

## Is it Necessary to Have the Parliamentary Code of Ethics?

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An educated man does not question the importance and benefits of ethics. Over thousands of years the humanity spontaneously and on a rational basis has devised a number of standards regarding intercommunication and assessment of behaviour without which no community of individuals can go on. Ethical norms had certainly pre-existed thousands of years before the term 'ethics' emerged and developed into a robust scientific discipline that rounded up the long development of the concept and practice. Since the antiquity times, ethics has been considered a practical philosophy, therefore its benefits and prospects of practical application in everyday life were not much disputed. To quote Aristotle it can be deduced that ethics is a route to the improved mutual relationship, more distinct operational guidelines and more secure values coming from mind and heart, or in other words, a path to happiness.

Most frequent responses to the questions on ethics are of a very general and indefinite character. Spontaneously ethics associates with goodness, honesty, just behaviour, order, responsibility. In everyday life these concepts are used free of limitations without too much insight into their message and with recognition of their emotional perception. Not always, however, can we be guided by emotions. In certain cases argument-based opinion, conscious assessments, or conclusions based on distinct values are required. Not always is it enough to approach authoritative persons and specialists, as their personal assessments do not constitute a sufficient basis to make decisions, the consequences of which may have a direct effect on the future destiny of individuals.

### **Ethical Infrastructure**

According to the theories of ethics, the infrastructure of the public administration ethics comprises legal acts defining ethical categories, standards, aims and responsibility of ethical behaviour, institutions exercising ethical monitoring, codes of ethics, and ethical education. Let's have a look at the main and best-developed elements of the ethical infrastructure of the Republic of Lithuania.

Ethical infrastructure pertaining to the public administration and State governance in Lithuania can be assumed to include laws and other legal acts, which contain ethical categories, as well as organisations and institutions where ethics of governance or operation and its monitoring are outlined among their primary objectives. Resolution of the Parliamentary Board of the Republic of Lithuania of 30 March 1994, setting forth plans to draw a draft Code of Ethics in Public Service can be held the starting point in the formation of ethical infrastructure. Unfortunately, this initiative failed. Three years later the Seimas decided to focus only on the area of approximation of public and private interests and in July 1997 passed the law regulating public and private interests.

Lithuanian laws and legal acts are abundant with terms that should be treated as ethical categories. Just in the legal acts displayed on the website of the Seimas of the Republic of Lithuania the word 'justly' mentioned in 2026 documents has the absolute leadership. The word 'fairly' mentioned in 937 documents also enjoys large popularity. Among less frequent words are - 'politely' found only in 26 documents, 'decently' mentioned in ten documents, and 'helpfully' found in only two documents. Spontaneous reaction upon seeing these numbers is the abundance of words, however, how much do they really convey? The problem is that these words, at the same time being ethical terms, have no strict or at least clear definition - they are simply listed in the text. As a result, their use may become the object of various interpretations and disputes.

Among all laws, at least ten documents, which set forth ethical categories more than once, can be found. The Law on the Provision of Information to the Public, the Law on Public Service, the Law on Public Administration, etc. employ such categories as justice, responsibility, equality, respect, fairness, impartiality, etc. They, however, are of a very general and indefinite character, and thus convey only standpoints and expectations. Careful reading of these laws forms an impression, that lawyers who contributed to the preparation of these acts ignored consistency and logics of the legislative process and relied only on the general education of the society.

For example, the Law on Public Service puts a demand on civil servants to 'ensure an impartial service to the society', 'comply with ethics of public service', 'ensure transparency of their activities', and 'respect

human rights'. How can civil servants be expected to implement these obligations set forth by the Law, when neither this nor other legal acts offer a more distinct explanation of the ethical categories which must be closely observed. It can be also assumed that neither managing officials nor authorised persons will be able to make proper assessment of the behaviour of their subordinates in accordance with the requirements of the legal acts, unless they have common criteria for the estimation of the service quality.

A number of problems pertain to the examination of institutions which are entrusted with ethical monitoring. In accordance with their functions, ethical infrastructure includes the Chief Commission on Ethics in Public Service, Seimas Commission on Ethics and Procedures, Seimas Ombudsmen Office, Office of the Equal Opportunities Ombudsman, Journalistic Ethics Inspector's Office, and ethics commissions of individual administrative institutions.

In assessing importance of functions, competence and operational results of the said institutions, two institutions can be distinguished from among all - the Chief Commission on Ethics in Public Service, and Seimas Commission on Ethics and Procedures. Influence of the former is more significant because it deals with issues pertaining not only to the activities of members of the Seimas, but also all the ethical issues in public administration and civil service. The major obstacle in the successful operation of this Commission is the indefinite character of general ethical values and categories. Today the Commission has control of the tools consisting of only opinion of its members, expert findings, and a few laws, which to a larger or smaller extent precisely define only the conflict of interests. Opinion of authoritative persons involved in this Commission can be genuinely trusted, but in assessing every decision in the area of ethics it is difficult either approve or disapprove of it because of the absence of distinct criteria defined by laws or codes of ethics which could be used as a guidance by the members of the Commission. This might be the reason why the majority of the Commission's workload is focused on the problems arising from the conflict of interests. Another distinct trend is that in accordance with the current legal acts, ethics becomes the administrative law, and findings regarding ethical problems and their consequences turn into legal and administrative findings and consequences. This leads to the diminished significance of ethics and its reduced influence on the quality of politics and public administration.

