

**Małgorzata Jaworska**

*The School of Banking and Management in Krakow*

*goskajaw@interia.pl*

**Dr Justyna Michniak-Szladerba**

*The School of Banking and Management in Krakow*

*j.michniak@wszib.edu.pl\**

## **ETHICAL CODE AS A TOOL TO DEVELOP ETHICAL BEHAVIOUR IN NON-BANK LENDING INSTITUTIONS**

### **Introduction**

Shaping the ethical behaviour of employees in their work environment is currently perceived as one of the key tasks of the personnel function. The emphasis on the creation and implementation of tools that develop ethical behaviour of employees seems to be indispensable in sectors where institutional trust determines the success of the organization on the market. This is noticed particularly in the case of non-bank lending institutions which, as opposed to banking institutions, are not subject to close supervision of state authorities. As a result, it can be concluded that such a tool as the ethical code should be one of the crucial guarantors of the ethical behaviour of non-bank lending institutions and it should contribute to build trust in them. The aim of the article is to analyze to what degree the organizations under research implement ethical codes and to examine their content.

### **1. Ethical codes as a tool to develop staff ethical behaviour**

Ethical behaviour of staff in their work environment has become an important issue together with the changing role of the personnel function. According to D.Lewicka, present-day companies tend to accomplish a highly committed personnel function<sup>1</sup>. This is the case where the acquisition of talents, the support of innovativeness and the retention of the best employees are crucial. These elements are closely related to the care for staff's work satisfaction and the development of their trust and commitment. According to J.Michniak, the activities of the personnel function in the area of staff ethical behavior include:

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<sup>1</sup> D. Lewicka, (red). *Zapobieganie patologiom w organizacji. Rola funkcji personalnej*, Wydawnictwo Naukowe PWN, Warszawa. 2014, p. 122.

- diagnostic actions (e.g. measuring work satisfaction of the staff or conducting ethical audits) and the implementation of the resulting conclusions;
- the development and implementation of normative acts that shape ethical behaviour in organizations (e.g. codes of ethics, anti-bullying procedures or the introduction of ISO standards in ethical behaviour);
- the implementation of just and transparent personnel practices;
- the care for the physical and mental health of employees through the alleviation of stress in workplace or the introduction of work/life balance programs;
- the development of relationships based on trust and mutual respect between the boss and the staff and among the employees;
- the support of diversity standards<sup>2</sup>.

Ethical code, which is one of the above mentioned normative acts that shape ethical behaviour, is defined in the literature on the subject as a document that defines basic values and the resulting standards of conduct that are related to the activity area of the organization and applied with regard to various groups of stakeholders<sup>3</sup>. A.Lewicka-Starzelecka refers to the implementation process of the ethical code as *the institutionalization of morality* and says *that universal principles, sensitivity, the desire to do good and be honest are not sufficient to resolve moral dilemmas because one should know what doing good or being honest means in a particular, and frequently complex, situation*<sup>4</sup>. The literature on the subject often emphasizes the necessity of a practical approach and a precise presentation of an ethical situation with the indication to the desired values<sup>5</sup>. M.Kozera states that an ethical code may prove to be most useful to an employee who faces a moral dilemma<sup>6</sup>. That is one of the reasons of the importance of the involvement of staff in the ethical code development, of the update of the code as well

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<sup>2</sup> J. Michniak, *Narzędzia kształtowania zachowań etycznych pracowników w zarządzaniu organizacją*, - unpublished doctor's thesis, Kraków 2015.

<sup>3</sup> W. Gasparski (ed.), *Biznes, etyka, odpowiedzialność: podręcznik*, Wydawnictwo Naukowe PWN, Warszawa 2012, p. 233.

<sup>4</sup> Cf. e.g. L. Zbiegień-Maciąg, (ed.) *Nowe tendencje i wyzwania w zarządzaniu personelem*, Wolters Kluwer, Kraków 2006, p.208, A. Dusiński, *Zasady etycznego postępowania w firmie* [in:] W. Gasparski (ed.), *Europejskie standardy etyki i społecznej odpowiedzialności biznesu*, Wydawnictwo Wyższej Szkoły Przedsiębiorczości i Zarządzania, Warszawa 2003, p. 171.

