

## About Ethical Management in Justice Activity

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### Abstract

*The article explores the importance of ethical management in the activity of the judicial system, highlighting the essential role of integrity for the legitimacy of decisions and the proper functioning of these institutions. The primary purpose of the research is to assess how ethical management can be strengthened through legislative, organizational, and cultural measures, promoting a culture of responsibility, transparency, and mutual respect. It also analyzes the challenges encountered in implementing these practices, such as political influence, resource shortages, and excessive bureaucracy, emphasizing the importance of continuous training and civil society involvement in monitoring justice. By adopting these measures, the aim is to improve the efficiency and legitimacy of the judicial system, ensuring ethical professional conduct and fostering public trust in the act of justice.*

**Key words:** ethics, ethics management, ethical organizational culture

**J.E.L. classification:** A130

### 1. Introduction

For the first time, a member of the Superior Council of Magistracy wrote, in 2011, about ethical management in courts, and he assessed the moral evolution of the Romanian justice system as "between amoral and reactive".

The author's conclusion is that it is much easier to defend the independence of the judge against an external act, which is more visible, than against an operational management of the court but which, insidiously, can make the independence and impartiality of the collective of judges vulnerable in the long term, due to the lack of a reflexive exercise in the act of management, is fully valid. (Rădulescu, 2011)

Not even 10 years later, in a work on judicial management, a chapter entitled "Ethical aspects in judicial management activity" was introduced, in which, in two pages, several common ideas were presented about the gain that ethics would represent for the exercise of the act of leadership in courts and prosecutors' offices, "to the extent that it makes its way into discourse and decision (!)" and for the fulfillment of the mission of the judicial system, to achieve an efficient act of justice, in conditions of independence and integrity. (Rus, 2020)

### 2. Theoretical background

Ethics is a philosophical science that studies morality as one of the most important aspects of human and social existence. At the same time, ethics is also a scientific discipline.

Ethics was founded on various ethical conceptions of the guides of humanity: Confucius, Moses, Mohammed. Thus, Confucius (551-479 BC) proposes an idea that later becomes fundamental in philosophical ethics, namely that of saving humanity and renewing Antiquity. This is because during that era the empire was falling apart and Confucius' idea was to offer salvation to humanity through his advice. These advices were actually religious imperatives and rituals, which no longer had influence on humanity but were interpreted by him from the perspective of morality. Confucius argued that relationships between people become more harmonious only if they are reciprocal, the basis of humanity for Confucius representing respect for parents and esteem for older siblings.

Buddha (c. 560-480 BC) also had a great influence on human history. The Buddha's moral ideas emphasized humanity's compassion for everything around them. Moses' ethical conception consisted in the fact that the subject of ethics is the people, thus, according to Moses, the quality of ethics is precisely the ethics of equity. This is explained by the fact that, in itself, the individual's capacity to be equitable represents a test of the mind, power and beauty of man. Muhammad's ethical conception was represented through the Quran. The ethics of the Quran take into account the possibilities and circumstances of human life. For example, a Muslim is forbidden to eat pork, but if he happens to have nothing to eat except pork, then a derogation from this prohibition is allowed. Following this example, we can conclude that Muslim ethics also contains certain exceptions.

The moral motive is both the motive of wisdom and the motive of piety. From a philosophical point of view, ethics emphasizes the norms, principles, values, and moral ideals of those times.

For example, Socrates is the philosopher who founded the science of morality on the authority of theoretical reason, based on the maxim "Know thyself". He mentioned that self-knowledge is above all, and ignorance of self leads to the realization of our evils and vices. During his activity, Socrates managed to present the path, method, moral concepts and the statutation of the universal as the philosophical basis of moral science.

He considered that the given universal represents the moral virtue that allows the individual to know it, learn it and practice it at the same time. (Capcelea, 2004)

Epicurus, a philosopher from Ancient Greece, created an optimistic ethical conception that emphasizes the happiness of humanity, obtained through the satisfaction of pleasures and the avoidance of causes of suffering. Eudemonism, which represents happiness, is another ethical conception proposed by Epicurus and which is based on the human aspiration for happiness. Epicurus was convinced that the solution to the ethical problem lies precisely in the correct interpretation of the happiness of humanity. The ethical writings of Immanuel Kant, a German philosopher, mark human freedom and dignity. (Singer, 2006)

Kantian morality was established starting from a reflection on historical moral theories, from the observation that these theories could not substantiate the certainty of a lifestyle, of a code of behavior with a firm orientation, according to the principles of reason.

