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**Ethical Codes and Employee Obligations
(The Relationship between Ethical and
Legal Standards)**

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Ethical Codes and Employee Obligations (The Relationship between Ethical and Legal Standards)

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Summary

Views of ethics have varied over the history of philosophical thought, with faith in the goodness, freedom and dignity of man, and man's responsibility for his own actions representing common themes. Great emphasis has been placed on ethical behaviour in recent years, particularly with respect to business activities. Ethical codes governing basic values for a sector or a specific enterprise constitute the concrete expression of ethical values in the culture of that industry or enterprise. An employer that is bound by an ethical code imposes its obligations on its employees as well. However, one must determine to what extent an employer can insist that employees fulfil moral obligations and whether it may sanction them for the breach of an ethical code.

Keywords: ethics, law, ethical code

Etické kodexy a povinnosti zaměstnanců (Vztah etických a právních norem)

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Abstrakt

Pohledy na etiku v historickém vývoji filozofického myšlení byly různé, společnými rysy jsou víra v dobro, svobodu a důstojnost člověka, odpovědnost člověka za vlastní jednání. V poslední době se na etické chování klade velký důraz, zejména ve vztahu k podnikatelské činnosti. Konkrétním výrazem etických hodnot v oborové či podnikové kultuře je etický kodex upravující základní hodnoty etického chování pro celé odvětví či pro konkrétního podnikatele. Je-li etickým kodexem vázán zaměstnavatel, ukládá na jeho základě povinnosti i svým zaměstnancům. Je však třeba posoudit, nakolik může zaměstnavatel zaměstnancům ukládat plnění morálních povinností a zda je může za porušení etického kodexu sankcionovat.

Klíčová slova: etika, právo, etický kodex

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Content

Introduction	5
1. Ethics and Law	6
1.1 Brief remarks on the history of ethical thought	6
1.2 Business ethics	7
1.3 Law: the relationship between law and morality	9
2. Corporate Social Responsibility	9
3. Ethical codes	11
3.1 The meaning, content, and creation of ethical codes	11
3.2 Employee obligations	13
4. The possibility of sanctioning employees for the breach of obligations	14
Conclusion	16
References	18

Introduction

The question of good and evil has interested mankind for many ages. The issues are still relevant today, both in ordinary life and in economic life, in the context of business activities. The importance of the relationships between ethics and business is on the rise. Our society has been disillusioned by a long-term failure to correctly assess the importance of ethical problems; renewing peoples' confidence will require a far more effective battle against corruption, tax evasion and money laundering. Failure to comply with signed contracts and other negative phenomena must be denounced and sanctioned.

In examining the issues associated with ethical codes, I will start with morality, a term traditionally understood as a set of rules, values, attitudes and convictions influencing and regulating human behaviour. More than a rigid rule system: morality is the attempt to draw ever nearer to the desired aim, behaviour of the highest standard. Violation of moral standards provokes guilt and shame in the person who committed the violation, in addition to social condemnation (Seknička 1997: 9-10). Legal standards also govern human behaviour. The rules they impose are less demanding ("law is the minimum of morality") but they do entail sanctions that involve the use of governmental power to punish their violation. Ethics is the study of issues of morality – I will mention some interesting philosophical perspectives on ethical behaviour in a brief historical section. Business ethics make up a separate field. Many situations not governed by binding regulations arise during business activities, opening room for individual decision-making based on free will.

Ethical codes are documents in which professional organizations and other entities voluntarily commit themselves to observe certain rules of conduct. While over 90% of businesses in the USA have adopted such codes, the comparable figure determined in the Czech Republic not too long ago was ca. 20% (MF ČR 2004). In a later section, I will discuss the content of such codes, looking both at templates for use in their creation and at specific ethical codes that Czech entities have adopted and published in the Internet. By making a code public in that way, a company publicly declares its commitment towards applying voluntarily adopted rules of moral conduct in its activities with respect to the state, its customers, business partners, competitors, employees and/or stockholders, in addition to complying with legal standards.

