



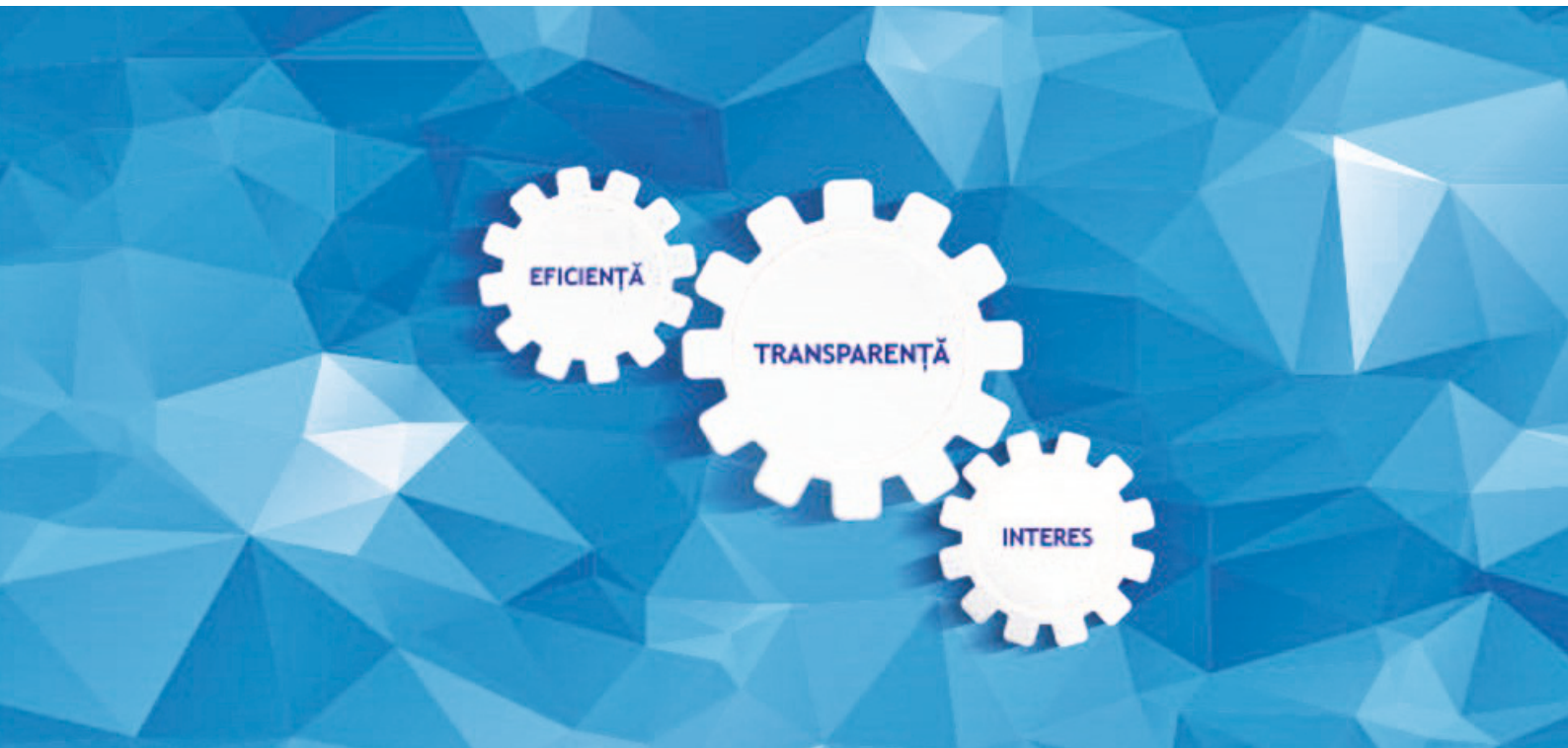
UNIUNEA EUROPEANĂ



Programul Operațional Capacitate Administrativă
Competența face diferența!



Instrumente Structurale
2014-2020



Summary report on the main benchmarks used in inventorying the development needs and the organization and delivery of extended procedures of decision-making transparency and public consultation



AGENȚIA NAȚIONALĂ A FUNCȚIONARILOR PUBLICI





Contents

Introduction	2
Background	2
Purpose.....	2
Methodology	4
1. Benchmarks used in the organization and performing of extended decision-making procedures and public consultation	5
1.1. <i>The main benchmarks used in inventorying the development needs</i>	5
1.2. <i>Organizing and road mapping decision-making transparency and public consultation procedures</i>	8
2. Results of public consultation events	12
2.1. <i>Evaluation of the opinions participants presented on the legal regulations in force and the application norms</i>	12
2.2. <i>Proposals and recommendations</i>	15
2.3. <i>Opportunities arising from the public consultations</i>	23
3. Conclusions	25





Introduction

Background

The public consultation process took place from December 12, 2019 to March 11, 2020, as activity of the project „*ETHICS - Efficiency, Transparency and Interest in Administrative Conduct*”, code SIPOCA 63, SMIS code 119741, implemented by the National Agency of Civil Servants, organized under the framework of the entry into force of the Government Emergency Ordinance no. 57/2019 regarding the Administrative Code, which by art. 597 para. (2) letter k) repealing Law no. 7/2004 republished, on the Code of Conduct for civil servants and regulates, according to Art. 451 to Art. 457, a series of norms on the ethical counseling of civil servants, but also norms regarding assurance, information and reporting on rules of conduct.

