

Innovation and Effectiveness of Ethics Policies in Europe

*Challenges and Developments in Central
Public Administrations and the EU*

by

Christoph Demmke

Innovation and Effectiveness of Ethics Policies in Europe: Challenges and Developments in Central Public Administrations and the EU

by Christoph Demmke

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*“Out of the crooked timber of humanity, no straight thing was
ever made.”*

(Immanuel Kant, Idee zu einer allgemeinen Geschichte in
weltbuergerlicher Absicht“ (1784))

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List of Abbreviations

ACA - Anti-Corruption Agencies

AFA – Agence française anticorruption

AI – Artificial Intelligence

ANI - National Integrity Agency (Romania)

CPA – Central Public Administration

CoI – Conflicts of Interest

CoSP - UNCAC Conference of States Parties

CPI - Corruption Perception Index

DG's- Directors-General

DGAFF - Direction générale de l'administration et de la fonction publique

DoI – Declarations/Disclosure of Interest

ECA - European Court of Auditors

EFSA – European Food and Safety Agency

EU – European Union

EUPAN - European Public Administration Network

GRECO – Group of States against Corruption

HATVP - Haute Autorité pour la transparence de la vie publique

HPO's - Holders of Public Office

HRM – Human Resource Management

IACA – International Anti-Corruption Academy

KNAB - Latvian Corruption Prevention and Combating Bureau

MS - Member States

NEIWA - Network of European Integrity and Whistleblowing Authorities

OCB - Organizational citizenship behavior

OECD - Organisation for Economic Cooperation and Development

OGE - Office of Government Ethics, United States

SiPO - Standards in Public Office Commission

TFEU – Treaty of the Functioning of the European Union

UNCAC - United Nations Convention against Corruption

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After so many years of research, I still do not know whether virtuous behavior exists, in reality. I even regard talks about virtues with concern. However, it makes sense to be good to others. And to be kind to yourself.

(I dedicate this book to my boys, Tom and Tammo)

A. Introduction

Today, almost everything people do seems to matter. Many people try to be as ethical as possible. Also, political and administrative ethics are as detailed and complex as ever before. Overall, increasing societal complexity seems to correlate with increasing ethical complexity.

However, if people focus on individual ethical responsibilities, this can also be seen as a deflection from political and systemic responsibilities. On the other hand, if people focus too much on systemic responsibilities, they also free themselves from individual responsibilities.

In both ways, the feeling is growing that nothing seems to matter. Most great (ethical) problems of the past also seem to be today's problems. And new ethical challenges arise.

Thus, are public ethics (in)-effective?

Following this question, one could also ask the following: Why are we spending so much time on complicated public service ethics when the great ethical problems are not solved, and when there are so many other (more) important problems that need our attention? Why are we spending our time trying to catch individual officials (who accept some small side-activities, or gifts, do not fully declare their financial interests, do not notify revolving door challenges, or do not treat their colleagues respectful) when we should be dealing with climate change, migration, the conflicts in the Middle East, war, economic crises, trade conflicts, or growing inequality?

"There is an important truth in these complaints: not only are these serious problems, but they are, in a sense, more serious than any problem of government ethics. Would you rather have a morally corrupt government that solved all these problems, or a morally pure government that failed to solve any of them? If that were the choice, I

suspect that most of us would sacrifice moral purity. Ethics is not a primary goal of government in the way that (say) national defense, economic prosperity, or public welfare are?" (Dennis Thompson, 1991).

So, are ethics policies not important, although ethical considerations are as widespread as never before? The question seems almost inopportune!

Yet, upon reflection, it becomes far from obvious that ethics policies are valuable, and if it is, what precisely makes them valuable and effective?

As we will see in this study, in both ways, taking ethics policies not seriously or too seriously comes with a price tag attached.

Countries may survive without a political Government, at least for some time. However, they cannot survive without public administration. And, they can not survive without ethics and ethics policies. Without a competent, capable, professional, ethical, and impartial public administration, nothing in society really works. Also, seeing the state and public administration only as a cost factor, as ineffective, inefficient, not successful, and not responsive, is counterproductive. Modern societies depend on (public) institutions, such as hospitals, schools, universities, courts, local administrations, inspectorates, the police, military administrations, and ministries. As such, institutions provide stability, predictability, social cohesion, and security. Moreover, a high-capacity, professional, ethical, merit-based, and impartial public administration is critical to the performance and success of any society.