In examining the question of how employers can bind their employees using moral obligations entrenched in ethical codes, I will look at the relationship between law and morality, discussing the concept of law, characterizing legal standards and comparing them to moral standards. In view of the connection here with the issues of labour law, I will discuss whether and how an employer can compel employees to match their conduct to an ethical code. I will attempt to assess whether employees are obliged to respect moral standards imposed by

their employer or whether only the law can impose such obligations. In that context I will evaluate labour law legislation governing employee responsibilities and penalty for their breach.

1. Ethics and Law

1.1 Brief remarks on the history of ethical thought

Ethics are the scientific discipline studying morality, it attempts to address issues of good and right, what can be considered as morally relevant action – thus ethical studies involve an element of assessment. Depending on the approach taken, the field of ethics is categorized as positive ethics (examining what “is”) and normative ethics (focussing on that which “should be”) (Seknička 1997: 15).

Aristotle was the first thinker of the Ancient World to create a systematic structure for ethical thought, conceiving of ethics as a practical science addressing the search for the greatest good as the object of human endeavour. He distinguished between virtues of the mind, e.g. wisdom and understanding, and virtues of character, e.g. friendship, heroism, kindness, justice and courtesy. For Aristotle, only a city can pronounce a moral judgement; the highest value is free life in a free city (Seknička 1997: 38, Kárníková 1997: 24).

A Christian concept of morality as a supernatural morality lodged within the human soul by God came to the fore in the Middle Ages. The Church took on the role of watching over compliance with ethical rules. The Christian thinker Thomas Aquinas distinguished between natural morality, rooted in the cardinal virtues leading to natural happiness, and theological morality, based on higher virtues, which were imprinted by God onto man and lead to supernatural happiness (Seknička 1997: 40). One of the most important Renaissance ethicists was Desiderius Erasmus. He believed that one should be filled with love for mankind as well as love for God and has an obligation to provide love and mercy to others (Kárníková 1997: 33).

In the Modern Age, ethical thought returns to the naturalness of man – J. J. Rousseau described morality as being of the same quality that man is. I. Kant was the chief proponent of what are called deontological ethics, a stream of thought that concentrates on studying that which should be (*to deon*), adherence to ethical standards and rules. The Historical School (W. F. Hegel, K. Marx) viewed morality as a socio-historical phenomenon. Protestant ethics emphasize a set of virtues, such as industriousness, thriftiness, a rationally regulated way of life. B. Spinoza set out the basics of ethical naturalism, linking issues of moral actions with the human subject. He said that people consider to be good that which promotes their naturalness: the fulfilment of life (Seknička 1997: 41-42).

British empiricism also added to ethical thought (F. Bacon, T. Hobbes, J. Locke and D. Hume), stressing ties between ethics and daily life. T. Hobbes set out his ethical concept in a theory of social contract. For him, man in his primal, natural state was a wolf. The danger implicit in everyone trying to gain power over others led to recognition of the necessity of creating a political organization based on a social contract, the state. Natural law entails the responsibility to limit our freedom as we want others to restrict theirs towards us and honouring agreements and promises (Seknička 1997: 43).

I. Kant criticized empiricism, emphasizing instead the normative, practical nature of ethics. Man, he felt, must shape the world by his own laws. Man submits to authority – but that is a law he created. One famous Kantian concept is the categorical imperative (Seknička 1997: 44-45), which serves as the basis of morality. It says that a moral law must apply to everyone in the same situation. One must also respect the autonomous will of one's fellow man, and may not use one's fellows as mere instruments.

Out of empiricist ethical theory grew utilitarianism. J. Bentham put forth a principle of hedonist values, under which, he argued, the basic value – pleasure, utility, happiness – should be conceived of in solely quantitative terms. Teleological prognosis, the problem of justice and the principle of utility are prominent elements in his thought. J. S. Mill emphasized the importance of the phenomenon of freedom in associated with human dignity; in his view, the oppression of freedom was the most serious of the various problems impeding the development of free initiative (Seknička 1997: 47).

