European Institute of Public Administration - Institut européen d'administration publique

Understanding, managing and measuring ethics and ethics frameworks

Prof Dr Christoph Demmke, Luxemburg, 18 September 2013

EIPA   **learning and development - consultancy - research**   *EIPA* 2013 ©

Presentation contents

1	Introduction and Definitions, Integrity systems
2	Why is managing and measuring ethics so difficult?
3	a) Regulatory approaches
4	b) Political approaches
5	c) Communicating Ethics and other developments
6	Managing Ethics and Auditing ethics

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Distinction between ethics and integrity

- **Ethics is dealing with those political, economical or social issues that are concerned with right and wrong actions and outcomes for both individuals and organizations....**
- **The word "integrity" stems from the Latin adjective *integer* (whole, complete).**
  - **Integrity** is a concept of consistency of actions, values, measures, expectations, and outcomes.
    - In ethics, integrity is regarded as the honesty and truthfulness or accuracy of one's actions. Integrity can be regarded as the opposite of hypocrisy.

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Ethics Infrastructures and managment approaches

- **Global integrity systems**
  - (TI) focusing on what kind of institutions and values are needed
  - Ethics Infrastructure (OECD) focusing more on instruments and leadership
  - Local Integrity frameworks (Huberts et al.) focusing on results of systems
  - National integrity systems (see TI) focusing on measuring the strenght of systems
- **Managing Organisational ethics:**
  - Managerial ethics, Auditing ethics (compliance audits, culture audits, system audits), Self-assessments (e.g. SAINT)
- **Managing individual ethics and values**
  - Managing Dilemmas and Ethical Decision-Making
  - Value/Virtue training
  - Codes of ethics

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Why is Public Sector Ethics important?

- Public servants (PS) hold a position of power, privilege and trust
- PS may intervene in human rights (privacy, in state of war, fight against terrorism, civil protection, environmental protection, police etc.)
- PS deal with tax payers money
- PS are guardians of the general interest and an impartial civil service

..................*because of specific mission of public service*

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Core principles of ethical behaviour in the public service

-to serve the public service impartially

-to act neutrally

-to act in respect for the law

-to deal fairly with the public

-to avoid conflicts of interest

-to reject gifts and bribes

-to perform well in the exercice of one's duties

-to treat information prudently

-to treat colleagues and superiors with respect

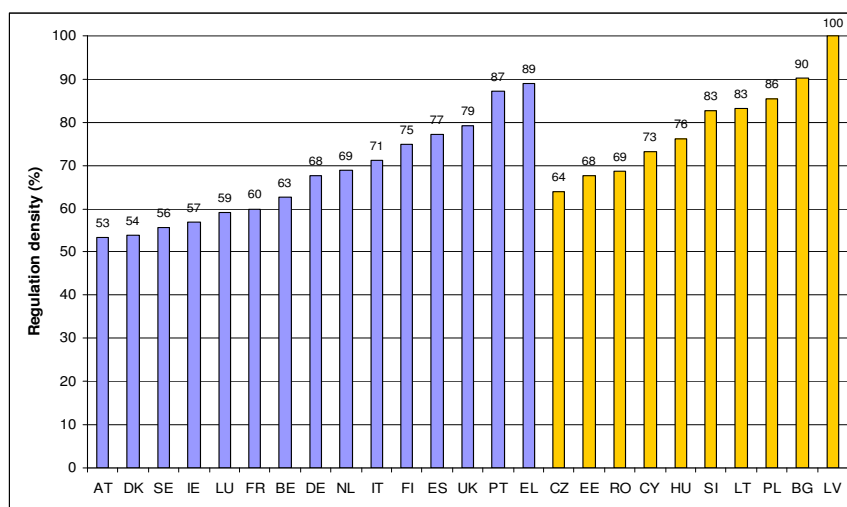*-to respect the principle of discretion and confidentiality*

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Why is managing/measuring the effectiveness of ethics so difficult?

- **Regulatory activity and effectiveness**

Regulation density by EU Member State

Demmke et al. (2008). Regulating Conflicts of Interest for Holders of Public Office in the European Union: A Comparative Study of the Rules and Standards of Professional Ethics for the Holders of Public Office in the EU-27 and EU Institutions

5

Ethics regulations: a widening gap among the Member States

- **Often, central and eastern european countries are still asking for more and better rules**
- **AT: generally no new rules needed but better quality of rules, new rules needed in post-employment, anti-corruption**
- **DK: no new rules needed in general, to lesser extent on gift policies**
- **SE: no new rules needed**
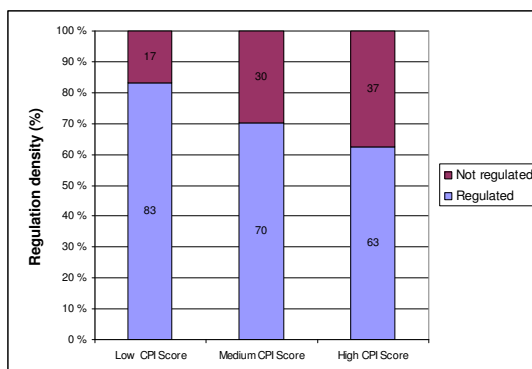
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Evaluating the effectiveness of rules

