risk their lives in order to reveal some wrongdoings at their workplace that could endanger safety or even life. (faulty products, substances with severe effects on health, etc.).

Ethics is part of the traditional philosophy by fulfilling a critical function. Broadly speaking ethics is the process of investigation, and morality is the object of investigation. (Cryssides:1993). The displayed attitudes and behavior and the proposed principles and regulations are under scrutiny in order to determine whether they are correct or incorrect from the moral point of view. As a result one can take well-informed decisions instead of aleatory and subjective ones. Problems are complex and they can be solved in different ways. That is why the critical capacity is indispensable in solving ethical dilemmas by responsible people in their every day life.

We all know that moral reasoning is prior to the social or legal reasoning. Based on such moral categories, for example **good and bad, right and wrong**

laws can be judged and decided whether they are just or unjust. (The Apartheid was abolished in South Africa because it was profoundly immoral)

Christopher Stone (1992) argues that it is not enough to abide by the law and that in decision making moral principles should prevail. That does not always happen and consequences can be severe.

Ethics in public administration deals with dilemmas that arise in the activity carried out by civil servants and unethical behaviour, such as: corruption, fraud, theft, illegal promises, breach of confidentiality, misuse of power, waste of resources, lack of professionalism, discrimination, crime.

The conflict of interest is a frequent topic of discussion, the public servant should act selflessly in terms of public interest.

Lack of integrity and corruption undermine the authority of the administrative public institution and induce mistrust among citizens. They are better informed and have a stronger civic consciousness due to new information and communication technologies and would expect total transparency and responsibility from the public sector. Without these values a modern public administration cannot be conceived.

The most debated topic in public administration is corruption, because of the devastating impact it has on people's lives or even on the stability of whole countries.

We should deal with corruption in Romania in more depth, as it is widely spread and there should be taken steps to fight against it unflinchingly.

Corruption is everywhere regardless of the political system and we can find it under a multitude of shapes and forms because of different social, economic, cultural backgrounds. Nevertheless, politicians, businessmen and citizens worldwide disapprove on cases of corruption, abundantly signalled by the press and television. The phenomenon is spreading, gets more subtle and harmful and threatens the young democracies in Eastern Europe.

In an article "Corruption and Unethical Behaviour of Civil and Public Servants: Causes and Possible Solutions" Tony Verheijen and Antoaneta Dimitrova (1997) argue that especially Bulgaria, Romania and Slovakia underwent a process of forced, unilateral, distorted and partial modernisation at the dawn of communism. The transition from a relatively closed agrarian society to an urban, industrial society with limited social control made coexist pre-modern ideas and concepts generating social values and beliefs antagonistic to reality. That led to a split society, for ex. rural against urban, and did not contribute to set up norms and social customs based on moral and spiritual values with unanimous approval. The communist regime eroded the moral core of each country, without offering a viable alternative for a healthy social life.

The current situation has created even more confusion, claim the two authors. Democracy and the set of democratic values imposed by the elites, do not have real support in the social realities. Ethical concern plays a marginal role during such a period of transition, although lack of ethical behaviour in social,

political, economic and cultural matters can have a terrible effect on weak democracies.

It is hard to define corruption, because it can have many forms. In a case of corruption some means and resources are used for onerous purposes, or one can misuse power in order to get advantages or benefits for himself/herself. There are other benefits except money, for example promotion, protection, etc.

Corruption has four characteristics: “power abuse, advantages for both the parties involved, negative effects on a third party and the secretiveness of the transaction.”

Kjellberg’s classification, quoted by Tony Verheijen and Antoaneta Dimitrova (1997) is extremely useful in identifying types of corruption. He divides corruption according to the type of transaction and the type of norms that have been infringed. The type of transaction can be direct or indirect, and the type of infringed norms can be legal or moral norms, such as customs, etc. Based on this Kjellberg defines four broad types of corruption: a direct transaction which infringes legal norms, an indirect transaction which infringes legal norms, a direct transaction that infringes moral norms and indirect transactions that infringe moral norms.” The last type of corruption is the most difficult one to discover and to prove and the authors consider that it is the most outspread among politicians in Eastern and Central Europe, while the direct transaction and the infringement of legal norms is the most frequent type of corruption in the public administration.

