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ETHICAL CODE AS A MEANS OF SELF-REGULATION OF ECONOMIC ACTIVITY

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SUMMARY

The article examines the peculiarities of ethical codes as a means of self-regulation. It is concluded that the ethical code is a system of certain and confirmed norms of the professional community or business entities that define the moral and ethical principles of behavior in a particular field of activity. The Code of Ethics is a regulatory self-regulation means that can be included in the content of corporate social responsibility. The classification of ethical codes was carried out depending on the sphere of management on: ethical codes in the public sphere and ethical codes in the private sphere. Ethical codes in the sphere of private management are divided into: codes of business entities (business codes) and codes of professional subjects (professional codes). Ethical codes of doing business can be classified into: corporate ethical codes (created at the enterprise level); industry or intersectoral; international ethical codes.

Key words: ethical code, self-regulation, means of self-regulation, corporate social responsibility, business codes, professional codes.

ЭТИЧЕСКИЙ КОДЕКС КАК СРЕДСТВО САМОРЕГУЛИРОВАНИЯ ХОЗЯЙСТВЕННОЙ ДЕЯТЕЛЬНОСТИ

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АННОТАЦИЯ

В статье исследуются вопросы особенностей этических кодексов как средства саморегулирования. Сделан вывод, что этический кодекс – это система определенных и подтвержденных норм профессионального сообщества или субъектов хозяйствования, которыми определяются нравственные и этические принципы поведения в определенной сфере деятельности. Этический кодекс – это нормативное средство саморегулирования, которое может включаться в содержание корпоративной социальной ответственности. Проведена классификация этических кодексов в зависимости от сферы управления на этические кодексы в публичной сфере и этические кодексы в частной сфере. Этические кодексы в сфере частного управления делятся на кодексы субъектов хозяйствования (кодексы бизнеса) и кодексы субъектов профессиональной деятельности (профессиональные кодексы). Этические кодексы ведения бизнеса могут быть классифицированы на: корпоративные этические кодексы (созданные на уровне предприятия); отраслевые или межотраслевые; международные этические кодексы.

Ключевые слова: этический кодекс, саморегулирование, средство саморегулирования, корпоративная социальная ответственность, кодексы бизнеса, профессиональные кодексы.

Background. The issues of self-regulation of economic activity in Ukraine are rather actively discussed at the level of the scientific community, business entities and state authorities. The interested community examines aspects of institutional and regulatory self-regulation. To normative self-regulation are ethical codes. The ethical code defines the standards of behavior of subjects, criteria of their integrity: what to do or not to do. That is, what kind of behavior will be honest and correct, and which is not. For today, the mandatory element of ethical codes is to prevent conflicts of interest and responsibility for non-compliance with the provisions.

The purpose of the article is to identify the features of ethical codes as a means of self-regulation.

Results. The essence of the self-regulation is the potential and real possibility for the subjects to create their own rules of the behaviour and act without any external influence [1, p. 122]. Theories of business ethics or corporate responsibility tend to focus on justifying obligations that go above and beyond what is required by law [2, p. 43].

A code of ethics document may outline the mission and values of the business or organization, how professionals are supposed to approach problems, the ethical principles based on the organization's core values and the standards to which the professional is held [3].

In its 2007 International Good Practice Guidance, Defining and Developing an Effective Code of Conduct for

Organizations, the International Federation of Accountants provided the following working definition: “Principles, values, standards, or rules of behavior that guide the decisions, procedures and systems of an organization in a way that (a) contributes to the welfare of its key stakeholders, and (b) respects the rights of all constituents affected by its operations” [4].

The abilities to the self-organisation, self-regulation, self-development, self-control are the natural properties of any individual. They can be manifested in the collective communities (territorial communities, civil society, public associations, self-regulatory organisations, states, etc.). The state also has the features of the self-regulation [1, p. 123].



In general, ethical codes are adopted not only in the field of economic activity or a separate professional community. Ethical codes are also created for public authorities and local self-government bodies. Therefore, the classification of ethical codes can be based on the area of governance in which subjects of ethical compliance are carried out: the public sphere of public administration and the private sphere. Ethical codes of public administration can be divided into ethical codes: 1) officials of state authorities; 2) officials of local self-government bodies.

Ethical codes of the sphere of private management can be divided into ethical codes: 1) business entities (business codes); 2) subjects of professional activity (professional codes). Since in Ukraine the regulations and criteria for the distinction of economic entities from the subjects of professional activity are not clearly defined, therefore such division does not always reflect the existing situation in a particular sphere or field of activity.

The next criterion for classification is the kind of professional activity. In particular, most codes are created for so-called “free professions”, “regulated professions”, “professions of trust”. So, examples are the ethical codes of doctors, scientists, design engineers, lawyers, notaries and others. Officials of public authorities also have their own ethical codes.