- **Relationship Rules and Corruption**
  - More rules do not necessarily reduce corruption (etc.)
- **Relationship Rules and Awareness of rules**
  - More rules and less awareness of rules
- **Relationship Rules and Trust**
  - More rules do not enhance trust but less rules may enhance distrust
  - More rules, more broken rules, violations and distrust
- **Relationship Rules and Implementation, Enforcement and Evaluation of Rules**
  - Focus has been on the input, not implementation side
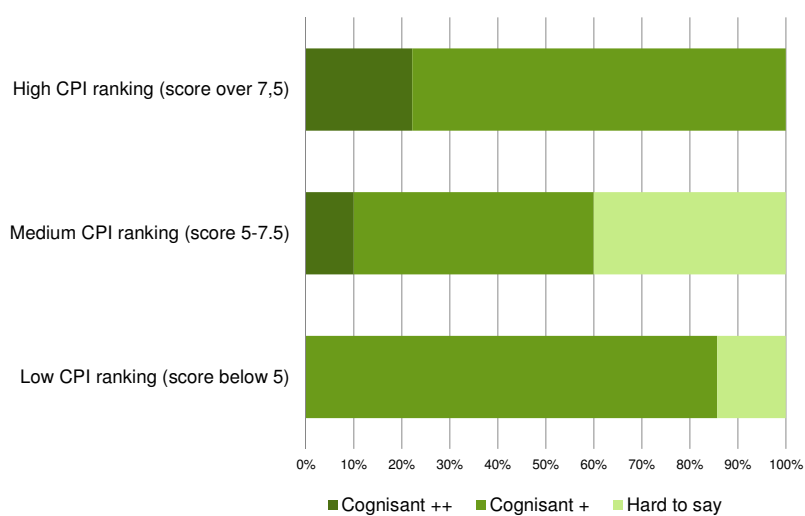
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Regulation density by CPI score (EU-27)

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Awareness of ethics rules by corruption perception index 2010 (N=26)

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Is deregulation of ethics rules possible?

- **Deregulation would make things worse**

and

- **deregulation seems to be politically impossible in the field of ethics**

but

- **some countries provide extremely detailed provisions in the field of disclosure of financial interests – need for simplification?**
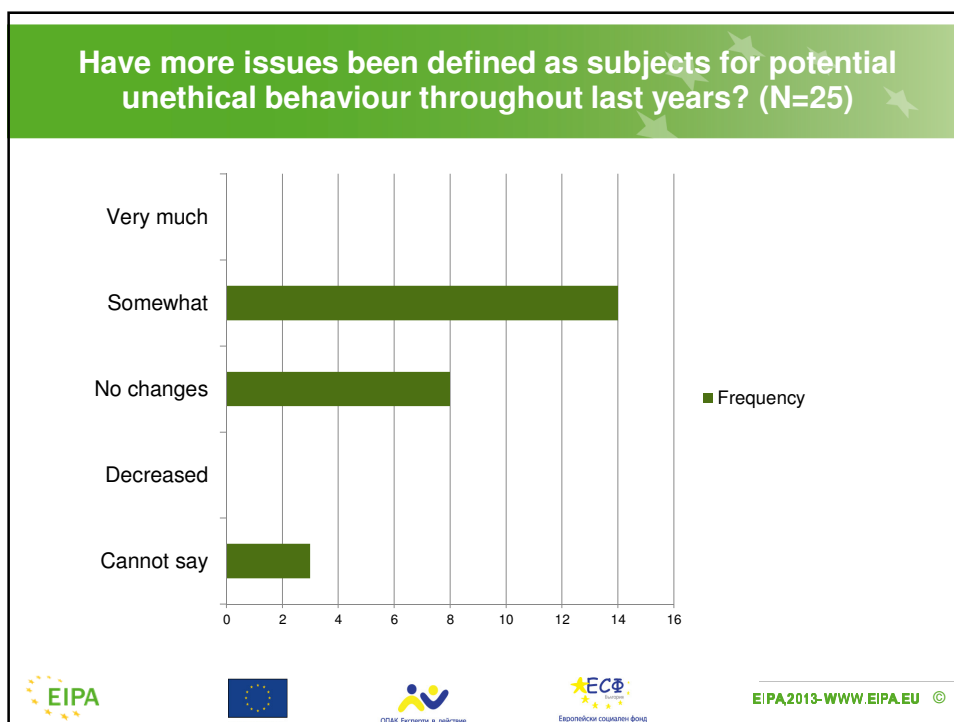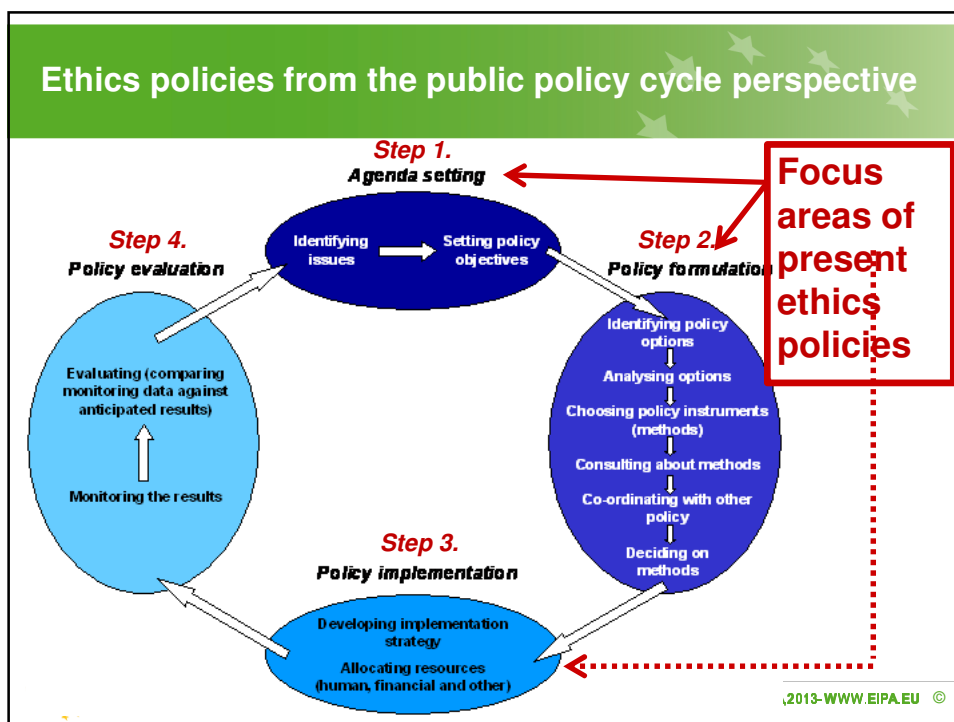
Implementation challenge

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Why is managing/measuring the effectiveness of ethics so difficult?

