



ETHICS AND COMPLIANCE IN BUSINESS

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Abstract: *In this paper, we have studied the evolution of the business ethics concept through the prism of definitions from some renowned authors in the field and through the approach model of the business ethics and by implementing it in the company level. We have found out that in the last 40 years this concept has evolved from a theoretical aspect, as well as a practical one. Companies are motivated to implement ethics and compliance programs in business so that they can manage the changes that come from society. If, until recently, all that mattered for a company was profit, in the last decades, the situation changed. In order to develop a durable business, it is essential to have a good reputation. Owning and implementing an ethics and compliance program in business has become an imperative for companies, regardless of their activity sector. The role of the compliance department becomes more pregnant in each company: the employees need safety, the existence of communication lines provides comfort. From the partners in business' point of view, owning such a program is a necessity, a condition, and not conforming to the principles of business ethics can lead to the isolation of the company. The ethics and compliance programs in business are instruments that protect the company by implementing certain proactive identification mechanisms that ensure the development of an ethical organizational culture.*

Key words: *business ethics, compliance programs, companies.*

1. INTRODUCTION

Business ethics appeared recently in the USA, followed by Western Europe countries. It is a new concept but, in the last decades, it has become an imperative in successful companies. In order to remain competitive in a continuously evolving society, companies need to update the way in which they act in conformity with new changes that arise at an international level. Companies have surpassed the role of simple economic agents, they are citizens of the society in which they belong and thus need to act according to its regulations

2. EVOLUTION OF THE BUSINESS ETHICS CONCEPT

The term of business ethics is a relatively new term, which appeared in the USA in the 60's once with the rise of social problems regarding workers' right to a decent pay and proper working conditions, pollutions, nuclear and toxic waste disposal issues. [1]

Business ethics was the answer of businessmen to these problems that affected the society. In the 70's, this movement extends more and more in the society and the interest shown to this concept increases.

Because the fact that the consumerist movement extended in the 70's, business schools and universities have come up with an answer by organizing conferences and meeting of businesspeople with the academic staff where these issues were discussed. [1] Gradually, the courses were introduced in universities, the collaboration between the business environment and the academic one heading in that direction.

Companies become interested and answer society by introducing ethics codes in which sensible issues referring to business conduct are approached.

In the 80's, business ethics becomes a movement, the activity in this field increasing significantly. [2] Companies introduce ethics codes and phone lines where employees could report conduct cases that broke ethic principles of the company; the companies organized training programs to come to the aid of the employees, to answer to some of their questions and to guide them in their behavior.

In the 90's, the American government issued laws referring to deeds done by companies in this field, and in 1991, the American Congress decrees the Federal Sentencing Guidelines, a set of rules that are applicable to companies.

Business ethics has transformed from a movement into a part of the business landscape. The concept has been approached by many authors. We will try to detail a few approaches of some of the most renowned authors.

The definition given by R. T. De George to business ethics is: "the ethics perspective, either implicit in attitude, either explicitly stated, of a company or of an individual that conducts business", [2] captures the descriptive part of ethics, leaving it to be understood that there can be two approaches, a declarative one and an effective one, while a company can own a set of rules at the declarative level, but also its behavior can be different from the rules.

A. Crane and D. Matten in "*Business Ethics. A European Perspective*" propose a different definition: "Business ethics is the study of situations, activities and decisions in business in which problems related to what is morally good and evil are discussed." [3]

Shaw and Barry consider that business ethics is a study belonging to applied ethics on what is correct or incorrect in the business field. [4]

In "*Business Ethics. Concepts and Cases*", Manuel Velasquez defines business ethics as being "a study in which moral standards are applied to the behaviour of individuals involved in organizations, through which the modern society produces and distributes goods and services". [4]

The moral standards of the individual should refer to problems that present importance to the individual; to exist from their beliefs and not to be changed through policies and rules; to cross over the personal interest; to be objective and impartial and to determine emotions, pleasures or satisfactions when a person acts with morality and guilt or disappointment when a person breaks their own moral standards. [5]

In the work "*Business ethics*", [6] the authors make the following statement: "ethics is the theoretical discipline through which ideas of Good, Evil, Duty, Justice, or attitudes, characters, customs are studied, in a word: people's morality".

Lewis (1985) [7] define business ethics as being "that set of principles or arguments that should govern business conduct, either at an individual level, or at a collective one".

By analyzing only some of these definitions reproduced above belonging to well-known ethicists, we can see that there are at least two different approaches to the concept: that of De George, which situates ethics at a declarative level, of a description of what a company should do reported to certain ethic attitudes, and a second approach (Lewis) which considers that ethics in business refers to what economic agents should or should not do in business.

Thus, in the 90's, a new movement manifested in companies, a practical approach to ethics. Corporations started to implement the concept of business ethics by elaborating Ethic Codes, by creating compliance officer positions, and by organizing committees and training sessions.