<sup>5</sup> Cf. e.g. L. Zbiegień-Maciąg, (ed.) *Nowe tendencje i wyzwania w zarządzaniu personelem*, Wolters Kluwer, Kraków 2006, p.208, A. Dusiński, *Zasady etycznego postępowania w firmie* [in:] W. Gasparski (ed.), *Europejskie standardy etyki i społecznej odpowiedzialności biznesu*, Wydawnictwo Wyższej Szkoły Przedsiębiorczości i Zarządzania, Warszawa 2003, p. 171.

<sup>6</sup> M. Kozera, *Etyka w praktyce życia gospodarczego*, „Studia Ekonomiczne”, No. 129, 2013, p. 251.

as of the trainings that should be helpful to them in their everyday duties<sup>7</sup>. It is also crucial that the content of the ethical code should be adapted to the culture of the organization and the sector in which it operates<sup>8</sup>.

There are three areas in the financial sector where ethical problems occur. They are: financial markets, relations of institutions with their customers and finance management. As regards financial markets, the problems that appear concern dishonest competition, dishonest market practices and conflicts of interest<sup>9</sup>. In the area of relations with customers, the crucial issues are: trust and confidentiality and the care that customers understand properly the contracts they sign and their consequences. This area also includes fair information and advertising of the products and services that are offered. The area of finance management involves such issues as the generation of profit for the organization with the accompanying care for the customer's interest and the detachment of practices from the culture of countries where the operations are performed<sup>10</sup>.

The sector under research clearly shows that ethical codes should perform a number of function in order to shape ethical behaviour in numerous areas. According to E.Hope there are three basic functions of an ethical code: regulatory, opinion forming and educational<sup>11</sup>. Their characteristics are given in Figure 1.

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<sup>7</sup> W. Leoński, *Kodeks etyczny jako instrument społecznej odpowiedzialności biznesu*, „Zeszyty Naukowe Politechniki Częstochowskiej: Zarządzanie”, No. 22, 2016, p. 259.

<sup>8</sup> A. Lewicka-Strzlecka, *Etyczne standardy firm i pracowników*, Wydawn. IFiS PAN, Warszawa 1999, p. 79.

<sup>9</sup> I.D. Czechowska, *Zarys problematyki etyki finansów*, [in:] I.D. Czechowska (ed.), *Etyka w relacjach instytucji finansowych z gospodarstwami domowymi*, Wydawnictwo Uniwersytetu Łódzkiego, Łódź 2016, p. 38.

<sup>10</sup> Ibid.

<sup>11</sup> E. Hope, *Rola kodeksów etycznych w procesie instytucjonalizacji etyki*, [in:] J. Kubka (ed.), *Etyczne podstawy kultury biznesu*, Wydział Ekonomii i Zarządzania, Politechnika Gdańska, Gdańsk 2001, p. 104.

Figure 1. Functions of ethical code

#### Regulatory function

- The objective of the code is to define clearly the values of the organization, i.e. to present elements that are most important in the behaviour of internal stakeholders. The code should recommend behaviour that is desired and present a list of activities that do not comply with the values. By means of this function, ethical codes aim at the elimination of unethical behaviour.

#### Opinion forming function

- The norms and standards are the result of the joint work of internal stakeholders on the ethical code. Thus, the rules are not imposed by the organization and they result from the consideration and expectations of the staff.

#### Educational function

- The participation in the development of the ethical code, which leads to the internalization of the values included in it and the opportunity to refer to it in situations that involve ethical risk.

Source: Author's research based on E. Hope, *Rola kodeksów etycznych w procesie instytucjonalizacji etyki*, [in:] J. Kubka (ed.), *Etyczne podstawy kultury biznesu*, Wydział Ekonomii i Zarządzania, Politechnika Gdańska, Gdańsk 2001, p. 104.