- **Political developments and effectiveness**

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Ethics policies from the public policy cycle perspective

Step 1.
Agenda setting

Step 4.
Policy evaluation

Step 2.
Policy formulation

Identifying
issues → Setting policy
objectives

Evaluating (comparing
monitoring data against
anticipated results)

Monitoring the results

Identifying policy
options

Analysing options

Choosing policy instruments
(methods)

Consulting about methods

Co-ordinating with other
policy

Deciding on
methods

Step 3.
Policy implementation

Developing implementation
strategy

Allocating resources
(human, financial and other)

Focus areas of present ethics policies

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Have more issues been defined as subjects for potential unethical behaviour throughout last years? (N=25)

Very much

Somewhat

No changes

Decreased

Cannot say

0   2   4   6   8   10   12   14   16

■ Frequency

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Европейски съюз

ОПАК Експерти в действие

ЕСФ
Европейски социален фонд
Инвестира в хората

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Challenges in identifying the effectiveness of ethics

- **More issues defined as unethical**
- **Higher expectations and media attention**
- **Attention is always shifting, some issues prominent (corruption, fraud, anti-discrimination), others neglected**
- **Ethics more often used as a political instrument and moral stigma**
- **Symbolic policies, focus on decision-making not implementation**

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Political reasons for the proliferation of ethics policies and rules

- **„Ethics is good", it is politically accepted to ask for more rules as a symbolic reassurance against misconduct**
- **Ethics as a political instrument, it is politically difficult to be against more ethics**
- **Ethics policies are cheap to adopt because enforcement is weak**
- **Examples: More policies in the field of anti-discrimination, transparency, disclosure, ethics audits etc**
- **Case: Codes of Ethics**
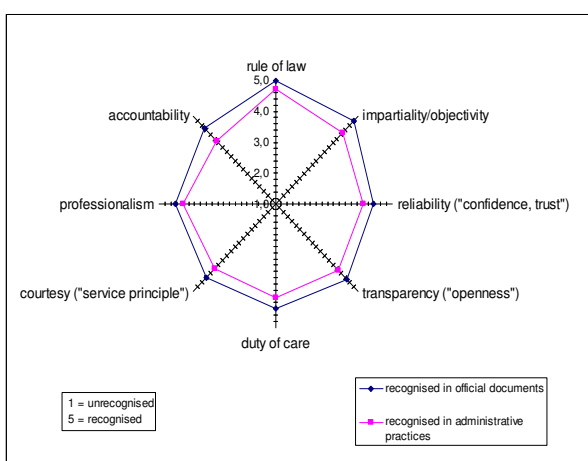
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„Codes are good", it is politically accepted to ask for more codes as a symbolic reassurance against misconduct

- **88% of responded Member States (21) say that their country is using agency-specific codes of conduct**
- **89% of responded Member States (23) say that their country is using field-specific codes of conduct**
- Examples: every organisation is obliged to adapt its own code of conduct (NL); some directorates-general have their own codes of conduct which take into account specific situations in DGs (EC); Department of Customs and Excise & Treasury Department (CY); Police, internal affairs, defence (BE), police & customs (SI), some agencies & professions (SE)

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Reflection of core values in official documents vs. administrative practices (n=28)

Chart axes: rule of law, impartiality/objectivity, reliability ("confidence, trust"), transparency ("openness"), duty of care, courtesy ("service principle"), professionalism, accountability

Scale: 1 = unrecognised, 5 = recognised

Legend:
- recognised in official documents
- recognised in administrative practices

