

# Ethical codes for public administration – reflection of EU core values or part of national anti-corruption policy? Example of the Czech Republic and Ukraine

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**Summary:** This article investigates, whether the adoption of ethical codes in the Czech Republic and in Ukraine mainly aim at implementation of EU ethical framework for public administration or should be viewed as a part of national anti-corruption policy. To that end, the article will analyse, whether the ethical codes for public administration in the Czech Republic and Ukraine reflect core principles of EU ethical framework for public administration, or rather contain specific provisions aimed at eliminating corruption. The practical effects of relevant provisions, their enforcement and contribution to elimination of corruption will also be analysed. Besides analysis and comparison of the situation in the Czech Republic and Ukraine, the article aims to identify common experiences and patterns to provide generalization useful for understanding the effect of ethical codes on elimination of corruption and national implementation of European core ethical principles for public administration in wider context of Central and Eastern European post-communist countries, which are still suffering from quite significant rates of corruption and examples of maladministration.

**Keywords:** ethical codes; public administration; anti-corruption measures; Czech Republic; Ukraine

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## 1. Introduction

Ethical codes for public administration are commonly accepted as a part of well-established best practices in public administration, especially in European context. Based on recommendations adopted by various international organizations, such as OECD<sup>1</sup> or Council of Europe<sup>2</sup>, many countries have adopted ethical codes for public administration. The Art. 41 of the Charter of Fundamental Rights of the European Union<sup>3</sup> guarantees to everyone the right to good administration, which is among others fulfilled through the existence of European Ombudsman and The European Code of Good Administrative Behaviour.<sup>4</sup> Both Art. 41 of the CFREU and the code adopted on its basis are only applicable to EU civil servants and institutions. However, the code serves as an inspiration and at the same time as example of best practices for not only EU member states, but also candidate states and third countries.<sup>5</sup> All these examples clearly demonstrate that in the European context, the principles of good administration and ethical codes for public administration are commonly understood as an important part of ensuring rule of law and good governance.

Ethical codes for public administration serve a number of important purposes. They contribute not just to fulfilment of principles of good administration,

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<sup>1</sup> OECD Recommendation of the Council on Public Integrity, 2017, [online]. Available at: <https://www.oecd.org/gov/ethics/OECD-Recommendation-Public-Integrity.pdf>

<sup>2</sup> Council of Europe Recommendation Rec(2000)10 on Codes of conduct for public officials, Adopted by the Committee of Ministers on 11 May 2000 at the 106th session, [online]. Available at: <https://rm.coe.int/16806cc1ec>; see also the Explanatory Memorandum to this Recommendation, [online]. Available at: <https://rm.coe.int/1680534424>

<sup>3</sup> Hereinafter also referred to as “CFREU”.

<sup>4</sup> First endorsed by the European Parliament in 2001, current updated version is available at: <https://www.ombudsman.europa.eu/pdf/en/3510>. On the role of European ombudsman see: DACIAN, C., DRAGOS, D., NEAMTU, B. Freedom of Information in the EU in the midst of Legal Rules, Jurisprudence and Ombudsprudence: the European Ombudsman as Developer of Norms of Good Administration. *European Constitutional Law Review*. 2017, vol. 13, no. 4, pp. 641–672. DOI: 10.1017/S157401961700030X

<sup>5</sup> The European Code of Good Administrative Behaviour, p. 11. [online] Available at: <https://www.ombudsman.europa.eu/pdf/en/3510>

but also to development of common identity and values of public servants<sup>6</sup>, and promote basic values of democracy and rule of law. In EU member states (or candidate states) they promote common European values and principles related to good public administration and contribute to establishment of common European identity.<sup>7</sup> They form the basis for internal regulatory, procedural and personal development mechanisms, and can be perceived as indicators of quality of systems of public administration. As such, it is not surprising that they are often recommended or even required by national and international regulatory documents or bodies.

Ethical codes for public administration are also important element of anti-corruption strategies.<sup>8</sup> Key values, which are to be protected by ethical codes for public administration, are independence, impartiality, fairness and absence of abuse of power. Corruption, as one the biggest threats to good administration, violates all key principles of good public administration. Besides above-mentioned key values, corruption also negatively affects equality, legality, transparency and efficiency of public administration. Elimination of corruption is therefore a priority for most countries and international organizations.<sup>9</sup>

This article will specifically focus on role of ethical codes for public administration in promotion of European administrative culture and values and fight against corruption. Acknowledging these two crucial roles of ethical codes, it is important to analyse, to what extent they are reflected in the ethical codes, how effective the ethical codes are with regard to fulfilling these purposes, what is the relationship between these two purposes and how they interact.

## 1.1. Overall concept and goals of the article

This article investigates, what is the current state of development of ethical codes in the Czech Republic and in Ukraine, how are these codes implemented or enforced and how they contribute to promotion of European administrative culture and elimination of corruption. Besides analysis and comparison of the situation in the Czech Republic and Ukraine, the article aims to identify common

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<sup>6</sup> PALIDAUSKAITĖ, J. Codes of Ethics in Transitional Democracies: A Comparative Perspective. *Public Integrity*. 2006, vol. 8, p. 46. DOI: <https://doi.org/10.2753/PIN1099-9922080103>

<sup>7</sup> INGLIS, K. The Europe Agreements Compared in the Light of Their Pre-Accession Reorientation, *Common Market Law Review*. 2000, vol. 37, no. 5, p. 1191. [online] Available at: <https://kluwerlawonline.com/journalarticle/Common+Market+Law+Review/37.5/276755>

<sup>8</sup> BALAN, K. *Anti-Corruption Consciousness As An Element Of Organizational Culture Of Public Service*. 2018. DOI: 10.15405/EPSSBS.2018.12.02.115

<sup>9</sup> ROTHSTEIN, B., SORAK, N. Ethical Codes for the Public Administration. A Comparative Survey. *QoG Working Paper Series, Department of Political Science, University of Göteborg*. 2017, no. 12, p. 7.

experiences and patterns to provide generalization useful for understanding the effect of ethical codes on promotion of European administrative culture and elimination of corruption in wider context of Central and Eastern European post-communist countries, which are still suffering from quite significant rates of corruption and commonly appearing maladministration.<sup>10</sup> The article consists of two main parts, the first focusing on current state of the art of ethical codes for public administration, the second one focusing on effects of ethical codes on implementation of European administrative culture and elimination of corruption. Both parts are subdivided into three sub-parts, one dedicated to the Czech Republic, second to Ukraine, followed by third sub-part focusing on comparison, observations and discussion.

The reason for choosing the Czech Republic and Ukraine for this comparative analysis is the fact that the Czech Republic is an EU and OECD member state, while Ukraine is not, although it is closely cooperating with EU and OECD and is a prospective EU and OECD member. The existing literature on ethical codes for public administration focuses heavily on developed countries, and specifically EU and OECD members<sup>11</sup>, which is likely the result of the emphasis EU and OECD place on ethics in public administration.<sup>12</sup> However, also other international organisations have adopted documents or recommendations related to ethics and public governance.<sup>13</sup> Last, but not least, ensuring fulfilment of principles of good administration, including respect for ethics of public administration, is relevant in the light of Ukraine's intent to become a member of the European Union.<sup>14</sup>

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<sup>10</sup> The most common instances of maladministration are related to transparency issues (transparency of decision making, transparency of lobbying activities), ethics, and human rights – NEGRUT, V. (2017). Overview of the Most Common Types of Maladministration Raised at EU Level. *Public Policy and Administration Research*. 2017, vol. 4, no. 2, p. 39. DOI: 10.18488/JOURNAL.74.2017.42.35.40

<sup>11</sup> ROTHSTEIN, B., SORAK, N. Ethical Codes for the Public Administration. A Comparative Survey. *QoG Working Paper Series, Department of Political Science, University of Göteborg*. 2017, no. 12, p. 3.

