

Editorial

What is the role of lawyers in society? And when lawyers fail to fulfil this role, can codes of conduct effectively address their behaviour and improve trust in legal professions and institutions? In Slovakia, judges, prosecutors and attorneys have been accused of abusing their power, particularly in the ‘Threema’ cases, which are discussed in three papers in this volume and to which politicians have struggled to mount an appropriate response. On the other hand, controversial reforms are endangering judicial independence in Poland and Hungary.

The current special issue explores how laws regulating lawyers, including codes of conduct, interact with the lived experiences of lawyers and how this interaction affects and is affected by societal expectations.

The first paper of the issue, by Tomáš Friedel, discusses the need for written codes of conduct in legal professions and provides insight into the adoption and content of codes of conduct of judges, prosecutors and attorneys in the Czech Republic. Tomáš expounds reasons for the adoption of codes, such as their regulatory function or their contribution to the discourse on ethics. He also develops some arguments against codes of conduct; for example, ethics cannot be legislated and codes of conduct can be misused. Next, he investigates different types of codes, focusing on the rule-based vs. norm-based dichotomy. In the second part of the paper, he very dynamically introduces domestic codes in the Czech Republic, as well as the ideas and people that formed them, mentioning some practical obstacles in their creation and implementation. In summary, Tomáš is convinced of the importance of codes of conduct, he acknowledges that the matter is complex and that the ways in which specific codes of conduct serve their functions depends on many factors.

Peter Čuroš, the author of the second paper, builds his argument around the need for a more profound discussion about the role of lawyers in society and for experiential legal ethics training at law faculties. He bases this opinion on the theory of discipline, as presented by Michel Foucault. However, his investigation is not marked by the dark, suffocating atmosphere of Foucault’s writings. However, he speaks about society’s discipline mechanism in a more neutral way. Peter’s understanding of discipline could perhaps be viewed as a part of Ludwig Wittgenstein’s form of life. In Peter’s view, codes of conduct are one way in which disciplinary power is exerted over the soul. Nonetheless, he also asserts that codes of conduct alone cannot rebuild public trust after the crisis caused by Threema. Instead, he believes that the crucial work in this regard must begin by focusing on the lived experience of lawyers, instilling in them a sense of identity, rather than by adopting a document (code of conduct). Peter proposes that such a goal could be achieved through experiential training at law faculties. In fact, Peter’s argument

than is that we should move from teaching students to *think* like lawyers (Frederick Schauer) to teaching them to *be* lawyers.

The third paper, by Andrej Démuth and Slávka Démuthová, focuses on how to restore public trust in the judiciary, perceiving this trust as a moral emotion. The first way is to promote transparency, citing Jeremy Bentham's idea of the Panopticon—a system of control incarnated into a building through the organisation of space—which became popular thanks to Foucault. Hence, they point in the same direction as Peter in his paper, discussing the dark areas that allow for corruption of justice, as well as the idea of public visibility of judicial decisions, which is established in the law. In this way, they argue for even more transparency, such as requiring judges and their family members to declare their assets. Moreover, they highlight the need for higher intelligibility of judicial or other legal decisions. To this end, they propose a change in the use of language. They also recall the principle of 'justice delayed is justice denied' and promote the need for accountability of judges and other public officials. Like Peter, Andrej and Slávka believe in the power of professional ethics and honour, while stressing the importance of openness in the system that enforces them.

The last paper of the special issue, authored by Zuzana Dluhošová, Ján Mazúr and myself, shows how the Threema crisis is perceived by lawyers themselves. It introduces the results of a survey carried out among legal professionals: judges, attorneys, prosecutors, notaries, enforcement officers, law professors and law students. The survey focused on identifying the opinion of lawyers on whether the legal professions dealt appropriately with information about the 'Threema behaviour' of other lawyers. It also sought to ascertain how to foster public trust in the integrity of the legal professions. In a way, the last paper makes this special issue circular, like an Uroboros, because respondents relied on arguments similar to those presented in the previous papers. For example, when commenting on 'Threema behaviour', some respondents claimed that codes of conduct are not important because ethics cannot be coded in a document. Others argued that codes of conduct should be more detailed and more enforceable. Some thought that public trust in the legal professions could be promoted through changes to the disciplinary system, others that trust could be restored by strengthening transparency. Still others called for a more profound discussion of the role of law and lawyers in society.

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