- core values were clearly recognised in the official documents
- administrative practices seemed to follow the core values fairly well; however, due to methodological reasons these findings are hard to be generalised
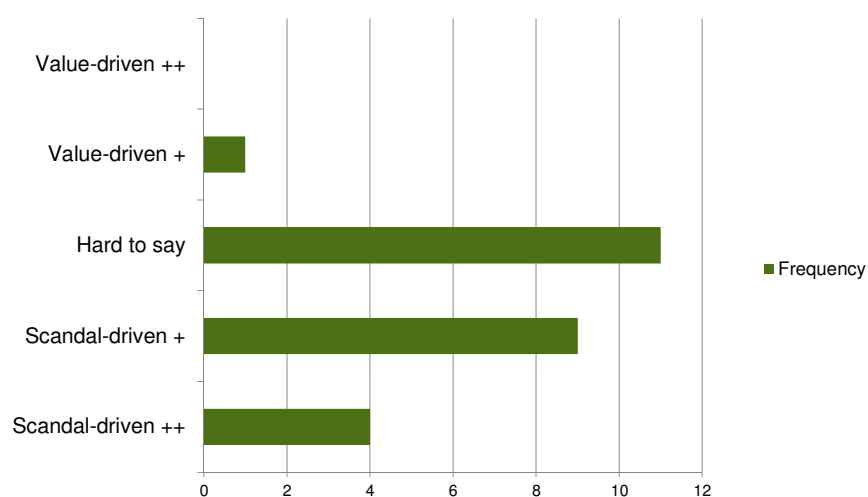
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Why is managing/measuring the effectiveness of ethics so difficult?
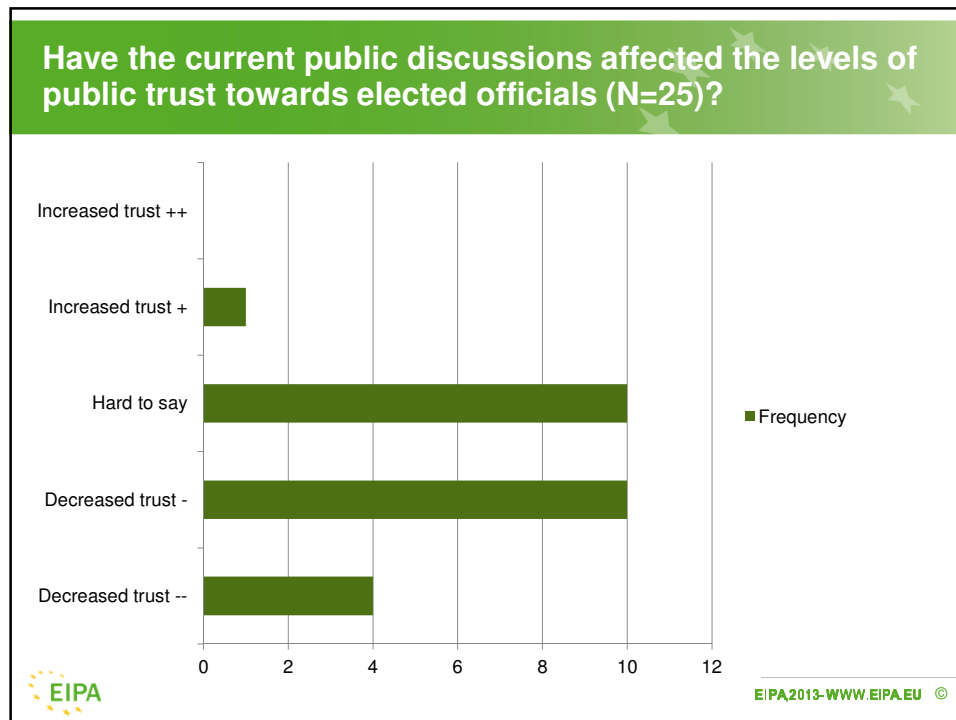
- **Communicating ethics and the role of the media**

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Communicating ethics: Are public discussions on ethics value-driven or scandal-driven? (N=25)

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Have the current public discussions affected the levels of public trust towards elected officials (N=25)?

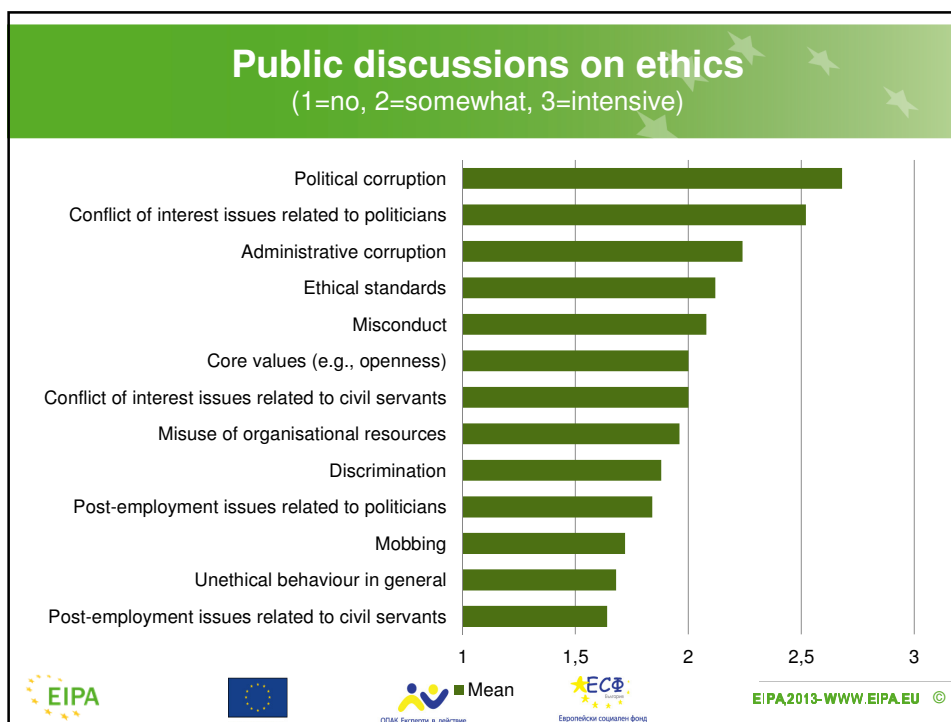## Why is managing/measuring the effectiveness of ethics so difficult?

- **Shortcomings in implementing and auditing ethics**

Public discussions on ethics
(1=no, 2=somewhat, 3=intensive)

Political corruption	
Conflict of interest issues related to politicians	
Administrative corruption	
Ethical standards	
Misconduct	
Core values (e.g., openness)	
Conflict of interest issues related to civil servants	
Misuse of organisational resources	
Discrimination	
Post-employment issues related to politicians	
Mobbing	
Unethical behaviour in general	
Post-employment issues related to civil servants	

■ Mean

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Fine-tuning I: forms of unethical behavior – increasing?