<sup>12</sup> See for example the report on “Ethics in the Public Service: Current Issues and Practice”, 1996, OECD; Recommendation of the Council on Improving Ethical Conduct in the Public Service Including Principles for Managing Ethics in the Public Service, OECD/LEGAL/0298. [online] Available at: <https://legalinstruments.oecd.org/public/doc/129/129.en.pdf>

<sup>13</sup> See for example: Council of Europe. *12 Principles of Good Democratic Governance*. 2012 [online]. Available at: [www.coe.int/good-governance/](http://www.coe.int/good-governance/)

<sup>14</sup> See Commission Opinion on Ukraine's application for membership of the European Union, COM(2022) 407 final. [online] Available at: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-06/Ukraine%20Opinion%20and%20Annex.pdf>

## 1.2. Basic summary of the situation in the Czech Republic

In the Czech Republic, ethical codes for public administration are perceived as important part of normative framework of public administration. The general principles of functioning of state, including public administration, are laid out by the Czech Constitution<sup>15</sup>, including the basic constitutional values, general provisions related to functioning of state and specific rules and principles related to particular branches of power and also to territorial self-government. These general constitutional provisions are elaborated in more detail in a number of statutes, specifying competences, procedures and other necessary aspects of carrying the public administration. In relationship to ethical codex for public administration, the law on state service is the most prominent, creating the legal framework for adoption and enforcement of ethical code for state servants.<sup>16</sup>

Ethical codes play an important role in identifying and enforcing basic values of public administration, which also derive from the Czech Constitution, but are not suitable to be implemented through statutory or regulatory legislation. The continuous commitment of the Czech Republic to adoption and implementation of ethical codes for public administration is apparent from the commitments, which the Czech Republic accepts on international level, especially within EU and OECD (see part 2.a. of this article for more details), but also from the fact that there were several ethical codes for public administration adopted since 2001. This resulted in increased trust of Czech general public in public administration, more user-friendly approach, but also in better scores achieved by the Czech Republic in Corruption Perception Index in the past decade.

## 1.3. Basic summary of the situation in Ukraine

The issue of legislative regulation of norms, standards and rules of ethical behaviour of civil servants and the development of comprehensive legal acts in this area in Ukraine is most acute today. Over the 30 years of Ukraine's independence, attempts have been made to unify the rules of law regarding ethical behaviour in public administration and to adopt a general code of ethics. However, the current situation in this area is such that Ukraine does not have a single codified regulatory act. Ethical Codes are intended to define the basic principles of professional ethics of public servants, i.e. the fundamental ideas and guiding principles on which the public service is built and which should guide all public servants in their activities. Failure to comply with these principles reduces trust in the

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<sup>15</sup> Constitutional Act No. 1/1993 Coll., Constitutional of the Czech Republic, as amended by later acts.

<sup>16</sup> Law No. 234/2014 Coll., on State Service, as amended by later acts.

professionalism of officials, in their ability to properly perform their tasks, causes distrust in their activities on the part of the public, and in the most serious cases may cause social unrest and protests against the government. All these principles are defined by the legislator in the Law of Ukraine “On Civil Service”, such as the rule of law, legality, professionalism, patriotism, integrity, efficiency of the civil service, political impartiality, transparency and stability.<sup>17</sup>

## **2. Ethical codes for public administration – overview of current state of affairs**

The goal of this part of the article is to provide the overview of the situation in both countries addressed in this analysis – the Czech Republic and Ukraine – in the area of ethical codes for public administration. The overview covers the timeline of development of normative framework, the existing ethical codes, relevant statutory provision and other relevant aspects. One of interesting aspects is comparing the overall approach of the ethical code, which can be defined on a scale between aspiration-based (aspirational), emphasizing values like service and courtesy to public, and compliance-based (prescriptive), emphasizing values like loyalty to the government and observance of rules.<sup>18</sup>

### **2.1. Czech Republic**

In the Czech Republic, the transformation efforts following the fall of communist regime in 1989 were in the beginning of 1990s focused on creating legal and economic frameworks for democratic free-market society. However, the quality of public administration, the values it should protect, and general principles of good administration, were not addressed at that time. In the course of efforts to prepare the Czech Republic for accession to the EU, also the quality of public administration and implementation of basic principles of good administration became inevitable. The first major step focusing on improving the quality of functioning of public administration came was the creation of the office of Public Defender of Rights, i.e. the Czech Ombudsperson, in 1999.<sup>19</sup> In order to be able to function properly, the first Public Defender of Rights, Otakar Motejl, had to

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<sup>17</sup> Original version of the text available at: <https://zakon.rada.gov.ua/laws/show/889-19#Text>

<sup>18</sup> ROTHSTEIN, B., SORAK, N. Ethical Codes for the Public Administration. A Comparative Survey. *QoG Working Paper Series, Department of Political Science, University of Göteborg*. 2017, no. 12, p. 19.

<sup>19</sup> See § 1 section 1 of the Law No. 349/1999 Coll., on Public Defender of Rights, as amended by later acts.

create the catalogue of principles of good administration, envisaged by the Law on Public Defender of Rights as the criteria for assessment of the exercise of public administration.<sup>20</sup> The Principles of Good Administration<sup>21</sup> were formulated in 2006 based on experience from the first years of activity of the Office of the Public Defender of Rights, but also inspired by international documents, recommendation and standards, and based on expertise of academic experts and members of public administration. In this sense, it can be perceived as an ethical code for public administration created in a grass-root based effort to improve public administration. Indeed, the structure of these principles<sup>22</sup> strongly resembles structure of other ethical codes for public administration, which exist in the Czech Republic.

Another path of development of ethical principles embodied in ethical codes for Czech public administration was followed by the Czech government. Here it should be noted that the efforts of the Public Defender of Rights were mostly driven by improving the recipients experience with public administration, while the efforts of the Czech government by systemic improvement of public administration and fight against corruption. The Czech Government adopted the first ethical code for public administration in 2001.<sup>23</sup> Its structure was rather basic, focused mostly on corruption and not so much on quality of public administration. It contained seven provisions:

1. fundamental provisions,
2. general principles,
3. conflict of interest,
4. political or public activity,
5. gifts and other offers,
6. abuse of official position,
7. reporting of inappropriate activity.

This Ethical Code was not adopted in the form of legislative act, so it was not binding.<sup>24</sup> However, In the Resolution, the Government instructed the ministers

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<sup>20</sup> § 1 section 1 of the Law No. 349/1999 Coll., on Public Defender of Rights, as amended by later acts: *“The Public Defender of Rights ... acts to protect persons from the conduct of authorities and other institutions referred to in this Act if it is contrary to law, inconsistent with the principles of the democratic rule of law and good administration ...”*

<sup>21</sup> Principles of Good Administration. [online] Available at: <https://www.ochrance.cz/dokument/principy-dobre-spravy/principy-dobre-spravy.pdf>

<sup>22</sup> The ten principles are: compliance with the law; impartiality; timeliness; predictability; persuasiveness; proportionality; efficiency; responsibility; openness; helpfulness.

<sup>23</sup> Resolution of Czech Government No. 270/2001, On Ethical Code of Employees in Public Administration.