Meanwhile, the Government Emergency Ordinance no. 57/2019 on the Administrative Code provides in Art. 625 para. (1) letter c) that within 6 months from the date of its entry into force, at the proposal of the line ministry responsible for public administration and of the National Agency of Civil Servants, the Government Decision on the appointment procedure, duties, activity organization method and assessment procedure of individual professional performance of the ethics adviser, as well as the reporting manner by institutions and authorities in order to ensure the implementation, monitoring and control of compliance with the principles and norms regarding the conduct of civil servants should be approved.

Purpose

The purpose for conducting the public consultation events was to discuss with stakeholders the main regulations provided by the Government Emergency Ordinance no. 57/2019 on the Administrative Code with subsequent amendments and completions in the case of the ethics adviser, with direct reference to Section 3:



AGENȚIA NAȚIONALĂ A FUNCȚIONARILOR PUBLICI





Ethical counseling of civil servants and information and reporting on the rules of conduct, more precisely Art. 451 obligations of authorities and public institutions regarding the provision of ethical counseling for civil servants and information and reporting on rules of conduct; Art. 452: The ethics adviser; Art. 453: Incompatibilities with the quality of ethics adviser; Art. 454: The duties of the ethics adviser; Art. 455: Assessment of the ethics adviser activity; Art. 456: Cessation of the quality of ethics adviser; Art. 457: Informing the public about the observance of the obligations and norms of conduct.

The results obtained from the collection of opinions of participants is aimed at contributing to improve aspects of the future general framework for defining, application facilitating and compliance monitoring of the norms of conduct in public entities, to be integrated in the decision-making processes to improve the form and content of the application norms related to the legal regulations presented above.

The public consultation was organized in the form of 14 events, face-to-face debates, held in all development regions in the country, each event extended over two days and on the first day addressed people working in the authorities and institutions, while on the second day, they focused on the general public.

The debates objectives were to provide participants with a high degree of understanding of the topics addressed, to allow unrestricted expression of observations and proposals, with the aim of obtaining useful, concrete and relevant proposals on the quality of legal rules for ethical counseling, as well as on the process of implementation and application of these regulations within public authorities and institutions at the community level.





Methodology

This report is structured in two chapters summarizing:

- Chapter 1 - the main benchmarks for the organization and completion of the decision-making transparency procedures and public consultation, as well as the main benchmarks used in the inventory of development needs;
- Chapter 2 - summarizes the results obtained in the public consultation events and is based on the participants opinion regarding the legal rules in force in ethical counseling, as well as on the participants observations and proposals on the rules of application of regulations, aspects which help highlight opportunities offered by the results obtained during the public consultations for the elaboration of the application norms of the legal regulations concerning the ethics adviser.
- The last part of the report is dealing with conclusions.

The summary report approach was conducted by consulting the relevant benchmarks used in inventorying the development and organization needs and completion of extensive decision-making procedures and public consultation, carried out within the project **ETHICS**, according to the information arising from:

- the ***Analysis on the development needs in defining and facilitating the application of conduct norms, and compliance monitoring***, compliance monitoring therewith, information used to correlate the results of the evaluations on the legal framework governing ethical counseling and the recommendations proposed in the analysis with the opinions the participants in public consultations on current legal provisions and on the application norms currently in draft.
- organization of decision-making transparency procedures and public consultation for deciding on developments of the general framework for defining, application facilitating and compliance monitoring of the rules of conduct, information that established and presented the main steps used to organize the public consultation events;



AGENȚIA NAȚIONALĂ A FUNCȚIONARILOR PUBLICI





- the final report on the organization and performing of decision-making transparency and public consultation, from which we extracted the opinions of civil servants working in public authorities and institutions, but also of the general public on the new legal provisions in the field of ethical advice, as well as their observations and proposals on the rules for the application of these provisions.

1. Benchmarks used in the organization and performing of extended decision-making procedures and public consultation

1.1. The main benchmarks used in inventorying the development needs

In the process of organizing and conducting the public consultation type events, obtaining the relevant outcomes to be summarized in order to present their usefulness in the development of future application norms in the field of ethical advice also depended on the results and recommendations presented in the *Analysis on the development needs in defining and facilitating the application of conduct norms, and compliance monitoring*, developed within the project ETHICS.

Outlining the legal background setting forth the legal framework regulating ethical conduct in public authorities and institutions in previous years, the analysis assesses the efficiency and effectiveness triggered by legislative additions and changes, by reflecting the ethical climate at the level of public authorities and institutions in Romania and proposes at the same time a set of recommendations aimed at future legislative developments, both in terms of increasing the quality of conduct and improvement of their application, as well as the development of an efficient and useful monitoring system.