Corruption is usually divided into two categories:

1. administrative corruption, related to the implementation of laws and regulations;
2. corruption as a result of designing laws and regulations. (state capture)

Private economic interest groups can influence the passing of a law. This is a very serious matter because they can change the business environment, where firms have to carry out their activity, the honest ones, too.

There are different reasons why people belonging to different social categories, of all ages, in all types of jobs, can be corrupted, but they do it consciously because they want to earn money easily or want to attain power, and because of greed, thus behaving imorally.

Emilia Kandeve (1997) in “Corruption in the Public Sector in Transition: The Bulgarian Experience” - says that corruption would flourish at the level of public administration in transition because of political change, economic instability and poor social values inherited from the past.

In former communist countries there are some common features that favour corruption. Nevertheless, the phenomenon is difficult to be measured and as a result to be controlled and fought against. The badly applied legislation and institutional factors play an important part in spreading corruption.

There are a lot of causes of corruption, a decisive one is that the power is still concentrated in the hands of a few people, who can control everything and use

it whenever they wish, and can influence even the drawing up and implementation of laws.

There is still a lot of red tape and inefficiency in the public sector. Although dissatisfied by it citizens still lack education and have an obsolete mentality. They still prefer offering gifts and bribes to civil servants in order to solve their problems quickly.

In surveys, Romanians seem not to tolerate bribes, but in real life they cannot live without them. However they know that there is a relationship between corruption and poverty, and that it would affect the morale of honest people.

According to a research carried out by EUMAP, an anticorruption strategy should include the following aspects:

- total transparency and assuming responsibility in the political activity, declaring their wealth, the law on conflict of interests, clarity in the funding of political parties.

- transparency and responsibility and efficiency in the public administration, fair recruitment based on meritocracy, politics does not interfere in administration, codes of ethics and constant evaluation of professional competence.

- a healthy business environment, without superfluous regulations.

- openness, inviting the civil society and the media to participate in decision making and have unlimited access to information, except the secret information.

To continue reforms in all the sectors, thus eliminating factors that favour corruption. The strengthening of institutions would prevent corruption.

Let us analyse now the aspects that influence the ethics and behaviour of the civil servants. According to OECD these are the following:

- carrying out activities with limited resources because of the reduction of the public sector in many countries;

- more requirements expressed by the citizens, who wish better and more services;

- the restructuring of the public sector and the setting up of agencies with great managerial autonomy;

- decentralization and delegation towards individual managers;

- more contacts between private and public;

- working in a glass bowl or greater transparency in operations;

- the change of social norms.

If the organizational culture coincides with the values of the employees, they will have a sense of belonging to that organization and a sense of direction in what they do. Employees without values are just a few most of them cannot unfold them at their workplace.

In all the EU countries because of the accelerated administrative reform and the enlargement process, there is a constant fight between traditional principles and the need to make the public sector more efficient and flexible in order to be able to respond quickly to the everchanging environment.

The profile of the civil servant has changed, too, having diverse skills and competences, necessary to solve complex problems. They wish to become more independent and to be paid according to their merit.

We should explain what we understand by a bureaucratic system, usually associated with the traditional model and which does not necessarily have a negative connotation. In a bureaucratic culture there is a strict hierarchical management system, control systems and regulations which leave little room for initiative and involvement. The opposite culture is the facilitating culture in modern companies, where they lay emphasis on creativity, responsibility and commitment of their employees.

Leszek Mellibruda lists the traditional principles and modern principles in the relationship between ethics and the administrative reform. In the reality, both set of values coexist but can be applied differently in each country because of the sociocultural, political and economic traditions of the respective country. Northern countries are a good example of a successful modern model in the public administration. Other countries in the EU consider that because of too much freedom and lack of control ethical aspects can be easily infringed in the modern model.