- **Bribing (misuse of public power for private gain)**
- **Favouritism (nepotism, cronyism, patronage)**
- **Fraud and theft of resources**
- **Conflict of interest through gifts (asking, offering, accepting)**
- **New ! Conflict of interest through sideline activities (secondary jobs, financial interests)**
- **New ! No/partial registration of information on conflicts of interest**
- **New ! Violation of post-employment rules**
- **Improper use of authority (gifts, allowances, gratifications)**
- **Expanding ! Misuse/manipulation of information (cheating, breaching confidentiality)**

- **Expanding ! Indecent treatment of colleagues, citizens or customers (discrimination based on gender, race, or sexual orientation; intimidation and sexual harassment; bullying)**
- **Expanding ! Waste/abuse of organisational resources (e.g. private use of the Internet)**
- **Misconduct in private time (e.g. driving under influence of alcohol or drugs)**
- **Sickness leaves while healthy**
- **Not following orders or procedures**
- **Violation of fair and merit based procedures**
- **Private travelling at the expense of the organisation.**

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Challenges in identifying developments in the field

▪ **What is unethical is subject to cultural developments and value changes**

- Sexual intimidation is perceived differently in the USA, France and Italy….
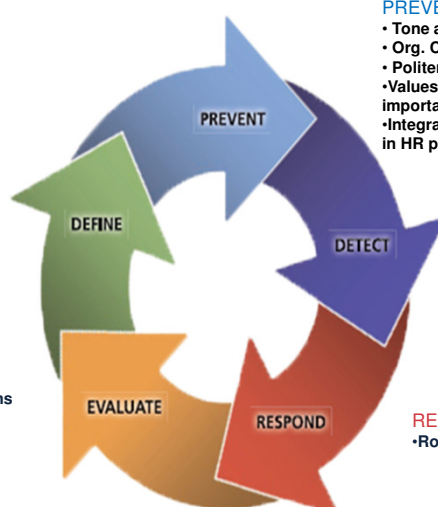- Use of soft-drugs

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Managerial ethics

PREVENT
• Tone at the top
• Org. Culture
• Politeness, Fairness
•Values in practice, importance of etghics
•Integration of ethics in HR policies

(RE)DEFINE
• Access risks
• Align policies and procedures
 to risks
• Define risk profile
• Map risks to job function

DETECT
• Controls for rapid detection
• Self-reporting channels
• Compliance auditing and monitoring

EVALUATE
• Metrics and benchmarks
•Reports and actions
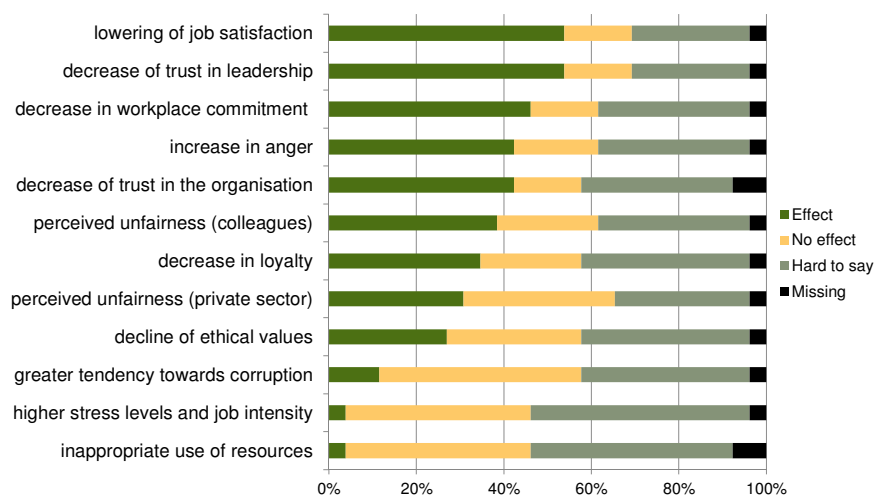• System improvements

RESPOND
•Root cause analysis

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Obstacles and difficulties for effective ethics management (1=not an obstacle, 2=minor obstacle, 3=major obstacle)

Bar chart showing "Mean" values:
- Ethics policies are not taken seriously
- Lack of active leadership and commitment
- Ethics policies not integrated
- No monitoring of ethics policies
- Enforcement of codes (if codes exist)
- Lack of ethics-related training
- Lack of evaluation of violations
- Lack of sanctions/deterrence
- Lack of independent ethics examinations
- Lack of ethics culture
- HRM policy is not strictly merit-based
- HRM policy contradicts ethical…
- Poor quality of laws, regulations and codes

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Why is managing/measuring the effectiveness of ethics so difficult?
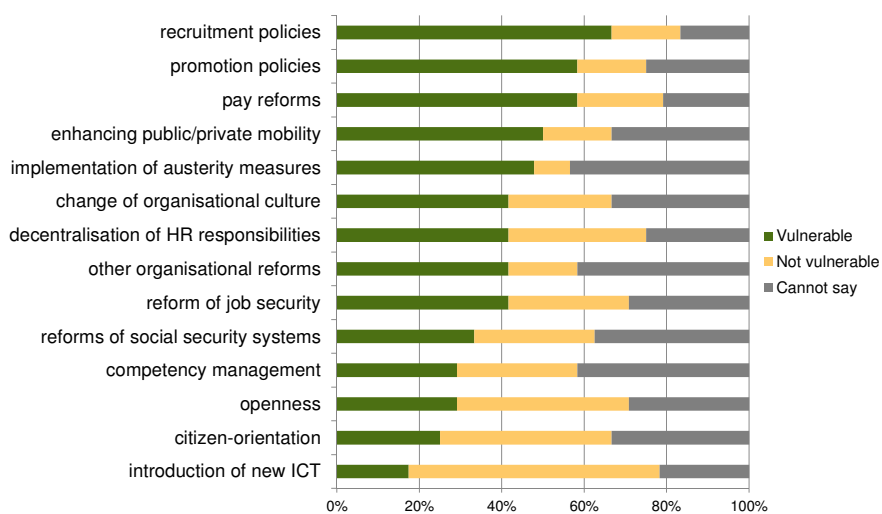
- **(Un-) intended effects of other developments: the effects of the financial crisis and the effects of new public management reforms**