Regarding the efficiency of the legislative framework adopted during the reference period, the analysis concludes that it has been given priority to ethical issues in the fight against corruption, it aimed at developing the civil service by establishing a





training structure to increase the quality of work in public administration and the performance of public services in relation to the beneficiaries of the public system, but from a direct ethical perspective, it was limited generally and strategically only to measures and actions to increase the applicability of the code of conduct by improving the level of reflection on institutional conduct circumscribed to the ethical zone.

In this regard, the analysis also refers to the output indicators of the National Anticorruption Strategy 2016-2020 and argues that the regulations effectiveness at the time of evaluation was moderate because the measures for legal rules targeting the ethics adviser were partially adopted. This fact affected both the consolidation of the statute and its mandate, as well as the provision of the resources required to carry out the activity. In this context, even if the existence and transmission of some recommendations was found, the lack of sanctions for their non-adoption affected the expected result of an improvement in the situation.

The analysis conclusions highlight the fact that tools for educating employees have been developed, but not the methods to stimulate good behavior. On the other hand, the method and techniques used to inform citizens about their rights of access to corruption reporting mechanisms and access to the finality of the processes initiated in this way have only been partially developed.

The analysis also refers to the output indicators of the NAS 2016-2020 and argues that the regulations effectiveness at the time of the evaluation was moderate as the measures that took into account the legal rules targeting the ethics adviser were partially adopted.

According to the findings on the efficiency of the legislative framework and the





aspects recorded in the conclusions on the main regulatory needs left uncovered, the analysis presents a set of recommendations proposing certain legislative additions in the field, which respond both to the reality found in the system of public institutions and are in line with National Anticorruption Strategy 2016-2020 outcome indicators.

These recommendations aim at identifying solutions that will ensure a more efficient method for the interpretation and unitary application of the legislative framework, corroborated with a series of completions required for ethical development within Romanian public authorities and institutions.

The recommendations backed up by the need for development identified in the analysis undertaken for the definition, application facilitation of the rules of conduct in public authorities and institutions, supported the completion of legal regulations with articles to facilitate the ethics advisers performance and streamline their work.

Therefore, the opinions concerned the ethics adviser's appointment procedure, their duties and activity, the training and instruction programs, the assessment process, as well as the reporting system required for his job.

In this context, the following additions have been proposed: to set unitary rules for the selection of the ethics adviser and to impose at the same time the obligation that an ethics adviser be appointed in every public organization; to define more clearly the role and duties of the ethics adviser; to clarify the content of ethical counseling activities and the content of associated activities; to establish the assessment method for the ethical counseling activities and for activities undertaken pertaining to the basic public function; set forth a unitary set of minimum requirements for the organization and conduct of ethics advisers training and education programs; to establish the manner in which public entities provide moral, technical and logistical





support to the ethics adviser for the proper performance of their duties.

Moreover, the recommendations focused on additions to improve the reporting on the outputs generated by the ethics adviser's activity and also on supplementations for the National Agency of Civil Servants role development in managing the way the code of conduct is applied at institutional level.

In conclusion, going through the results and recommendations provided by the analysis undertaken to help define, facilitate and apply the code of conduct in public authorities and institutions, we found that they highlight a number of arguments supporting the adaptation of legal regulations to the needs identified during the evaluation, namely the need to consolidate the status of the ethics adviser and improve its activity, pursuing the final goal of developing an ethical environment of public entities, a fundamental condition to increase the performance of the administrative system and to strengthen institutional capacity. Meanwhile, we emphasize that the analysis summarized above had a very important contribution to the organization and conduct of the public consultation events, since looking into the matter yielded results and recommendations that provided a starting point for debate reasoning and topics development.

1.2. Organizing and road mapping decision-making transparency and public consultation procedures

The transparent decision-making process that uses the advantages of public consultations can only increase the quality of legal regulations.

In this respect, the procedure of organizing and conducting the public debates carried out under the ETHICS project - Efficiency, Transparency and Interest for Conduct in Administration, proposed and succeeded in co-opting the representatives of public authorities and institutions as well as the general public to debate those priorities of





interest aimed at consolidating the role of the appointed ethics adviser in public institutions, while identifying the appropriate tools and solutions to ensure an ethical climate both in the public institutions of Romania and in the relationship between civil servants and citizens.

The preparatory stage for planning the extensive decision-making transparency and public consultation procedures started when the decision was taken to investigate the existing needs in the area of application of the rules of conduct in public authorities and institutions. Thus, two surveys were conducted, one on the citizens expectations regarding conduct in public administration in Romania and the second on the perception of the public administration staff in Romania on conduct and ethics in administration.

Subsequently, *the Analysis on the development needs in defining and facilitating the application of conduct norms, and compliance monitoring* was continued. The study's results and the analysis undertaken helped to identify the benchmarks needed to increase the quality of the definition of rules of conduct, as well as the need to improve the application of these rules. At the same time, the need to develop an efficient and useful monitoring system of ethical responsibilities could be assessed.

