

**Ion Copoeru, Mihaela Frunză, Imre Ungvári-Zrínyi (Eds.)**

**Meddling with other people's work.**

**Cross-disciplinary approaches on moral conflicts and (mis)communication in organizations**

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## **ABSTRACTS**

### **PANELS**

#### **ETHICAL CHALLENGES IN CELL THERAPY**

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Cell therapy is a quite new biomedical field belonging to the translational medicine. Cell therapy aims regeneration of damaged biological structures by using cells particularly isolated and conditioned for therapeutic purposes. Cell therapy does take into account various research areas such as: cellular biology and pathology, cellular pharmacology, gene therapy, tissue engineering, stem cell. The complexity of medical approaches in cell therapy is accompanied by many ethical issues, which have not received a special attention from Romanian scientific and academic community. Those ethical issues are real challenges that are difficult to be addressed given the fact they have been recently developed, and some of them are not yet predictable. Therefore, the roundtable aims at offering an opportunity to the ethical experts and cell therapy specialists to discuss their opinions regarding how to detect, when and why an ethical problem arise, how to manage it from the ethical point of view, and how to reach a competent ethical decision favorable, simultaneously to both the moral attitude and the science progress. To increase the impact of the proposed roundtable, the debate is opened to ethical experts, biomedical research professionals, patient’s representatives, entrepreneurs, and civil society. Our objective is to build the habit for ethical debate in medical sensitive areas in Romanian society, and to design a future cooperation between ethicists and biomedical researchers both in the training of some “ethical experts” in this professional field and in setting up ethical infrastructures in our institutions.

## **ETHICAL DILEMMAS AND DISCREPANCIES IN DOCTOR - PATIENT OPINION**

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Ștefana Maria Moisă, MD, PhD  
"Gr. T Popa" University of Medicine and Pharmacy

Ethical medical dilemmas, doctor-patient communication and multidisciplinary approach of patients seem to be nowadays medical issues. They are as ancient as Medicine itself, Hippocrate and Gallenus, the parents of this science have been preoccupied of medical treatment of diseases, ethical aspects of the treatment, palliative approach and other spiritual needs of the patients.

This workshop wants to approach modern bioethical problems regarding HIV patients, heart failure, cancer and terminal patients, thalassemia.

In this panel there will be also discussions about discrepancies about patients' and doctors' opinions about different issues of the disease, these discrepancies could produce conflicts between the two partners of medical act. By understanding the patient's needs and the psychological aspects of the disease, a doctor could be more empathic to his patients.

Another goal of this session is to emphasize the importance of a multidisciplinary approach of chronically patients. In the team that treats the patients we should have doctors, nurses and also psychologists, social workers, theologians and other specialists, depending on the specific of the illness.

# ETHICAL DILEMMAS IN SOCIAL WORK PRACTICE WITH POPULATIONS AT-RISK

Panel coordinator: Nicoleta Neamțu

## 1. Value Orientations in Organizational Decision Making. Hard Choices – Funding Social Services

*Nicoleta Neamțu, PhD, associate professor, Dept. of Social Work, Babeș-Bolyai University Cluj-Napoca, Romania*

**Keywords:** *distributive question of ethics, decision making process, values and assumptions, scarce resources, ethical principles, social work practice*

### Abstract:

The *ethical issues* that have the most direct bearing on social work concern *the application of moral concepts and principles to decisions* about what is morally right or wrong, or good or bad, in professional practice. The central question of this paper is one of normative ethics, which has been referred to as the *distributive question of ethics: whose interests should the social workers be concerned with, and in what manner should goods and resources be distributed among individuals in professional practice?*

Social work attends to core aspects of our society, often focusing on people who are vulnerable, excluded, marginalized, disadvantaged or who lack access to the resources needed to resolve their own problems. In *theory*, the task on making decisions within organizations and institutions should follow a *rational process*. In *practice*, however, *subjective influences*, particularly on *value and assumption orientations*, form the bases of most decisions, and these can impede the rational process.

Social workers who provide services directly to individuals, families and other groups are frequently in a position to distribute resources that are in limited supply. Sometimes these are tangible resources - such as social services funds, bed space in an emergency shelter, and equipment – and sometimes they are intangible – such as the amount of time and attention available for clients.

The ideas, examples and exercise presented are designed to help the audience understand that the most decisions are based on personal, societal and professional values and assumptions, and to realize that setting budgets for social services/programs involves *hard choices* because of *scarce resources*. Financial resources to fund all social services are simply unavailable, and some people suffer greatly because they do not receive the needed services and funds.

It is important for social workers to consider carefully the *ethical assessment criteria* used to distribute scarce resources. The primary values of social work have been defined by profession internationally as „human rights and human dignity” and „social justice”. The *core ethical principles* (or values in actions) applied in social work practice are the following: the protection of life, the equality and inequality principle, autonomy and freedom, the least harm, quality of life, privacy and confidentiality, truthfulness and full disclosure. *Professional ethics* is important because of the power that social workers can exercise in relation to service users.

## 2. Professional power and trust abuse in direct practice with vulnerable clients

*Rodica Dinea, social worker, General Department of Social Work and Child Protection, Cluj County Council, Romania*

**Keywords:** *direct practice, professional relationship, trust, use of power, abuse, vulnerable populations*

### Abstract

Professional power is the type of power exercised through clarified actions, executed based on a complex of acknowledgements and practical skills, achieved on professional training, in a frame legally organized. The practitioner owns the power of determining another person to act in a certain manner, which the person wouldn't act if the practitioner wouldn't interfere. Generally, a person submits to the intervention of a practitioner if he/she is constrained, if obtains a benefit or when he/she needs help to overcome an inconvenient situation. The constraint might be internal, personal (e.g. a disease) or external, social (e.g. the law).

The potential professional power, as attribute or personal characteristic of the practitioner, becomes demonstrated power just in relation with another person, to whom a direct and personal service is provided. What determinates a person to act in the manner imposed by the practitioner is the superiority and authority position that the practitioner owns or which the beneficiary attributes to him/her. The roles in this relationship are unequal, and the exchanges between "partners" are asymmetric. The practitioner owns the right and power of knowing in details the other's life, of making decisions for him/her, of accessing and managing resources or blocking the other's access to resources, based on the professional status and title that he/she owns and/or on the professional knowledge and skills. The roles in the practitioner-beneficiary relationship involve mutual expectations. The practitioner pretends total trust on behalf of the beneficiary, and he/she expects to receive the services he/she needs, in return. "The contract" between the two parties is often imposed by the practitioner or pre-established by the legal frame, there is no convention or real negotiation for the contribution of each part to the accomplish of the exchange and achievement of the expected result.

The professions through which direct services are provided for some vulnerable persons ("clients" or "beneficiaries" or "assisted") impose a minimum set of intrinsic frames, specific to the respective professional group: a central control group that imposes individual performance standards, the behavioral code, the knowledge management referring to the competence of doing fundamental activities of the profession and the system for selection and training of the new members. The absence of performance standards and easy or illegal access to the professional title allow the exercitation of professional power on behalf of the professional reputation. The person who does not own the effective professional power (specific knowledge and practical skills), but he/she owns the professional title and exercises the power considering that the others think that owning the title certify that the owner is in possession of the professional competence.

If a professional group limits itself to being an interest group who protects its privileges and autonomy, the beneficiaries trust in the respective profession erodes. The absence of trust reduces the possibility of building a co-operation relationship between the practitioner and the beneficiary, extremely necessary for providing services to acceptable quality standards.



### **3. Moral conflicts and ethical dilemmas in the social work of offenders in the probation system**

*Anca Vișea, probation counselor, Sibiu Probation Service*

**Keywords:** *moral conflicts, offender, community supervision, reintegration, probation, risk*

#### **Abstract:**

This paper is about direct practice with offenders, focused more specific on community supervision and reintegration in the society of this vulnerable population using the Probation System.

The probation employers face moral conflicts and ethical dilemmas when they try to reintegrate this kind of population at risk in local communities and in the society in general.

The results and conclusions of this study are based on my research which included all the persons/cases that have been supervised by Sibiu Probation Service in the period 01.01.2010 – 30.09.2010. From 273 active cases, 244 are adults and 29 minors/children; 248 men and 25 women; 154 clients are living in towns and 119 in villages. The level of education of the subjects included in the investigation varies as follow: 9 of them don't know to read and write, 105 has graduated the general school, 116 - high school and 19 has graduated a university. 233 persons were for the first time in conflicts with penal law and 40 offenders have had penal antecedents.

In order to collect the data I used the following methods and instruments: documents analysis of the offenders from Sibiu Probation Service (the content of their files), initial evaluating sheets, the direct and indirect observation, the motivational interviewing and pro-social modeling.

After the analysis of the delinquent behavior and the risks for the society, the penal court establishes a sentence about some obligations of the offenders. The Romanian legislation hasn't set as a duty the obligation of the offender to not change his or her address/residence and to not pass some territorial limits. These restrictions affect offender freedom of movement and can facilitate the lost of their jobs. These persons have problems in their social reintegration because they can't satisfy their needs. Even if the court intends to protect the community, the offender becomes a victim in the change process.

The court and the clients are faced with problems in understanding the legislation, sometimes it needs more intercede and time to not breach the offender rights. This issue has break out conflicts between the safety of the society and the rights of the offender.

#### **4. Status and role dilemmas of the peer counselor in alcohol and drugs addiction treatment**

*Claudia Varga, social worker & addiction counselor, Asociația Medical-Creștină "Christiana" Cluj-Napoca, Romania*

**Keywords:** *alcohol and drugs addiction, peer counselor, competing values and roles, professional dilemmas*

##### **Abstract:**

The most effective treatment method of addictions, the *Minnesota multidisciplinary approach*, brings some innovative elements, but controversial in the same time. Specialists and non-specialists debated along the time the role of the "peer counselor", a person who had experienced the active addiction, and now in recovery is providing services in a professional background, that of addiction treatment. This person is wearing "two hats", being the ex-patient ("*one of them*") and the professional employer in the same time; the person who can easily win the trust of the patient, but, is he or she enough prepared to face in a professional way the complex emotional turmoil of the patient, without being disturbed himself or herself too? Working with addicted people it can be a real personal challenge and you must continually be aware of your own feelings, attitudes, that the patient arouses in you, which can be counter therapeutic unless are being addressed. (E.g. hate towards the ex-wife can be reflected in the relationship with a woman who is in divorce).

Which are the advantages of having such a person in the teamwork? Which are the disadvantages and the risks of the peer counselor versus other professionals? Can he or she be considered a professional as long as he was a "patient"? Which is the status of the peer counselor in Romania? Examples of programs where these counselors work; successes and failures of peer counselors as seen from current practice.

#### **5. Dilemmas and ethical decisions in assisting persons with HIV and AIDS**

*Melania M. Miholca, masters' student „Babeş-Bolyai University" Cluj-Napoca*

**Keywords:** *ethical dilemmas, HIV/AIDS, confidentiality, professional values, ethical decisions*

##### **Abstract:**

The contemporary society, based on the constant competition of values and of loyalties (Lowenberg&Dolgoft, 1985) is marked by dilemmas and ethical problems. The ethical issues are concerned with: "What is the right thing to do", while the ethical dilemmas have to do with choosing from two or more contradictory ethical instructions, decision, respectively. This is illustrated in

helping professions, in particular, and in social work, implicitly; it is the reason why the professional ethics play a decisive role in sustaining occupational competence and the reputation of the field. In the context of ethical dilemmas, the social worker has the daily duty to take decisions that involve clients' lives, without having the chance of thoroughly analyzing all the opportunities, or of discussing them with his supervisor. He has to decide in favor of justice or equality, the protection of the client or confidentiality, establishing the client or the agency as the priority, the representation of a certain client system, under the conditions of the existence of a multiple client system etc.

Compared with the groups of clients involved in the social work system, HIV/AIDS, brings on stage a different kind of ethical problems linked with practice, because it is a disease different from all the others, the seropositive persons confront with an early-death prospect, and there are high levels of stigma. One of the most important specific dilemmas takes into account the confidentiality of the seropositive person and the rights of the partner/partners, because the obligation to protect the life of a third one involved, enhances the breaking of confidentiality and the failure in protecting the client, by means of marginalization, abandonment and loneliness.

Therefore, the discussion of the professional values and principles, the ethical and deontological codes respectively, which are involved in the profession, becomes essential.