Modern ethical studies examine many questions involving basic issues of human existence, helping us to understand our own nature and the nature of our time. Although historical and current perspectives on ethics differ greatly in many respects, one can still identify certain common themes – belief in the existence of good, freedom, the dignity of man and his responsibility for his own actions, and human fellowship. Man submits to moral standards voluntarily, though one can also say that society (or some other higher power) “orders” him to do so.

1.2 Business ethics

Moral dimensions are integral to the economic relationships within a society. Though basic relationships are governed by law, a wide scope is left open to individual discretion. Morality plays a large role in that type of decision-making, as does one's stance on issues such as environmental protection, candour and fairness in relations with business partners, the provision of accurate information to customers, etc.

The connection between economics and ethics are found as early as in the work of Aristotle, in *Nicomachean Ethics* and *Politics*. Aristotle viewed the study of politics as the highest form of learning, although he felt that statesmen should also draw on other practical disciplines, like economics. Though economics concern the accumulation of wealth, they also address human motivation. Another issue he deemed relevant to economics was social expedience, attaining “human good”. As for the state’s role in economic affairs, Aristotle concluded that its mission was to promote the good life (Sen 2002: 14-15). Other proponents of an “ethical approach” to economics are A. Smith, J. S. Mill, K. Marx and F. Edgeworth.

According to A. Sen (2002: 16-17), the “engineering approach” is an alternative approach to economics. This approach emphasizes the necessity of searching for appropriate ways to attain clear, pre-defined goals; questions of ethics are of secondary importance under this concept. Other proponents of this type of approach are W. Petty, F. Quesnay, D. Ricardo and A. Cournot.

The role of ethical approaches to the modern economic development has been declining, with the “engineering approach” gaining ground. One can say that economics sometimes marginalize ethical thinking, which shapes human behaviour and decision-making, to its own detriment. Business ethics did not begin to emerge as an independent scientific discipline until the 1970s. It concerns the application of ordinary ethical principles to business; its chief task is to seek ways to balance economic profit against social consequences. Among the foremost thinkers in this field are A. Sen, F. Fukuyama and A. Etzioni. In general, business ethics is discussed in terms of macro-, meso- and micro-levels. The first addresses issues of economic policy, international economic relations, etc. The meso-level focuses on economic organizations such as “companies”, consumer associations, unions, etc. And finally, the micro-level involves the relationships between individuals such as employers, employees, suppliers, consumers, etc. In the section on ethical codes below, I will specifically address ethical responsibilities at the meso- and micro-levels.

Ethical principles are applied during ethical decision making: the fundamental principles involved are the following (Bohatá 1997: 22-23):

A principle based on the utility theory (moral decisions are those that generate the greatest good for the greatest number of people);

The principle of the “golden rule” (one should treat others as one would like to be treated by them);

The “Kantian” principle (respect for the basic rights of each person. Moral actions minimize the violation of the rights of other interest groups);

The principle of enlightened self-interest (actions are morally correct if they generate increased benefit to the individual in a way that does not deliberately harm others).

1.3 Law: The relationship between law and morality

If a society is to function, it needs a certain degree of regulation to ensure discipline and order; moral standards alone are insufficient. Law is integral to any state – a collection of behavioural standards that the state has set out in writing (sources of law) and can enforce. Legal regulations are needed because social relationships encompass social differences that can give birth to conflict situations the resolution of which requires legal means. Law is an instrument of coercion, but it also sets limits on that coercion, which can only be applied under pre-set circumstances (Spirit 2004: 4). Thus, although restricting the freedom of actors in social relationships, the law also guarantees a certain degree of freedom¹:

State power shall serve all citizens and may be exercised only in cases, within limits and by methods defined by law.

Every citizen may do what is not prohibited by law and nobody may be forced to do what the law does not enjoin.