According to the needs identified from the documentation sources provided by the analysis on the development needs in defining and facilitating the application of conduct norms, and compliance monitoring, the explanatory memorandum was elaborated and the topics for debate were established.

The target group was identified and participants from every development region in the country were selected, the selection criterion involved sampling into two groups, the first for people working in public authorities and institutions, and the second for





people from the general public.

The contextual information needed to facilitate the formulation of a documented recommendation, the space and the means in which the information can be accessed by stakeholders and the method to collect the recommendations have been established.

The period and locations where the public consultation events and the optimal communication channels took place within the public consultation process were established, all adapted to the methodology of the debates development and to the target group identified.

The public consultation process started with publicity and transparency activities, a context in which announcements were published heralding the public consultation topics, periods and locations and invitations to participate were sent.

There were fourteen public consultation events held, during which the participants intervened and stated various remarks and specific proposals on the procedure for the ethics adviser's appointment, the duties and organization of the adviser's activity, the individual professional performance evaluation procedure of the civil servant appointed ethics adviser, as well as the approval of the reporting means of institutions and authorities in order to ensure the implementation, monitoring and evaluation of the compliance level with the principles and rules of the civil servants conduct.

The events were attended by representatives of the Ministry of Justice, who constantly intervened on most of the topics addressed and helped to improve and clarify the debates, providing direct and accurate explanations for the correct





interpretation of the legal regulations discussed during the debates.

Also in attendance there were representatives of the Ministry of Public Works, Development and Administration, who showed examples of good practice acquired after participating in various projects and evaluation missions about conduct in public authorities and institutions.

The National Agency of Civil Servants representatives had an active presence at all the public consultation type events, they determined the debate of the topics in essence by clarifications to the point made to the observations submitted by the attendees.

It was stated that the drafting of a regulation for the application norms of the appointment procedure, the duties, activity organization and the procedure for individual assessment of the professional performances of the civil servant appointed ethics advisers, as well as the regulations aimed at approving the reporting of institutions and authorities to ensure the implementation, monitoring and control of compliance with the principles and rules on the conduct of civil servants were envisaged.

During the eleven public consultation events held between December 2019 and February 2020, the participants were informed that this project will enter into a decision-making transparency process and will be published on the websites of the Ministry of Public Works, Development and Administration and National Agency of Civil Service. The participants were instructed to check the sites and invitations were issued for them to make comments and proposals after publication.

On February 28, 2020, the project was submitted for public debate, and the





participants which have attended the last three public consultation events held in March 2020 had the opportunity to intervene with remarks and proposals on the draft bill subject to public debate.

At the end of each public consultation event, participants filled in the event evaluation questionnaire in which they had the opportunity to express their opinion on the organization, conduct, content and usefulness of the public consultations held.

After each public consultation event, the rapporteurs nominated by NACS prepared interim reports containing the relevant issues discussed as well as the comments and proposals submitted by the participants.

2. Results of public consultation events

2.1. Evaluation of the opinions participants presented on the legal regulations in force and the application norms

Assessing the information obtained from the *Analysis on the development needs in defining and facilitating the application of conduct norms, and compliance monitoring*, along with the information from the stages of organizing transparency decision-making and public consultation procedures for deciding on the evolutions of the general framework for defining, application facilitating and compliance monitoring of the rules of conduct, we noted that the relevant issues join in the center point located in the area of regulations and rules for the application of legal provisions on ethical counseling.

It is noted that even today the interest in the quality of legal regulations regarding ethical advice and their enforcement rules, pointed out by officials in public authorities and institutions, as well as by the general public, has remained as high and





constant as during the period in which the analysis was conducted on the development needs in the field of defining, application facilitating and compliance monitoring of the rules of conduct.

Stakeholders' comments and proposals have currently focused, just as during the analysis period, on issues such as the procedure for appointing the ethics adviser, the duties of the ethics adviser, the training, development, working tools and assessment of the professional performance of the ethics adviser, monitoring their activity and the reporting method, but also the role and responsibilities of the ethics adviser in the vision of the citizens benefiting from public services.

From the perspective of the analysis regarding the development needs in the field of defining, application facilitating and compliance monitoring of the rules of conduct, some of the recorded recommendations have now been regulated by the regulations on ethical advice stipulated in the Emergency Ordinance of the Government no. 57/2019 on the Administrative Code, as subsequently amended and supplemented, and we refer here to the appointment of the ethics adviser in public authorities and institutions and providing support for the proper conduct of its activities, clear definition of the role and responsibilities of the ethics adviser, establishing unitary rules for the selection of ethics advisers, but also extending the role of The National Agency of Civil Servants for which the obligation is stipulated to issue instructions on the organization and conduct of ethical counseling and associated activities, on the training standard of the ethics advisers, and on compliance monitoring rules of conduct observance by the civil servants.

According to the conclusions presented in the same analysis, the fact that the legal regulations in force now also include the recommendations on ethical advice previously proposed, is an important step to improve conduct and ensure a favorable





environment for the development of ethical culture within public authorities and institutions, which will increase institutional prestige, citizens' trust in public administration and last but not least public services performance.