## **6. Moral conflicts and decision-making procedures in organizations providing social services. A limited resources perspective**

*Borzási Mária, general manager, Fundația Creștină "Diakonia", Romania*

**Keywords:** *citizen's rights, decisions making sistem, social work, procedures, emotional tasks, limited resouces*

### **Abstract:**

Social protection, since it appeared in the life of parliamentary states as a phenomenon, is a constitutional *citizen's right*. The way to get this from theory to practice it is marked by many decisions and turning points. The *decisions making sistem*, on which the application is based, bears the imprint of ethical-moral culture in which it is incorporated.

From a holistic definition of the human rights in a system, up to the application on the individual system element - the vulnerable citizen in need of protection - *social work* depends on many factors. Even to define the compulsory dimensions of procedures, that will lead to a result of a logical scheme with a clear direction or at least indicating the interim tracking system elements, is difficult. The *procedures* described only in certain plans, defined only by several dimensions, can be very good, but like songs of soloists, they may appear false if not exercised before to sound good in the orchestra of the society.

The social matrix of any case is always infinitely complex. All deficiencies of the systems must be dealt ethical and moral by the decision-maker factor, based on procedures which may be

applied. This means that the *emotional tasks*, inseparably attached to such decisions, are left to culture, ethics and moral of decision-makers, whose *vital energies* are burdened by such emotional excess.

Moral conflicts mean that the values of that society haven't been crystallized yet. The problem is even socially beneficial if it occurs, because the effervescence in the media and professional circles helps the *clarification of the systems*. But, personally, the decision factor in the flame can burn out, can burn energy without the social services to arrive to the beneficiaries, with unconstitutionality floating in the ether.

We need procedures that facilitate decision making, rules that cover basic necessities, using fewer *resources* which are always *limited* anyway. Developing decision making skills, based on well-defined values of the society and on the emotional power needed to apply them, would be another factor to strengthen the social systems. This means that we need to give more importance to the emotional capital or at least the same importance as for the economic and cultural heritage.

The beneficiaries' needs and service delivery system elements must be taken into account in a social system design and in the integration of the parts of the whole system. In limited resources conditions, the *reliability* of the decision makers save resources by assuring viability and *sustainability* of the systems.

## **7. Euthanasia, a Respectable Answer for Terminal Patients?**

*Simona Ștefana Zetea, PhD, lecturer, Dept. of Social Work, Babeș-Bolyai University Cluj-Napoca*

**Keywords:** *euthanasia, human dignity, theological approach*

### **Abstract:**

*Euthanasia, a problem that concerns many people.* Today, doctors and churchmen, biologists and journalists, philosophers and lawyers and outsiders, too, discuss about the rational versus irrational, moral and immoral, legitimate and illegitimate character of euthanasia.

Euthanasia, is, in fact, a problem with ethic, anthropological, eschatological implications and not only a medical and a legal problem.

*World and Romanian actualities. Pro and against euthanasia.* For this, it is necessary to display world and Romanian statistics concerning the use of euthanasia and the attitude towards it. At the same time it has to be presented the manner in which people argue pro and against euthanasia on a personal, public and legislative level.

*A viable alternative? Euthanasia/palliative nursing.* My opinion is that the palliative nursing is a viable alternative for practicing the euthanasia as long as this does not involve the elimination of pain, but the elimination of the human being.

The major difference between the euthanasia and the palliative nursing takes place at the level of the violation/respect of the human dignity.

*For a theological contribution.* Before showing our opinion pro or against euthanasia it is necessary a serious thought concerning the real human condition and dignity. The church backs up, in a “culture of death”, the holy value of life, including the conditions of a long old age and of a physical and moral suffering which come together with an illness.

Euthanasia is a “violation of the divine law, an insult brought on the dignity of the human being, an offence upon life, an attempt on the humanity”. We have to take into consideration, from the Church perspective, a few differences concerning the use of the therapeutic methods (how risky the treatment is; the costs; the estimated results; the patient’s physical and moral condition).

Despite a vitalist mentality and utilitarian thinking, it is possible that the old age and the suffering to be assumed having the faith that life and death are in God’s hands.

## **8. Justice and love in the Holy Scripture**

*Călin Felician Ficior, priest*

**Keywords:** *justice, love, command, living together*

### ***Abstract***

Man is a social being who, living in a society, is compelled to observe the rules of that society. But the spectrum of framing the human being must be enlarged, because man has to be regarded not only as a being belonging to a society, but a universal being related to two worlds, the earthly and the spiritual one.

We cannot split the human being into two, because the reality composed of body and soul is a unitary whole.

The wish for justice implanted into the conscience of every person is rooted in the real source, which is God, the One Who inspired the authors of the Holy Scripture in order to transmit over centuries, by writing, His will.

God revealed Himself especially for giving the pattern of living together among men, founded on the command: “Love the Lord your God... and your neighbor as yourself”, adding the necessity of observing that command in order to remain alive: “Take hold of my words with all your heart; keep my commands and you will live” (Proverbs 4.4).

The blessed Augustine advises us in such a way: “Love and do what you want”. He identifies this love with the love of Christ, Who teaches us to love not only our neighbor, but also our enemy. Love implies justice, and the true justice is the one revealed in the Holy Scripture, the only one which appeases and fulfils man in his two dimensions (the earthly one and the spiritual one).

Justice found in the Holy Scripture requires the relating to your neighbor as to yourself, in order to eradicate the more and more pregnant tendency of our time to turn your person into an idol. To see in your neighbor your person, to see in the one found in a dangerous situation your person and to act for saving that person from that situation is a signal of your wish to adjust yourself to the divine justice.

## **ETHICS MANAGEMENT IN ROMANIAN ORGANISATIONS LEARNING THE POSITIVE LESSONS**

Cristian Ducu, Emanoel Roman, Alexandru Nastase, Iulia Anghel

This conference session tries to share some of the ideas developed as part of the “Ethics & Compliance Management in Romanian Public and Private Organizations” research project, August 2009-April 2011. It comprises three lectures focused mainly on the positive aspects of the negative Romanian experience with “ethics institutionalization”. All arguments are built around the idea that ethical institutionalization process is highly complex and most (vision, strategy, implementation, evaluation) failures are due to the misunderstanding of this key element. Each presentation -- “Ethics Consultation in Romanian HealthCare Institutions. Overcoming the Doctor’s Paternalism” (Iulia Anghel *et alii*), “Can Ethical Dilemma Provide a Specific Mindset for Ethics Committee Members in Universities?” (Cristian Ducu *et alii*), “Communicating Ethical Norms in Corporate Environment” (Alexandru Năstase *et alii*) -- will deal only with one particular ethical tool, one that has not been taken seriously into account in Romania so far.

## ***PAPERS***

(Authors in alphabetical order)

***Daniela Tatiana Agheorghiesei (Corodeanu), Sebastian Moldovan***

Center for Ethics and Health Policies, University of Medicine and Pharmacy "Gr. T. Popa"  
Iasi, Romania

### **The support of the orthodox priests to people with substance addiction – between the mission job, professional ethics and personal religious faith**

In the last decades the involvement of the Orthodox Church in supporting the people with substance addiction is visible by the activity of few centers of treating and preventing programs.

These initiatives remain isolated due the lack of a specific vision on this issue, expertise and resources. These centers are organized separately as ONGs and are managed by some orthodox priests as a symbol of their personal implication and religious faith; are not included in the formal organizational policies and plans at the highest management level of the Orthodox Church. More, these centers no collaborate sufficiently with other actors (hospitals, educational institutions, etc.).

Our study intends to highlights the opinion of orthodox priests about supporting the people with substance addiction: what kind of help can be done to them, which are the reasons in offering it, the problems that restrict a more active involvement.

Our research is developed by interviewing of 30 orthodox priests which the aim to identify their availability for an active participation in preventing or treating programs for substance addiction (or organizing its); the role of the mission job, professional ethics and personal religious faith in influencing the attitude and the behavior in assuming or not this involvement.

The first conclusion reveals that the nature of the job mission has a strong impact on supporting the people with substance addiction but there is a need for a strong organizational culture oriented to specific and actual problems of Romanian society, and for real mechanisms to stimulate the collaboration between different actors with expertise and responsibilities in rehabilitating people with addiction problems.

**Keywords:** *orthodox priest, substance abuse addiction programs, mission job, professional ethics, personal religious faith*

***Daniela-Tatiana Agheorghiesei (Corodeanu), Sebastian Moldovan, Vlad Poroch***

Center for Ethics and Health Policy,  
University of Medicine and Pharmacy "Gr T. Popa ", Iași

### **Tools to enhance professional ethics in medical institutions**

Medical professional ethics is now a compulsory subject in all medical training and a mandatory part of any performance management of medical institutions, regardless of its profile. Medical profession cannot be dissociated from its ethos, both being intrinsically linked and well anchored in the medical system (Schlabach&Peer, 2008). Considered "Gregory's invention" (McCullough, 1998), medical professional ethics brought with it the need for tools to guaranteed that individuals make choices morally. Committees and codes of ethics are the most common policy instruments included in the consolidation of professional and organizational ethics in medical institutions. However, their effectiveness has to be analysed.

Our research aims to highlight awareness of decision makers in medical institutions in Iasi on the nature, role and effectiveness of ethical tools in implementing and improving the professional ethics and to evaluate their potential impact on the quality of medical service.

**Keywords:** *professional ethics, ethics tools in medical institutions, quality of medical service*

***Miruna Antonesei***

"Iuliu Hatieganu" Medicine and Pharmacy University, Cluj-Napoca, Dept. of Family Medicine

### **Ethical Dilemmas in the Treatment and Prophylaxis of Beta-Thalassemias**

The beta-thalassemia represents a genetic affection with a recessive autosomal transmission determinates by the incapacity of the  $\beta$ -globin synthesis, leading to a relative excess of  $\alpha$  chains and formation of an abnormal Hb.

It is estimated that 1, 5% of the worldwide population are carriers of the beta thalassemic trait, meaning at least 80-90 millions of people, with an estimation of 60.000 homozygote or compounds heterozygote new borns on year.

Beta-thalassemiias prevalence is unknown in our country. This is due to the extremely different clinical manifestations of the  $\beta$  thalassemiias, which cover a huge spectrum, from the dependent status of transfusions of the major  $\beta$ -thalassemia, to the asymptomatic of the  $\beta$ -thalassemia trait. The main cause for subdiagnosing minor beta-thalassemia is not being aware of the hematological characteristics of this disease. The clinical and hematologic aspects are similar to that of iron



deficiency anemia which is frequently confused, being repeatedly and useless treated with iron products, leading to the additional load of the body and creating controversies among the doctors treating the patients.

Another challenge is the monitoring of pregnant women with minor beta-thalassemia and considering the opportunity of iron treatment for these patients.

The screening for identifying the carriers of a beta-thalassemic mutation may raise medical ethics issues, leading to stigmatizations.

The unanimous opinion of the experts in beta-thalassemia screening is, that it should be done in schools, during the teen-age period, being involved teachers, doctors and priests.

Anyway, the screening should be done before pregnancy in order to reduce the incidence of major beta-thalassemia. In several mediterranean countries the screening is of a high importance, so that the priest is asking the couples to present a carrier identification test certificate in order to get married.

The choices that should be made by a couple with major genetic risks for beta-thalassemia are difficult and can have consequences for the entire life, so that the doctor counselling them has to possess minimal knowledge of medical genetic and ethics.

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### **Study Regarding Business Ethics in the Romanian Organizations**

The paper presents some of the results of a qualitative research that focuses on business ethics within the Romanian organizations. The research instrument that has been used was the interview, being investigated those members of the society who have been considered able to offer relevant information about the business environment. There are presented the results regarding the importance of ethics in the Romanian organizations, the existence of a Code of ethics, who is responsible for its elaboration, some proposals for having a more ethical business environment and so on.