As we will see later on, many country respondents to this study agreed that countries do not take ethics policies as seriously as they

should, and possibly, as compared to other policies. This answer is rather puzzling because no country respondent has also questioned the importance of ethics policies. What, then to conclude about the importance and effectiveness of ethics policies? Are they subordinate to other public policies? Or, they are a precondition for effective public policies at all!

These are truly contradictory and paradoxical approaches to ethics policies. This study attempts to analyze these contradictions and sheds more light on the managerial world of ethics policies.

During the last two decades, thinking about government performance has expanded. Recent decades have also seen a “rediscovery” of discussions about the quality of good governance to understand government performance.

In particular, since the pioneering work by Evans and Rauch (1999), characteristics like meritocracy and impartiality have empirically been found to be associated with favorable macro-level outcomes, including socio-economic development, corruption prevention, regulatory quality, entrepreneurship, scientific productivity, innovation, environmental outcomes, and government effectiveness. Looking at this literature, it is striking that, currently, in many countries, politicization, state capture (OECD, 2017; Dávid-Barrett, 2023; Kaufmann, 2023), and state failure (Hanson & Kopstein, 2024) are re-emerging as popular discourses.

A distinct approach to the quality of government was reflected in research by Dahlström and Lapuente (2017). They identified a key mechanism that drives good governance: Impartiality! Overall, Impartiality and professionalism are consistently related to positive performance outcomes, higher public trust and confidence, and lower

levels of corruption. Contrary to this, too strong politicization is negatively related to government performance, employee work attitudes (i.e., job satisfaction, organizational commitment), and impartial administration, and positively related to corruption (Oliveira, Abner, Lee Kohei, Hyunkang Hur & Perry, 2023). In *“The Oxford Handbook of Quality of Government”*, the authors discuss other positive outcomes of good governance policies such as higher trust levels, lower inequality, and economic growth. In the meantime, the Quality of Governance Institute at the University of Gothenburg¹ has developed a European Quality of Government Index, which also analyses the situation on the regional level. The most important conclusion is the following: “An important trait of well-functioning states are good institutions” (Ahlerup, Baskaran, Bigsten, 2021). Similar findings have been confirmed by Mungiu-Pippidi (2020).

When looking at this strand of research in the field of Good Governance, we realize that a lot of research exists about the link between the quality of good governance and government performance. However, almost no research exists about the quality of ethics policies and ethics management and governance performance.

Moreover, there is very little attention to the fact that administrative ethics and political ethics are falling apart. As we will argue, trends within the field of administrative ethics are towards ever more complexity and strictness (“full integrity”). Contrary to this, current trends within the field of political ethics are towards moral relativism and moral decline. Both fields are interrelated, although political ethics influence administrative ethics (and administrative law) more than vice versa.

¹ Data Downloads | University of Gothenburg

This study will address this “black box”.

However, before we engage in this debate, we wish to highlight that we do not define ethics policies as good governance policies, only because they are supposed to be ethical. For example, we will also claim that it is possible to take ethics policies too seriously. If people and administrations make every issue a question of ethical consideration (or even of conscience), people and administrations will quickly become unable to act.

This is not a trivial observation.

According to Luhmann (2008, 156), every increase of societal complexity correlates with an increase of moral complexity and moral differentiation. The latter means that more and more of our actions are becoming ethically relevant: flying, the ride in the car to the next supermarket, the purchase of an imported fruit, the buying of clothing that supports inhumane working conditions, the telephone call in a full train, an intimate comment, an action without consent.... Today, as it seems, more and more actions and processes are subject to ethical scrutiny.

These developments can also be observed in the field of administrative law, public administration and public Human Resource Management: Today, almost all HR policies (starting from recruitment- to dismissal decisions, mobility policies, leadership communication, forms of feedback, decisions about the allocation of bonuses, homework, the management of anti-discrimination and diversity issues, etc.) are subject to ethical scrutiny.

Actions that were morally irrelevant or neutral in the past now raise complex ethical questions. It is therefore important to clarify which form of ethics is justified, given today's constantly increasing (ethical)

complexity. These discussions require a careful acknowledgment that societal change goes hand in hand with extreme refinement and change of ethical standards.

On the other hand, over-normativization and under-normativization also seem to run parallel. Extremely high ethical standards exist (mostly in the administrative sphere) alongside extremely low standards (in the political sphere).

Moreover, ethical paternalism and detailed moral policies co-exist with the privatization of public value.