From the perspective of the debates held during the public consultation type events, the evaluation of the participants opinions on the legislation regarding the ethical counseling activity and the conduct in the public administration, has established the existence of clarifying requirements on the implementation of the regulations discussed while highlighting the presence of comments and proposals to shed light on this issue through the implementation rules being developed.

The clarifications requested concerned the methods of applying the criteria for the ethics adviser appointment, the training for the job, the status and responsibilities of the ethics adviser, the resources that the ethics adviser should have, as well as the assessment and reporting.

Regarding the needs identified in the process of implementing the regulations in ethical counseling, the participants considered as very important the application norms in the context in which their content is the main support in carrying out the advising activities with professionalism, in optimal conditions and yielding efficient results.

From this point of view, it can be appreciated that the success of ethical counseling activities represents for the civil servant appointed ethical adviser not only an impeccable conduct of staff or the implementation of an ethical culture within the institution of origin, leading to increased quality of public services and implicitly to institutional reputation, but also a top grade obtained on results assessment, since certain observations targeted the assessment area of the ethics adviser's activity,





structure and assessment tools, and the proposals upheld that the implementing rules contain clear assessment criteria and a fair method to distinguish between the activity performed by the civil servant and his activity as an ethics adviser.

Evaluation of the views of participants representing the general public, according to the *Analysis on the development needs in defining and facilitating the application of conduct norms, and compliance monitoring*, reveals the interest of citizens in the behavior and conduct of civil servants, which together with the decision-making transparency in the administration are the main vectors for developing the quality of public services and the image of public authorities and institutions in the perception of citizens. Thus, the legislation in the field must include provisions that stimulate the increase of the efficiency and quality of public services instrumented also by the code of conduct, and the final result should determine a more careful and productive approach of the civil servant to the citizen's needs.

The evaluation of the general public's perception of the legislation and of the application norms in the field of ethics, carried out following public consultations, correlated the legal regulations with their implementation and application and proposed in this sense clear specifications and standards to promote transparency, fairness, integrity and impeccable conduct in public administration, but also better information of citizens on ethics and the ethics adviser.

2.2. Proposals and recommendations

From the evaluation of the relevant information comprised in the interim reports and subsequently specified in the final report on the organization and completion of decision-making and public consultation procedures, we found that the participants in the debates highlighted relevant recommendations that may constitute after being reviewed by decision makers, immediate supplementation to the legal provisions in





force.

Summarizing these recommendations, it is possible to observe the voluntary involvement of experts coming from public entities and experts from the community area in the process of improving the enforcement of the rules in force by adding cumulative requirements to support the work of the ethics adviser and facilitate the fulfillment of his duties.

Provisions to exemplify the means to acquiring the quality of ethics adviser and to specify clear selection methods to help identify and promote vocation and professionalism were proposed.

There were remarks to stipulate in the legislation the resources the ethics adviser must have, with reference to the logistical support from the institution, means to ensure confidentiality, the informational support and the time needed to carry out the ethical related activities.

Comments were made on the low interest in serving as ethics adviser, the identified cause being the lack of additional remuneration; a recruitment system that would contain an attractive salary package for ethics advisers was brought up into discussion.

On the other hand, the importance of recruiting the right person was argued, person who must be primarily motivated by the role of ethics adviser and the desire and capacity to fulfill this role and not for the sake of the financial reward.

Regarding the knowledge of the staff in public institutions and of the general public about the role and activity of the ethics adviser, the observations highlighted the lack





of information and insufficient knowledge about the ethics advisor's duties, which is one of the main causes hindering the effective professional action of the ethics adviser. This situation has been exemplified by the confusion between the duties of the ethics adviser and the duties of the whistleblower in the perception of certain employees.

In this regard, additions were proposed to promote the role and responsibilities of the ethics adviser among employees to highlight their work and the importance of streamlining communication between the ethics adviser and both employees and the public at large was stressed.

The communication elements promoted and transmitted by ANFP were mentioned, being brought into discussion: The communication strategy on ethical standards and conduct in the public administration; The visual identity manual associated to the purpose and objectives of communication on ethics and integrity in civil service; The visual identity manual associated to the purpose and objectives of the exercise of the mandate/function/duties of ethics advisers.

Other issues presented unfavorable situations for the ethics adviser regarding the possibility to carry out a complete monitoring of the ethical climate in the institution, situations caused by sensitive functions and restricted access to certain information. A solution to combat these causes is the preventive side of the work of the ethics adviser, as well as their skills and ability to maintain a good collaboration with colleagues.

The manager's role in the activity of the ethics adviser was also debated, and in this case the observations and proposals argued that the management of the institution must provide logistical and moral support to the ethics adviser, but also to mediate





the interventions of the ethics adviser if applicable or if so requested. Moreover, the complementary role to the ethics advisor of the management of all levels in ensuring the ethical climate of public entities was discussed, by adopting an ethical management and leadership styles.

The proposals also addressed the need to develop and implement a procedure for the ethics adviser. A significant part of the participants supported the need to develop a systemic procedure at national level to ensure a better understanding of the steps to be taken in carrying out activities and tasks and to provide equal support to all ethics advisers in the authorities and public institutions in the country.