<sup>24</sup> Response of the Ministry of Interior to Freedom of Information request, Document No. č. j. MV-89007-2/ODK-2014, p. 2.

and heads of the central administrative bodies to issue a code of ethics to be used in these institutions and to inform their employees about it. The Government also recommended that the heads of local self-government units (regional governors and mayors of large cities) inform the staff offices about the content of the Code, to respect it and, if necessary, to issue their own Code, which should be based on the principles of the Ethical Code of Employees in Public Administration. This approach has proven very strategic, because it prevented adoption of many different ethical codes on various levels and in various institutions. As a result, most institutions simply implemented the ethical code issued by the Czech Government and those, who intended to adopt their own ethical code, based it in the Ethical Code issued by the Czech Government.

Since the Ethical Code from 2001 was too general, too vague, and did not contain any serious anti-corruption mechanisms. The Ministry of the Interior was tasked by submitted the material containing legislative measures that would oblige other public authorities to create up and publish their own codes of ethics.<sup>25</sup> Thus in 2012, a new ethical code of officials and employees of public administration was adopted<sup>26</sup>, and it was heavily influenced by the principles of good administration developed by the Czech Public Defender of Rights, which is apparent from its structure, which focuses on twelve basic ethical principles: legality, decision-making in public interest and proportionality, professionalism and expertise, impartiality, timeliness and efficiency, conflict of interest, corruption, efficient use of entrusted funds, confidentiality, informing the public, political and public activity and representativeness. Even though the content of the code was significantly improved, its non-binding nature accompanied by recommendation to implement in all bodies of public administration was even strengthened, because in the 2012 version, the government ordered all ministers and heads of the central administrative bodies (and recommended to regional governors and mayors) to use the code to create their own code of ethics and issue it as their internal regulation, which would be internally binding for their employees.

This ethical code still remains in force as a general ethical code for the whole public administration. However, not much later, the most important piece of legislation related to ethical codes in state administration was adopted, the Law on State Service<sup>27</sup>, effective from January 2015. It obliges the state employees

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<sup>25</sup> See the press release of the Czech Government related to the new ethical code. [online] Available at: <https://www.vlada.cz/cz/media-centrum/aktualne/eticky-kodex-uredniku-minimalizuje-koru-peni-jednani-95380/>

<sup>26</sup> Resolution of the Czech Government No. 331/2012, on Ethical Code of Officials and Employees of Public Administration.

<sup>27</sup> Law No. 234/2014 Coll., on State Service, as amended by later acts.

to adhere to rules of ethics of state employees adopted as a service regulation.<sup>28</sup> Such ethical rules were adopted on 14<sup>th</sup> December 2015 and came into effect on 1<sup>st</sup> January 2016.<sup>29</sup> This structure finally introduced the legally binding nature of ethical code, although it only applied to state administration. The ethical code of 2015 almost exactly copied some provisions of ethical code from 2012 and had very similar structure:

1. basic provisions,
2. legality,
3. proportionality,
4. professionalism,
5. representative behaviour,
6. speed and efficiency,
7. conflict of interest,
8. corruption,
9. use of entrusted means,
10. education and expertise,
11. final provisions.

This ethical code was heavily criticized for being too legalistic and issued in time pressure after the adoption of Law on State Service.<sup>30</sup> For example, the ethical code prohibited accepting gifts of value above 300 CZK (approximately 12 EUR) and required the officials to report the offers of such gifts. Overall, the design of the ethical code was rather similar to specific internal regulations and it lead the state servants to formally respect the enacted rules instead of internalizing and pervasive implementation of the basic ethical and professional values and principles of state service. Having these criticisms in mind, work on new ethical code has started after 2020, including academics and other experts. The new ethical code for state employees was adopted on 3<sup>rd</sup> October 2023 and will enter into force on 1<sup>st</sup> January 2024.

The new ethical code demonstrates the shift from prescriptive approach to aspirational approach. It has fewer provisions, which focus on:

1. honest, fair, responsible and reliable behaviour of state servants,
2. prevention of conflict of interests,
3. impartiality,

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<sup>28</sup> § 77 section 1 letter t) of Law No. 234/2014 Coll., on State Service, as amended by later acts.

<sup>29</sup> The service regulation of deputy minister of interior for state service of 14th December 2015, which enacts the rules of ethics of state employees. [online] Available at: <https://www.mvcr.cz/sluzba/soubor/sluzebni-predpis-namestka-ministra-vnitra-pro-statni-sluzbu-c-13.aspx>

<sup>30</sup> BOHATÁ, M. Etika a integrita veřejné správy České republiky. (Ethics and integrity of the public administration of the Czech Republic). *Scientific Papers of the University of Pardubice*. Series D, 2019, vol. 47, no. 3, p. 21.

4. expertise,
5. proportionality,
6. helpfulness,
7. efficiency,
8. role of superiors.

The provisions are more general, and thus require more education, training and support mechanisms to be observed, and this in turn requires more educated and trained state servants. However, the shift to aspirational approach is quite logical in the context of the current state of affairs of implementation of ethics of state servants in the Czech Republic. As observed by Tomáš Friedel with regard to legal professions, ethical decision-making is based on free decisions of individuals and thus cannot be formally legally prescribed. Prescriptive codes requiring minimal standards of ethical behaviour and ignoring the aspirational goals in fact limit the moral development of individuals and lead to moral mediocrity at best.<sup>31</sup>

## 2.2. Ukraine

The first legislative act in this area was the Rules of Ethical Conduct adopted on May 17, 2012<sup>32</sup> which became invalid on the basis of the Law of Ukraine “On Prevention of Corruption” of October 14, 2014. The next step was the approval of the Rules of Ethical Conduct for Civil Servants, adopted by the Cabinet of Ministers on February 11, 2016<sup>33</sup>, which have also expired. Now, among the general legal acts, we can identify the General Rules of Ethical Conduct for Civil Servants and Local Government Officials, approved by the Order of the National Agency of Ukraine on Civil Service pursuant to the Law of Ukraine “On Prevention of Corruption” on August 5, 2016<sup>34</sup>. These General Rules are a kind of ethical code.

However, it should be noted that, along with the General Rules, each public administration body uses its own regulatory act governing the ethics of civil servants. For example, we can point to the Code of Ethical Conduct for Employees of the Ministry of Finance of Ukraine<sup>35</sup>, the Ethical Code for Employees of State Statistics Departments<sup>36</sup>, the Rules of Ethical Conduct for the Staff of the

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<sup>31</sup> FRIEDEL, T. Etické kodexy. (Ethical Codes). In: FRIEDEL, T., HAPLA, M. et al. *Profesní etika právníků*. (Professional ethics of lawyers) Brno: Nugis Finem Publishing, 2022, pp. 177–178.

<sup>32</sup> Original version of the text available at: <https://zakon.rada.gov.ua/laws/show/4722-17#Text>

<sup>33</sup> Original version of the text available at: <https://zakon.rada.gov.ua/laws/show/65-2016-%D0%BF#Text>

<sup>34</sup> Original version of the text available at: <https://zakon.rada.gov.ua/laws/show/z1203-16#Text>

<sup>35</sup> Original version of the text available at: <https://zakon.rada.gov.ua/laws/show/z1518-23#Text>

<sup>36</sup> Original version of the text available at: <https://zakon.rada.gov.ua/laws/show/z1351-23#Text>

Ministry of Justice of Ukraine and its Territorial Departments<sup>37</sup>, the Rules of Ethical Conduct for Employees of the Ministry of Social Policy of Ukraine<sup>38</sup>, the Code of Ethical Conduct for Employees of the Ministry of Infrastructure of Ukraine<sup>39</sup>, the Code of Ethical Conduct for Employees of the National Agency for the Prevention of Corruption<sup>40</sup>, Rules of ethical behavior of employees of the Ministry of Regional Development, Construction, Housing and Communal Services of Ukraine<sup>41</sup> etc. As you can see, each public administration body, each ministry and agency has a separate legal act that defines the principles of ethical behavior of civil servants of this institution of state power.