Paternalism refers to acting for the common good, even against the will or without the consent by individuals (most commonly by public policies). Like this, paternalism can be (highly) restrictive to the liberty and autonomy of individuals. Therefore, radical liberals like Nozick argued that rational agents should be free to act in any way they choose, as long as their actions do not harm others, even if their actions do harm themselves.

However, most observers would still want to discuss what constitutes (individual, societal, or global) harm and how far-reaching public policies should be.

Utilitarians may also argue that if acting paternally, this may bring about the greatest overall utility (or happiness). Deontologists, in return, have argued that interference to prevent physical or psychological harm is justified, also to serve the public good.

Today, it is obvious that the definition of (the delivery of) state tasks, state paternalism, moral policies, ethics policies, and the definition of public value influence each other and interact. As we will see in this study, trends towards the privatisation of governance produce new

ethical challenges, a sort of market failure. However, this is not to suggest that a strong state will solve ethical problems. Rather, trends towards a revival of “Leviathan” will also lead to new ethical state failures.

Today, in public policy analysis, Nozick’s claims in *Anarchy, State and Utopia* (1974) that the only legitimate function of the state is to ensure the free working of the market by enforcing contracts and protecting citizens from violence, theft and fraud is as popular, as Sandel’s warnings (Sandel, 2012) against a total monetization of public values.

Indeed, it is increasingly difficult to understand the relationship between moral policies (state policies as regards life and death, sexual behavior, addiction (such as gambling and drugs), and religious values) (Knill, 2013), public ethics policies, and public value policies. Whereas countries remain active in moral policies, parallel trends are towards the monetization of public value. However, there are also limits to these trends. In the case C-181/23 as of 29 April 2025 (Commission v Malta), the ECJ stated that the “bond of nationality with a Member State is based on a specific relationship of solidarity, good faith and the reciprocity of rights and duties between the State and its citizens. Where a Member State grants nationality, and thus automatically Union citizenship, in direct exchange for predetermined investments or payments through a transactional procedure, it manifestly infringes those principles. Such ‘commercialisation’ of citizenship is incompatible with the basic concept of Union citizenship as defined by the Treaties”.

Today, strict moral policies co-exist with the commercialisation of public values and, also, public service ethics policies in which public officials are subject to specific and extremely detailed personal

scrutiny when disclosing (non-financial) private interests (in some countries and in some public organizations).

The situation becomes even more sensitive (or, contradictory?) when we discuss the relationship between moral and (public) organizations. What (ethical) role should be given to organizations?

Next, whereas in most public policies, it is opportune to question which public or private (or hybrid) actor is best suited to carry out public tasks, it would be strange to ask which actor should be best suited to carry out public ethics policies. Of course, it is legitimate to question whether it is the role of the state to oblige citizens to wear a seat belt when driving a car, to wear a helmet when riding a motorcycle, or to ban the possession of hard drugs, introduce government campaigns against smoking, for healthy eating or vaccinations, etc.

However, in ethics policies, the question is also one of the importance of public values. Here, difficult questions concern the legitimacy of selling citizenship, the selling of votes, the trading of migrants for money, or the fighting of wars by private armed forces. Should the management of anti-corruption policies or anti-harassment policies be outsourced or privatized?

Overall, ethics policies pose sensitive ethical questions to decision-makers: Where and how should the state intervene in questions of individual ethical behavior and conduct? Or should individual morals and behavior be a matter of (private) personal discretion? As it seems, the decisive issue is to distinguish between state moralism (and moral politics) and ethical paternalism. Whereas the first is the outcomes of political deliberations, the second is of crucial importance because it concerns European-wide accepted values and principles.

We are aware that, in times of multiple crises, reflecting upon these complicated ethical issues appears like a luxury.

As somebody working in the field of public administration and ethics, I am constantly asked to provide clarity, to determine what is right and what is wrong, good or bad, what is effective and what is ineffective. However, in my opinion, this world does not need more dichotomous viewpoints, black-and-white thinking, intolerance, hardening fronts, disagreements, or quick opinions. Instead, we need conflicting opinions, but also tolerance for different opinions, and debate. However, we also need to be firm on some issues like the rule of law, the principle of meritocracy, and impartiality.

With this monograph, my intention is not to produce more polarization. Instead, it may be wiser to ask all sides to endure ambiguity and ambivalence. Behavior is rarely simply good or bad. Overall, political and administrative context, circumstances and situations, change, and innovation have more to do with how people behave than traditional images of character and virtue allow (Doris, 2002, xi). In this context, discussing the effectiveness of ethics management is no easy undertaking. It requires as much courage to criticize ethics policies in times of innovation as it does to defend them. It also requires a basic understanding of grand societal and managerial developments but also of moral psychology, moral motivation, and moral reasoning.