They called for the intervention of the National Agency of Civil servants to disseminate it at national level, arguing that a unitary system procedure can strengthen the legitimacy of the ethics adviser, inducing more involvement and support from public entities and a more effective collaboration with employees.

There were also interventions supported by a smaller number of participants, who proposed the implementation of operational procedures at the level of each public entity, which would provide the possibility to adjust the procedure to the specifics and needs of that public entity through a higher degree of flexibility in determining how to carry out activities.

The professional training discussion entailed topics that focused on the importance of the professional training of the ethics advisers and aspects regarding at the basic and the specific training were debated. Proposals were made for the ethics adviser to participate in specific training courses at the time of appointment, as well as in regular training courses organized throughout the exercise of their duties.





In this context, various training programs have been proposed in areas such as: communication with the public; conflict mediation; management of change; logic and critical thinking; ethical dilemmas; psychology; counseling; public administration; legal studies; social sciences.

Moreover, there were proposals to specify in the application norms both the right and the obligation of the ethics adviser to participate in training and professional development programs, but also the framework and the obligation of public entities in this respect.

There were participants who proposed that the National Agency of Civil Servants should develop support tools for ethics advisers and exemplified in this regard a guide or kit of ideas containing practical information on methods to conduct a counseling session, questionnaires accompanied methods of interpretation, examples of good practices in the field, as well as comparative studies with other countries.

Guidelines have also been proposed containing examples of ethical dilemmas and solutions, practical methods and case studies with dilemmas and cases, as well as essential information and methods used in risk management.

The main argument in favor of these proposals was the diversity of the ethics adviser's activities, as well as the multitude of cases and dilemmas encountered. Other interventions supported the need for regular testing of employees in terms of ethics and conduct, but also the most accurate identification of their needs in terms of ethical advising.

Regarding confidentiality, the proposals highlighted additions to the disclosure of information that is the subject of ethical counseling to others, regardless of their title





and hierarchical level and to specify the situations where the law requires the disclosure of such information.

The proposals also referred to assessment methods such designed that the qualifications do not wrong the civil servant appointed ethics adviser by omitting the effort made in both directions of activity imposed by the basic position and the duties performed as an ethics adviser. Thus, the application norms should impose a method that determines correctly the value of the results and the ratings should be in line with reality and not be affected by cumulating results obtained in the two distinct activities.

Other proposals aimed at ensuring that the application norms contain exactly the obligations of the ethics adviser at the time of appointment, but also at the ceasing of their mandate, in order to clarify the handing over of the protocol of duties and related documents.

In terms of reporting, the proposals aimed at developing a more qualitative structure of the report, containing as much relevant information as possible. Thus, the application norms should contain the reporting method regarding the observance of principles and rules of conduct of civil servants with references to the means the information is collected, the structure of the report, the reporting period and the deadline for submitting reports, as well as facilities to submit the report.

Participants proposed that the report submitted to NACS should have on online format and a hard copy format for the head of the institution and the auditor. At the same time, they have asked for guidance to make it easier to identify the steps to follow to update information in the application. In this case, they were informed on the current application user manual available in the account of ethics advisers, as well as the





subsection “useful information” existing in the section Ethics Adviser.

From the point of view of future relevance, the debates addressed the possibility that the activities of the ethics adviser be merged with other duties or responsibilities that the public institution must fulfill. In this respect, there were participants who proposed that the duties of the ethics adviser merge with the duties of reporting corruption risks, or similar duties derived from the National Anticorruption Strategy, the Internal Control Management System and GDPR. On the other hand, it was argued against these proposals, as a merge with other responsibilities, despite being from the SNA, SCIM or GDPR area, would create a state of confusion that would cause inefficiency.

There have been proposals for the specific legislation to provide mechanisms to provide the appropriate support for the ethics adviser appointed from among the staff of the public entity to have an independent status corresponding to their responsibilities. In this regard, it was specified that the legislation should in future contain provisions to provide the ethics adviser with support in terms of their full legitimacy and independence from colleagues and superiors, thus ensuring both the protection of confidential activities and facilitating the performance of duties.

The independence of the ethics advisor was discussed, between their appointment among civil servants from the same public entity, their complete independence from the respective public entity or the creation of central entities to deal specifically with ethical counseling, with decentralized offices at the level institutions of prefects.

Thus, there were proposals that brought to the center of the consultations the possibility of outsourcing the ethical counseling. On the one hand, some proposals aimed at setting up central entities to deal specifically with ethical counseling, with





decentralized offices at the level of institutions of prefects and to provide ethical counseling services to civil servants in county and local public institutions.

On the other hand, it was discussed the possibility of establishing some independent entities employing professionals with specialized studies in the legal and psychological field, to train officials on conduct issues, to provide professional advice, but also to annually test the civil servants knowledge of ethics and ethical conduct. Moreover, these entities could create and manage a database containing information on the activities carried out, the conduct of civil servant and the ethical climate in public entities and which can be used for reporting activities.