**Keywords:** *business ethics, code of ethics, organization, interview, business environment.*

**Marcel Bodea**

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### **Confusing the Languages: A Source of Interdisciplinary Conflicts**

There is no interdisciplinarity without communication between fields, without the passage from one specialized language to another, or to natural language. At knowledge communication level the formulation of results from a certain specialized language into another specialized language is considered “explication”. The explication of knowledge is not an operation analogous to translation from one natural language into another. It is a complex cognitive activity which pursues the modelling and interpretation of results by the interdisciplinary transgression of various specializations at language level. The speech proposes to investigate with the help of case studies the way in which explication is achieved on the level of *different languages*, its difficulties and limits. The communication of knowledge in society, meaning the way in which pieces of knowledge reach various social groups or unspecialized groups of the targeted field, must be made in a correct way. We understand correctness as “justness and neutrality towards knowledge”, that is, its non-denaturated presentation related to its significance in the initial fields of research. However, there may be political, ideological, religious, or other interests in promoting certain kind of knowledge, which weaken the foundations of a society based on ethics values. These extend from incorrect information to disinformation and cheating, and reach as far as manipulation and recruitment. The impact of timely responses is socially superior to belated actions of repair. The results foreseen may be immediately applied, may influence opinions, and support a society based on knowledge and ethics values (“knowledge” *presented* in an incomplete, incorrect, denaturated, tendentious way).

**Alexandrina-Augusta Bora**

### **”The publican and the pharisee”- the corruption phenomenon between fighting it and prevention actions**

The domains in which there is a risk for corruption acts are diverse, even if we talk about clear objectives, with clear tasks, as the ones established for Romania’s adhesion to Schengen space. In the same manner, the corruption phenomena can take place at any level. The manner of prevention and combating of corruption depends on the stage of this phenomenon within a certain environment. As it emerges from the explanation attempts in this paper, the corruption develops in relation with the business and economic environment, furthermore, at the interference of the public and private environment, within the domains in which the public decisions affect the activity of the private agents from the economic point of view. Besides the large number of laws that refer to corruption, there have been created institutions with the purpose of fighting against this phenomenon.

The analysis of failures and achievements as they resulted from the efforts of sanctioning corruption in different countries lead us to identify some key elements which can represent obstacles to the progress. One of them consists in exaggerated confidence in judicial solutions. Modifying laws

and improving their application is an unsafe strategy for changing people's behaviour. An exaggerated confidence in law application leads to repression, power abuse and the rise of a larger number of corruption cases. That's why we argue that it is preferable to introduce some ethics programmes and to periodically organize discussions on ethics dilemmas specific to the clerk's work, so as the right behaviour has an internal motivation, based on socially desirable valuable systems. Even if this strategy is applied in some public institutions such as The Ministry of Administration and Interior, it seems there is need for more work on establishing patterns of ethic behaviour in public institutions. Otherwise we find ourselves living the biblical story of the publican and the pharisee, which is the paradigm in which we discuss here the corruption prevention within a public structure.

**Keywords :** *corruption /public sector/private sector /national legislation/ ethic behaviour*

**Monique Castillo**

## **Du professionnalisme à l'éthique professionnelle**

Le passage du « travail » au sens donné à ce terme par Ernst Jünger dans son livre *Le Travailleur* (1932) à « l'interaction » au sens donné par Habermas dans son livre *La technique et la science comme idéologie* (1968): c'est le passage d'une société industrielle à une société postindustrielle, le passage du productivisme (performance d'une force collective) au projet (organisation concertée d'une activité) : l'intercompréhension (primauté du sens, dont fait partie l'éthique) est la nouvelle légitimité de l'action. Par suite, on passe du professionnalisme (efficacité technique d'une performance) à une éthique professionnelle (expression publique d'une compétence normée).

Changement de paradigme de l'autorité des normes : recul de la transcendance normative d'un pouvoir souverain (la norme commande à tous) au bénéfice d'un consensus intersubjectif (la norme est acceptée par chacun). Une question se pose : en apparence, la société civile l'emporte sur l'Etat et l'individu est devenu une ressource plus importante que la puissance technique elle-même : qu'en est-il en réalité ? Pour aborder cette question, on se servira du langage du management (l'individu entrepreneur de lui-même) et du langage juridique (la médiation).

Une hypothèse de travail à soumettre à la discussion : l'éthique professionnelle crée les moyens symboliques d'accès au réel (les constructions langagières qui traduisent et représentent un réel vécu en commun comme nouvel accès à la formation de soi et à la citoyenneté)

*Irina Cehan, Cristina Teodorescu*

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### **The Migration of Health Professionals: Between Social Responsibility and Freedom of Movement**

Labor migration in the Romanian healthcare system has become a current phenomenon especially after Romania’s accession to the European Union. The right to free movement is guaranteed by the Romanian Constitution and by other normative acts, and labor movement is allowed as Romania is part of bilateral agreements with other member states.

The migration of health professionals has had a negative impact on the extent to which citizens are ensured access to quality medical services and therefore protection of their right to health, especially because of the high rate of health professionals who decide to leave their country and work abroad. As a member state of the European Union, Romania has recently started developing policies in this area, but their evolution is affected by political instability. This situation may raise some ethical issues related to the social responsibility of those health professionals who have benefited from public education in this system and who are now leaving the country in favor of wealthier nations, thus making use of their right to freedom of movement. Another conflict that may arise is the one between the social duty of health caregivers and the injustices resulting from their migration and their own autonomy and legal rights. However, this provides further food for thought as to the moral implication of governments and other institutions / organizations that have failed to motivate health professionals to follow their best interests and implement an efficient health system in Romania.

By means of this study we aim at analyzing the national and European legal framework concerning the rights and duties of health professionals, from the perspective of migration, and placing emphasis on the ethical implications to be taken into consideration in the context mentioned above.

**Keywords:** *migration, health professionals, human rights, social responsibility*

**Daniela COJOCARU<sup>1</sup>, Ovidiu GAVRILOVICI<sup>2</sup>, Antonio SANDU<sup>3</sup>**

#### **Appreciative inquiry and the doctor-patient relationship in chronic illness care**

In the professional activity of the medical personnel, the quality of the relationship with the beneficiaries or the patients can influence the efficiency of the therapeutic act and the results of the

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medical interventions. It becomes important, in these conditions, to explore new communication physician-patient strategies which can consolidate the therapeutic alliance and which can constitute a resource in patients' abilitation in selfmanaging their own health condition. The purpose of this paper is to present a application of the appreciative inquiry model on the physician-patient relationship, in the chronic illness care context, underlying the model's capacity to negotiate between the different meanings the different actors involved in interaction have. Also, we describe the relationship between the appreciative inquiry and narrative methods, as well as their possible ways of utilization of past experience experiences in a physician-patient model which may sustain future therapeutic success.

**Keywords:** *appreciative inquiry, cronic care condition, doctor-pacient relationship, narrative methods*

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### **Applied Case Studies in Ethics and Medicine in Eastern Europe – the Role of Bio-Ethics in Living Organ Donations' Decision Making**

There has been an increasing role of bioethics in legislation regulating organ transplantation in Eastern Europe. New legislative measures in public health law have stipulated the presence of bio-ethics committees in supervising the living organ donation process. However, their decision-making practice is far from being unitary in translating the law into practice through purely objective criteria. There is an inherent risk of the process becoming purely conveyor belt alike formal instead of following its initial task of evaluating exhaustively each case. Comparatively, certain transplantation units give the green light to such life-saving procedures at a higher percentage rate than in others even within the same country. Consequently, in light of the suspected subjectivity of decision-making of the members present in such committees, it is interesting to evaluate their decision-making process from certain contextual variables. In this study, we hypothesise that such indicators are related to the institutional and cultural environment under which the members of the commissions operate, their heterogeneous professional background, and the longitudinal experience of commission members in evaluating such practices. The question arising out of this analysis is whether best practices of such bioethical commissions can be translated from one cultural and legislative context to another. For instance, can Dutch good practices be transposed on the same efficiency level in Romania or Hungary? In our analysis, we present two case studies of the Romania and Hungarian contexts by focusing on both the legislation, and the actual practice of these committees. We rely on 45 semi-structured interviews conducted with stakeholders of organ transplantation in the Romania and Hungarian systems.

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National Antidrug Agency, Cluj Drug Prevention, Assessment & Counseling Center

### **Is communication a problem? Some difficulties and possible solutions in addiction treatment**

Usually when someone has a substance abuse related problem, his/her family tries to contact someone who offers help in the field of drug addiction. Most of the times the family doesn't have much information about addiction and its treatment, and they expect this problem to be solved in a couple of days (at most a couple of weeks). The family expects only the drug user to participate in the intervention program, without their involvement, without their making any behavior changes. On the other hand, it often happens that the drug user thinks that the other people around him have a problem, are responsible for his issues and they are the ones who need to make efforts in order to make some improvements.

Frequently, besides drug abuse, the family has an important number of other issues, especially related to communication. Sometimes communication problems also occur between the members of the therapeutic team, between various service suppliers which at some time offer help to the drug user. Different kinds of life-alienating communication, so common nowadays, also mark inevitably the life of the drug user and his family.

In order to improve the chances for a drug user to recover from addiction, not only he, but also his family, close relatives and friends, and the specialists who work with them need to make efforts almost like a team. What happens when one or more parts involved in the recovery process work inappropriately, don't engage as they should or don't exist? On one hand the drug user's relapses show us the complexity of this disorder, and on the other hand, they may reflect how each element involved in the recovery process puts into practice the needed changes (including those related to communication).

This paper presents some frequent interactions between the actors involved in the treatment of addiction: the drug users/addicts, their families, the people who offer assistance in this field and the service suppliers which are considered necessary at a certain point in treatment.

*Valeriu Dornescu, Teodora Manea, Mihaela Hnatiuc*

### **Case study: Controversy concerning the consequences of the migration of Romanian doctors**

**Keywords:** *migration of Romanian doctors, brain-drain, PULL/PUSH factors, origin country, host country, migration phenomenon ethics, effects of doctor's migration.*

## **1. Purpose and short description of the presentation :**

The international migration of Romanian Doctors (MRD) seems to be the result of two different phenomena. Firstly, generally speaking, MRD influenced by the macro-phenomenon of globalization and international migration of the workforce. (Castles S, Miller, J.M., 2003), (Anghel, R.G., Horvath, I., 2009). Secondly, there are separate realities specific to the Romanian society that keep influencing this process.

In order to analyze and structure this case study we wish to investigate the causes of this migration, especially through the PUSH-PULL model (J. Buchan, 2008), as well as the positive and negative effects of MRD, from the points of view of both the home country and the host. A focus of this analysis will turn towards the phenomenon of brain migration – “brain drain” , (Todaro, M. P.,1996), (Beine M, Docquier, F., Rapoport, H., 2003) and the idea of a „brain tax” (“ Bhagwati tax”) (Bhagwati, J., Wilson, J., 1989), Hamada, K., 1977).

We will also outline, with the help of statistic data, the size of MRD and its economical and social consequences. Concerning the consequences, we will debate the ethical aspects of the MRD phenomenon, both at an individual level (the freedom to choose, to decide and walk freely, the person’s autonomy) and also at a collective level ( elements of social justice: the destabilizing of the public health system, affecting certain disadvantaged social groups, the waste of human and educational resources). Another set of ethical problems concern the international dynamic of the reports between the states: for example, is it fair from an ethical point of view that the rich states utilize the resources of poorer states, thus deepening the economical and social gaps even further?

## **2. Objectives**

At the end we will discuss certain specific measures that could be implemented in order to balance the MRD phenomenon and to achieve a reasonable dimension, both for the origin country and the host. These are already present in the Ethical Recruitment Codes of the medical staff, but also imply other much more complex strategies, such as: increasing the efforts to keep the medical staff, focusing on covering the personal needs of the rural area, the improvement of work conditions and personal management, supplying new and advanced equipments, facilitating professional development conditions at a national level, resorting to international financial commitments and sustainment measures from the international community.

The host countries should realize that resorting to immigration is a short-term solution (Parsi, K, 2008) and that they can intervene by taking the following measures: developing educational capacity and forming new own personnel, creating new international cooperation strategies towards solving all ethical, economical and health problems of the population that stem from the international migration of medical staff.

## **3. Methodology**

Case study, economical, philosophical and ethical analysis

## **4. Conclusion**

Through the analysis of this case study we hope to efficiently outline the social, ethical and economical dimensions of the Romanian Doctor Migration phenomenon and to identify possible answers to the ethical problems in question.

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### **Coping in patients with heart failure**

Our study aims to highlight the importance of a multidisciplinary approach in patients with chronic heart disease because only 30-35% of these patients are referred to a psychiatrist or psychologist, even though the patients perceive a significant stress.

Physicians think this stress is, to a certain extent, „natural” therefore they leave the coping to the patients, believing that coping is also „natural”. Coping can have both positive and negative effects; its failure produces dissatisfaction, uncertainty, anxiety, passivity, helplessness and depression which adversely affect the outcome and quality of life of these patients.