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Impact of austerity measures on workplace level (N=25)

Legend:
- Effect
- No effect
- Hard to say
- Missing

Categories (top to bottom):
- lowering of job satisfaction
- decrease of trust in leadership
- decrease in workplace commitment
- increase in anger
- decrease of trust in the organisation
- perceived unfairness (colleagues)
- decrease in loyalty
- perceived unfairness (private sector)
- decline of ethical values
- greater tendency towards corruption
- higher stress levels and job intensity
- inappropriate use of resources

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Vulnerability of HR-reform trends to integrity violations (N=24)

Legend:
- Vulnerable
- Not vulnerable
- Cannot say

Categories (top to bottom):
- recruitment policies
- promotion policies
- pay reforms
- enhancing public/private mobility
- implementation of austerity measures
- change of organisational culture
- decentralisation of HR responsibilities
- other organisational reforms
- reform of job security
- reforms of social security systems
- competency management
- openness
- citizen-orientation
- introduction of new ICT

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Conclusions: Ever more regulations, policies, ethics instruments and public attention

- **definition of more issues as being unethical**
- **trend towards more and stricter regulations continues**
- **more codes of conduct and codes of ethics**
- **more disclosure requirements**
- **more ethics committees and controls – slow institutionalisation**

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Is it possible to increase the effectiveness of ethics?

- **Yes, Auditing Ethics as one important instrument and if done systematically (OECD-model)**

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Measuring the effectiveness of ethics

- **Countries have in the last decade made substantial efforts to develop institutions, processes, procedures, rules, standards and mechanisms for promoting integrity.**

- **At the same time, the demand for evidence on the effectiveness of these arrangements is growing.**

- **The economic crisis and the growing popularity of benchmarking and quality management will further reinforce this demand for evaluation.**

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Added value of auditing ethics

- **Most surveys and studies show that a strong ethical climate and organizational fairness/justice is associated with the values of efficiency, effectiveness, quality, trust and cooperation. A good ethical climate is also positively linked to organizational performance. Thus, efficiency and effectiveness is reinforced by a strong ethical climate.**

- **Still, auditors rarely examine the entire ethical framework but focus on compliance checking. In most cases, they focus on a number of (limited) issues.**

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Challenges in auditing ethics

- **Can be threatening if presented as an instrument to root out wrongdoing.**
- **Often used as symbolic measures - no consequences.**
- **Most managers/leaders say they are ethical anyway.**
- **Audits are challenging, complex, take time and are costly**
- **Often, managers and employees are afraid that audits are not handled in a confidential way and privacy rights will be touched.**
- **There are few experts in the field. From here the risk that external consultants do the job who are not fully qualified.**
- **Often, ethics audits face the dilemma of measuring the unmeasurable. Alternatively, audits have only limited effects if they measure only what is measurable**
- **Can internal self-regulation audits be effective or should independent audits be carried out? External audits have a stronger legitimizing function but internal audit can be done, too**

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What do we want to measure? Always clear?

- **policies?**
- **instruments?**
- **rules?**
- **institutions and committees**
- **Implementation of codes and standards?**
- **CoI policies, registers?**
- **culture?**
- **leadership?**

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How measuring the effectiveness?

- **Auditing ethics - Internal/External?**
- **(self-assessment) Surveys, perception studies**
- **Controls, Monitoring**
- **Criminal statistics, number of offenses**

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Conditions for measuring the effectiveness

- **Criteria should be clear, unambigious, relevant, reliable, easy to collect**
  - Not always possible
  - Should be measured only what is measurable?

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Defining criteria for measuring the effectiveness of ethics. What criteria are crucial?

- **Added value** – better outcomes of policies
- **Rule of law**: was the law applied, was accountability assured, were rights protected, was justice done, were procedures applied?
- **Efficiency/Effectiveness**: was inefficiency avoided?
- **Fairness/Merit/Trust**: was trust established/enhanced?, less discrimination, did
- **Workplace behavior**: job satisfaction increase?, did attitudes improve?, fairness ?
- **Integrity**: less CoI, less farud, less corruption, less mobbying

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Effectiveness of ethics for who, of who?

- **For who, of who?**
  - Whole Public sector, organisation, agency, personnel?
 - Here: Organisational Ethics

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Assessment methodology of integrity measures/instruments