After an ethical code has been introduced to the practices of an organization, it can be expected that its implementation should contribute significantly to the development of trust within the organization and will enhance its credibility. Ethical codes may constitute a point of reference to the staff in their everyday work and give them support in conflicts or ethically questionable situations. They will enable a faster and more precise diagnosis of a dysfunction and consequently will help eliminate it more effectively. Moreover, ethical codes often include issues that concern external stakeholders and the natural environment as their rules support the development of relations that are based on trust with local communities<sup>12</sup>.

## 2. Non-bank lending institutions

The institutions that grant credits and loans include mainly banks and co-operative credit unions (SKOK) that in accordance with law are subject to supervision of the Polish Financial

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<sup>12</sup> M. Jankowski, *Znaczenie kodeksów etycznych w procesie gospodarowania*, [in:] U. Zagórska-Jonszta, K. Nagel, (ed.), *Współczesne problemy ekonomiczne. Wybrane zagadnienia teoretyczne a praktyka gospodarcza*, Wydawnictwo Uniwersytetu Ekonomicznego w Katowicach, Katowice 2013, pp. 246-247; G. Polok, *Kodeksy etyczne jako jedno z narzędzi regulacji zachowań podmiotów rynkowych*, [in:] *Etyczny wymiar działalności gospodarczej: wybrane zagadnienia*, Studia Ekonomiczne/Akademia Ekonomiczna w Katowicach (35) 2005, pp. 132-133.

Supervision Authority (KNF). However, such institutions include also the so called non-bank lending institutions or shadow banking institutions. The concept is defined in three ways and refers to:

- all financial institutions that offer services similar to those of banks. This approach includes also banks as the concept in question is more general;
- credit unions, hypermarkets that cover customer periodic payments or micro-loan institutions;
- institutions that accept deposits and grant credits but do not have a legal status of banks<sup>13</sup>.

The following basic features differentiate non-bank institutions from banks and the SKOK Credit Unions: there is no KNF supervision or the protection by the Bank Guarantee Fund; they are not subject to the Banking Law act; the supervision of state authorities is less strict; there is an increased risk of the loss of customer's financial resources; they do not accept deposit funds; they do not run bank accounts; they do not issue securities; they possess their own financial resources<sup>14</sup>.

Nevertheless, KNF, the Office of Competition and Consumer Protection (UOKiK) and also the Polish Association of Loan Institutions (PZIP) take measures that aim at the prevention of unethical behavior of non-bank institutions. The responsibility of KNF is to run the Register of Loan Institutions and to issue warnings against institutions whose operations raise doubts or are unlawful. The warnings concern, among others, the violations of the Banking Law act (Art.17 on carrying out activity without authorization), violation of the act on the organization and operation of pension funds (Article 215 and 216 – the use of the term *open pension fund* in advertising and carrying out the activities without authorization), violations of the act on commodity exchange (Art. 57 on carrying out the activities without authorization), violation of the act on payment services (Articles 150 and 151 – carrying out the activities by institutions that are not suppliers, the use of the term *payment institution*, the conclusion of payment service agreements without authorization)<sup>15</sup>.

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<sup>13</sup> W. Srokosz, *Instytucje parabankowe w Polsce*, Wolters Kluwer Polska sp. z o.o, Warszawa 2011.

<sup>14</sup> Cf. *Parabanki*, <https://pozyczkowy-portal.pl/nie-takie-parabanki-straszne-jak-je-maluja/> (Accessed:01.04.2019); I. Ramus, *Obrót powszechny i gospodarczy. Problemy cywilnoprawne*, Published by A. Marszałek, Toruń 2014; W. Srokosz, *Instytucje parabankowe w Polsce*, Wolters Kluwer Polska sp. z o.o, Warszawa 2011.

<sup>15</sup> Cf. Act of 29 August 1999, Banking Law, Journal of Laws 1997 No. 140 item 939, Act of 26 October 2000 r. n commodity exchange, Journal of Laws 2000 No. 103 item 1099, Act of 28 August 1997 on organization and operation of pension funds, Journal of Laws 1997 No. 139 item 934, Act of 19 August 2011 on payment services, Journal of Laws 2011 No 199 item 1175.