Under these circumstances, we believe that identifying the coping mechanisms and their type (adaptive or disadaptive) is very important. The COPE questionnaire was used to assess the coping in patients with chronic heart failure. The results showed that 68% of the patients seek support (either social, emotional or informational) and that support is provided infrequently and inconsistently by the medical staff, even though this kind of support should and can be offered by them.

Another frequent type of coping mechanism is behavioral disengagement which is found in 42% of patients and produces a lack of adherence/compliance to treatment due to the unpredictability of disease outcome.

Identifying anxiety in these patients has a very significant role because anxiety predisposes to using emotional types of coping mechanisms, mainly passive – denial, focus on and venting of emotions, behavioral disengagement and seeking of social support.

Depression has a significant effect on the coping of patients with heart failure and is associated with disadaptive, passive mechanisms such as denial, behavioral disengagement, focus on and venting of emotions and acceptance. Educational/informational support can be provided by discussions, explanations, patient information papers whereas emotional support can be provided by attention and empathy.

A relevant finding is that active types of coping mechanisms such as positive thinking is rarely used by depressive and anxious. It is possible that this type of coping reduces stress and has a beneficial effect on the rehabilitation by re-learning to use it and using it more often – as part of a psychotherapy intervention program.

Another coping mechanism often used by anxious and depressive patients is focus on and venting of emotions, which can have both an adaptive (if used short-term) or disadaptive (if used medium- or long-term) effect. Expressing emotions is only the first step in dealing with them; the following steps should consist of cognitive or behavioral techniques employed to identify a solution and then to apply it.

Understanding the existence and the importance of adaptive patterns used by the patients is of paramount importance to the medical team (physician, nurse etc.) whereas the inclusion of a clinical psychologist and social worker in the multidisciplinary team can have a major impact on the quality of care, quality of life and decreasing the cost of care for the patients with chronic heart failure.

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### **Ethical challenges of the concept of “savior sibling”**

The paper will attempt to discuss the complexities of the issue of „savior sibling”, by analyzing it at the crossroad of transplantation ethics and reproductive ethics.

With the advance in medullar transplantation and stem cells transplantation, more formerly incurable diseases are starting to be cured. Recently, more and more news about children specially conceived to help an elder sibling are spreading. Although this new technique brings hope to traumatized parents, it is not without ethical and sometimes legal controversies. If the embryo of the child is selected after IVF in order to be the most compatible possible with the sick relative, several bioethicists have raised the issue of the dangerous vicinity of the prospect of „designer babies” – i.e., children specially conceived due to a special quality that was desired by their parents. From a Kantian, deontological-oriented perspective, the future child is not desired as an end in itself, but just as a means for a superior end – that of eliminating the disease of another person. From a utilitarian perspective, the future child is not only good in itself, thus producing happiness for her parents, but increases the overall quantity of happiness by saving the life of his sibling.

**Keywords:** *transplantation ethics, reproductive ethics, savior sibling, Kantianism, utilitarianism*

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### **Responsibility and accountability as dimensions of the professionalization of media communicators**

Responsibility as a central element of journalistic activity may be shown from the journalistic codes from everywhere, including from the codes ruling the activity of the specialists in communication from Romania. However, in their professional practice, responsibility proves to be a relative concept. It is a significant part of the activity of media communicators only when is combined with accountability. The complementarity of responsibility and accountability becomes effective

through mixing the preoccupations for ethics with concerns for the consequences of those responsibilities having a juridical significance as well. This mixture of ethical and juridical elements is for the media communicator the resort of an adequate professional behavior. For the professionalization of media communicators, among the elements of ethical codes, only those are relevant that are supported by juridical regulations as well.

*Denizia Gal*

### **Ethical and moral perspectives of social gerontology**

We are facing a truly irreversible: the population aged over 65 tend to represent the mid-21st century, a quarter of its population. Awareness of this reality, invite reflection and knowledge, on the one hand, and change, on the other side. So knowing how much change is desirable and would come from several perspectives: economic, political, legislative, administrative, structural, societal, cultural, and last but not least, moral and ethics. Analyses of demographic, political and legislative signals globality aging societies, and the fact that they are unprepared to cope with the complexity of the phenomenon. Conceptual Analysis, through the concepts of homogeneity-heterogeneity, and in terms of ethical and moral concepts, highlights the urgent stretching for gerontological knowledge, multidisciplinary and interdisciplinary perspectives. Realized that the elderly population is a heterogeneous category, even if demographic aging is a global phenomenon has consequences in the action plan and social attitudes: ethics society is one that is oriented towards raising awareness and changing the discourse, in relation to the increasing number of generations elderly. Leave more room for personal ethical attitude historicity, context and becoming individual existence, diversity.

*László Gál, Gabriella Gál*

### **Picture reasoning – an architectural case study**

The paper starts with the idea that is not necessary to transform the pictures in propositions to make logical operations with them and such they become propositions who have truth value. In this way pictures are not specific.

That's because we try to find out a picture-specific, but not linguistic possibility of study them. We use for that C.S. Peirce's existential graphs Alpha theory. In this way we could study diagrammatic reasoning without use the truth values. But we could find a diagrammatic interpretation of logical constants e.g. conjunction and negation.

In our paper we follow up how a building project borns. It is the **Promenade** cultural center project in Cluj's down town and the project was elaborated by Gabriella Gal in period of march-april 2010. She is a student of architecture in 5th. We were interested step by step of how takes shape the

building complex. Our aim was to identify the steps of diagrammatic reasoning, those has logic importance. We conclude that only Peirce's existential graphs are not sufficient to analyse the complex work of an architect.

In the end of paper we try to compare our linguistic research results about conjunction and negation and the architectural one.

**Andreea Iacobuță<sup>1</sup>, Sorin Gabriel Anton<sup>1</sup>, Ovidiu Stamatini<sup>2</sup>, Vladimir Poroch<sup>2</sup>**

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### **Why economics and ethics should dialogue in health care policy?<sup>4</sup>**

This paper advocates the idea that economics and public policy, in general and health care policy, in particular should be closely linked with ethical considerations.

Over the years, the relationship between economics and ethics has been subject to numerous debates and controversies resulted mostly from the challenges ethics addresses to the mainstream way of thinking (i.e. neoclassical economics).

The standard economic theory, relying on the restrictive assumption of the individual as *homo economicus*, a maximizing agent, guided by unlimited rationality, living in a world of perfect and pure competition without any exogenous influence, sees efficiency as the core motivation of any human action. Most of the today's policy recommendations are based on this traditional view.

On the other hand, the real world is not the perfect Walrasian one, individuals have bounded rationality (both ontologically and epistemologically), and information is incomplete and costly and filtered by mental constructs. In other words, people are influenced by the environment they act in and have ethical values which affect their behavior and motivation. Consequently, human action is subjective and efficiency becomes relative, a matter of individual perception. In this context the individual is unable to maximize. Human action is efficient if, when comparing the *ex-ante* anticipations with the results of his action/decision, the individual can say he reached his purpose.

That is why what is efficient for one individual may not be efficient to another one. The implications of this aspect for the field of public policies are complex. We have to be aware of the fact that public policies are formulated and implemented in an institutional framework, where people matter. The decision makers have their ethical values that shape the way they conceive public policies.

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Also, individuals have ethical values that guide their behavior and influence their reaction to public policies and programs.

For example, if considering public health policy, economic theory focuses on cost-effectiveness and cost-utility analyses in order to maximize efficiency from the perspective of population health. The utilitarian judgements (the highest benefit for the biggest number of people) lead to calculating indicators such as QALY (Quality Adjusted Life Years) or DALY (Disability Adjusted Life Years) and to objectives like maximizing benefits or minimizing costs for as many individuals as possible. This approach is a restrictive and a reductionist one. Besides their convenience in certain contexts, these indicators raise issues of validity and inequity. Maximizing the whole does not necessary mean maximizing benefits at individual level. On the contrary, it often leads to unequal individual treatment.

Consequently, when it comes to social policies, in general and to health policy, in particular, economic evaluations by themselves may discriminate among individuals and should be supplemented by ethical evaluations.

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### **Do Judges Have A Moral Duty to Give Reasons?**

**Keywords:** *judicial duties, ratio decidendi, fallibility, accountability*

This paper explores a possible principle on which the judicial duty to give reasons - to communicate the *ratio decidendi* - can be founded. This duty is not interpreted here as some sort of ingredient of the *due process of law*, i.e. as a technical judicial duty, but rather as a *moral* duty that judges are normally expected to fulfill.

The duty to give reasons can be seen as implied by a complex situation composed of facts (like human fallibility) and of more general duties (like the duty to acknowledge one's own fallibility, to seek truth and to facilitate the efforts to find truth). In this respect, I submit, the judicial duty to give reasons is comparable to the scientist's duty to expose his own results to hard tests. Consequently, some epistemological conclusions about the duty to stand hard tests can be extended to judicial activities, and some epistemological ideas of J.S. Mill or Karl Popper can be used in order to justify judicial duties.

The paper also offers some explanation for the moral difference between the situation of judges (who are expected to give reasons) and the situation of physicians or engineers, who are not.

***Magdalena IORGA***

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**Ethics by any way: thinking ethics through university courses**

The trend to offer ethics courses to employees has dropped dramatically in recent years, after several decades of increased interest shown to this field. Under these circumstances, the universities must represent a fortress that shelters ethics courses. In 1995, over 50% of U.S. corporations ensured ethics courses to their employees. Even though numerous studies have shown that ethics trainings do not guarantee an ethical behavior within the professional environment, universities worldwide have included professional ethics courses in the curricula. Several studies have mentioned that an ethical behavior is essential in three professions: medicine, business and teaching – that is precisely those where statistics show the highest scores of unethical behaviors.

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**Ethical aspects regarding people living with human immunodeficiency virus (HIV)**

Despite important achievements in the treatment and survival for the people living with HIV (PLWH), worldwide, the incidence of HIV infection is still high. One of cause is the hallmark of infection with chronic evolution, without clinical symptoms for years, a contagiousity period, but the person is not aware by his diagnosis. Statistic analysis show that 10 unknown persons correspond to one confirmed person. Late presentation is frequent, sometimes as advanced HIV disease, with major complications and severe evolution. Formation of a multidisciplinary team (infectionist, gynecologist/obstetrician, neonatologist, psychologist, social worker) was the result of the medical complexity and the psychosocial problems encountered in this infection. I would like to highlight the central role of the multidisciplinary team in the smooth running of events occurring during the life of a person living with HIV.

Informed consent for HIV testing, the access and the continuity of the antiviral treatment, maintaining confidentiality, respect their rights, including the right to procreate, the functionality of the multidisciplinary team, could be reference points for debate.

*Kádár Magor*

### **Malpractice in branding: between the freedom of creation and the limits of copyright**

The brand of a product, person, or in our case a city and a country includes the unique visual representation of it. But the ongoing process of branding Romania and branding the city Cluj Napoca hits the news mostly because of a presumed plagiarism or the violation of the copyright laws. Might be an unique visual representation a reloaded earlier image? When will the creation of an artist turn into plagiarism? How can a country or a city live and deal with a highly-contested visual identity? We'll look for answers through a debate following two short case-studies on the actual branding of Cluj Napoca and Romania.

*Mircea Leabu*

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### **Principlism versus utilitarianism in translational medicine ethics**

Translational medicine is a quite new field of research in medicine, firstly mentioned under PubMed in 1996, having as a motto "Form bench to bedside". Its complexity and novelty are raising many problems, both in medical and bioethical terms. The complexity of translational medicine reside in many research areas belonging to the field such as tissue engineering, gene therapy, cell therapy, regenerative medicine, molecular diagnosis, etc, all of them aiming to turn current biomedical knowledge toward new effective drugs and medical approaches and increasing patients' beneficence. The promises of several areas of research in translational medicine determine advances in the biomedical studies and researchers made by research policy makers, politicians, patients, entrepreneurs, and civil society. These pressures result in several ethical challenges for all the stakeholders mentioned above. Therefore, making good ethical decisions is mandatory. In this paper I'll attempt to discuss translational medicine ethics from the perspective of principlism and utilitarianism and to suggest rationales for considering the two theories on bioethics rather more complementary than conflicting. The four principles of bioethics (either acknowledged by the Anglo-American or European principlism) and utilitarian bioethics are compared and considered to be only tools serving the same end: patient's welfare.