Regulatory measures corporate social responsibility are codes of corporate ethics, rules and principles of behavior, standards of behaviors, anti-corruption programs, financial reporting on information about social responsibility. The subject of such voluntary self-regulatory norms are: human rights, environment and climate change, sustainable development, cooperation with state authorities, local self-government and consumers of products and services, anti-corruption measures [5, p. 52]. Value-based ethical codes may require a greater degree of self-regulation than compliance-based codes [3].

Business ethics is the study of proper business policies and practices regarding potentially controversial issues such as corporate governance, insider trading, bribery, discrimination, corporate social responsibility and fiduciary responsibilities; law often guides business ethics, while other times business ethics provide a basic framework that businesses may follow to gain public acceptance [6].

Ethical codes of conduct can also be classified:

1) corporate ethics codes (created at the enterprise level);

2) sectoral or intersectoral (created at the level of associations of economic entities or self-regulatory organizations within a particular state);

3) international ethical codes (which are created internationally through regional or global self-regulation).

Ethical professional codes include provisions relating to the conduct of the professional community in relation to the consumers of their goods and services. Corporate ethical codes of business contain additional provisions on the behavior of not only employees of the enterprise, but also the moments of corporate social responsibility. The science discusses the delineation of the provisions of the ethical codes, which include provisions on the goals, objectives of the company in general, and provisions relating to the conduct of management and employees within the company (employee ethics code). Betsy Stevens notes: “Ethical codes differ somewhat from professional codes and mission statements; yet the terms are frequently interchanged and often confused in the literature. Ethical code studies are reviewed in terms of how codes are communicated to employees and whether implications for violating codes are discussed” [7, p. 63].

We consider it appropriate to distinguish between these two codes, since the former includes the moments of the main principles of the company’s activity and is directed from the outside (for the interest of consumers and public authorities, non-governmental organizations). The employee code is designed and based on the ethical code of the company and focuses more on organizing ethical activities within the corporation. At the same time, it should be warned that such a distinction would be appropriate for large companies where ethical liability divisions were established. Medium and small corporations can have one corporate code of ethics.

According to Article 38 of the Economic code of Ukraine «Rules of Professional Ethics in Competition»: “With assistance of interested organizations, economic entities can develop professional ethics for competition in respective spheres of economy, as well as for some

branches of economy. Rules of professional ethics in competition can be used for drafting agreements, statutory and other documents of economic entities” [8].

A common goal for all ethical codes is twofold: the strengthening and enhancement of trust in representatives of certain activities and the provision of unified regulatory and ethical standards for their behavior. An important point of the ethical codes is the establishment of criteria for evaluating the professional activities of individuals.

Ethical codes must comply with the law of the state. The basic principles and rules of the ethical codes include: the provisions regarding the purpose of the activity, the moral and ethical principles (honesty, responsibility, decency, integrity, honesty in the performance of duties), requirements for compliance with the law (tax, anti-corruption, competition, etc.), requirements for a permanent improvement of their skills, knowledge and skills; raising the professional, intellectual and cultural level through self-education; improving the quality of the provision of goods and services. In accordance with the type of economic or professional activity, ethical codes are defined in terms of moral and ethical conduct.

Conflict of interest and prevention of corruption. For Ukraine, the provisions of anti-corruption legislation, including on preventing conflicts of interest, remain relevant. In particular, ethical codes may contain provisions prohibiting the offer and giving bribes, imposing obligations on bribery, etc. In addition, the parties are obliged to apply measures to prevent conflicts of interest. That is, contradictions between personal interests and authority within a company that affects the objectivity or impartiality of decision-making, conclusion of contracts, etc.

A separate section may be formed “positive” provisions regarding the culture of behavior of employees of a business entity or professional activities: courtesy, benevolence, attentiveness, correctness, tolerance in communicating with the consumption of goods and services, and with colleagues in work. Organizations see increased employee loyalty and pride in the organization [9].

There are also established “negative” obligations, which require refrain from: statements and actions of a discriminatory nature; rudeness; disparaging attitude,



presentation of unlawful, unfair accusations; bias, threats, offensive language, provocative behavior, etc. The most direct benefit is reducing the likelihood of “dirty hands”, fines and damaged reputations for breaching laws or moral norms [10].

Requirements for the appearance of professional persons and employees of a business entity are also often encountered in ethical codes. You can meet, for example, the following requirements for appearance: a generally accepted business style that distinguishes officiality, restraint, traditionality, precision.