At an international and national level, a series of measures have been adopted, meant to create the judicial instruments for implementing defining rules regarding ethics in business. From the most well-known regulations, we mention:

- a. The law regarding foreign corruption practices - F.C.P.A - Foreign Corrupt Practice Act; [8]
- b. Regulations contained in the 1991 Guidelines regarding federal sanctions applicable to organizations; (FGSO)
- c. Regulations contained in the 2002 Guidelines;
- d. U.K. Bribery Act. [9]

Taking into account all the new changes that have since appeared in the legislative and in the society, companies have answered by implementing ethic and conformity programs in their organizations.



3. COMPANIES ETHICS AND COMPLIANCE PROGRAMS

A larger and larger number of managers put into action compliance and ethics programs in their companies.

The compliance program can be defined as "the ensemble of processes, regulations and business instruments through which a company ensures its conformity with the national and international legislation, as well as with the internal provisions". [10]

In order to be efficient, such a program should be interconnected with the company's vision on ethics and conformity; companies need to ensure that their program is in accordance with the requirements of the international legal framework, including the United Nations Convention against Corruption. [11]

Companies should report their efforts of fighting against corruption in a public way. Public reporting is an important mean of demonstrating sincerity and seriousness, the company's involvement in preventing and fighting against corruption and its promise of respecting the fundamental values of integrity, transparency and responsibility towards the employees, business partners and other interested parties.

This commitment should start from the top management of the company. The management needs to declare zero tolerance for corruption and needs to be backed up by policies and procedures that will help put this commitment into action. This type of commitment plays a critical role in creating a culture based on fundamental values, such as integrity, transparency and responsibility. "The tone from the top" influences the norms and values with which the company operates and to which all employees and relevant business partners are expected to follow. The tone from the top is sent from the superior management of the company.

Developing and putting into practice of an anti-corruption program needs the active participation of each employee and relevant business partner. In order to manage the program, the whole organization needs to be involved and every responsibility has to be clearly determined. These responsibilities should make sure that the program is constantly implemented, executed and supervised.

We consider that it is important for each employee and business partner to respect and support the compliance program, so that it can be efficient and effective.

The top management's involvement for preventing corruption, developing an anti-corruption program and overseeing it should be translated into the company's own policy of forbidding corruption. This program should be clear, concise and accessible to all members of the organization so that all employees and business partners should adhere to these principles.

Companies elaborate their standards and procedures according to present regulations but also following their policy. All these can be implemented in the organization by including them into a Code of Conduct of the company, which would allow it to detect potential compliance incidents, but especially to prevent the advent of such incidents.

We consider that the main role of ethics and compliance programs is the prevention of incidents. In case that ethic accidents occur, the role of the compliance department is to detect them and offer feed-back to the organization. The answer can be in the form of consequences for violation of the rules, monitoring in the non-conformity cases, but also implementing means of remedy in case the rules of conformity are broken. [7]

Business conduct needs to be based on mutual trust. Trust is essential between the management of a company and their employees for a motivating work environment. In a similar way, it is important that trust exists between a company and its partners. The employees and partners need to do their activities according to the ethical values of the company, even in situations that are not clearly defined by the policies and procedures.

The companies that implement an anti-corruption program need to make sure that not only the employees and business partners are aware of the policies and procedures, but also that they have the information and abilities needed to identify corruption-related issues. Communication and forming activities play a key role in increasing the awareness level and implementation of an efficient anti-corruption program.

We consider it to be useful to the efficient implementation of ethics and compliance programs that the management of the company organizes trainings and informing programs, on a periodical

basis, in which all employees should take part in order to correctly understand the provisions of the code, thus promoting an adequate organization culture.

Professional detection and investigation as well as sanctioning rule breaks are central elements of an efficient ethics and compliance program.

Companies also need to offer ways for the employees and business partners to ask for assistance in reporting rule violations made by a person or by third parties.

The ethics and compliance department of a company has the task of offering guidance to all employees of the company; representatives of this department use direct communication methods.

The fact that breakings in the conduct the company asks of its employees are reported should not be considered a negative element. Reports only show the management of the company that the system works and the members of the organization have understood the role of the compliance program.

We consider that all ethics and conduct codes need periodical updates, due to legislative and economic changes that take place in our society.

4. CONCLUSIONS

Globalizing has affected the entire society, which determines a greater and greater dependency to international-set regulations. Because of this system, companies need to conform to these international rules, to adopt and implement them in their organization. This is the only way in which they can become competitive in a continuously evolving world.

Corruption affects the whole of society and the state cannot fight alone against it. Companies, as citizens in the society they take part, need to join the state in fighting corruption. The role of companies in present-day societies is overwhelming and they can, by implementing ethics and compliance programs, form a partnership with the public sector, satisfying the expectations regarding company responsibilities.

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