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*Ștefana Maria Moisă, Beatrice Ioan, Silvia Dumitraș, Rodica Gramma, Andrada Pârvu, Mariana Enache, Gabriel Roman, Radu Chiriță*

### **“Moartea perfecta” in starile terminale. Viziunea unui medic**

Literatura de specialitate cuprinde un numar impresionant de lucrari legate de demnitatea pacientilor in stari terminale, de calitatea vietii acestora si de modul de luare a deciziilor in diferite situatii, la pacienti cu competenta decizionala pastrata sau abolita. Ingrijirea la finalul vietii include controlul durerii si a altor simptome, comunicarea diagnosticului, prognosticului si optiunilor terapeutice, planificarea ingrijirilor, suport in luarea deciziilor, suport emotional pentru familie si pacient. Directiva in avans este un instrument medico-legal existent in unele tari, prin care un pacient în faza terminală își poate exprima deciziile în legatură cu finalul propriei vieți.

Am realizat un review al literaturii de specialitate, folosind cuvinte-cheie ca “stare terminala”, “directiva in avans”, “luare decizii”, “demnitate”. Au fost lecturate un numar de 52 articole de specialitate (medicina, etica, filosofie).

Am considerat oportuna prezentarea unei viziuni medicale asupra fenomenului mortii si asupra luarii deciziilor in starile terminale. Medicii din intreaga lume sunt o categorie socio-culturala aparte; majoritatea gandesc la fel in legatura cu simtul datoriei si dragostea pentru semeni.

Oamenii se tem de o moarte tehnologizata, insotita de prelungirea inadecvata a procesului de trecere in nefiinta. Calitatea vietii poate deveni in aceste situatii mai importanta decat valoarea vietii.

Unele studii atrag atentia asupra modului diferit in care gandesc medicii in legatura cu pacientii lor comparativ cu ei insisi. Cand vine vorba despre deciziile pe care le iau in beneficiul pacientilor lor, medicii indica manevre si tratamente cu un grad mediu sau crescut de invazivitate, in scopul prelungirii vietii. Totusi, in unele situatii prelungirea vietii poate fi considerata neadecvata, atunci cand prognosticul *ad vitam* si *ad functionem* este rezervat. Atunci medicul trebuie intelega toate valentele principiului de baza al medicinei: “*Primum non nocere*”.

Cand este vorba despre manevrele si procedurile pe care le-ar dori pentru ei insisi in situatia unei boli terminale, medicii gandesc uneori altfel, si anume acestia isi doresc mai putine internari in sectiile de terapie intensiva, mai putine manevre invazive si mai putine tipuri de tratamente de sustinere a vietii. Posibile explicatii pentru acest fenomen ar fi: medicii intervievati sunt mai tineri si sanatosi, nu se pot pune cu adevarat in locul pacientilor; vazand zilnic suferinta inutila a pacientilor cu boli terminale care aleg tratamente agresive, ei isi modifica perceptia asupra vietii si mortii; sau, avand o anumita viziune filosofica asupra vietii si mortii, modulata de activitatea lor profesionala, percep moartea ca o trecere spre o alta dimensiune.



***Sebastian Moldovan***

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### **The Quest for Quality. Meddling with Professionals and Researchers in the Lifeworld**

The quality rush is one of the major trends in the recent management of all public services (education, healthcare, justice, trade, etc.). In the same time - a coincidence whose meanings remain largely unexplored -, the social and the psychological sciences have seen the great flourishing of qualitative research methodologies. The present research aims to bring the two trends of „qualitativism” under a single focus by the lens of the inner, emotional and embodied, quality of the lifeworld of professionals and researchers. A survey of relevant literature and a few personal experiences embedded in interviews help us to touch the lived experience beneath the scientific quest for quality.

**Keywords:** *quality, qualitative research, emotions, embodiment, lifeworld*

***Valentin Mureșan***

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### **Why do we need an „ethical infrastructure”?**

The lack of significant results in the fight against the big corruption, the ignoring of the small, but endemic, corruption, which is the mark of Romania, the neglect and even contempt of ethics, the pleasure to simulate the interest for the respect of moral standards, the unexistence of professionally conceived preventive activities in the anti-corruption national strategy, all these make the author conclude that we urgently need a national initiative to institutionalize ethics under the form of some *systems of ethics management* or „ethical infrastructures”. A possible model of such an infrastructure is presented and a set of unavoidable institutional changes for this purpose is envisaged. A possible partial unification of the services of QA and ethics management is suggested.

**Tags:** *ethical infrastructure, ethics management, corruption .*

*Patrick O'Sullivan*

*GRENOBLE ECOLE de MANAGEMENT*

### **Levels of moral and ethical critique**

This conference is dealing with ethical issues over a number of distinct fields such as Business Ethics, Medical Ethics and the Ethics of Journalism and Media. This paper will firstly seek to locate these fields of applied ethics in relation to each other showing some revealing contrasts before proceeding to a methodological discussion of the various levels at which a moral critique can be carried out in each of these fields. It is argued that while the medical profession has always declared itself in principle to have a very high standard of professional ethics based on the Hippocratic oath and has moreover to a significant extent lived up to that principle, the idea that there should be some kind of professional ethics for business has been much more contested. These challenges (coming from the works of thinkers such as Albert Carr and Milton Friedman) will be criticised and rejected, thereby opening the field to a critical and normative business ethics.

The paper will then go on to argue that this normative critique of business practice may be carried out at three quite distinct levels which to date have not always been well distinguished in the literature and that this distinction is methodologically significant. These levels are designated as Levels 1,2 and 3. Level 1 critique examines the moral responsibility of individuals within the company and solely in relation to the company. Level 2 critique examines the moral responsibility of the company as a whole in relation to the wider community in which it is located and it is argued that this level of normative critique converges in an intriguing manner with the Critical Social Theory of the Frankfurt school (but is of course wider than that approach). Level 3 critique arises in the context of international business where on a regular basis managers and company decision takers will face problems with a moral dimension where there may be a number of different moral codes which could be applied (host country code v. company home country code etc). In these situations the decision taker cannot avoid making some kind of judgement about the relative worth or appropriateness of the different codes. This is level 3 critique where we enter into the critical morality of moralities or what is also known as meta-ethics.

Finally an assessment of the implications of this methodological distinction of levels of critique in the fields of ethics of journalism and of medical ethics will be presented and it will be suggested that there are some very powerful implications in relation to ethics of journalism in particular.

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### **Discrepancies between patients' and doctors' opinions on coping with cancer**

Cancer represents a psychological challenge because patients need to overcome the initial shock of diagnosis, and then develop a long-term coping mechanism. Coping is a dynamic process that requires the patient to constantly readjust to the entire chain of events that cancer represents (diagnosis, treatment, treatment side-effects, family and social isolation, disability, interference with professional career). To develop a coping strategy, each patient relies on his own internal or external resources (personality traits, hobbies, social support, etc.). As part of developing a coping strategy, patients inevitably rely on their doctors for support, both in medical as well as psychological matters.

Due to lack of communication or differences of opinion, it is common for misunderstandings or even conflicts to arise between doctors and patients. This can oftentimes be credited to doctors' lack of familiarity with the characteristics and stages of psychological coping with cancer (denial, anger, bargaining, depression, acceptance), or to doctors' lack of understanding or empathy toward patient's struggles with the disease.

The goal of this study is to examine the areas and degree to which doctors empathically understand cancer patients' needs and struggles.

#### **Method:**

Data was collected using semi-structured interviews with 100 acute leukemia hospitalized patients being treated at Hematology Department- Oncological Institute Cluj between November 2007 and May 2009. Topics covered in the interviews were: method of diagnosis, negotiation of the five stages of psychological coping with cancer, sources of patient information, evaluation of patients' internal and external resources, patients' ability to tolerate symptoms of the disease, treatment side-effects, psychological effects associated with blood-related treatments, psychological impact of the death of other patients, self-blame, others' attitude toward patients, and the repercussions of the disease on patients' family, professional, and social lives.

Additionally, a questionnaire was designed in order to collect information from doctors. This questionnaire was administered to 14 doctors (specialists and residents).

The conclusions and findings drawn from the 100 patient interviews were then compared with those drawn from the questionnaires administered to the 14 doctors.

#### **Results:**

Analysis of the patient interview data and the data from the doctor questionnaires indicated the following:

Areas of convergence between patients and doctors are: the five stages of psychological coping with cancer, internal and external patient resources, the problem of self-blame, comprehension of

various disease and treatment-related matters (symptoms, side-effects, medical procedures, hospitalization).

Areas of divergence between patients and doctors are: communication of the cancer diagnosis, sources of patient information, matters pertaining to blood transfusions, the impact of the death of other patients in the hospital, and society's attitude toward patients afflicted with acute leukemia.

### **Conclusions:**

This study revealed that there is no specific area of investigation where doctors' views and approaches overlap entirely with patients' views, wishes and needs. Furthermore, this study also showed that there are areas pertaining to patients' struggle with cancer that still need to be better understood empathically by doctors.

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### **Two cases of "lack of impartiality" in the Romanian Public Television (TVR): Deontology vs. Sense of Professional Duty**

What is the worst that could happen in a show broadcasted by a national television? Singing the praises of a moral author of hundreds of anti-Semitic murders or insulting a beloved poet and politician on the very day of his burial? At first glance, both "incidents" are to be judged as profoundly immoral and unprofessional.

Actually, that was the view embraced in the ethical evaluation of two problematic TV programs produced in 2010 by the Romanian Public Television (TVR). Firstly, the Audio-Visual Romanian Council (CNA) admonished for "lack of impartiality" an edition of the "Profesioniștii" talk-show in which the extreme right leader Corneliu Zelea-Codreanu was presented by columnist Ion Cristoiu as a "romantic" and "honest" character. Secondly, the Ethical Board of TVR found guilty of the same "lack of impartiality" an edition of the "Ultima oră" news magazine, where the image of the dead poet and socialist politician Adrian Păunescu was dishonored by unilateral negative opinions expressed by the philosopher Andrei Cornea during Păunescu's national funeral service.

In response to these identical deontological judgments, we will reconsider the same situations starting from the specific techniques and designs of each program. We will point out the editorial differences between the programs' formats: a "portrait-interview" ("Profesioniștii") and an "opinion-interview" ("Ultima oră"). We conclude that only the latter required inevitably a second complementary opinion, in order to meet the "impartiality" condition, while the former does not aspire to this norm.

Our interpretation emphasises the fact that applied ethics (in journalism, but also in other fields) should start in the first place from the inner normativity of the professional area and from a contextual consideration. That is why, we think that ethical training and responsabilisation should begin not from teaching abstract deontological codes, but from helping professionals to improve their skills and competences.

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*Călin Săplăcan*

## **Ethique, santé publique et conflits de valeurs**

La complexité est devenu un paradigme de la santé publique, de même que des nos sociétés. La pluralité des conceptions en ce qui concerne la santé publique, redoublée de la pluralité des éthiques et la pluralité des rationalités qui les fondent, constituent une source de conflits des valeurs. Comment établir un consensus dans l'adoption et l'implémentation des décisions, acceptables de point de vue éthique, malgré les divergences affichées.

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## **The teachers reflective capability: ethical dilemmas as an important dimension on development the teachers professionalism**

The professionalism determine the existence of an occupation ethos, having the role of coagulation the common beliefs, even prejudices related to that profession. Existence of professionalism has so, essential implications to the *identity construction, of self esteem, of attitude*

*and values orientation* for the members of a professional group (in time, the professionalism of each member of an occupation community is determining the increasing of that occupation prestige).

This article examines the integration of professional ethics in teacher education and defines dimensions of teachers' opportunities to learn how to become an educator. The starting point from the theoretical perspective was the idea of considering the Professional virtues like an essential part of teaching morals.

Shaping the professional competences, particularly the ethical dimension that characterizes the professionalism of practitioners in education, requires not only the transmission of ethical knowledge important for moral - professional consciousness, but especially their practice. Thereby, becomes important for educators to understand their specific mission of moral and civic training of young generations of practitioners. Ethics, in its professional dimension, can be approached on two levels of being: a. through official recognition and, thus, formally regulated (codes, regulations); b. through the trainers activities in order to be known and, then, through *reflection, transformed into a professional moral, felt and lived individually*.

The issue to be explored is circumscribing to the idea of putting of good use the reflective methods for training and development of moral – ethical competences in teaching, seen as linked to standards of professional benefit.