One factor affecting legal compliance is legal consciousness, i.e. understanding of and opinions about the law. Legal consciousness involves familiarity with the law and people's ideas about what constitutes legal and illegal behaviour. Another aspect of it are opinions held about what is or is not just, which values the law should protect and which it should repress (Spirit 2004: 4-5). Naturally, behaviour is influenced by factors other than legal consciousness; moral standards determining fair behaviour in various situations also play a role. The majority of society respects legal standards to the extent that they coincide with generally held beliefs about what is good, just and fair. Historically, law developed out of moral standards or at least this is the case for legal practices, i.e. rules that originated as sufficiently specific moral standards accepted over the course of many years. Once the state started recognizing such principles of behaviour, applying them in decision-making, and sanctioning their violation, they were no longer only moral laws: legal practice is one source of law.²

2. Corporate Social Responsibility

The Business Leaders Forum (BLF), associating international and Czech enterprises, promotes ethical standards in business and “corporate social responsibility”. Founded in Prague in 1992, since 2002 BLF has been one of the 22 national partners in the Brussels-based CSR Europe, whose mission is to propagate responsible business practices at the EU-level. The aim of the BLF is to familiarize businessmen with what corporate social responsibility entails,

¹ Constitution of the Czech Republic, Article 2 (3-4).

² For Czech Republic, this is only of historic relevance. Practice has been replaced by other sources of law, specifically normative legal acts (e.g. statutes).

increase awareness in that area and call attention to the activities of entities that have already adopted the concept of social responsibility. BLF members have agreed on a definition of corporate social responsibility as “representing the voluntary commitment of businesses to behave responsibly towards the environment and the community they do business in within the scope of their operations”.³ Corporate social responsibility can be termed as a continual commitment by businesses to behave in an ethical manner and contribute to economically sustainable growth while striving to improve the quality of life of employees and their families as well as of the local community and the society as a whole.⁴ BLF currently runs a project co-funded by the European Social Fund and the Czech government titled “Společenská odpovědnost firem – nový faktor firemní konkurenceschopnosti” [Corporate social responsibility – a new factor in corporate competitiveness] as part of a programme aiming at Prague. Its objective is to disseminate the principles of corporate social responsibility to small and mid-sized companies. BLF’s website hosts a database of examples of good CSR practice, which is intended to communicate the meaning of “corporate social responsibility” by presenting specific examples from the business world.

A Transparency International-Česká Republika study also addresses corporate social responsibility (Čaník, Čaníková 2006: 1-86). It presents research into business ethics and suggests that the business environment in the Czech Republic is not well suited for ethical business activities. In fact, there is a perception that non-ethical business practices yield competitive advantage. Still, the overall level of ethics in business has improved, although change is coming slowly. The culture of the wider society and an imperfect and non-transparent legislature also contribute to the atmosphere of corruption. When it comes to ethical rules, many managers prefer setting a personal example to imposing a written code. Businessmen are ill-informed about corporate social responsibility – tending to judge ethical and responsible business practices intuitively. The main tool used the ethics programme is the ethical code, others (ethical auditing, social auditing, education and training in ethical behaviour, etc.) are used only to a minimal extent.

Other programmes also promote ethical business practices – e.g. the “Podnik Fair Play” programme, the “Corporate Social Responsibility” project and the activities of the Korektní podnikání.⁵ So, a lot of information is available to business leaders interested in conducting business ethically and fulfilling their social responsibilities and assistance is available from a range of organizations. The claim that executives are prevented from engaging in ethical business practices by a lack of information now rings hollow.

³ For more detailed information see <http://www.csr-online.cz/Page.aspx?csr>.

⁴ World Business Council for Sustainable Development, 1997.

⁵ <http://www.podnikfairplay.cz/>; <http://www.sof.cz/>; <http://www.korektnipodnikani.cz/>.

3. Ethical Codes

3.1 The meaning, content and creation of ethical codes

An ethical code is a written document expressing the basic behavioural principles that apply to a specific industry or to a specific company, describing behaviour deemed appropriate and acceptable by professional associations or a specific business leader. Ethical codes are far less common in the Czech Republic than they are in the USA or Western Europe, although awareness of their usefulness is beginning to spread in this country. Currently, professional bodies are those most likely to have ethical codes – for example, auditors, real estate brokers, bankers, physicians, interpreters, social workers, advertising workers and others all have their own codes. But business leaders are beginning to become aware of the benefits that a commitment to social responsibility and honourable behaviour can provide, particularly with respect to their customers.