Nevertheless, it is possible to identify common elements of these legal acts in the field of public ethics. These regulations contain general principles of civil service ethics, such as:

1. the principle of ensuring public interest,
2. the principle of decent behavior of public service employees, which implies respect for the dignity of others, politeness and high culture of communication, goodwill and prevention of conflicts in the process of communication between citizens and the state,
3. the principle of an impeccable reputation,
4. the principle of confidentiality of information received by public administration institutions regarding individuals and legal entities,
5. integrity principle,
6. the principle of not giving any preference or showing favoritism to specific individuals, legal entities, organizations, or political parties,
7. the principle of loyalty, i.e., faithful implementation of decisions of central government agencies, refraining from public criticism of the activities of government agencies,
8. the principle of political neutrality,
9. the principle of transparency and accountability,
10. good faith principle.

We can confidently state that these principles of civil service ethics are closely related to the basic principles of civil service, which are defined in the Law of Ukraine “On Civil Service”, and, therefore, we can talk about the use of common values by the legislator.

The need to create unified rules of ethical behavior for civil servants has been studied in numerous scientific papers and articles by scholars. For example,

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<sup>37</sup> Original version of the text available at: <https://zakon.rada.gov.ua/laws/show/z0846-23#Text>

<sup>38</sup> Original version of the text available at: <https://zakon.rada.gov.ua/laws/show/z0442-23#Text>

<sup>39</sup> Original version of the text available at: <https://zakon.rada.gov.ua/laws/show/z1340-22#Text>

<sup>40</sup> Original version of the text available at: <https://zakon.rada.gov.ua/laws/show/z0625-19#Text>

<sup>41</sup> Original version of the text available at: <https://zakon.rada.gov.ua/laws/show/z1093-18#Text>

M. Pashkova argues that the existence of certain standards to be contained in regulations is necessary for the effective implementation of professional activities of civil servants<sup>42</sup>. Of course, such codes will not be able to solve all the problems that arise in the process of dialogue between the state and its citizens, but “raising the threshold of citizens’ trust in the state and improving the moral atmosphere in organizations is an absolutely realistic task”<sup>43</sup>.

In addition, as noted by scholars, “*it is necessary to pay attention to the fact that the foundations of the moral and ethical principles of professional activity of civil servants of Ukraine are set out in separately created laws, orders, rules of conduct, which does not contribute to the comprehensive regulation of the formation of a single standard of conduct of a civil servant in the context of modernization of the public administration system of Ukraine in accordance with the requirements of European standards. That is why the issue of adopting a general Code of Ethics for civil servants, enshrining it in law and ensuring control over its implementation, realization and observance in the public administration system arises. Such a Code should be in line with the provisions of the International Code of Conduct for Public Officials and the Model Code of Conduct for Civil Servants of the Council of Europe Member States.*”<sup>44</sup>

In academic circles, a certain concept of an ethical system of public service in Ukraine has also been formed<sup>45</sup>, which also consists of relevant institutions – human resources services, anti-corruption specialists, the National Agency of Ukraine on Civil Service – that are tasked not only with monitoring compliance with the norms and principles of professional ethics by public servants in the performance of their duties, but also with ensuring high-quality ethical training of employees, raising their level of integrity and professionalism. Unfortunately, there is a discrepancy between official ethics and traditional ethics in Ukraine. Therefore, the ethical legislation of Ukraine that meets international ethical standards is only half the battle to solve the problems of good public governance.

At present, we can say that ethics legislation in Ukraine is generally in line with international standards, but there is a big problem with compliance with

<sup>42</sup> PASHKOVA, M. O. Administrative Ethics in Executive Bodies: Results of an Expert Survey of Public Servants. *Teoretychni ta prykladni pytannia derzhavotvorennya*. 2014, vol. 14, pp. 220–231.

<sup>43</sup> DZHUMAGELDIEVA, G. D., SERHIENKO, L. V., SERHIENKO, I.G. Mechanism of Formation of the Code of Ethics in the System of Public Administration. *Investytsii: praktyka ta dosvid*. 2020, vol. 4, p. 126.

<sup>44</sup> MALINON, V. I., SHEVCHENKO, N. P. Actualization of Ethical Codes in the Context of Modernization of the Public Administration System. *Naukovo-informatsijnyi visnyk*. 2015, vol. 11, pp. 79–85.

<sup>45</sup> YEVHEN, K. Ethical system of the public service of Ukraine. *Derzhavne upravlinnia: udoskonalennia ta rozvytok*. 2020, vol. 3. [online] Available at: [www.dy.nayka.com.ua](http://www.dy.nayka.com.ua)

ethics legislation by public officials. The training and development of civil servants, including ethical self-education, also plays an important role. Unfortunately, few educational institutions in Ukraine offer high-quality master's programs for training professional employees in the spirit of observing the basic principles and values of professional ethics. In-service training courses, including training in professional ethics, are often formalized. It should also be noted that only about 4% of public servants have a special education in public administration, and Ukrainian universities annually train about 5,000 masters in public administration, which is only 1% of the total number of employees in public administration. This is very little. If we take into account that the change of personnel in public administration departments is about 15% per year, the problem of lack of professional public servants in public authorities is very serious.

### **2.3. Comparison, observations, discussion**

We can observe many commonalities between the current state of affairs in the Czech Republic and Ukraine. In both countries, there is general statutory framework for civil service (state service), accompanied by ethical codes adopted by particular public institutions, but sharing a common core based in general principles of good public administration. Both countries have (to a certain level) implemented relevant international standards.

There are two main points of interest when comparing the current state of affairs in the area of ethical codes for public administration in the Czech Republic and Ukraine. First is the extent of centralization of ethical codes. In the Czech Republic, starting with the first ethical code created in 2001, the issue of ethical codes was handled on level of the Czech Government, which created the general framework and pressured the administrative institutions to use this framework to create their own ethical codes. This ensured relative unity in content, structure and enforcement mechanisms. In Ukraine, such effort to centralize was not present since the beginning, but during the process of adoption of ethical codes of different public administration institutions, the cross-institutional inspiration and implementation of basic principles deriving from statutory legislation lead to observable similarities between the existing ethical codes. However, there are still significant difference in structural questions, especially the enforcement of these codes and it is difficult to adopt centralized solutions in an environment with such significant fragmentation.

The second is the time-line perspective. In the Czech Republic, the first ethical code for public administration was adopted in 2001, which is eleven years before Ukraine. This can be explained by various factors, including the efforts

to access to the EU by the Czech Republic, different levels of involvement of both countries in international frameworks focusing on quality of public administration and also different levels of corruption and anti-corruption policies. We can see that the Ukraine is currently tackling an issue of compliance and the suggested course of action is to adopt more specific ethical rules. The Czech Republic has already experimented with quite specific set of ethical rules, but without much effect and therefore an aspirational ethical code was adopted recently. Its effects and implementation may be of high relevance for Ukraine, since it might indicate to change the current direction of development in the area of ethical codes for public administration.

### **3. Role of ethical codes for public administration in promotion of European administrative culture and values**

Considering the timelines of adoption of ethical codes for public administration in the Czech Republic and Ukraine, as described above, it is apparent that it coincides with efforts to prepare for accession to the European Union. Similarly to The European Code of Good Administrative Behaviour, the ethical codes for public administration in member and candidate states play a crucial role in promoting ethical behaviour, maintaining value integrity, and serving the public interest.<sup>46</sup> They can be even seen as implementation of values enshrined in the Art. 2 TEU, which serve as structural constitutional principles with concrete legal effects on behaviour of EU institutions and EU member states.<sup>47</sup> The key point of interest in this regard is, to what extent the codes adopted in EU member states reflect common European principles of good administration and thus promote European administrative culture and values. In order to analyse this issue, the key principles and values embedded in ethical codes adopted in the Czech Republic and Ukraine will be compared with basic principles and values enshrined in The European Code of Good Administrative Behaviour.