UOKiK runs programs of consumer protection against dishonest practices of non-bank lending institutions and provides advice to consumers on the differences between loans and credits, maximum loan interest rates, on filling in bills of exchange and checks, taking credits on the Internet or fees and provisions that can be charged by institutions<sup>16</sup>.

The Polish Association of Loan Institutions (PZIP), which was founded in 2013, brings together over 20 businesspeople and more than 50 services of the biggest lending institutions. They have a good reputation, apply the principles of responsible lending and, as it is indicated by the statute of PZIP, conduct their activities in an ethical way<sup>17</sup>. PZIP was founded mainly to represent the sector in public debate, to take care of ethical standards, which became the mission of the Association and to respect the clients' interests and the principles of fair competition, which is its main objective<sup>18</sup>. Thanks to PZIP the Code of Responsible Lending was developed for lending institutions which includes a set of rules that should be followed by every professional lending entity. The Code is based on such values as responsibility, fair information, respect, security, transparency, honesty, innovativeness<sup>19</sup> and presents, among others, the philosophy of operations, the obligations of non-bank institutions towards the customers and intermediaries, the principles of granting and paying loans, loan recovery rules and the principles of advertising. In order to be a member of the association, the institution should run operations in the lending sector, accept the Association's statute, obtain the Board's recommendation, pass through the verification process (which analyses agreement templates, the opinion about the company, complaint procedures, the existence of unlawful practices against clients or competitors, whether there were KNF warnings, whether the company grants loans from its own resources and follows legal regulations, whether there are prosecution proceedings conducted against the company, etc.) declare the implementation of business and ethical values and be granted a unanimous consent of the ordinary members<sup>20</sup>.

The control and supervision over non-bank lending institutions is not only the topic of public discussion but also an explicit consumer need. In 2013, the Office of Competition and Consumer Protection (UOKiK) issued a report: *Advertising shadow-banking institutions. Report on the inspection of the advertisements of non-bank lending institutions that offer credits*

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<sup>16</sup> *Porady konsumenckie*, <https://www.uokik.gov.pl/szukaj.php?szukaj=po%BFyczki> (Accessed: 03.04.2019).

<sup>17</sup> Statute of the Polish Association of Loan Institutions, <https://pzip.pl/statut> (Accessed: 03.04.2019).

<sup>18</sup> *Ibid.* (Accessed: 03.04.2019).

<sup>19</sup> *Kodeks odpowiedzialnego pożyczania dla instytucji pożyczkowych* <https://static1.squarespace.com/static/51bf101ae4b010d205f86e84/t/5c3f3ac6f950b76b4a3bccd7/1547647687049/PROJEKT+KODEKSU+DOBRYC+H+PRAKTYK.pdf> (Accessed: 03.04.2019).

<sup>20</sup> *Ibid.* (Accessed: 03.04.2019).

to consumers from which one can conclude that the misinformation of customers is a common practice of some non-banking institutions. The research shows that the most frequent malpractices included: indicating the lack of the necessity to prove creditworthiness, presenting the data on loan costs in an incomprehensible way and using certificates that were not granted to the lending institution or were withdrawn<sup>21</sup>.

The lack of a formalized control and supervision may result in the decrease in the trust of potential customers and lead to more frequent abuse and the appearance of unethical behavior in the institutions in question. It seems that in such cases a greater care for the observance of ethics should be a right solution.

### **3. Ethical code a tool to develop ethical behaviour in non-banking loan institutions – the results of author's research**

The objective of the research whose results are given in the article was to analyze ethical codes as tools that shape the ethical behaviour of staff in non-banking loan institutions. The following research questions were asked:

Q1: How many non-banking loan institutions under investigation have ethical codes?

Q2: What is the structure of the ethical codes that are developed or accepted by the institutions under research?

Q3: What values or principles are presented in the ethical codes under research?

Q4: Are the institutions under research the members of PZIP (the Polish Association of Loan Institutions)?

Q5: Was the Office of Competition and Consumer Protection (UOKiK) interested in the operations of the institutions under research?