Some of the reasons to adopt a code are set out below:

- It defines company policy;

- It improves the company's reputation and competitiveness;

- It demonstrates a commitment to act honourably;

- It increases the sense of pride that employees or members of the company have in being associated with it;

- It enhances the company's appeal for high-quality potential employees;

- It limits the subjectivity of decision-making;

- It creates a pleasant working climate;

- It keeps supervisors from demanding unethical behaviour of employees, etc.

“Companies” cannot rely on all of their members and employees being capable of making correct decisions at all times, or on their having perfectly internalized moral standards in their families or at school. An ethical code is thus an expression of the accepted behavioural standards of the company and of its individual representatives – and it provides them with clear guidance on how to behave in various situations. According to research conducted by GfK in 2004 (Čaník, Čaníková 2006: 21-22) ethical rules are not always in the form of written documents; some companies have a sort of unwritten code, while at others, ethical rules are encompassed in internal regulations. Below, I examine ethical codes that have been drawn up and published as independent documents.

Ethical codes tend to address the following basic areas (MF ČR 2004: 2-3):

- relating to the state (complying with obligations arising from legal regulations, proper accounting practices and tax payments);

relating at the level of the whole society (charitable activities, respecting the rights of other people engaged in business, respecting basic human rights);

relating to owners/stockholders and investors (protecting the interests of owners and investors, providing accurate information about commercial activities);

relating to business partners (good payment practices, trust in relations),

relating to competitors (honest economic competition, not damaging the good name of competitors),

relating to customers (providing accurate information, protecting health, taking responsibility for product quality and safety),

relating to employees (equal treatment and preventing discrimination, safe working conditions, fair wages, providing information and consulting with employees or their representatives, material incentives for employees).

Ethical codes may be adopted by professional organizations⁶ or by “companies” acting alone, both when no industry-wide code binds those companies and in situations where a company sets out the obligations associated with its industrial code in greater detail. What matters is that every company creates an ethical code that corresponds to the conditions specific to it, having carefully evaluated the issues it wishes to address and how to best address them. Various international codes are available for use as templates, e.g. the Code of Conduct for Transnational Corporations (OECD 2000), in addition to Czech projects, such as the code of the Viva Etika coalition (Transparency International-Česká Republika 2001).

At the start of the process of creating an ethical code, its authors should consider the company’s operating methods and how it respects socially accepted values. The managers or owners of a business (American model) may write the code or the company may attempt to involve as many employees as possible in the process (Scandinavian model) (Čaník, Čaníková 2006: 22). I consider the latter model to be the more fitting if employees are to see the code as the source of rules they can understand and relate to. Employees who are involved in the authoring process will come to identify with the code naturally, particularly if management takes their comments and suggestions seriously, discussing issues and incorporating good ideas into the final draft. Of course, this does not preclude success of American model, but its success requires that the document, once created, be fully discussed with employees and employees be made thoroughly familiar with its rules. In this context, the “ethical training” is highly suitable, i.e. addressing specific situations in which employees may find

⁶ The bibliography contains references to some of these.

themselves. Such training can enhance employee's ethical awareness and teach them to apply ethical principles on the job. As not even a well-composed ethical code can address every problem that might arise in the real world, it is important that employees know where to turn for advice when the code does not provide guidance: a supervisor, a telephone hotline where employees can get advice anonymously or perhaps a special department at large companies, etc.