As stated in the Introduction to The European Code of Good Administrative Behaviour: *“The full and correct application of the Code, of the Charter of Fundamental Rights, and of EU law in general, depends on the existence of an administrative culture of service, in which civil servants understand and*

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<sup>46</sup> MURAVIOV, V. Principles and Values of the European Union as a Legal Basis for European Integration. *European Studies*. 2019, vol. 6, no. 1, p. 80.

<sup>47</sup> SCHROEDER, W. The EU Founding Values – Constitutional Character and Legal Implications. *European Studies*. 2016, vol. 3, p. 63.

*internalise the principles of good administration.*"<sup>48</sup> To address such need, five general public service principles were formulated by the office of the European Ombudsman in June 2012 and published together with the code itself:

1. Commitment to the European Union and its citizens
2. Integrity
3. Objectivity
4. Respect to others
5. Transparency

Further, the code contains several substantive provisions, defining the basic principles of good administration:

1. Lawfulness (Art. 4)
2. Absence of discrimination (Art. 5)
3. Proportionality (Art. 6)
4. Absence of abuse of power (Art. 7)
5. Impartiality and independence (Art. 8)
6. Objectivity (Art. 9)
7. Legitimate expectations, consistency, and advice (Art. 10)
8. Fairness (Art. 11)
9. Courtesy (Art. 12)

These general principles are followed by more specific provisions, protecting concrete procedural rights of citizens, such as the right to communicate in their language, right to be heard and to make statements, right to substantiated decision in reasonable time and others.

The structure summarized above enables The European Code of Good Administrative Behaviour to combine aspirational and prescriptive approach to create complex system of general provisions, providing aspirational values and general guidance for interpretation of the compliance-based prescriptive provisions. Both approaches are clearly demonstrated by the wording of respective provisions. The Art. 7, focusing on absence of abuse of power, provides: "*Powers shall be exercised solely for the purposes for which they have been conferred by the relevant provisions. The official shall in particular avoid using those powers for purposes which have no basis in the law or which are not motivated by any public interest.*" By using very specific verbs (shall be exercised, shall avoid) and clear limitations (solely for the purpose, purposes which have no basis in the law), this provision contains very concrete rules and requires strict compliance. On the other hand, when specifying the general public service principle of integrity, the code states: "*Civil servants should be guided by a sense of*

<sup>48</sup> *The European Code of Good Administrative Behaviour*. p. 8. [online] Available at: <https://www.ombudsman.europa.eu/pdf/en/3510>

*propriety and conduct themselves at all times in a manner that would bear the closest public scrutiny. This obligation is not fully discharged merely by acting within the law.”* In this provision, we can note less strict obligations (should be guided) and less specific requirements (manner that would bear the closest public scrutiny), which lead to aspirational goals (this obligation is not fully discharged merely by acting within the law).

In the following parts, the content, structure and mode of regulation contained in The European Code of Good Administrative Behaviour will be compared with the content, structure and mode of regulation of ethical codes for public administration in the Czech Republic and Ukraine.

### **3.1. Role of ethical codes for public administration in promotion of European administrative culture and values in the Czech Republic**

The latest version of the Code of ethics for state employees, which was adopted in 2023, is using almost exclusively the aspirational approach. Its normative text is therefore rather short and focuses on values and general principles. It must be noted that the code is preceded by a preamble, which emphasizes certain principles, values, and traditions (like responsible administration of public affairs, human dignity, freedom, equality and solidarity, etc.), but again in a very general, rather philosophical way. However, there is an explanatory memorandum attached to the code, which provides more detailed elaboration of the general concept of ethics, ethics of state employees and the methods and approaches used in this particular code, but also specification of all principles stipulated by the code. Even though the explanatory memorandum is not binding, it is highly likely that due to various reasons many state employees will perceive it as a rulebook. For others, however, it might serve as a guidance, providing space for individualization and reflection of their personal values and ethical reasoning.

Looking at the content of the latest code, there is no specific mentioning of European administrative culture or values. However, most other general principles of public services, as stipulated by The European Code of Good Administrative Behaviour, are implemented by the Czech ethical code. The principles of integrity, objectivity and respect to others are reflected in multiple provisions of the Czech code. It should be noted that the Czech code even asks to state employees to refrain from unjustified disruption of good interpersonal relations in general sense. The only general principle of public service, which is missing compared to The European Code of Good Administrative Behaviour, is the

principle of transparency. It should be noted, however, that the duty to inform the public or the relevant individuals, which is an important part of transparency, was part of codes adopted in 2012 and 2015.

Comparing the more specific principles regulated by the European code and the Czech code, it is remarkable that the principle of lawfulness or legality is not mentioned in the text of the Czech code at all. In this way, the code distinguishes legal rules and ethical rules, reflecting the fact that legal rules are binding anyway without the need to reiterate that in the ethical code. Besides that, the explanatory memorandum clearly states that upholding the law is the minimal standard expected of the state employees. Further, the Czech code does not contain specific provisions dedicated to absence of abuse of power and respect to legitimate expectations, consistency and advice, although some parts of these principles are addressed by the explanatory memorandum, for example the prohibition to abuse the information acquired in official capacity to the benefit of a political party (contained within impartiality) or providing advice to citizens (contained within helpfulness).

However, there are certain provision in the Czech code, which stipulate additional principles, not contained in the European code. Given the relative shortness of the Czech code, this should be interpreted as a strong emphasis, put by the Czech regulator on these principles. Specifically, these are expertise (employees should develop their expertise and use it efficiently), efficiency (in relation to administration and use of the entrusted resources) and role of superiors (to guide employees to uphold the ethical rules and lead by example).

If we look back to development of content of Czech ethical codes for public administration since 2001, when the first ethical code for public administration was adopted in the Czech Republic, we can observe a trend of shifting from prescriptive to aspirational approach, which corresponds with European perspective. Many provisions of the Czech code were quite narrow, specific and strict in the code of 2001 (for example list of possible conflicting interests in the context of preventing conflicts of interest) became more general over time. Analysing specifically the regulation of gifts or other benefits received in relation to public service, it was originally quite strict in 2001, then in 2015 became overly specific by stipulating the money equivalent for acceptable gifts (300 CZK), and offers of gifts over this sum had to be reported. The current code does not contain any specific provisions related to gifts, although it does prohibit requesting or accepting any benefits in connection with official activities, and the explanatory memorandum mentions that there will be special recommendation on policies related to gifts.

There are some themes, which were part of all ethical codes for public administration so far in the Czech Republic, such as preventing conflicts of interest,

expertise, impartiality and proportionality. Other themes developed over time, such as efficiency (which is part of all codes except for the first one from 2001), or legality, which was included in all codes except the 2023 code (see above).

Overall, the ethical codes play an important role in implementation of European administrative culture and values in the Czech Republic, both in terms of content, i.e. introducing the relevant principles, and respect for these principles and values. At first, the focus was on particular rules addressing specific problematic situations, such as corruption, arbitrariness, rudeness, which gradually evolved into general focus on quality of all activities carried by public administration. These efforts were quite successful, since today's public administration fulfils the European standards and brings certain new inspiring ideas to the table.