However, the important point is the awareness of the employees of the need to comply with the provisions of the code, discussing the appropriateness of adopting the relevant provisions. Betsy Stevens notes: “Culture and effective communication are key components to a code’s success. If codes are embedded in the culture and embraced by the leaders, they are likely to be successful. Communicating the code’s precepts in an effective way is crucial to its success. Discussion between employees and management is a key component of successful ethical codes” [11, p. 601].

Subjects of economic activity can conduct trainings for remembering of ethical behavior by workers. The aim of such training is to help employees make ethical decisions when the answers are unclear [12, p. 327–329]. Avshalom M. Adam and Dalia Rachman-moore notes: “In the process of implementing an ethical code of conduct, a business organization uses formal methods. Of these, training, courses and means of enforcement are common and are also suitable for self-regulation. The USA is encouraging business corporations to self regulate with the Federal Sentencing Guidelines (FSG). The Guidelines prescribe similar formal methods and specify that, unless such methods are used, the process of implementation will be considered ineffective, and the business will therefore not be considered to have complied with the guidelines. Business organizations invest enormous funds on formal methods. However, recent events indicate that these are not, by themselves, yielding the desired results” [13, p. 225].

An important moment in the increased role of ethical codes was the development of ethical consumerism. Ethical consumption is the answer to the ethical behav-

ior of business entities. The consumer feels responsible for choosing a product or service. When ethical consumption is sufficiently developed, economic operators who have introduced ethical codes receive the best return. Feedback is established: the responsible economic entity is the responsible consumer.

Consumers are becoming more aware of the environmental and social implications of their day-to-day consumption decisions and in some cases make purchasing decisions related to their environmental and ethical concerns [14, p. 60–75].

Ethical codes are distinguished from the codes of proper “good” practice. Good practice codes are a system of voluntary additional organizational practices in a particular area of economic activity. That is, these codes define: how to act conscientiously business entities; what methods, substances, raw materials to use for better economic activity. States are encouraged to apply codes of good practice through a variety of administrative and economic methods. In particular, reducing control for entities that apply them or tax burden. For example, according to Council Directive of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (91/676/EEC): “With the aim of providing for all waters a general level of protection against pollution, Member States shall, within a two-year period following the notification of this Directive: (a) establish a code or codes of good agricultural practice, to be implemented by farmers on a voluntary basis, which should contain provisions covering at least the items mentioned in Annex II A; (b) set up where necessary a programme, including the provision of training and information for farmers, promoting the application of the code(s) of good agricultural practice” [15]. An important point is the definition of provisions at the level of the Directive, which should be necessarily included in the codes of best practice. Such provisions should be in accordance with the annex to the second one of the following: “1. periods when the land application of fertilizer is inappropriate; 2. the land application of fertilizer to steeply sloping ground; 3. the land application of fertilizer to water-saturated, flooded, frozen or snow-covered ground; 4. the conditions for land application of fertilizer near water courses; 5. the capacity and construction of storage vessels for live-

stock manures, including measures to prevent water pollution by run-off and seepage into the groundwater and surface water of liquids containing livestock manures and effluents from stored plant materials such as silage; 6. procedures for the land application, including rate and uniformity of spreading, of both chemical fertilizer and livestock manure, that will maintain nutrient losses to water at an acceptable level” [15]. Визначаються також не обов’язкові положення щодо кодексів, наприклад: “the establishment of fertilizer plans on a farm-by-farm basis and the keeping of records on fertilizer use; the prevention of water pollution from run-off and the downward water movement beyond the reach of crop roots in irrigation systems та інші” [15]. In this example, there is a definition of additional instructions when creating voluntary codes, which is a new phenomenon for Ukraine.

For Ukraine, the application of good agricultural practice is a big problem. Farm workers often stick to “bad” practices to maximize profits. Example: “Results of “Monitoring of water pollution by nutrients in Danube catchment area in Odessa oblast”, undertaken by Odessa state center of soil protection have proved that situation is quit serious and obviously bad agriculture practice is one of the key factors of pollution situation are the following: bad quality of fertilizers and wrong application, applying fertilizers to wetlands and frozen ground, wrong spread pattern and bad equipment, absence of monitoring crop nutrient status, unsuitable crop rotation etc.” [16, p. 43].

Conclusions. The Code of Ethics is a system of defined and verified norms of a particular professional community or business entities that defines the moral and ethical principles of conduct. Ethical codes are a normative self-regulation means that can be included in the content of corporate social responsibility. Ethical codes can be categorized according to the scope of governance: ethical codes in the public sphere and ethical codes in the private sphere. The ethical codes of the sphere of private management are divided into: codes of economic entities (business codes); codes of subjects of professional activity (professional codes). Ethical codes of doing business can be classified into: corporate ethical codes (created at the enterprise level); industry or intersectoral; international ethical codes.



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