One does encounter the opinion that ethical codes are essentially useless. The claim that legislation sufficiently regulates business clearly does not pass muster. By their nature, legal standards are very general rules of conduct that cannot address every possible situation, so in many situations legal standards do not apply. An ethical code is a good tool for regulating and providing guidance for making decisions about how to proceed. Another objection sometimes raised is that ethical codes are unnecessary because people absorb the moral rules governing behaviour as children. This type of objection is also off base: one cannot depend on families and schools to "morally prepare" every individual for life. Moreover, people are led by their moral convictions to react the differently way in a given situation; defining basic rules and obliging employees to comply with them is thus necessary to maintain a coherent culture of ethical behaviour.

3.2 Employee responsibilities

Employee responsibilities originate chiefly in the law, but they can be further specified by internal regulations. Where enterprises that have committed themselves to an ethical code, that code also places responsibilities on employees. Some are explicitly defined as falling on employees, such as the following:

- Every employee is responsible to keep on educating himself and maintain a high level of knowledge on his own initiative and bears responsibility for his own professional development;
- is obliged to act in the course of his work in a manner intended to protect the justified interests of his employer, his co-workers and business partners and to protect the environment;
- is strictly forbidden to misuse his position in the enterprise to further his person interests or the interests of third parties.

However, it is more common for ethical codes to express responsibilities falling to the company itself, i.e. the employer. The following obligations taken from specific ethical codes can serve as examples:

- ensure a transparent business policy;
- strive to convince the customer of the company's trustworthiness;
- not to discriminate against customers on the basis of nationality, colour of skin, gender, sexual orientation, etc.;
- rapidly and effectively resolve any client conflicts or reclamations;

- maintain the confidentiality of information provided to it;
- accept no orders that the company cannot meet professionally and effectively;
- not to exploit lack of knowledge or experience on the part of a client;
- place the client's interests first, even to the detriment of itself.

Can employers transfer their obligations to employees? In the case of legal responsibilities the answer is of course yes, as employees are required to meet legal requirements set by legal regulations concerning the work they perform. One item that must be stipulated in an employment contract is the type of work the employee is to perform; that stipulation should clearly state the responsibilities that are to be fulfilled. This definition is often augmented in a job description for the employee that takes the form of a detailed list of basic duties. The Labour Code⁷ also addresses the employer's duty to make future employees aware of their rights and responsibilities under the employment contract, working regulations, work safety rules, collective agreements and internal regulations prior the start of employment. So can we view the ethical code as an internal regulation, with need only be presented to employee in order for it to be binding for him?

Although Section 305 of the Labour Code mentions the possibility of issuing internal regulations, these can only address employee rights (wage rights, extension of vacation etc.) and not impose duties upon them. "Working regulations" may contain more specific definitions of employee duties (Sect. 306 LC), but these may only enlarge on the provisions of the Labour Code and special legal regulations with respect to conditions at the place of employment; the law explicitly forbids the imposition of new obligations on employees. So, even if the ethical code were viewed as part of the "working regulations", employees would not be able to use them to impose responsibilities not governed by legal regulations. However, ethical codes tend to be independent documents. The Labour Code does not address (although of course it does not forbid) such codes; however one must respect the fact that Section 305 LP, which states that no obligations can be imposed on individual employees by internal regulations, is a peremptory provision and thus one cannot deviate from it.

4. Possibilities of sanctioning employees for the breach of obligations

The duties placed on executives and employees by ethical codes are generally derived from legal obligations, though some reach beyond the scope of legislation. Can an employee be sanctioned for violating an ethical code? A review of the law addressing the violation of employment duties reveals that

⁷ Act no. 262/2006 Coll., as amended.

labour law does not recognize the commonly heard term “porušení pracovní kázně” [breach of work discipline]. Instead, one finds the phrase “breach of duties arising from legal regulations concerning the work performed by the employee”. Thus an obligation, for the breach of which the employee is to be sanctioned must arise from legal regulations, whether they are set out in labour code or elsewhere, e.g. the Consumer Protection Act. Naturally, this does not mean that every individual obligation must be explicitly addressed by statute, but the obligation in question must at least qualify as a specification of some generally phrased legal obligation expressed in general terms. In the list of basic duties set out in Sect 301 of the Labour Code, we can find legal basis for many of the obligations contained in ethical codes. Employees are obliged to:

work properly in accordance with their strength, knowledge and capabilities, fulfil superiors’ instructions if these are legally valid, and cooperate with other employees;

make full use of their working hours and means of production to perform the work assigned to them, to fulfil their work assignments properly and in a timely manner,

observe legal regulations relating to the work they perform; employees are obliged to observe other regulations provided that they have been duly acquainted therewith;

manage the resources their employer entrusts to them properly and guard and protect the employer’s property from damage, loss, destruction and misuse, and not to act in a manner contrary to the employer’s legitimate interests.