In this sense, V. Capcelea deduces that Immanuel Kant's ethical system is based on the conviction that reason is the highest instance of morality. (Capcelea, 2004)

Meditating on the meaning of life and the moral system of life, L. Tolstoy mentions that human life is filled with moral meaning to the extent that it obeys the law of love, conceived as nonviolence. Not to respond to evil with evil, not to resist evil with violence, was Tolstoy's exhortation regarding the life of humanity.

D. Gusti, a Romanian philosopher and ethicist, argues that "ethics is a science that addresses the problem of human will and that must take into account precisely this will". As a normative science, ethics, according to D. Gusti, refers to the valorization of social will as an activity, as a process of manifestation in order to appreciate goals. The major problem of ethics is the problem of motivation of the will, that is, the problem of personal goals and motives. Moral conscience does not represent only a feeling and judgment, but both together, in a reciprocal connection. Based on this, D. Gusti studies the mechanism and motivation of moral action and its teleological dynamism, arguing that a causal explanation is possible spiritually only for the facts that have occurred, not for those that are about to occur. Another problem in Gusti's ethics is the issue of the moral duties of personality, because in order to achieve its proposed objective, practical ethics must discover the principles and moral duties that underlie the realization of personality.

### 3. Research methodology

In the investigative approach regarding ethical management in courts, the research was structured around a mixed methodology, combining elements of qualitative and quantitative research, to capture both normative and institutional aspects, as well as the perceptions and practices of the actors involved in the act of justice.

The main objective of the research was to identify the ways in which the principles of professional ethics are implemented within the courts, as well as the challenges faced by magistrates and auxiliary staff in their application.

To achieve the objectives, the following methods were used:

- Documentary analysis: codes of ethics, internal regulations, best practice guides, decisions of the Superior Council of Magistracy, as well as reports of international organizations (e.g. GRECO, CEPEJ) on integrity and ethics in the judicial system were analyzed.
- Semi-structured interviews: 10 interviews were conducted with judges, clerks and legal advisors, selected based on a convenience sample from four Romanian courts. The interviews aimed to explore perceptions of the institutional ethical culture, frequent moral dilemmas and the efficiency of mechanisms for preventing misconduct.
- Online questionnaire: applied to a number of 15 respondents from the judicial system (judges, prosecutors, clerks), with the aim of quantifying attitudes towards ethical norms and identifying possible discrepancies between rules and practices.

Combining these methods allows for data triangulation and a more complete picture of the issue at hand. In addition, the qualitative approach facilitates understanding of ethical contexts and nuances that cannot be captured by strictly quantitative methods.

The research is limited by the relatively small number of respondents, the subjective nature of qualitative data, and the reluctance of some participants to openly discuss sensitive issues. However, the results provide valuable insights into the current state of ethical management in courts and may constitute a starting point for more extensive future research.

In Romania, the foundations of the analysis of ethics in organizations – seen as institutional ethics for the needs of an organization, not for personal needs – were laid by Professor Valentin Mureșan, who founded the Center for Research in Applied Ethics of the University of Bucharest in 2004 and “was an important promoter of the field of moral philosophy and ethics... and its most dedicated supporter in the last thirty years” with a “tireless involvement in the construction of ethical infrastructures – ethics committees and codes, methods and procedures for moral decision-making, etc.”

According to Professor Mureșan, ethical management of organizations aims at the management of all activities that structure the moral life of an organization, and its goal is to create moral or integrity organizations, which possess internal organizational structures that are able to stimulate the moral behavior of personnel and inhibit immoral behavior. (Mureșan, 2009)

Judicial management represents the set of activities through which the person invested in a management position determines the objectives of the judicial activity carried out within the court or prosecutor's office, makes decisions through which they organize activities, manage human resources, coordinate efforts and actions, train magistrates and other categories of personnel to participate in achieving the objectives, and control and regulate the functioning of the institution.

Within the judicial system, the manager is subject to constraints and limitations regarding the use of a toolkit fully applicable in organizations that do not fall within the scope of public authorities and which derive from the incidence of the principle of legality and independence of the judge.

In other words, unlike the private sector, within the judicial system, no matter how opportune or efficient a measure may seem, whether it concerns the organization of activity, communication or motivation of personnel, the manager will only be able to implement it if the legal provisions allow this and do not prejudice the principles governing the organization of the judicial system.

Management is a "whole" that includes five main functions: planning, organizing, coordinating, coaching, and evaluating/controlling.