### **3.2. Role of ethical codes for public administration in promotion of European administrative culture and values in Ukraine**

The situation in Ukraine is a bit more complicated, since besides the universal ethical code for public administration – the General Rules of Ethical Conduct for Civil Servants and Local Government Officials, approved by the Order of the National Agency of Ukraine on Civil Service – there are specialized ethical codes in most public institutions and authorities. Because due to extent limitation it is impossible to analyze all particular ethical codes in this article, the assessment of the situation in Ukraine is based on the analysis of the provisions of the general code.

In terms of content and focus of the provisions, we can observe partial overlap between the Ukrainian general rules and The European Code of Good Administrative Behaviour. It is not surprising that the Ukrainian general rules do not stipulate the commitment to the EU and its citizens as a guiding principle, but rather focus on serving the citizens of Ukraine and fulfil their interests. The rules specifically require the public officials to use the Ukrainian language, respect the Ukrainian state symbols and local and national traditions. Another significant difference can be observed with regard to the principle of transparency. While the European code expects the public servants to explain their activities and welcome public scrutiny, the Ukrainian rules rather seems to focus on the value of loyalty, i.e. protection of positive public perception of public authorities and for example refraining from publicly commenting on their activities in a way, which can damage their reputation. The Ukrainian rules also do not specifically stipulate rules related to informing the public, both in general and in the course of carrying out administrative agendas.

However, the other three general principles of the European code, specifically integrity, objectivity and respect to others, are regulated in great detail by the Ukrainian rules. It must be noted though, that the Ukrainian rules consistently apply the prescriptive approach: their provisions are very specific (for example prohibition of specific types of sexually motivated behaviour or inappropriate comments on other's attire, gender, age etc.) and strict (using verbs like prohibit, refrain from, must prevent etc.).

When comparing the more specific principles regulated by the European code and Ukrainian rules, the principles of lawfulness, absence of discrimination, absence of abuse of power, impartiality, objectivity, fairness and courtesy are elaborated in both documents, with only relatively minor differences, which usually reflect the supranational v. national scope of application of the rules. There are three principles, which are not addressed by the Ukrainian rules: proportionality, independence and legitimate expectations, consistency and advice. Absence of more specific implementation of the principle of independence is probably connected to overall emphasis on the principle of loyalty throughout the Ukrainian rules, because for example the principle of impartiality and objectivity are implemented quite extensively. Principles of proportionality and consistency in terms of respect to legitimate expectations are not regulated in any way by the Ukrainian rules. The possible explanation for this is the nature of these principles, because they are not primarily procedural, but have significant implication for the decisions made by the public administration, and while they can be beneficial as guiding principles, they can also be easily abused in Ukrainian environment to justify arbitrary or unfair decisions. An important principle, which is not reflected in The European Code of Good Administrative Behaviour, but has received significant attention in the Ukrainian General Rules of Ethical Conduct for Civil Servants and Local Government Officials, is the principle of efficient use of entrusted or available resources and prevention of misuse of such resources.

The comparison demonstrates that Ukraine is making a considerable effort to implement European administrative culture. Currently, the Ukraine is in a semi-advanced stage, having implemented majority of the principles of good administration, which form the core of European administrative culture and values. However, some more complex or advanced concepts, like proportionality, respect of legitimate expectations or transparency, were not implemented yet or to a full extent. There are several provisions, which demonstrate that one of the important values is loyalty, which is understood as part of hierarchic system of superiority and inferiority, so mainly as a respect to superior official and not the values of the system of public administration. Overall, the Ukrainian General Rules of Ethical Conduct for Civil Servants and Local Government Officials

mainly use prescriptive approach and contain some very detailed provisions, which is appropriate with regard to the current stage of development of administrative culture and values in Ukraine and is a necessary step on the trajectory towards more flexible and aspirational approach.

### **3.3. Comparison, observations, discussion**

In overall summary, the existence of ethical codes for public administration is crucial on level of EU and national level of both Czech Republic and Ukraine for establishment of positive administrative culture and implementation of basic values.<sup>49</sup> The content of ethical codes clearly shows, how the European administrative culture and values influence the systems of public administration in the Czech Republic and Ukraine, not just by setting standards by formulation of certain principles and values, but also by providing inspiration as to method of regulation and concrete rules. In both countries, majority of principles stipulated in The European Code of Good Administrative Behaviour were implemented in their national ethical codes for public administration.

Comparing the development and the current situation in the Czech Republic and in Ukraine, it is remarkable, how the development in the Czech Republic at certain stages resembled the current situation in Ukraine. We can see certain similar values reflected in the codes, like loyalty, role of superiors, requirement of efficient use of entrusted resources, or the obligation to report certain situations, which are not part of The European Code of Good Administrative Behaviour. However, the last development in the Czech Republic is quite distinct, since it follows almost exclusively the aspirational approach, while the Ukrainian codes are still quite compliance-oriented. Country-specific principles can also be identified: the expertise in the Czech Republic, or respect for local and national traditions in Ukraine.

## **4. Effects of ethical codes on corruption**

There is a growing number of empirical studies, which show that organization of public administration in a country significantly affects the control of corruption.<sup>50</sup> But mere adoption of codes of ethics for public administration does not mean that their provisions will be fully complied with and the corruption will immediately

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<sup>49</sup> ODEH, D. L. Professional Codes of Ethics for Public Administrators: What Are They Really Telling Us? *Public Integrity*. 2023, p. 2. [online] DOI: 10.1080/10999922.2023.2177042

<sup>50</sup> ROTHSTEIN, B., SORAK, N. Ethical Codes for the Public Administration. A Comparative Survey. *QoG Working Paper Series, Department of Political Science, University of Göteborg*. 2017, no. 12, p. 4.

disappear. Ethical codes are just one part of the puzzle, albeit very important, and in order to be effective, they must be accompanied by other anti-corruption measures. At the same time, “*empirical research suggests that there is no one best way; there are different configurations of policies, practices and institutions that can lead to the same outcome of high integrity performance and high integrity risk containment.*”<sup>51</sup> It is therefore necessary to more closely examine the effects of ethical codes in both analysed jurisdictions in order to learn, to what extent they contribute to reduction of corruption and what effects they have in real day-to-day functioning of public administration.

#### **4.1. Enforcement and effects of ethical codes for public administration on corruption in the Czech Republic**

The issue of corruption is a long-standing relevant issue of public debate and is traditional part of programmes of political parties. General public and main media outlets pay significant attention to corruption, not just related to top political representatives, but also lower, we may say executive levels, of public administration. In the past ten years, two prime ministers (Andrej Babiš and Petr Nečas) were criminally prosecuted because of conflict of interest or abuse of power. Corruption has also significant negative effects on Czech economy. According to study published by the European Parliament Research Service in 2016<sup>52</sup>, over 26,7 billion EUR were lost to corruption in the Czech Republic, which was more than 12 % of Czech GDP at that time.

Among EU member states, the Czech Republic ranks below average in corruption. The Czech Republic scored 56 out of 100 points on Corruption Perception Index in 2022 and was ranked on place 41 out of 180 countries, being on par with Georgia, Italy and Slovenia. The score of the Czech Republic in CPI index increased significantly between 2013, when it was 48 (and rank 57 together with Bahrain, Croatia and Namibia), and 2015, when it became 56 (bringing the Czech Republic up to rank 38 together with Latvia), and has remained more or less similar since then. The highest score of 59 points was recorded in 2018, but then in 2020 and 2021 it was only 54.<sup>53</sup>

Although criminal regulation is the crucial anti-corruption measure, it is important to note that “*criminal law definitions of corruption focus on specific types*

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<sup>51</sup> SIX, F., LAWTON, A. Towards a theory of integrity systems: A configurational approach. *International Review of Administrative Sciences*. 2013, vol. 79, no. 4, pp. 654–655.