Clearly, those provisions provide a legal basis for most of the specific responsibilities adopted in ethical codes; other worker obligations can be supported by other provisions in the Labour Code or other acts – depending on the sector in which the employee works (Consumer Protection Act, Insurance Act, Trade Licensing Act, etc.). If an ethical code imposed a duty that could not be derived from any statutory provision (even one phrased as generally as “not to act in a manner contrary to the employer’s legitimate interests”), then that duty would be purely a moral one, not legally enforceable, and an employee could not be sanctioned for its violation.

If the duties imposed on employees by an ethical code have a basis in law and concern the performance of their work, an employee could be charged with breach of obligations arising from legal regulations concerning the performance of their work in addition to the charge of non-ethical behaviour. Notice of dismissal would be an extreme form of recourse; cases of gross violation could justify immediate dismissal without notice. In no event could an employer sanction an employee with a fine: the Labour Code explicitly prohibits such recourse. Naturally, this does not rule out the possibility of claiming for damages – the employer has a right to do that not only if the employee caused the damages by culpable violation of legal regulations, but also if he intentionally

acted counter to good morals. If an ethical code imposed obligations had no basis in law, then they would constitute only some form of moral superstructure and in no way qualify as binding obligations, for the violation of which the law would countenance sanctions. Breach of such rules would perhaps influence the employer's evaluation of the employee, whether he received non-entitlement benefits, etc., but it would not be sanctionable as a breach of "work discipline". Management could also consider defining respecting the ethical code as a requirement for the performance of the work. In the event of serious or repeated violation, an extreme form of recourse might be dismissal (under Section 52(f) LP) on the grounds that the employee had not met the requirements for proper performance of his work; but in the event of a dispute, the employer would have to be able to prove that the unethical behaviour of the employee was so serious as to prevent him from performing his work properly.

Conclusion

After a general introduction to ethics and law, I have attempted above to evaluate ethical codes as instruments for the promotion of business ethics and employee management. Although much remains ambiguous and there are difficulties, I will venture to claim that a well-composed ethical code, properly presented to employees, can be of great significance to businesses.

As I stated above, such a document serves many functions. It is an expression of a business's voluntarily commitment to uphold its social responsibilities, stating that it is not interested in maximizing profit alone, but wants to contribute to the furthering the interests of society as a whole and to the prestige of its sector, and of its commitment to uphold moral rules in addition to legal regulations. Ethical codes have a dual meaning for employee relations. An employer is committing himself to securing for his employees the best working and wage conditions, the best conditions for increasing qualification and for social dialogue. On the other hand, of course, that employer is obliging his employees to fulfil certain duties, some that have a basis in law and some that do not. Where those duties are more specific versions of legal obligations, no problem arises in their enforcement; similarly, there is no doubt that employees can be sanctioned for the breach of duties arising from legal regulations concerning work performance. However, the same simple conclusion cannot be reached in cases where the duties laid upon employees are purely moral in nature, i.e. when they lack that indispensable basis in law.

I believe that there is no problem or legal inadequacy involved here. That moral standards are not guaranteed by state coercion belongs to their basic features. In my view, the provisions governing the duties of employees in the Labour Code are sufficient, particularly if we take into account the fact that it is supplemented by other provisions in separate regulations that lay specific duties on employees

associated with the sector in which they work. Otherwise, as I have shown in this work, it is possible that the violation of moral standards would allow labour law consequences without necessitating sentencing.

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