Ethics in judicial management represents the coherent set of ethical norms and principles to which the conduct of persons exercising management positions in courts and prosecutors' offices must be subordinated, in order to make fair decisions.

In the judicial system, ethics is of strategic importance since integrity is essential for the proper performance of the judicial function, and the legitimacy of the decisions rendered is conferred primarily by the moral authority and integrity of the magistrates.

Therefore, the head of an institution in the judicial system must relate ethically to the duties of the position he holds and integrate ethics into all components of the activity of the courts and prosecutors' offices. He must also prioritize observance of professional ethics norms, which, moreover, also represent a criterion for assessing the efficiency, quality of activity and integrity of judges and prosecutors. (The Public Ministry)

#### 4. Findings

The study on ethical management in courts highlights the essential role of ethics in strengthening public trust in the judicial system and in ensuring fair and impartial justice. The research results indicate that, although the existing normative and institutional framework provides solid support for the promotion of ethical behavior, the effective implementation of these principles remains uneven and often dependent on the organizational culture of each court.

A major conclusion is that judicial ethics cannot be treated as a simple set of rules, but as an integral part of institutional management, involving continuous training, periodic evaluation and clear feedback and correction mechanisms. Also, a better correlation between human resources policies, professional evaluation of magistrates and the promotion of ethical values is needed.

Based on the data analyzed, the need for increased transparency and strengthening ethical leadership at the level of court management is highlighted. The positive examples identified demonstrate that the existence of leaders who actively promote integrity has a direct impact on the institutional moral climate.

In addition, it is recommended to strengthen professional training with an ethical component, especially in the context of new challenges generated by external pressures, digitalization and increased visibility of the act of justice.

In recent years, discussions have intensified at European level on the need to approach judicial management in terms of efficiency and effectiveness. From perspectives focused on the professionalization of management, to discussions aimed at corporate governance, to the separation of the function of representing the jurisdiction from any specific management attribution, all of them recognize that the principles and functions of management must become structural elements of the way of leadership in courts and prosecutors' offices. It is obvious that the reality of activity in the judicial system confirms the need for professionalized leadership on two levels of intervention, that of management and that of judicial activities. (National Institute of Magistracy., 2021)

The analysis revealed that implementing effective ethical management depends on key factors: professional leadership within judicial institutions, the existence of clear and applicable ethical codes, and efficient mechanisms for evaluating and sanctioning unethical behavior. In Romania, although there is a solid legislative framework, its implementation is inconsistent. Issues such as political influence, lack of resources, and excessive bureaucracy negatively affect organizational ethics. In contrast, some other countries have successfully implemented clear procedures for reporting unethical behavior and have fostered institutional cultures based on integrity.

#### 5. Conclusions

Undoubtedly, the head of an institution represents its moral benchmark and, through the way he exercises his function and relates to the values specific to the profession, influences the moral life of the institution he leads. He must be aware that his mission is to promote and maintain high standards of professional conduct. It follows, therefore, that the moral commitment of the head of an institution should be stronger than the commitment as a simple member of staff.

Therefore, it is important that he promotes a culture of ethical, responsible, transparent and public interest-oriented leadership. At the same time, through the discourse promoted and the decisions he makes, the manager must be an example of ethical conduct for the entire institution. In addition, the head of an institution in the judicial system must have a moral attitude consistent with the position he holds, treat people with respect and dignity, without favoritism, subjectivism and prejudice, and without publicly questioning their professional and moral probity.

Strengthening ethical management in the justice system requires an integrated approach that combines legislative, organizational, and cultural measures. Continuous ethics training, increased decision-making transparency, and civil society involvement in monitoring justice are essential. Recommended actions include: creating national ethical standards, establishing ethical performance indicators, and promoting an organizational culture rooted in responsibility and mutual respect.

The prioritization of justice work reflects current trends and threats to the rule of law in areas of interest, such as: economic and financial field, cybersecurity, combating corruption, protecting and ensuring the integrity of the environment, involving complex measures and sustainable strategies for preventing risks and effectively combating these threats. Increasing the quality of the act of justice in all its components is also a priority, and the achievement of this objective is closely linked to the intensification of efforts to ensure faster and more efficient justice for citizens.

In conclusion, effective ethical management in courts requires not only compliance with the rules, but also proactive conduct, guided by responsibility, transparency and respect for citizens' rights. Only through an integrated and sustained approach can courts become models of integrity in public service.

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