The topic of outsourcing brought pros and cons among the participants. A part argued that the advantages of outsourcing could be the creation of a profession of ethics adviser with a code of classified occupations, which would lead to the formation of a body of vocational, competent, responsible and independent ethics advisers, dedicated to the profession, having miscellaneous training, able to provide differentiated support depending on the situation, case or request encountered.

There were also opinions that the outsourcing of ethical counseling may be a disadvantage, as their activity may be affected by the fact that, not being part of the team, they may obtain accurate information about the ethical atmosphere in the public entity and nor an open collaboration with staff.

The preferred alternative to avoid situations of compression of the time allotted to ethical counseling, an important resource for the civil servant appointed ethics advisor in carrying out their activities, which would not involve outsourcing the position of advisor, was the limitations of ethics counseling duties up to 50% of total duties pertaining to the basic position, and this aspect to be specified in the





application norms.

The subject of ethical education was an important point in the debates. In this respect, there were proposals for a future collaboration between NACS and the Ministry of Education to develop a program to introduce in schools study topics on ethics and conduct in public administration.

2.3. Opportunities arising from the public consultations

The observations and proposals submitted by the participants gave the organizers a real perception of the situation of ethics advisers in public institutions, as well as the problems they face in the exercise of their role.

Meanwhile, it was possible to identify issues that could improve the activities in the field, which may be the subject of reviews leading to changes and contributions to legal regulations and implementing rules in the field of ethical advice.

The correlation of the application rules with the contributions and proposals submitted by the persons directly involved in the activity of ethical counseling, be they ethics advisers, management or enforcement officials, offers the opportunity for decision makers in ethics legislation to adopt provisions to address the needs identified following the debates organized during the public consultation events and thus ensure the efficiency of the results by implementing quality activities in ethical advice in public authorities and institutions and last but not least to promote the importance of decision-making transparency and usefulness of consultations in making important decisions that directly and equally concern the public administration and the community.





We cannot discuss the opportunities identified in this case without mentioning the main purpose for which the implementation of ethical culture in public administration and its promotion in the community is so important at this moment for Romania.

Approached from an internal perspective, the public administration needs a real change in terms of public perception, especially since in the current context the topics presented by the press contain more negative examples associated with corruption, violations of integrity and compatibility rules, incompetence in fulfilling tasks or disregard towards the taxpayer.

In this context, the only way to change public perception can only start from the public authorities and institutions staff who display and promote fair and honest behavior, but also competence in daily work.

In this respect, the work of the ethics adviser becomes indispensable by informing and educating officials, as well as by promoting a clean ethical environment and impeccable conduct among colleagues, but also in the community.

Approached from an external perspective, without real changes and interventions, and we exemplify here the fulfillment of the objectives of the national Anticorruption Strategy 2016-2010, which stresses the importance of the duties and role of the ethics adviser in reaching the target of increasing the efficiency of anti-corruption preventive measures, Romania's image will continue to suffer externally. Returning to the opportunities put forth by the results of the public debates, we strongly affirm that they represent an important step in ethical counseling by remedying the gaps and legislative inconsistencies regarding the ethics adviser.

On the other hand, the meetings held during the public consultations brought together people holding various positions in the public entities where they come





from, from members of the disciplinary commissions, SCIM rapporteurs, legal advisers, human resources staff, management positions, ethics advisers and potential ethics advisers, etc., as well as from the general public, which ensured intense discussions, with perspectives from complementary angles to the ethics adviser, which led to beneficial results for the future of ethics in the Romanian public administration.

It should also be noted that the conduct of public consultation events provided advantages both from the perspective of decision makers and from the perspective of stakeholders. From this point of view, through the public consultation process, the decision makers were in direct contact with the civil servants involved in the ethical activity, but also with the general public interested in this subject. This fact ensured the possibility for the decision-makers to be able to directly take over the degree of assimilation and acceptance of the interested groups on the topics debated, but also on the expected completions and modifications.

On the other hand, the groups concerned had the opportunity to express their position freely, to make public amendments and to state their views without restriction.

3. Conclusions

The organization of debates within the public consultation type events represents an important step in the field of ethical counseling in the Romanian public administration attempting to clarify and remedy the legislative gaps and inconsistencies concerning the ethics adviser.

Some of these legislative gaps and inconsistencies identified and exposed in the analysis undertaken on the definition, facilitation and application of rules of conduct in public authorities and institutions, were also the subject of debate in subsequent





public consultation events.

It was found in this case that in the opinions and proposals presented by the participants in the public consultations there were common issues that were highlighted by the recommendations stipulated at the end of the review.

Under this framework, it can be seen that there is a clear link between the need for solutions ensuring a more efficient interpretation and uniform application of the legislative framework, in conjunction with a number of additions needed for the ethical development discussed during the public consultations and the recommendations specified in the content analysis on the definition, facilitation and application of rules of conduct.

Both actions supported the completion of legal regulations with articles to facilitate the fulfillment of the duties of the ethics adviser and to streamline his activity, targeting the manner of appointing the ethics adviser, their duties and activity, training and education programs, evaluation process, and the reporting system.