In this paper we tried to explore the question, how shall we teach about the moral dimension of teaching. The starting points for this study are covered the both dimension of teaching: the ethical dimension of teaching like a social helping profession and the moral issues involved by the practice of education activities, especially the moral dimensions of teacher training programs. Like a theoretical foundation it is briefly described *A three-element professionalism Model* proposed by the author in which the *reflective capacity* represents the link between the *technology of teaching* and the *ethical components of teaching*. The *professional autonomy* of the teacher refers both to the *personal ability of making operative decisions* while working, in the absence of any outer pressure or outerprofessional opinion, and to the *pertinent social responsibility* towards the results and quality of the educational practice. We cannot consider the teachers responsible of things over which they do not have any power of decision, because their autonomy has not covered that situation.

The *reflective capability* represents the mobile element, which facilitates the transition between the educator's professional conscience and the educator's professional conduct. We cannot develop any type of firm convictions without resorting to reflection. The reflective capability helps the individual to choose. The capacities that are subsumed to the analytical thinking are not just the ways that could be used for accusing an educator, but as many opportunities not to make professional mistakes. In order to meet the large variety of requirements and to shape up its behavioral offer to diverse challenges, the student teacher must be able to reflect over the meanings of his actions, to be aware of his mission.

Using representative teaching models which invoke the reflection like a professional capacity (Schön, Stenhouse, Giroux, Smith etc.) the study describes some of the teachers professional virtues and dispositions under the categories of character, intellect, and care; and then indicating the complexity of each through self-knowledge, truthfulness, and compassion.

Findings come from a comparative case study of two elementary teacher education programs: pre-service training for the students in psychology and in-service training for primary and preschool teachers.

Some conclusions are made up under the idea of recommendations for teacher education policy makers.

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### **Is it possible the management of informal rules?**

My paper has two main objectives. The first, and more theoretical in scope, is to critically assess three competing views about the nature and functions of the informal norms. I hope to show that the mainstream approaches (which I will label, in analogy with an important contemporary debate within the philosophy of science, `holistic` and `reductionist`) fail to satisfy at least one of two fundamental conditions: conceptual consistency and adequacy with the empirical results of various social sciences. A possible third way, called `emergentist` (by the same analogy) seems more promising at first glance, but is yet insufficiently developed for a thorough evaluation. Two game-theoretical models for the emergence and evolution of norms (Binmore and Bicchieri) will be shortly discussed.

The second objective, of a more practical impact, is to explore the implications of the previous analysis in order to identify the necessary prerequisites for the success of any attempt at the transformation or design of organizational culture. These prerequisites seriously limit the reasonable ambitions of such projects. As a result, the answer to the question in the title will express a rather reserved attitude: managing informal norms, in a strong sense, would only be possible in an ideal Coasian world of zero transaction costs.

**Keywords:** *informal norms, organizational culture, emergence of norms, transaction costs, evolutionary games theory*

*Ciprian Speranza*

eikones Uni Basel

NFS, iconic criticism

### **Dis-positions of autonomy: Between discourse and community**

The paper aims to debate on the status of autonomy taking therefore into account the field of psychopathology, from a phenomenologically informed perspective. Discussing the findings of W. Blankenburg, which situates autonomy within the realm of the “dialectics of freedom”, we can bring forth the questioning of L. Binswanger about the practice of psychotherapy with a much discussed case. The special setting of the therapeutic encounter entails philosophical, psychological and sociological issues suggested by the theme of subject constitution and being in the world. In order to highlight the interdisciplinary account we will consider convergent themes from the contemporary discussion.

*Nicoleta Szabo*

*Meddling with somebody else's business in acting as professionals*

Eric Voegelin, in his interpretation of Platon's *Republic*<sup>5</sup>, highlights the distinction between *polypragmosyne* and *oikeopragia*; the first term – *polypragmosyne* - refers to “the readiness to engage in multifarious activities that are not a man's proper business” (p. 118), while, the second – *oikeopragia* – indicates “minding with one's own affairs” (p. 119). The dilettantish meddlesomeness of the sophistic, superficial knowledge has reached the level of action, whereby the order of the polis is menaced by the attempts to practice more than the one craft for which a man is specially gifted. The social order and cohesion of the polis is thus dependable on the division of labor on the level of crafts and also on the internal order of the knowing, healthy soul.

In the modern world, where the division of labor is exquisitely accomplished, it seems that *polypragmosyne* may not present any dangerous seeds of disorder. We would like to analyze the relation between *oikeopragia* and *polypragmosyne* and in what forms they (re-)connect in the modern world. Robert Musil, in his immense novel, *Man Without Qualities*<sup>6</sup>, presents several forms of *polypragmosyne* as attempts to synthesis, made from within a certain profession: the synthesis between business and ideas, between force and spirit (the industrialist Paul Arnheim), between military and civil spirit, between war and peace (the general Stumm von Bordwehr). All these synthesis are to instill life, action and decision in the hesitant works of the Parallel Action, a collective, political body, which nobody knows exactly what it is and what it has to do, but everybody seems to want to meddle with it. Musil captures a paradoxical state of affairs: while the division of labor and the enormous specialization of professions lay dormant the responsibility of the individual for decisions that concern the society as a whole (the principle of indirectness – *Indirektheit*), at the same time, the individual is bombarded with imperatives to act, to be a part of different “mixtures” of representation and action, of which he seems, nevertheless, incapable of assuming any epistemological and moral responsibility. The modern world is a world full of occupations and professions, but with no men to live in it. Consequently, for Musil the world is split in spheres of professions and all synthesis is bound to be at most illusory, a real failure to reconnect them. The result of the dialogue between the separate spheres of the life-world is only an “armed truce of ideas” (*ein bewaffneter Ideenfriede*).

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<sup>5</sup> Eric Voegelin, *Order and History, Volume III. Plato and Aristotle*, edited with an introduction by Dante Germino, University of Missouri Press, Columbia and London, 2000.

<sup>6</sup> We will utilize especially the first two volumes of Musil's novel: *Omul fără însușiri*, vol. 1, Partea Întii: Un fel de introducere, traducere de Mircea Ivănescu, Univers, 1995; *Omul fără însușiri*. Cartea a doua. Partea a doua. Se întâmplă cam același lucru, traducere de Mircea Ivănescu, Univers, 1995.



*Dana Țabrea*

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### **The conflict between theory and our practices**

Whoever aims at acting the right way, at improving one's actions and correcting errors in what concerns his or her actions, should ask questions about one's fundamental beliefs that guide him or her in the particular world that one inhabits, about one's right place within this world, about the motifs of one's actions, about one's possibilities, abilities, and desires within this world. Without clarifying our fundamental presuppositions, we risk finding ourselves impersonating a fighter in a war that does not belong to him, as one has no knowledge of the reasons that sent him to fight, or one blames without asking why, or one hates with no transparent motivation.

The role of our practices is to make our principles concrete, and the purpose of our principles is to guide our practices, but this is hardly what happens in practice. Why is it so difficult to act according to one's theoretical and professional principles?

The relation between our theories and practices should be a tight interdependence (R. G. Collingwood), but we can also sustain a strict independence between the two (M. Oakeshott). However, if we intend to make things work for us professionally, we should go for the former.

The role of our practices is to make our principles concrete, and the purpose of our principles is to guide our practices, therefore we cannot conceive the two realms (the theoretical and the practical) but in a tight relation of interdependence. This is exactly what Robin George Collingwood thinks of the relation between practice and theory. Yet, there is another R. G. Collingwood, the professional thinker, who separates university from life, and philosophy from conduct.

In his *Introduction to Experience and its Modes*, Oakeshott rejects Collingwood's claim that theory is fulfilled only by being applied and put into practice, which is similar to saying that all thought exists for the sake of action. On the contrary, for Oakeshott philosophy is not a gospel that would help us through our lives. In order to illustrate the gap between practice and theory, Oakeshott comes with a reinterpretation to Plato's myth of the cave.

## LUCRARI INTEGRALE (ÎN LIMBA ROMÂNĂ)

*Alexandrina Rădulescu*

### CONFLICTUL DE VALORI ÎN SISTEMUL DE JUSTIȚIE DIN ROMÂNIA

Termenul de management, definit ca „arta de a îndeplini ceva împreună cu alți oameni” (Mary Follet) circumscrie atât managementul conflictului astfel încât diversitatea de opinie să fie privită ca generatoare de rezultate pozitive cât și managementul valorilor organizației astfel încât prin integrarea lor să facă parte din obiectivele de excelență managerială. Excelența managerială garantează îndeplinirea adevăratului scop al organizației.

#### **Competențele și priceperile judecătorilor privite din perspectiva actului managerial. Legăturile dintre valori și principii**

*a) Valorile afirmate ale justiției sunt:* independența și imparțialitatea judecătorilor, expertiza judecătorilor, integritatea, egalitatea în fața legii, unitatea jurisprudenței, termenul rezonabil, accesibilitatea, siguranța procesului.

Prezența acestui set de valori instrumentale în viața instanțelor oferă tuturor persoanelor dreptul la un proces echitabil. Gestionarea acestui mănunchi de valori de către administrația instanțelor trebuie să susțină rațiunea de existență a unei instanțe și anume îndeplinirea justiției.

*b) Principiile legale de funcționare a unei instanțe în sistemul românesc de justiție sunt:* specializarea judecătorilor, pregătirea profesională continuă, distribuția aleatorie a cauzelor, continuitatea completului de judecată, volumul optim de activitate, transparența, celeritatea.



Fig. 1

Spre deosebire de valori, principiile au propria lor viață în realitatea instanțelor, atunci când sunt integrate în sistemul de gândire al membrilor, acționează ca un filtru unic pentru acțiunile și conduitele acestora, așa încât este necesar ca setul de principii să coexiste în permanență. Suprimarea unui principiu, chiar și pentru o perioadă scurtă de timp, înseamnă de fapt îngustarea drumului către una sau mai multe valori care astfel își pierd protecția în viața reală a instanței, aportul diminuat reducând exponențial scopul de înlăptuire a justiției.

### **Studiu de caz cu privire la nivelul de integrare a valorilor de expertiză și imparțialitate a judecătorilor în viața unei instanțe**

În ultimii ani, instanțele trebuie să răspundă unei diversități mari de cereri din partea societății și să rezolve situații particulare foarte complexe. Modul în care sunt protejate cele două valori este exprimat prin cel puțin doi indicatori calitativi:

1. Trăinicia hotărârilor (înseamnă un nivel de atacabilitate scăzut al hotărârilor)
2. Aparența de competență - părțile și avocații trebuie să aibă impresia că judecătorul s-a pregătit cu grijă pentru cauză și o înțelege bine, este imparțial.

Susținerea acestor două valori este posibilă prin aplicarea în mod congruent a patru principii legale de funcționare a unei instanțe.