<sup>52</sup> The Cost of Non-Europe in the area of Organised Crime and Corruption. Annex II – Corruption, p. 42. [online] Available at: [https://www.europarl.europa.eu/RegData/etudes/IDAN/2016/558779/EPRS\\_IDA\(2016\)558779\(ANN2\)\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2016/558779/EPRS_IDA(2016)558779(ANN2)_EN.pdf)

<sup>53</sup> For details, see: <https://www.transparency.org/en/cpi/2022>

*of conduct, which may be ‘too narrow and creates gaps which can be problematic for non-legal purposes’ ..., particularly in relation to unethical behaviour that may not be illegal.”*<sup>54</sup> Existence of ethical codes in various relevant environments, including public administration, is therefore also an important anti-corruption measure, and issues related to corruption are therefore logically included in such ethical codes. Even though a new ethical code was recently adopted, it has not come into force yet. For this reason, the following observations will relate to effectivity of the previous ethical code from 2015.

The key external indicator of reduction of corruption is the country score on CPI index. Looking into past ten years, the biggest improvement that the Czech Republic has scored in the CPI index (between years 2013 and 2015) directly correlates in time with adoption of an improved ethical code for public administration in 2012, law on state service in 2014 and rules of ethics of state employees in 2015. However, since 2015 the Czech Republic’s score in CPI index remained more or less the same with just minor fluctuations. This can be interpreted as demonstrating that creation or improvement of normative framework related to ethics in public administration can influence the level of perception of corruption, but to achieve further effects, additional measures need to be implemented.

Indeed, even empirical study focusing on effects of the ethical code from 2015 concludes that the ethical code is not effective and that it must be accompanied by other instruments of ethical infrastructure.<sup>55</sup> Other study shows that the preceding ethical codes were not effectively enforced.<sup>56</sup> This can be attributed to the fact, that the 2001 ethical code was constructed as recommendation and thus was not binding. The 2015 ethical code, which was issued as internal regulation and its violations could be punished in disciplinary proceedings, did not bring any significant improvement in terms of its enforcement, even though the interconnection of an ethical code with disciplinary proceedings has been found effective in certain contexts.<sup>57</sup> This can be most likely explained by lack of ethical

<sup>54</sup> The Cost of Non-Europe in the area of Organised Crime and Corruption. Annex II – Corruption, p. 18. [online] Available at: [https://www.europarl.europa.eu/RegData/etudes/IDAN/2016/558779/EPRS\\_IDA\(2016\)558779\(ANN2\)\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2016/558779/EPRS_IDA(2016)558779(ANN2)_EN.pdf)

<sup>55</sup> BOHATA, M., PUTNOVA, A., RASTICOVA, M., SEKNICKA, P., SZURMANOVA, M., CEBAKOVA, A. Public Administration Ethics in the Czech Republic. *Journal of East European Management Studies*. 2022, vol. 27, no. 2, p. 227. DOI: <https://doi.org/10.5771/0949-6181-2022-2-210>

<sup>56</sup> PELLAR, M. Aplikace etických kodexů ve státní správě v České republice (Application of ethical codes in the state administration in the Czech Republic), 2007. [online] Available at: <https://ado.c.pub/aplikace-eticky-kodex-ve-statni-sprav-v-eske-republice.html>

<sup>57</sup> See for example the study on Poland: MEYER-SÄHLING, J.-H., MIKKELSEN, K. S. Codes of Ethics, Disciplinary Codes, and the Effectiveness of Anti-Corruption Frameworks: Evidence from a Survey of Civil Servants in Poland. *Review of Public Personnel Administration*. 2022, vol. 42 no. 1, p. 159. DOI: <https://doi.org/10.1177/0734371X20949420>

models and leadership at the highest levels of public administration, leading to lack of motivation of the superiors to start the disciplinary proceedings, lack of institutional culture in public administration focusing on upholding ethics and lack of other supportive and monitoring mechanisms. This might be also linked to the fact, that the ethical codes dealt exclusively with the behaviour of individuals with no importance attached to the civil service culture.<sup>58</sup>

Some of the criticisms of the ethical code of 2015 have been already implemented in the ethical code of 2023, first of all adopting the aspirational approach rather than prescriptive approach, but also explicit focus on role of superiors as leaders and positive ethical role models. It will be also necessary to accompany the new code with active promotion<sup>59</sup>, education and trainings<sup>60</sup>, supportive mechanisms, such as consultative bodies, explanatory materials, but also by enhanced public and academic discourse.

## 4.2. Enforcement and effects of ethical codes for public administration on corruption in Ukraine

It is widely believed that the introduction of ethical governance in public administration is part of the fight against corruption. And this is largely true. Indeed, the level of corruption in a country is an indicator of the ethical professional activity of public servants. Ukraine, unfortunately, ranks very low here. For example, the global anti-corruption organization Transparency International has published Corruption Perceptions Index, according to which Ukraine in 2017 had 30 points and ranked 130<sup>th</sup> place out of 180 countries, in 2018 it received 32 points and 120<sup>th</sup> place<sup>61</sup>, and in 2022 – 33 points, rising to 116<sup>th</sup> place, being on a par with such countries as Algeria, Angola, Zambia, Mongolia<sup>62</sup>. Therefore, corruption can be viewed not only as the consequences of officials' misconduct, but also from

<sup>58</sup> BOHATÁ, M. Etika a integrita veřejné správy České republiky. (Ethics and integrity of the public administration of the Czech Republic). *Scientific Papers of the University of Pardubice, Series D*, 47 (3/2019), p. 25; similarly see MEYER-SÄHLING, J.-H., MIKKELSEN, K. S. Codes of Ethics, Disciplinary Codes, and the Effectiveness of Anti-Corruption Frameworks: Evidence from a Survey of Civil Servants in Poland. *Review of Public Personnel Administration*. 2022, vol. 42 no 1., p. 159. DOI: <https://doi.org/10.1177/0734371X20949420>

<sup>59</sup> BOHATA, M., PUTNOVA, A., RASTICOVA, M., SEKNICKA, P., SZURMANOVA, M., CEBAKOVA, A. Public Administration Ethics in the Czech Republic. *Journal of East European Management Studies*. 2022, vol. 27, no. 2, p. 212. DOI: <https://doi.org/10.5771/0949-6181-2022-2-210>.

<sup>60</sup> Ibid., p. 227–228.

<sup>61</sup> Transparency International Ukraine (2018), “CPI 2018”. [online] Available at: <https://ti-ukraine.org/en/research/corruption-perceptions-index-2018>

<sup>62</sup> Transparency International Ukraine, “CPI 2022”, 2022. [online] Available at: <https://cpi.ti-ukraine.org/en/>

the standpoint of differences between the actual behavior of an official and the general social and ethical values of society. According to scholars, “*corruption in the administrative and legal sense is a system of public relations based on the actions of public officials provided for by a specific corruption administrative offense*”<sup>63</sup>.

Ukrainian legislation clearly states that any manifestation of corruption by an official should be qualified as an administrative offense and administrative sanctions should be applied to the public servant who committed it. However, it should be emphasized that corruption by public officials is not just an offense, but a manifestation of their immoral behavior, as they neglect professional ethics and standards of proper behavior for their own benefit. The General Rules of Ethical Conduct for Civil Servants emphasize the provision that obliges all civil servants to strictly adhere to generally accepted ethical standards in the performance of their duties<sup>64</sup>.