Although legal acts that define its activity oblige the Seimas Commission on Ethics and Procedures 'to draw drafts and proposals of legal acts regulating activities and ethics of members of Seimas', most frequently the Commission limits itself just to procedural problems. Review of the operational reports of this commission clearly marks advantages of the parliamentary democracy. When monitoring activities of members from the competing parties, parliamentarians are capable of taking full advantage of their good knowledge of the Statute and frequently bring before the Commission procedural disputes or violations. Unfortunately, frequently issues on solely this subject are predominant in the Commission's activities. The importance of implementation of procedures cannot be doubted, but this only to some extent adds to the improvement of quality of parliamentary ethics. It must be noted that in cases when the Commission has to deal with merely ethical issues, its decisions are based only on a few aforementioned legal acts and authority of Commission's members, who, however, frequently face the analogous problem as members of the Chief Commission of Ethics in Public Service – a lack of reliable and justified valuation criteria. It would be quite credible to separate two major subjects analysed by the Commission – procedures and ethics, and transfer these issues to the two separate parliamentary commissions competent in these areas. Following the Statute as well as defined and approved ethical standards and expert findings these Commissions would be able to ensure better investigation and decision-making process.

Seimas Ombudsmen Office has also been delegated to deal with ethical issues, as this office has to investigate complaints regarding abuse and bureaucracy of public and municipal officials. Unfortunately, operational efficiency for this institution has been largely limited as it is allowed to present only conclusions and recommendations. Most frequently responsible institutions and officials turn a deaf ear to such recommendations.

Activity of the Office of the Equal Opportunities Ombudsman also comes within the field of ethics. The existence of this Commission, however, can be explained as a matter of fashion coming from the foreign states. Major issues of sex equality, discrimination or sexual harassment could be tackled by Chief Commission of Ethics in Public Service, which had been set up much earlier and has acquired much more experience and capacities, and which could be guided by legal acts setting forth unambiguous definitions of those problems. The same conclusion applies to the rights and functions of the Inspector's Institution for Journalistic Ethics. Chief Commission of Ethics in Public Service would be able both - to monitor adherence to the Law on the Provision of Information to the Public and investigate complaints regarding violations of ethics in gathering and disseminating information about civil servants, and

investigate problems encountered by the citizens in the receipt of information from public institutions. If this Commission aims either to 'suppress' journalists or protect privacy of citizens, these objectives can be much easier and cheaper achieved via the regulatory mechanism of the journalistic organisations, and the currently enacted administrative tools and courts.

### **Proposals Regarding Ethical Infrastructure**

This short review of legal acts and institutions offers several essential comments and proposals. Ethical infrastructure has not been consistently and sufficiently developed, and the funds for its support are used in the most inefficient manner. Education of civil servants is of occasional character and consequently cannot relate effectively with other elements of the infrastructure. To ensure an authoritative tackling of ethical problems, it is necessary to adopt amendments to the legal acts which would contain more distinct definitions of ethical categories used in the legal acts. It must be ensured that moral categories be used in an unambiguous manner and could be made clear and definite to those people who perform them. In cases when moral categories are difficult to define because of their nature, it is necessary to adopt codes of ethics presenting a wider explanation of these categories, principles of their application and examples to be followed.

Since 1794, when England drew up the first code of professional ethics that supplemented the various pre-existing pledge forms and obligation of a "Gentleman's word", it has been increasingly recognised that codes of ethics can ensure larger operational efficiency of organisations, promote relationship at work, management skills, public relations and relationship with clients. Currently, Lithuania's private and public sectors already feature a number of good examples in the application of codes of ethics and elimination of ethical problems. A number of professions in Lithuania where relationship with clients is more vulnerable and relates to the disclosure of financial information, health problems and other risks, have already launched the use of codes of ethics. However, only a few examples and initiatives to draw up and apply codes of ethics for the removal of ethical problems can be encountered in the public sector (codes of ethics of Special Investigations Service, Customs Department, and the Tax Inspectorate can be pointed out).

Perhaps the current commotion over the ethical issues of politicians or civil servants frequently becomes a grotesque distortion of ethics and politics. Public irony is directed towards comments on the subject of cucumbers or blonds without considering how much precious time goes for fruitless disputes. Ethics is not only assessment of the consequences of an intention, decision or a deed. Nor is it only obedience to a moral or religious authority. Ethics is also education and prevention. A number of violations, inaccurate judgements and their reflections in the public opinion could be avoided, if more rational means were employed. It must be regretted that over more than a decade politicians and civil servants have not managed to assume responsibility for building a foundation of values for their activity that would provide them and citizens of the country with distinct guidelines in the assessment of their activity and drawing conclusions for their future decisions.