By investigating the issue, the analysis had an essential contribution to the organization and conduct of public consultation events, as its results defined the initial theme and the main topics that were subsequently debated publicly.

Coming back to the public consultation events, we consider that the evaluation of the observations and proposals clearly highlights the availability and openness of the participants in approaching the topics, as well as their interest towards the facilitation and support provided by legislation to successfully perform their duties.

We can appreciate the fact that following the debates, it resulted that the current





legal provisions regarding the ethics adviser, stipulated in the Administrative Code, in contrast to the past, define, even if on a “not very accurate” note (*in the opinion of some participants in the debate*), the institutional role of the ethics adviser, with clarifications regarding the duties they perform, the appointment, continuity and cessation of activity, work tasks, reporting schedule and deadline for materials drafting.

The clarity of the references to the relationship of the ethics adviser and the disciplinary committees and other persons or structures with similar or complementary tasks to those of the ethics advisers, but also to the relationship between the management and the ethics adviser, as well as clear recommendations regarding the responsibility of the ethics adviser in relation to the counseling applicant were appreciated.

Regarding the organization of public consultation events, it should be noted the moderation of discussions, the interventions of the guests involved in the project, as well as the accuracy with which the information was presented in the interim reports, a process without which the views of stakeholders would not have reached to decision-makers and the decision-making transparency would have been affected.

The course of events provided relevant and useful proposals and recommendations that can add to the rules of application of legal regulations in the field of ethics and we mention here the procedure of appointment, responsibilities, evaluation, and organization of monitoring and reporting of the work of the ethics adviser.

On the other hand, the public consultation events provided the opportunity to identify relevant issues regarding the implementation of legal regulations in the field of ethical advice, and the comments and proposals submitted were analyzed for their





introduction in the application rules.

It should also be noted the accountability process promoted throughout the public consultations, a process in which the information and communication part was actively involved, but also the importance of prevention, which will certainly increase the confidence in the work of the ethics adviser and will be able to trigger changes for the better the perception of civil servants and citizens of the public administration in general.

For prevention though, the ethical issue at the level of public institutions in Romania should be approached at a systemic level. As it resulted from the Analysis on the development needs in defining and facilitating the application of conduct norms, and compliance monitoring, the improvement of the ethical climate in public administration involves, on the one hand, several internal factors (legal instruments, information, level of workload) tasks, level of bureaucratization, degree of politicization, degree of professionalism, etc.) and, on the other hand, many external factors (trust in public institutions, level of trust in other public institutions in the community, degree of participation of citizens in decision-making, level of social involvement, etc.).

From the extensive discussions held during the 14 public consultation events, held in mirror, it emerged that both civil servants and citizens feel the need for a strategic approach in the field of institutional ethics to ensure a unified character of institutional concerns for ethics and which, finally, should include processes with a direct impact on increasing the ethical quality of the institutional environment: simplification, de-bureaucratization, technology transfer, innovation, depoliticization, decision-making involvement of citizens.



AGENȚIA NAȚIONALĂ A FUNCȚIONARILOR PUBLICI





From the systemic dimension of ethics we reach leadership and its ability to take on the change of organizational culture based on ethics and integrity.

This report will be presented and discussed in the training program for local dignitaries and elected officials, which sought to address not only issues related to the lack of knowledge of the rules of conduct and, in essence, integrity standards, but also those related to the lack of decision support or interest of the decision makers for the ethics adviser and his activity, for the development of an ethical climate, for the adoption of some general measures intended to prevent integrity incidents.

The role of including the report in the curriculum for this training program was to expose to decision makers the issues that ethics advisers, citizens and civil servants have debated in this area.

Referring directly to the purpose and objectives of public consultation events, we can say that the observations and proposals presented by participants provided a real perception of the situation of ethics advisers in public institutions and the problems they face in the exercise of the function and in the same time, it has been possible to identify aspects that can bring about improvements in the field of ethics and that can be the subject of analyses whose results will determine certain legal provisions in the future.

At the end of the conclusions, analyzing the data obtained from the centralization of the answers provided by the participants to the questions formulated in the quality evaluation questionnaires of the 14 public consultation events, the results show a favorable percentage represented by answers in which 86,15% of the participants declared themselves very satisfied with the organization and usefulness of the event with 13,58% of the participants stating they were satisfied with the events.





As for the responses that expressed indecision or disagreement, they represented a negligible amount of 0.27%.



AGENȚIA NAȚIONALĂ A FUNCȚIONARILOR PUBLICI



**Proiect cofinanțat din Fondul Social European prin
Programul Operațional Capacitate Administrativă 2014-2020!**

**Titlul proiectului: ETICA - Eficiență, Transparență și Interes pentru
Conduita din Administrație
Cod SIPOCA 63
Denumirea beneficiarului: Agenția Națională a Funcționarilor Publici
Data publicării: noiembrie 2020**

Conținutul acestui material nu reprezintă în mod obligatoriu
poziția oficială a Uniunii Europene sau a Guvernului României.