For violation of the rules of ethical behavior, an employee is subject to disciplinary liability, i.e. violation of the rules of ethical behavior is a disciplinary offense. A public servant may be subject to such penalties as a reprimand, reprimand, warning of incomplete performance, or dismissal. An analysis of the Supreme Court’s case law leads to several conclusions. First, the order to bring an employee to disciplinary responsibility must contain all the circumstances that led to the adoption of such an order, the reasoning for choosing the type of penalty (case No. 813/3820/17)<sup>65</sup>. Secondly, corruption offenses are considered to be the most serious administrative offenses, which may be sanctioned by dismissal from office, and in the case of serious corruption, criminal prosecution.

The creation of Ethical codes in public administration is considered by scholars, legislators, and public servants themselves as an effective tool for combating corruption, as well as the basis of professional ethics of public servants and the main element of the ethical infrastructure of the public service. It is through codes of ethics that it is possible to implement the provisions of the Constitution on the rule of law, integrity, justice, priority of the public good, professionalism, etc. Ethical codes can help with personnel policy, as they define the basic principles of human resources, the principles of employee management, the basics of professional training, ways to improve the general and managerial culture and strengthen human resources. Unification of requirements for public servants will increase the level of public trust in them, minimize corruption risks, as the

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<sup>63</sup> YATSKIV, I. I. General Provisions for Combating Corruption: Administrative and Legal Aspect, *Aktualni problemy vdoskonalennia chynnoho zakonodavstva Ukrainy*. 2009, vol. 21, pp. 88–94.

<sup>64</sup> Original version of the text available at: <https://zakon.rada.gov.ua/laws/show/z1203-16#Text>

<sup>65</sup> Case no. 813/3820/17 of 9 December 2019, [online]. Available at: <https://reyestr.court.gov.ua/Review/86203738>

activities of public servants will be based on the principles of transparency and openness, respect for public authorities, establishing a healthy atmosphere of trust and respect in professional teams of employees, significantly limit the arbitrariness of officials in relations with citizens and in internal relations between managers and subordinates<sup>66</sup>.

### 4.3. Comparison, observations, discussion

The situation in both countries clearly demonstrates that mere adoption of an ethical code, even if connected with statutory legislative framework, can have only very limited effect on reducing corruption. In both countries, the emphasis on education of public officials is a clear recommendation for further improvement of compliance with ethical principles embedded in respective ethical codes. This is not surprising, since also in other contexts, it has been established that in order to behave ethically, it is not sufficient that ethical rules exist, and relevant persons know these rules. It is also necessary to recognize the ethical dimension of the situation at hand, to identify the right course of action and to be able to overcome possible obstacles and carry out the appropriate action.<sup>67</sup> The educational elements should be accompanied by improvements of civil service culture in terms of overall positive acceptance of importance of upholding of ethical principles, emphasizing the role of superiors as ethical role models and strengthening their leadership skills to improve the ethical performance of their inferiors.

The educational mechanisms for public administration already exist in both countries, so including specialized modules dedicated to ethics of public administration in their framework should not present any significant burden. This logically requires existence of educational and explanatory materials accompanying the ethical codes, together with supportive and consultative mechanisms available for situations, where the public administration officials face situations of uncertainty. Last but not least, these measures are dependent on the overall structure of the ethical code, and benefit significantly from aspirational provisions, and development of public administration culture to the level of general acceptance of benefits and necessity of respecting ethical principles.

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<sup>66</sup> SHATRAVA, D. Preventing and Combating Corruption in the Activities of the National Police of Ukraine through the Prism of Ethical Principles. *Jurnalul juridic national: teorie si practica*. 2016, vol. 6, part 2, pp. 63–65.

<sup>67</sup> See Rest's four-tiered model of ethical development of professionals: REST, J. R. Background: Theory and Research. In: REST, J. R., NARVÁEZ, D. (eds.). *Moral Development in the Professions: Psychology and Applied Ethics*. Hillsdale: Lawrence Erlbaum Associates, 1994, pp. 20 an.

## 5. Conclusions

In conclusion, we can summarize that both in the Czech Republic and in Ukraine, there is general statutory framework for civil service (state service), accompanied by ethical codes adopted by particular public institutions, but sharing a common core based in general principles of good public administration, which correlate with the principles and values stipulated by The European Code of Good Administrative Behaviour. Both countries have implemented relevant international and European standards, although there is still room for improvement.

Both countries have already quite significant experience with creating and implementing ethical codes. One of the significant differences is the rather centralized approach adopted in the Czech Republic compared to decentralized approach in Ukraine, leading to existence of different ethical codes in different public administration institutions. This makes it difficult to adopt systemic measures for enforcement of ethical codes or otherwise improve compliance with them. From the time-line perspective, the Czech Republic has approximately 10 years head-start before Ukraine, making it a logical subject for comparative analysis and inspiration. We can see that the Ukraine is currently tackling an issue of compliance and the suggested course of action is to adopt more specific ethical rules. The Czech Republic has already experimented with quite specific set of ethical rules, but without much effect and therefore an aspirational ethical code was adopted recently. Its effects and implementation may be of high relevance for Ukraine, since it might indicate to change the current direction of development in the area of ethical codes for public administration.

Looking at the role, which the ethical codes for public administration adopted in the Czech Republic and in Ukraine play in promotion of European administrative culture and values, the comparison of their content with The European Code of Good Administrative Behaviour clearly shows, that the European administrative culture and values influence the systems of public administration in the Czech Republic and Ukraine, not just by setting standards by formulation of certain principles and values, but also by providing inspiration as to method of regulation and concrete rules. In both countries, majority of principles stipulated in The European Code of Good Administrative Behaviour were implemented in their national ethical codes for public administration.

Comparing the development and the current situation in the Czech Republic and in Ukraine, it is remarkable, how the development in the Czech Republic at certain stages resembled the current situation in Ukraine. We can see certain similar values reflected in the codes, like loyalty, role of superiors, requirement of efficient use of entrusted resources, or the obligation to report certain situations, which are not part of The European Code of Good Administrative Behaviour. However, the

last development in the Czech Republic is quite distinct, since it follows almost exclusively the aspirational approach, while the Ukrainian codes are still quite compliance-oriented. Country-specific principles can also be identified: the expertise in the Czech Republic, or respect for local and national traditions in Ukraine.

When analysing the effects of adopting ethical codes for public administration on reducing corruption, it is not surprising that mere adoption of an ethical code, even if connected with statutory legislative framework, can have only very limited effect on reducing corruption. In both countries, the emphasis on education of public officials is a clear recommendation for further improvement of compliance with ethical principles embedded in respective ethical codes. It should be accompanied by improvements of civil service culture in terms of overall positive acceptance of importance of upholding of ethical principles, emphasizing the role of superiors as ethical role models and strengthening their leadership skills in order to improve the ethical performance of their inferiors.

To answer the key question formulated in the title of this article, the ethical codes for public administration in the Czech Republic and in Ukraine serve both the purpose of implementation of EU administrative culture and values and reduction of corruption within system of public administration. After all, the anti-corruption measures are clearly connected with the value of integrity, which is one of the general public service principles stipulated by The European Code of Good Administrative Behaviour. Therefore, these two purposes are not contradictory, but rather synergic: increasing the quality of system of public administration by strengthening the integrity of public institutions and public servants will also reduce the level of corruption. More detailed analysis of the content of the ethical codes reveals that there are only a few provisions directly aimed at reducing corruption, while there is a significant number of provisions stipulating general principles good public administration, which are part of European administrative culture and values, such as lawfulness, impartiality, objectivity, proportionality, courtesy or fairness. Improving the quality of public administration by implementing European administrative culture and values should therefore be seen as the primary motivation for adoption of ethical codes for public administration in the Czech Republic and Ukraine.

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