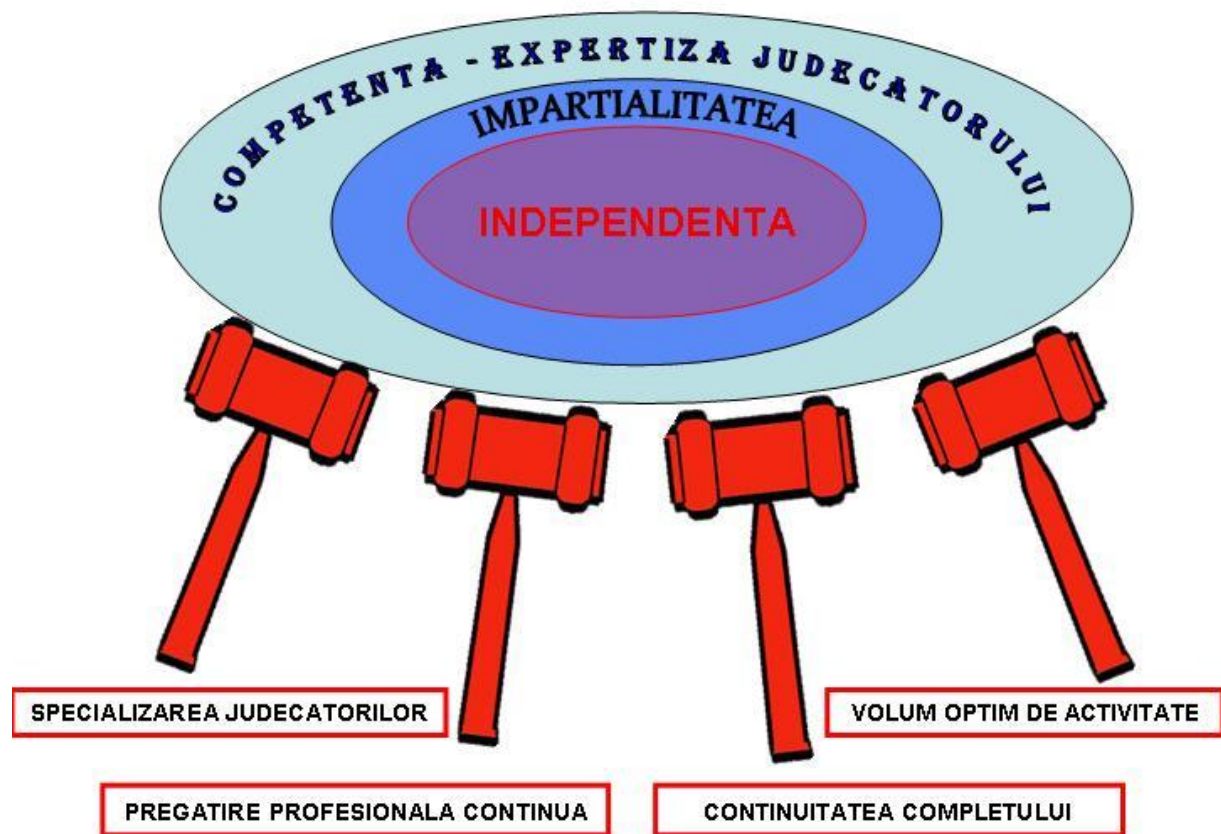


Fig. 2

*Principiul formării profesionale continue se referă la:*

- organizarea învățământului profesional în cadrul unei specializări pentru a adapta judecătorii la dinamica procesului legislativ. Această activitate are ca obiective principale cunoașterea și aprofundarea legislației interne, a documentelor europene și internaționale la care România este parte, a jurisprudenței instanțelor judecătorești și a Curții Constituționale, a jurisprudenței Curții Europene a Drepturilor Omului și a Curții de Justiție a Comunităților Europene, a dreptului comparat, a normelor deontologice, în abordarea multidisciplinară a instituțiilor cu caracter de noutate, precum și în cunoașterea și aprofundarea unor limbi străine și operarea pe calculator.

- formarea profesională individuală a judecătorului pentru o nouă specializare, rezultă din nevoia sistemului de a muta judecători de la o secție la alta în vederea respectării principiului privind volumul optim de muncă în instanțe și a celerității soluționării cauzelor;

*Principiul continuității completului de judecată*, stabilește că judecătorul care a participat la dezbateri să fie același cu cel care pronunță hotărârea.

Aplicarea acestui principiu are menirea să întărească echitatea procedurii și să susțină capacitatea judecătorilor de a cunoaște bine cauza.

*Principiul specializării judecătorilor se constituie ca o cerință în organizarea și gestionarea repartizării cauzelor conform căreia competența specializată a judecătorilor trebuie utilizată de instanță în soluționarea cauzelor. Tribunalele și curțile de apel sunt compuse doar din judecători specializați.*

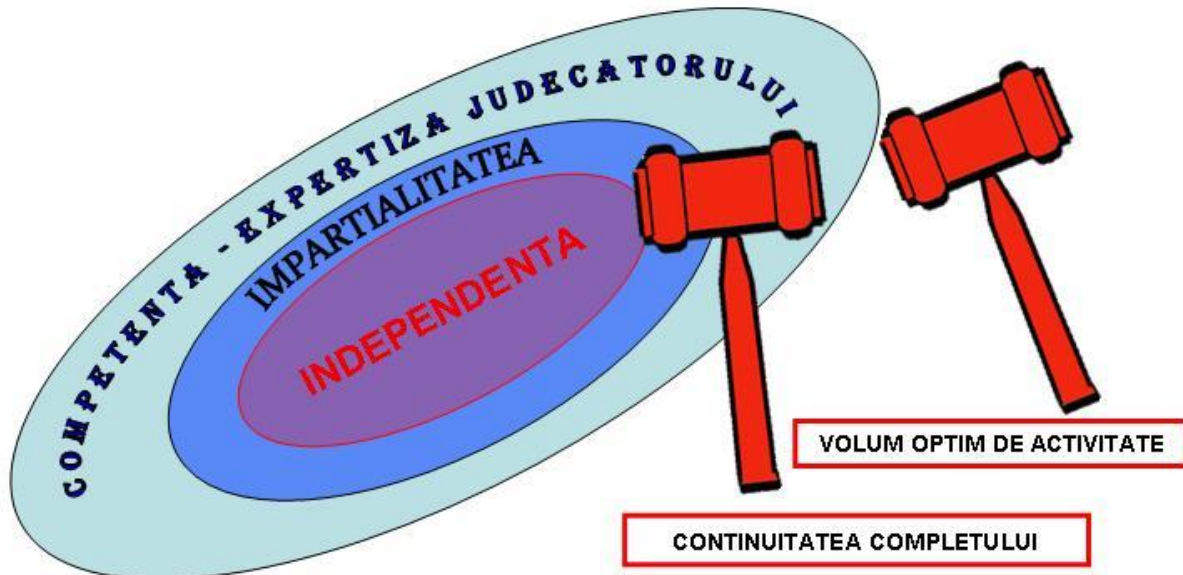
Aplicarea principiului specializării în mod congruent cu principiul pregătirii profesionale continue, continuitatea completurilor de judecată și principiul volumului optim de activitate, se constituie ca “plasă de siguranță” pentru obținerea și întărirea valorilor de imparțialitate și expertiză a judecătorilor.

*Ce se întâmplă însă când prin managementul instanței principiile intră în conflict și devin concurente?*

*Este acceptabil ca instanța să păstreze perioade îndelungate conflicte între principii?*

*În acest caz valorile pot supraviețui, și dacă da, în ce condiții?*

Realitatea zilelor noastre ne demonstrează că distanța între ceea ce ne propunem în general în instanțe – îmfăptuirea justiției - și ceea ce se vede din afara instanțelor este aceea între cum vrem noi să ne știm și cum ne folosim de ceea ce știm că e bine.



Va propun să luam sub lupă viața într-o instanță pe o perioadă de câteva luni.

## Context organizațional

1. În instanță exista trei secții. Secția X se confruntă de patru ani cu un deficit major de judecători. Se constată în ultimul an că exista un dezechilibru considerabil de 1 la 4 între volumul de muncă al secției Y și cele două secții Z, X. Judecători de la alte secții, în mod ocazional, în anul 2010 au fost repartizați pentru soluționarea cauzelor de la secția X. Prin această acțiune, conducerea a înțeles să ofere sprijin judecătorilor din cadrul secției X și în același timp să nu schimbe specializarea judecătorilor.

**Rezultat:** *S-a menținut un procent bun în raportul dintre dosarele soluționate și cele intrate. Costul principal al acestei decizii reprezintă pierderea reperelor pentru o jurisprudență relevantă în majoritatea cauzelor frecvente ale secției, creșterea indicelui de desființare a hotărârilor instanței cu 14% și incertitudinea de corectitudine a soluțiilor, fiind judecate și de judecători nespecializați. O parte dintre avocații implicați în aceste procese cereau amânări în speranța că la un nou termen de judecată completul va fi compus din judecători specializați, din cadrul secției.*

*Acest aspect a fost ignorat în cadrul controlului de audit realizat de Inspecția Judiciară a CSM.*

2. Conducerea a hotărât creșterea productivității instanței (a vitezei de lucru pentru fiecare dosar) prin creșterea numărului de dosare repartizate completurilor de la secțiile Z și X fără o consultare prealabilă a judecătorilor.

**Rezultat:** *Zece judecători au chemat în judecată conducerea instanței solicitând suspendarea măsurii. Aceasta a fost suspendată însă conducerea a refuzat să o pună în executare.*

*Acest aspect a fost ignorat în cadrul controlului de audit de către Inspecția Judiciară a CSM*

3. În același an, 2010, președintele instanței a propus pentru funcția de președinte a secției X un judecător de la secția Z, deși în cadrul secției X își desfășurau activitatea șase judecători și unul dintre aceștia și-a anunțat intenția de candidatură. Principala activitate a unui președinte de secție este să organizeze învățământul profesional și să urmărească unificarea practicii judiciare.

**Rezultat:** *Numirea unui judecător cu ignorarea competențelor principale pentru cerințele funcției de președinte de secție influențează negativ performanțele secției. Președintele de secție<sup>1</sup> este specialistul secției, trebuie să asigure managementul tehnic, este gestionarul sursei informaționale pentru toți judecătorii secției.*

*Această numire s-a făcut la propunerea conducerii instanței de către Secția pentru judecători a CSM.*

4. La trei luni de la numirea în funcție a președintelui de secție de la secția X, un judecător nou venit dintr-o altă specializare îi solicită acestuia întocmirea unui plan sau program de pregătire profesională pentru dobândirea noii specializări, dar este refuzat. Judecătorul nou sosit în specializarea secției era deja planificat în ședințe de judecată în același fel ca și ceilalți judecători mai vechi ai secției. Judecătorul anunță conducerea cu această nevoie de pregătire în domeniul practicii judiciare, iar președintele instanței, judecător al secției Y, deși avea altă specializare decât cea a secției X, îi oferă un program de pregătire, după trei luni de activitate în care doar descrie capitolele unui curs teoretic și câteva decizii ale CEDO și ale CJCE.

**Rezultat:** Judecătorul afirmă că în lipsa unei pregătiri adecvate, imparțialitatea și independența necesară soluționării cauzelor i-a fost îngădită.

## **Scurtă analiză asupra modului de abordare a valorilor în acțiunile conducerii din perspectiva managementului calității**

1. Fiecare decizie a managementului generează în mod natural unul sau mai multe rezultate, în raport cu impactul asupra activității judecătorilor. Managementul instanțelor se realizează, preponderent prin procese de influențare. Acest aspect a fost ignorat de conducerea instanței care a sperat să păstreze performanțele anterioare. Acest tip de abordare se bazează pe faptul că valorile procesului echitabil, chiar dacă sunt cunoscute și afirmate, nu se manifestă toate în mod vizibil iar scopul îndeplinirii justiției e ceva exprimat în termeni generali.

### 2. Separarea între scopurile administrației și cele ale judecătorilor din instanță.

Separarea s-a manifestat ca o partajare a responsabilității în ce privește gestiunea valorilor. Conducerea se asumă doar pentru durata procedurilor ceea ce face ca ea să fie preocupată de principiul celerității, iar judecătorii au responsabilitatea pentru valorile care se subsumează calității substanțiale a deciziilor – independență, imparțialitate, expertiză profesională. Acestea sunt susținute de principiile specializării, pregătirii profesionale continue, continuitatea completului și a volumului optim de activitate.

Deși funcțiile de conducere din instanță au atribuții pentru gestiunea unor principii care susțin valorile de expertiză și imparțialitate ale judecătorilor, cum este de exemplu formarea profesională și aplicarea principiului specializării, din punct de vedere organizatoric acestea sunt tratate ca fiind copii vitregi ai instanței.

Acest comportament al managementului este favorizat de faptul că funcțiile de conducere ale unei instanțe nu au responsabilitatea obținerii unui rezultat în susținerea și întărirea valorilor asupra cărora cele două principii au rază de acțiune.

Cel responsabil pentru obținerea rezultatului de calitate substanțială a deciziilor ar trebui înzestrat și cu autonomia gestionării resurselor necesare obținerii și întreținerii calității. Acest lucru presupune o autonomie în organizarea proceselor la nivelul celui care poartă sarcina unui rezultat și nu la nivelul conducerii, care nu este legată de obținerea unui rezultat de calitate și care poate rezolva conflictul între valori într-un mod arbitrar, prin actul de conducere, anulând efectele unui principiu în favoarea altuia.

Conducerile care mențin în conflict principiile (ex. folosește judecători nespecializați în anumite complete pentru a favoriza creșterea celerității) alienează acțiunile judecătorilor de la scopul îndeplinirii justiției prin ignorarea cerinței de competență profesională vulnerabilizând imparțialitatea și independența tuturor judecătorilor implicați în executarea deciziei administrative.