As we will see throughout the research process, a surprisingly high number of Member States, the EU Institutions, and observer and candidate countries have participated in this survey. In most countries, the national Prime Ministers' Offices, Ministries of Interior, Ministries of Public Administration, or national state agencies were our main contact partners. However, in almost all cases, competencies

and responsibilities for answering to the various issues (corruption, conflicts of interest, discrimination, bullying, artificial intelligence) were highly dispersed, decentralized, or delegated. This made it extremely difficult and time-consuming for the national countries to gather information, data, and to reply to this survey. From a national point of view, it turned out that answering our survey also meant a huge amount of workload and coordination efforts. Moreover, in many instances, countries lacked data in order to respond sufficiently to many questions. Typically for other countries, Poland answered to this survey as follows: *“In answering the survey questions, we focus primarily on issues related to the government administration/civil service. By answering, we also present the opinion and the subjective assessment of the author of the Polish reply to the survey, supported by consultations with civil service leaders, institutions competent in preventing conflicts of interest and combating corruption, or those specializing in research and digital innovation in Poland.*

As the author of this study, I learned that ethics management is not only complex. It is as concrete as it is fascinating and important. And, hopefully, also interesting!

Christoph Demmke, Vaasa, June 2025

B. Theoretical Part

1. Change and innovation of ethics policies

1.1 Ethics management over time

In all EU countries, ethics policies derive from (often, constitutionally and legally binding) values and principles. These values and principles are broken down in concrete (civil service) laws, regulations, administrative circulars, and in policies and instruments, like anti-discrimination policies or revolving door policies.

The EU Treaty lists twelve principles, six of which are referred to as values in Article 2, first sentence, TEU. These values concern the respect for human dignity, freedom, democracy, equality, the rule of law, and respect for human rights, including the rights of persons belonging to minorities.

These values are common to the Member States in a society where pluralism, non-discrimination, tolerance, justice, solidarity, and equality between women and men prevail.

The principle of the rule of law recognizes the values enshrined in Article 2 TEU: legal certainty, the prohibition of arbitrary interpretation of sovereign powers, effective legal protection by impartial courts, separation of powers, and equality before the law. Although Article 2, first sentence, refers to values, these values must be accorded the character of law. On the other hand, the question of legal nature, meaning, justiciability, and scope of application continues, particularly about Article 2, sentence 2 of the TEU.

To many people, Art. 2 TEU looks like a legal and rather abstract issue.

The great “practical” importance of Art 2 TEU could be witnessed, for example, in Advocate General’s Opinion in Case C-769/22 in 2025. In

this opinion, the Advocate General argued that “Disrespect and marginalisation of a group in a society are the ‘red lines’ imposed by the values of equality, human dignity and respect for human rights. Therefore, (...), by calling into question the equality of LGBTI persons, Hungary is not demonstrating a disagreement or a divergence about the content of the values of the European Union. Instead, that Member State has negated several of those fundamental values and, thus, has significantly deviated from the model of a constitutional democracy, reflected in Article 2 TEU. The “practical” importance of Art. 2 TEU could be seen in the Advocate General’s Opinion in Case C-769/22. In this opinion, the Advocate General argued that “Disrespect and marginalisation of a group in a society are the ‘red lines’ imposed by the values of equality, human dignity and respect for human rights. Therefore, (...), by calling into question the equality of LGBTI persons, Hungary is not demonstrating a disagreement or a divergence about the content of the values of the European Union. Instead, that Member State has negated several of those fundamental values and, thus, has significantly deviated from the model of a constitutional democracy, reflected in Article 2 TEU” (ECJ, Luxembourg as of 5 June 2025).

Of course, judgments by the ECJ are legally binding. On the other hand, claiming that ethics laws, values, principles, and policies are important has also become a routine habit. Politicians and administrators worldwide defend ethics policies as cornerstones of democratic societies and public administrations, which should be based on the rule of law. Current trends are (indeed) towards the *“ethicalization of policies”* (Frischhut, 2019, 1) and the adoption of ever more ethics rules and stricter standards, mostly after scandals took place. Also, in European Union (EU) secondary law, one can find more and more references in different legal documents to non-legal concepts such as ethics and morality. “The term of ethicalization can