- **Identifying the measure/instrument**
- **Identifying the challenges/opportunitities**
- **What are the costs/benefits?**
- **What are the (Un-) intentional effects**
- **What is the feasability of assessing the instrument**
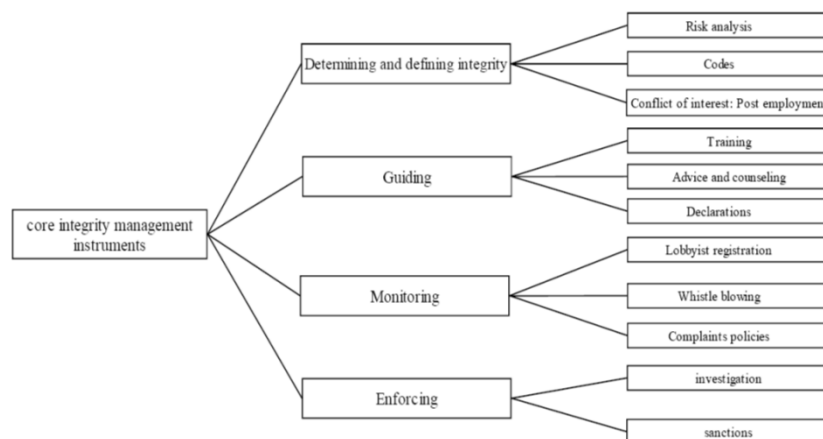
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Measuring the effectiveness of instruments from public policy
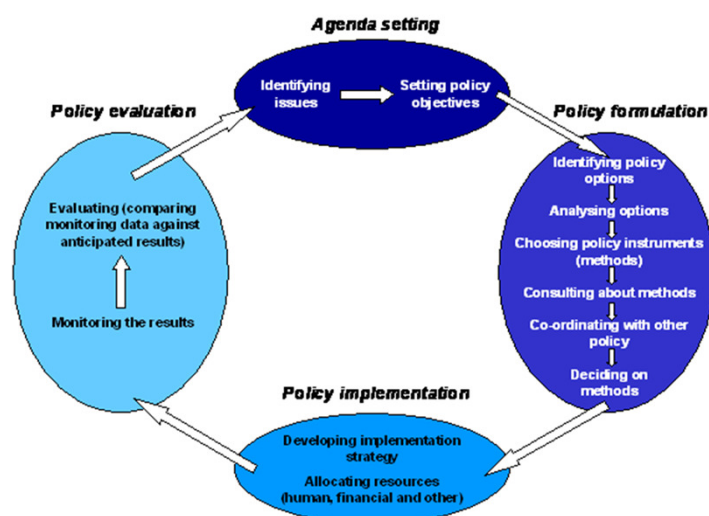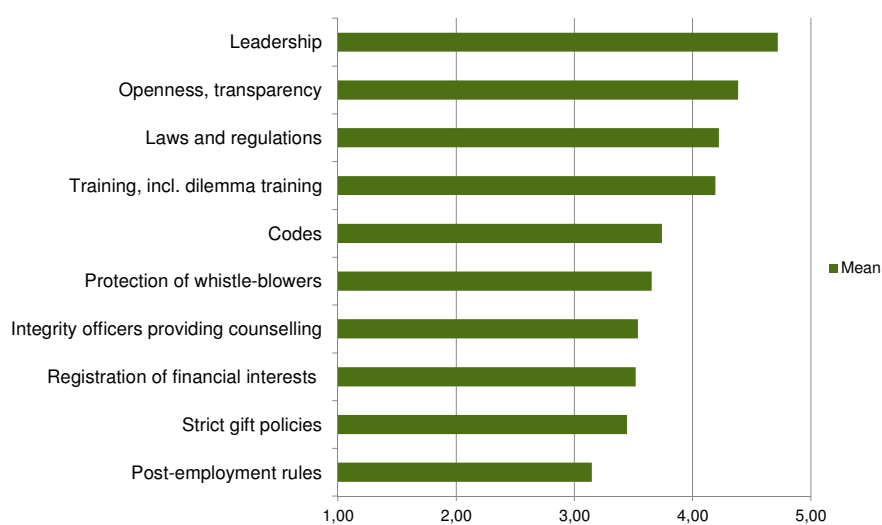

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Measuring the effectiveness of instruments from design to enforcement/evaluation

Figure 5: Main integrity instruments analysed in this report

Effectiveness of ethics instruments (N=27)
(1=ineffective, 5=effective)

Case: Challenge of leadership

- **Leadership is considered the most effective instrument**
- **But what is it and why is it so difficult?**

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Why ethical leadership?

- **Generally, Leadership is associated with organizationally relevant outcomes such as, organizational performance, individual performance, employee attitudes, or motivation**
- **Ethical leadership:**
- **Research suggest that leadership sytles have a great effect on employee behavior and mental well-being, Leaders' have the potential to exert a positive or negative influence on followers' moral behavior**
- **It is the leader who is able to place ethics on the organizational agenda by setting clear moral standards and expectations and creating ground rules for moral conduct**

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Two sides of ethical leadership

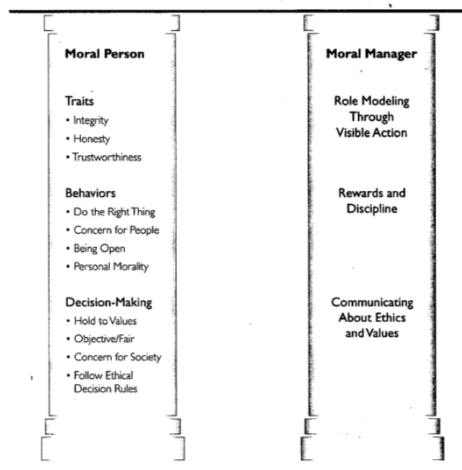- **An ethical leader is about being both a moral person as well as a moral manager**
- **The moral person' part of ethical leadership can be viewed as the personal traits and characteristics of a leader - such as honesty, trustworthiness and integrity - and the moral nature of that leader's conduct**
- **The notion of moral manager is founded on three concepts:**
  - role modeling through visible action,
  - the use of rewards and discipline, and
  - by communicating about ethics and values

  - Followers learn what to do and what not to do by observing their leaders' behavior and are likely to imitate their leaders, whether the example set by the leader is good or bad

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The pillars of Leadership (Trevino)

FIGURE I. The Two Pillars of Ethical Leadership

Moral Person

Traits
- Integrity
- Honesty
- Trustworthiness

Behaviors
- Do the Right Thing
- Concern for People
- Being Open
- Personal Morality