The research of the documents (ethical codes) was conducted with the use of a dedicated questionnaire that included analysis criteria. 20 institutions which were analyzed were selected from the ones that were most popular according to the accessible ranking lists in financial portals<sup>22</sup> and were featured for the service quality and ethics<sup>23</sup>.

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<sup>21</sup> *Reklama parabanków. Raport z kontroli reklam pozabankowych instytucji finansowych oferujących pożyczki konsumentom*, UOKiK, Poznań 2013.

<sup>22</sup> Examples of ranking lists from: [www.chwilowkidlakazdego.pl](http://www.chwilowkidlakazdego.pl); [www.pozyczkaportal.pl](http://www.pozyczkaportal.pl); [www.bezpiecznychwilowki.pl](http://www.bezpiecznychwilowki.pl); [www.rankingchilowek.pl](http://www.rankingchilowek.pl) (Accessed: 05.03.2019).

<sup>23</sup> Examples form ranking lists from: [www.bankier.pl](http://www.bankier.pl); [www.rynekfinansow.pl](http://www.rynekfinansow.pl); [www.polskabankowosc.pl](http://www.polskabankowosc.pl) (Accessed: 05.03.2019).

The research indicated that only seven of the institutions under research had an ethical code and in three cases they used the same document prepared by the Confederation of Financial Institutions (KPF). The ethical codes under research include, apart from the general elements (the introduction and ending), a set of values or principles and their description. The content is focused on the characteristics of the services that are offered, the quality of products and the assigned tasks. Table 1 presents a set of values or principles that are included in the ethical codes under research.

**Table 1. Values or principles presented in the ethical codes under research**

<b>Customer relationships</b>	<b>Activities</b>	<b>Functioning of the institution</b>
transparency	target-orientation	respect for the principles of fair competition
customer orientation	lawfulness	compliance with ethical principles
personal propriety	ethical attitude	consideration of the expectations of other stakeholders
customer protection	development of product quality	reliable advertising
respect to dignity	professionalism	pursuit for the development
recognition of customer needs	service quality	care for the environment
development of long-term relationships	clear and comprehensible contract terms	observance of good trading practices
respect	responsibility	
avoidance of conflicts of interest	impartiality	
co-operation	transparency	
commitment	fairness	
trust	diligence	
feedback	security	
	reliability	
	entrepreneurship	

Source: based on Author's research.

The research shows that twelve institutions of the ones under research are the members of PZIP. In the case of the four of these institutions, the Office of Competition and Consumer Protection (UOKiK) had to intervene a few times. The interventions concerned violation of good practices. Most of the cases were related to the protection of the collective interests of consumers and this concerned particularly providing misleading information in such mass media as advertisements, failing to provide APRC in loan contracts or fair and true information, unlawful regulations in contracts and inadequate charges.

#### 4. Conclusions and further direction of research

The conclusions are similar to the theses presented in other scientific articles in this area<sup>24</sup>. Ethical codes are not a common tool to shape ethical behavior in institutions under research and the level of generality of the content influences insignificantly the actual ethical behaviour of their staff. A hypothesis could be set up that the most effective tool would be to develop a set of precise guidelines that are dedicated to a particular organization with the consideration of its character: the size, sector, culture and management style. One can predict that such a set would constitute a good point of reference to staff in the execution of their everyday tasks in compliance with the ethical principles of the organization. There is no doubt that effective functioning of ethical codes in the sector of non-banking institutions would encourage a wider group of potential customers to take trust in these institution. Such a thesis opens the way to further research in this area.

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<sup>24</sup> Cf. e.g. J. Michniak, *Narzędzia kształtowania zachowań etycznych pracowników w zarządzaniu organizacją* – unpublished doctor’s thesis, Kraków 2015.

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### ***Abstract***

The article deals with the issue of the development of ethical behaviour through practical implementation of ethical codes by organizations. The research covered selected non-bank lending institutions. They are not subject to close supervision of state authorities, which consequently results in the suspicion that the appearance of non-ethical behavior in their activities may be more frequent than in the case of banking institutions which are closely supervised. However, non-banking institutions may develop the trust of the stockholders through ethical codes that are properly prepared and implemented. Nevertheless, the results presented in the article show that this is not a common practice.