Principles of the traditional public sector:

- *Clearcut distinction between the public and the private sector;*
- *centralism and unity;*
- *hierarchy;*
- *attention towards rules and procedures;*
- *stability, continuity and equality;*
- *efficiency;*
- *legal correctness;*
- *internal promotion system, lifelong engagement;*
- *discretion;*
- *accountability;*
- *attention towards disciplinary procedures;*
- *orientation towards public wealth;*
- *the performance of the institution;*
- *attention towards the national level;*
- *stability.*

Trends in the administrative reform and human resources management:

- ✓ *management and public/private partnership;*
- ✓ *descentralisation and delegation*
- ✓ *delegation of responsibilities towards individual managers;*
- ✓ *performance oriented;*

- ✓ *greater functional mobility public/private;*
- ✓ *efficiency;*
- ✓ *result oriented;*
- ✓ *competition and on-time appointment;*
- ✓ *transparency;*
- ✓ *accountability;*
- ✓ *attention towards codes of ethics and whistleblowing;*
- ✓ *customer oriented;*
- ✓ *quality oriented;*
- ✓ *internationalisation;*
- ✓ *flexibility;*
- ✓ *best practices.*

The two models have to be adapted to the needs of society, to the existing infrastructure in order to respond to the requirements of the citizens effectively and professionally. Civil servants can use as a guideline in carrying out their duties the ethical values expressed by the Nolan commission in Great Britain in 1995. Holders of public office should possess:

1. selflessness – the civil servants should take decisions only in terms of public interest;
2. integrity in the performance of their official duties
3. objectivity – awarding contracts should be made on merit;
4. accountability – are accountable for their decisions and actions and must submit themselves to public scrutiny;
5. openness – as open as possible in the decisions and actions they take;
6. honesty – protecting the public interest even if there are private interests (avoiding conflicts of interest)
7. leadership – promote and support these principles by leadership and example.

Another manner to fight against moral misbehaviour in the public sector, besides a fair recruitment policy, based on merit is to set up a solid ethical infrastructure, which would help the civil servant in taking the right decisions even in dilemmatic situation, where the answer is not unequivocal.

Codes of ethics have long been used in the USA. In the EU all countries have adopted documents, which state the mission, vision and the philosophy of the public sector, and set rules of behaviour for the management and employees. They are based on such principles like *dedication to the public interest, integrity, honesty, independence, accountability, openness, transparency, etc.* and guide civil servants to act appropriately in such situations, where the solution cannot be entirely right or wrong.

The drawing up of a code of ethics of the European civil servant, a lot of factors have to be taken into consideration. The behaviour of the civil servant will reflect primarily his/her own philosophy, but also the values of the organisation, and the expectations of the managers and of the citizens. It will also be influenced by social changes, by the atmosphere at work, by the leadership style. The values

underlying the code of ethics come from different fields but they are blended in a unitary whole. According to Leszek Mellibruda these values are:

- “Democratic values (honesty, impartiality, loyalty to ministers, serve the public interest, provision of information, political neutrality).
- Professional values (objectivity, effectiveness, performance, citizen oriented, openness, efficient use of resources, expertise).
- Ethical values (uphold public trust, responsibility, integrity, abuse of position).
- People values (fairness, respect for human rights, principles of equality, non-discrimination, non-intimidation, respectful behaviour, merit).”

These rather abstract and general values are incorporated in the integrity policies within the EU. The mission of the civil servant is:

- to impartially serve the citizen; to be neutral in acting;
- to act abiding by the law;
- to professionally fulfill his duties;
- to be fair towards the public;
- to treat his/her colleagues respectfully;
- to avoid conflicts of interest;
- to handle information carefully, to respect confidentiality;
- to behave respectfully;
- to turn down gifts and bribes.

There is a lot of literature on ethical issues that strongly affect people's lives like fair recruitment, the appraisal system, nepotism., laying off workers, positive discrimination, sexual harassment, etc. (Freeman:1991)

Drawing the portrait of the civil servant in the EU, where ethical principles and values are of utmost importance is a necessary and useful step. We have to tackle questions such as: should they have a special status in order to be protected by political influences, and thus confer stability and continuity to the system or should the border between the private and public sector be more vague, with an independent management, efficiency and performance oriented. It is difficult to say what model to adopt, but the public sector should be reformed in order to keep up with the changes in society.

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