Pe aceeași matrice de gândire, persoana care exercită funcția de conducere se consideră competentă să întocmească planuri profesionale în domenii pe care nu le cunoaște. În acest caz există o confuzie de rol<sup>ii</sup> în ceea ce privește exercitarea atribuțiilor manageriale. Managementul calității sancționează ca neconformitate de principiu acțiunea unei persoane **necompetente** pentru o anumită

sarcină pentru că realizează acea sarcină **în locul** persoanei competente, conform cerințelor funcției. Neajunsul unei asemenea practici este păgubos pentru că anulează o activitate necesară și competentă, adică întocmirea unui plan de pregătire axat pe detalii tehnice (jurisprudența secției și a instanței de control judiciar).

Conducerile care presează judecătorii să scurteze timpul pe fiecare caz în parte au ca scop protejarea valorii dată în grijă și anume termenul rezonabil, fiind cu adevărat atente doar la viteza de lucru a judecătorilor. Cauza temporizării procedurilor este *neadecvarea resurselor la nevoile sistemului și a instanței*, dar acest tip de conducere, ignorând acest element, inițiază o decizie care se adresează unei problematici pe termen scurt. Lipsa integrării în decizie a obiectivelor finale ale unei instanțe viciază independența propriilor judecători. Această ipoteză de lucru este descrisă în managementul calității ca o neconformitate de sistem în sensul în care se obține o suprapunere de responsabilitate între conducerea instanței și Guvern (cel responsabil de alocarea resurselor). Conducerea instanței, centrată pe *efecte* ignorând *cauzele* forțează personalul către un rezultat imprecis și neasumat.

Înțelegând prin această analiză că în realitate e mult mai ușor să aperi independența judecătorului față de un act extern, care este mai vizibil, decât de un management operațional al instanței dar care, în mod insidios, poate să vulnerabilizeze cu efect pe termen lung independența și imparțialitatea colectivului de judecători, datorită lipsei unui exercițiu reflexiv în actul de conducere.

3. Sistemul de evaluare în sistemul judiciar nu se raportează la rezultate standardizate și nici nu implică măsurarea satisfacției beneficiarilor. Au fost descrise cerințele minimale pentru activitatea judecătorilor însă până în prezent nu s-au putut descrie cele 4 sau 5 scale de apreciere care să facă diferența dintre nivelurile de performanță. Aprecierea performanțelor conducerii nu este legată de performanțele judecătorilor și deci a instanței. Această abordare se așează în contradicție cu două dintre cerințele de principiu ale managementului calității și anume orientarea către utilizator - persoane interesate și obligația liderului de a stabili unitatea dintre scopul și orientarea organizației, sens în care este obligat să întrețină mediul intern pentru ca personalul să poată deveni pe deplin implicat în realizarea obiectivelor organizației.

### **Scurtă analiză asupra modului de abordare a valorilor în acțiunile conducerii din perspectiva teoriei Rossouw - Van Vuuren<sup>iii</sup> cu privire la stadiile integrității în organizație**

Un interesant punct de vedere evoluționist ne prezintă cei doi autori care pleacă de la constatarea făcută de mai mulți experți și anume că organizațiile cunosc un proces de evoluție în sensul sporirii sofisticării lor în ceea ce privește managementul performanței etice. Autorii identifică cinci stadii ale acestui proces, cinci stadii ale managementului etic, fiecare reprezentând strategia preferată a unei organizații de a gândi managementul vieții sale etice, începând cu situația în care se ignoră total această dimensiune și mergând până la aceea în care ea este integrată total în ansamblul activităților organizației.

Urmărind descrierile celor doi autori pentru cele 5 niveluri ale integrității organizației (stadiul imoral, stadiul reactiv, stadiul de conformitate, stadiul integrității și stadiul alinierii totale) am așezat comportamentele și acțiunile din studiul de caz în stadiul care oferă un cadru de referință pentru nivelul de integritate al managementului pe următoarele patru direcții:



**Natura stadiului organizației:**

- pentru această dimensiune, descrierea se potrivește *stadiului reactiv* prin cele două caracterizări și anume:
- există gesturi formale de sensibilitate față de etică (se adoptă coduri etice).
- comportamentul neetic este nepedepsit și adesea acoperit.

**Scopul principal al managementului:**

- descrierea pentru acest criteriu se potrivește *stadiului amoral*
- etica nu are nici un loc în activitățile organizației
- comportamentul neetic este înțeles în organizație ca o alegere bună

**Strategii de management etic:**

- descrierea pentru acest stadiu se potrivește *stadiului amoral*
- o orientare machiavelică negând nevoia deciziilor etice
- nicio preocupare pentru beneficiarii interni și externi
- nicio strategie de management etic

**Provocări și riscuri viitoare:**

- descrierea pentru acest stadiu se potrivește *stadiului amoral*
  - consecințele practice ale imoralității devin de nesuportat (în studiul de caz: externalizarea conflictelor dintre membrii organizației prin inițierea unui conflict colectiv în instanță în legătura cu decizia de management)
  - discrepanța tot mai mare dintre valorile personale și cele folosite de organizație (înțelegere diferită a nevoilor profesionale ale membrilor organizației, o abordare diferită a valorilor procesului echitabil)
  - beneficiarii interni și externi au un sentiment de alienare

Această instanță descrisă în studiul de caz poate că nu este una izolată în sistemul de justiție din România. Este pentru prima dată când ne raportăm la un standard general recunoscut pentru organizații în domeniul managementului etic, iar stadiul de evoluție la care se situează, între amoral și reactiv, ne surprinde.

Este probabil ca instanțele românești să se așeze pe stadii diferite de management etic, cu viziuni de asemenea diferite asupra cadrului de înfăptuire a justiției ca scop final și rațiune de existență a unei instanțe, dar acest lucru îl putem afirma doar după o analiză în concret a tipurilor de comportament în actul de conducere.

## Cum putem privi mai departe oportunitățile de dezvoltare?

Între principii și setul de valori există o raportare ca de la “hartă” la “teritoriu”. Harta este reprezentarea valorilor iar principiile sunt teritoriile de acțiune a valorilor.

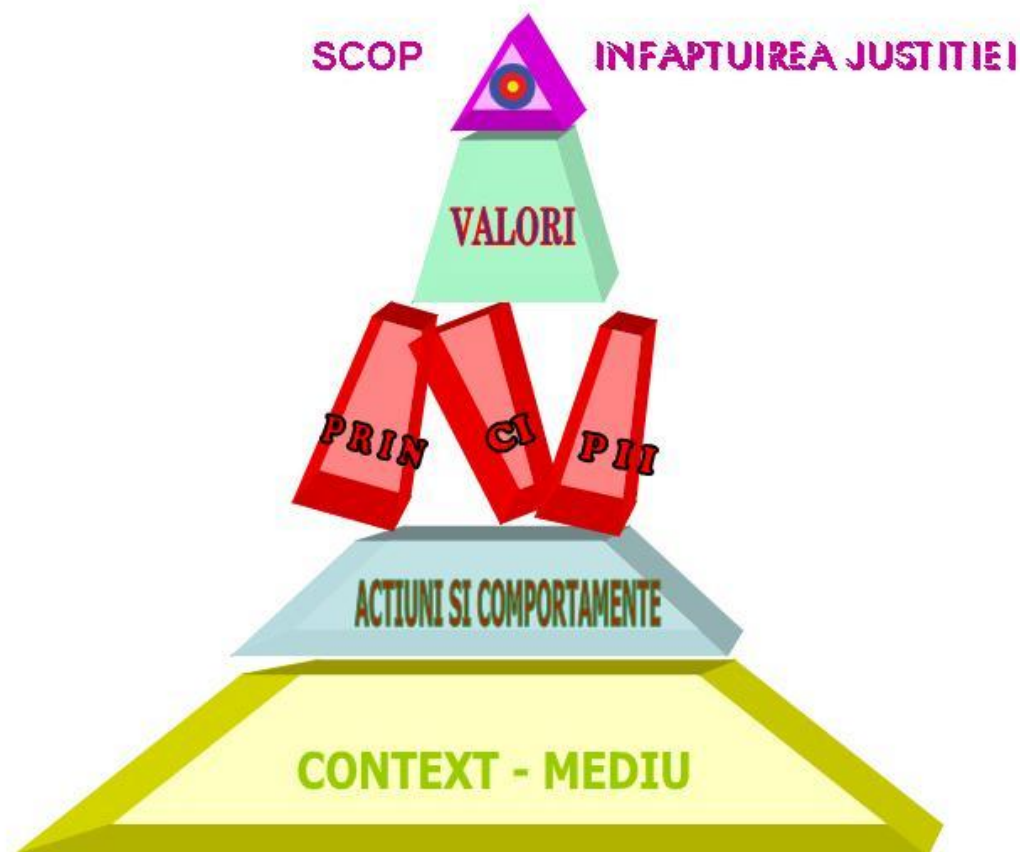


Fig. 4.

Criza economică, care a adus cu ea o scădere a resurselor umane și logistice în instanțele mari, raportat la numărul dosarelor de soluționat, a făcut ca în unele cazuri managementul să renunțe, în mod vizibil, să inițieze raportări la nivelurile superioare atunci când își organizează sarcinile. Când conducerile spun “*avem mai multe dosare, pe care totuși, trebuie să le soluționăm la fel de repede*”, **planifică sarcini** urmărind doar un efect pe termen scurt. Acest comportament este favorizat și de faptul că e foarte ușor de exprimat în cifre cantitatea de dosare și lungimea unei proceduri în raport cu măsurătorile calitative care sunt mai anevoioase și pe care managementul de vârf al sistemului le amână de mulți ani.

“Avem mai multe dosare pe care totuși, trebuie să le soluționăm la fel de repede”



Schemă de gândire centrată pe situații de rezolvat

Fig. 5

Instanțele care reușesc să conecteze **principiile** între ele privindu-le ca *teritorii de organizare a acțiunilor* și se asigură că acestea sunt o reprezentare fidelă a hărții **valorilor** justiției pentru acțiunile judecătorilor primesc garanția de calitate a comunicării în interiorul instanței și a instanței cu exteriorul, sporind considerabil șansele atingerii scopului de îndeplinire a justiției.

Fidelizarea principiilor la valorile afirmate, acțiune înțeleasă ca o transbordare în planul realității a setului **compact** de valori, are nevoie pentru realizarea fiecărei sarcini de o **raportare a managementului** instanței la mai multe niveluri, în mod concomitent – scop: îndeplinirea justiției; context: ce avem în prezent; strategie: cum atingem scopul.

Această raportare favorizează **gândirea în termeni de rezultat** care, la rândul ei, generează în mod natural o **alinare** a tuturor acțiunilor și comportamentelor profesionale la **scopul** îndeplinirii justiției, valoare finală a fiecărei instanțe.

## Decizii luate prin raportare la mai multe niveluri



Schema de gândire în termeni de rezultat

Fig. 6

O astfel de abordare are nevoie de o schimbare a axei în pregătirea continuă a judecătorilor. Pregătirea în domeniul eticii și a managementului s-a realizat până acum pe orizontală, pentru că am vorbit fie la modul general, fie am vorbit despre alții. Acest dialog a favorizat în acest domeniu centrarea judecătorilor pe comportamente de evitare. Abordarea nouă, pe verticală în pregătirea în domeniul eticii, înseamnă să vorbim despre noi, despre potențialul și resursele proprii, despre cum ne putem pune în valoare și cum fiecare judecător își caută drumul către excelență în profesie.

<sup>i</sup> Elemente de management judiciar fila 107-108” rolul președinților de secție impune acestora sa fie buni profesioniști, sa cunoască toate aspectele tehnice ale secției, cu particularitățile și specificul acesteia. Dominantă în activitatea lor este pregătirea profesională a colectivului, activitatea de verificare a practicii judiciare la nivelul secției așa încât, caracterizând plastic un președinte de secție, se poate spune că este managerul de zona-tehnic.

<sup>ii</sup>. În managementul susținut de referențialul SR EN ISO 9001:2008 aceasta situație reprezintă o suprapunere de responsabilitate și este tratată ca o neconformitate de sistem. Neconformitatea se corectează prin declanșarea de acțiuni corective și preventive care sa înlătore posibilitatea repetării neconformităților.

Referențialul SR EN ISO 9001:2008 stipulează ca asigurarea calității corespunzătoare a actului de justiție este “parte a managementului calității”, acea parte care este concentrata pe furnizarea încrederii ca cerințele referitoare la calitatea actului de justiție vor fi îndeplinite”.

<sup>iii</sup> Business ethics-2004, ed. a 3-a