Decision-Making
- Hold to Values
- Objective/Fair
- Concern for Society
- Follow Ethical Decision Rules

Moral Manager

Role Modeling Through Visible Action

Rewards and Discipline

Communicating About Ethics and Values

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Examples

My boss:

- 1. Shows a strong concern for ethical and moral values.
- 2. Communicates clear ethical standards for members.
- 3. Sets an example of ethical behavior in his/her decisions and actions.
- 4. Is honest and can be trusted to tell the truth.
- 5. Keeps his/her actions consistent ("walks the talk").
- 6. Is fair and unbiased when assigning tasks to members.
- 7. Can be trusted to carry out promises and commitments.
- 8. Insists on doing what is fair and ethical even when it is not easy.
- 9. Acknowledges mistakes and takes responsibility for them.
- 10. Regards honesty and integrity as important personal values.
- 11. Sets an example of dedication and self-sacrifice for the organization.
- 12. Opposes the use of unethical practices to increase performance.
- 13. Is fair and objective when evaluating member performance
- 14. Puts the needs of others above his/her own selfinterest.
- 15. Holds members accountable for using ethical practices in their work

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Ethical leadership is contextual

- **Different leadership styles are needed in different situations**
  - For example, zero tolerance in case of corruption, fraud, mobbying or discrimination

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Organizational outcomes of ethical leadership

- **Less unethical behaviour**
- **Organizational Climate**
- **Employees are more helpful and respectful**
- **More trust within the organization**
- **More organisational commitment**

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Leadership challenges- own vulnerabilty

- **Leaders are themselves very vulnerable**
- **Leaders often expect more from others than from themselves**
- **Poor leadership is also one of the greatest obstacles in making ethics policies effective**
  - There is substantial evidence that unethical behaviour is mostly an elitist problem.
  - For example, a high percentage of those receiving bribes occupy leading positions.

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Challenges for Leaders – ethical decision-making

- **The manager must act quickly in a grey area where laws are silent or confusing, circumstances are ambiguous and complex**
- **Daily management and time pressure leaves little time to brainstorm and to think about dilemmas.**
- **"In fact, managers make most of their ethical choices this way: in the pit of the stomach, automatically, reflexively, intuitively in the popular sense, by common sense…".**
- **For managers, the sheer number and complexity of ethical traditions will not make the management of daily life issues easier.**

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Unethical leadership through negative perceptions

- **The way people are seen influences the way they are treated, consequently prompting them to act accordingly (Self-fullfilling prophecy)**
- **If leaders have better perceptions, they treat employees better**

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Leadership Challenges – financial crisis

- **Need to take unpopular decisions in tough times**

- **Financial crisis may contribute towards less trust in leadership**
- **If leaders are less trusted by employees, leaders distrust employees, too**

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Leadership and causes for individual unethical behaviour

- **Supervisors are ambivalent and not consistent in either punishing unethical behavior or rewarding ethical behaviour.**
- **Excessive workload and unfair working conditions often make employees want to retaliate.**
- **If workers feel dissatisfied they take what they feel is owed to them until the situation is perceived to be as balanced.**
- **Transformational leadership is not ethical leadership**

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Limitations and challenges- leaders are managers, not leaders

- **Most leaders are managers not leaders - Ethics not taken seriously, theoretical, complicated (CoI), waste of time, no time for ethical judgment and strategical thinking,**
- **Ad hoc decisions, time pressure, meetings**
- **Mostly ethical leadership is rather ethical "muddling through"**

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Case: Challenge of post-employment

- **Many countries in the EU consider post-employment as the least effective ethics instrument**
- **Because of more mobility between public and private sectors, management of post-employment will gain importance in future**
- **Trend towards more flexible employment contracts makes it more difficult to design effective post-employment strategies for ever more diverse workforce**
- **= Organisations should focus on designing better instruments in this field.**

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Effectiveness of Conflicts of Interest

- **What needs to be covered?** (in office (e.g. gifts), outside office (e.g. other public functions, charitable activities, spouse activities), financial interests (shares, assets)?
- **At what time is coverage required?** (before takng office, during office, after leaving office
- **Who needs to be covered?** (office holder, family)?
- **How can compliance be enforced?** (prevention, e.g. training), internal body (ethics officials), disclosure and reporting, monitoring by internal or external committees, sanctions)?

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Col - Registers – management and control

- **Evaluating side-effects (costs, privacy, bureaucracy)**
- **Can costs be justified through the avoidance of ethical scandals? If so, how?**

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Case Risk Analysis:

- **Risk analysis is about identifying and assessing the factors that may jeopardize the good functioning of the organization. In a process of risk analysis one would map the sensitive areas and sensitive functions. The aim of RA is to better be able to manage risks. Often, solutions aim at structural issues, job rotation, CoI rules, standards on gifts etc.**

- **Questions relate to whether RA exists, how often it is carried out and what are the consequences of RA**

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Integrity test - an healthy organisation?

- Are rules, standards, codes existing, awareness of rules - are they known?
- Is there a CoI policy – standards, policies, registers, declarations, monitoring, sanctions ?
- Guidance policies? Is training existing, for who, regular?,
- Is advice existing – ethics integrity counselor?
- Monitoring: Whistleblowing, complaints policies, risk analysis, staff survey
- Enforcing: investigation, sanctioning
- Ethical Leadership….- managers are trusted, give an example, take ethics as important
- Fair HR policies – perceived organizational fairness in pay, recruitment, appraisal, leadership, distributional, procedural, interactional
- Professional HR policies: Integrity in recruitment, selection etc.
- How is the Ethical climate?
- Existence of complementary integrity management instruments: integrity in public procurement, HR management, Financial Management etc.

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