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**CONTRIBUTIONS FROM PRACTICE TO THE DESIGN OF AN
ETHICAL PERFORMANCE MANAGEMENT SYSTEM**

Ana Roque de Aguiar Ribeiro

Doutoramento em Sustentabilidade Social e Desenvolvimento

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Doutoramento em Sustentabilidade Social e Desenvolvimento

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ABSTRACT

Corporate ethics, companies' adoption of a management focused on the common good, is recognised as a necessary condition for sustainable development.

Many companies, especially large companies, have ethics management programmes, but those programmes are often reactive, partial and very dependent on leadership. How do we move from this situation to an effective incorporation of ethics into the company's culture? We believe a systemic approach is needed.

With such premise, the aim of this thesis is to identify what are the necessary conditions for moving to a systemic approach to ethics in companies.

We start from five research questions: what characteristics should an ethical performance management system have? What are the characteristics of an ethics-oriented company? What is companies' approach to ethics? What are the conditions for a Code of Ethics' adoption in different countries and cultures? And finally, is an ethical culture completely dependent on leaders?

In order to answer the above-mentioned questions, in addition to the business and academic literature review, we used multiple methodological approaches and strategies: case study, action research, storytelling, oral history, and grounded theory (with support of MAXQDA software for content analysis).

We started by analysing the application questionnaire to the Ethisphere's World's Most Ethical Companies index, which distinguishes companies with excellence in management in the field of ethics. We made that to draw a portrait of what could be considered an ethics-oriented company.

Based on this portrait and using grounded theory we started the content analysis of the reports of the 18 European companies distinguished in the 2019 index. We chose that methodology because we wanted to guarantee an open approach to the information provided by companies and to understand, solely through this approach, as well as the cross-checking between different indicators, how ethics was being lived in corporations.

We also conducted two case studies: the process of reviewing a code of ethics in a transnational company and the narrative of a Chief Executive Officer (CEO) and a Chief Compliance Officer (CCO), about the impact of a leadership change in the ethical culture of a multinational company.

In terms of results, we conclude from our research that a system for ethical management is necessarily a complex system; that a purpose for ethics, clearly assumed and assimilated by companies, is lacking; and that the existence of this purpose is a necessary condition for the system's existence.

We conclude that the system can hardly be based on those who are now the companies' top managers because they hardly have an ethical leadership, they were not educated to consider ethics as a priority and the shadow of an ethical break would always be present in every change of leadership.

One of promotion rather than of ethics management, the system needs, at this point, to be developed by and for the 10 % of the companies' population that consistently have an ethical behaviour. Those will be the leaders, formal or informal, who can make ethics consistently embedded in the company's culture.

Keywords: *Ethics management system; companies' ethical performance; global code of ethics; ethical leadership.*

RESUMO ALARGADO

Há uma ligação intrínseca entre desenvolvimento sustentável e ética empresarial, quer na origem — os maiores desastres do mundo foram fruto de companhias “que não seguiam standards aceitáveis” (United Nations, 1987, p. 188) — quer na convicção de que nenhum desenvolvimento sustentável será possível sem um alinhamento nesse objetivo por parte das empresas. Alinhamento que implica por si uma postura ética de preocupação com o bem comum.

Esta tese tem como objetivo contribuir, através da reflexão sobre a prática, para o desenho de um sistema corporativo de gestão do desempenho ético para empresas transnacionais, que muitas vezes têm um *turnover* maior do que alguns países (United Nations, 1987).

A investigação tem como ponto de partida uma convicção: a forma como as empresas gerem hoje em dia a ética é reativa e exógena, parte da regulação de pressões, do medo de penalizações e de perdas de mercado. É uma ética que não está incorporada que por vezes desperta mesmo algum cinismo nos colaboradores, ou seja, que chega a ser contraproducente.

A abordagem à ética das empresas de que precisamos e que nos pode verdadeiramente ajudar a atingir um desenvolvimento sustentável não é esta. É uma ética incorporada na gestão, que faça parte da reflexão sobre cada ato, como acontece com áreas como as finanças. Para isso é necessária uma abordagem sistémica, global e holística, incorporada na cultura.

A nossa investigação vai então no sentido de tentar perceber quais as condições necessárias para a adoção de uma abordagem sistémica na gestão do desempenho ético das empresas (com um foco nas empresas transnacionais e multinacionais). Essa reflexão é feita a partir de dentro, da prática, da forma como a ética é vivida nas empresas, uma investigação mais centrada no porquê da situação, incluindo as emoções, as tensões, os obstáculos e as estratégias para os ultrapassar.

Acreditamos que esta abordagem, de um ponto de vista da Academia, permitirá reforçar o conhecimento relativamente às práticas da ética empresarial, aos processos utilizados pelas empresas para promoverem um melhor desempenho ético, à forma como a ética é vivida. Para quem atua no terreno, nomeadamente as entidades que desenvolvem referenciais na

área da ética, pode permitir conceber mecanismos operacionais que possam incentivar de modo mais adequado o desenvolvimento de uma gestão ética mais eficaz e sustentável. Para as empresas, acreditamos que, o nosso trabalho, através de uma narrativa que lhes é próxima e onde eventualmente se podem rever, fornece bases para uma reflexão e poderá ser um elemento facilitador do diagnóstico e da definição de objetivos.

Para identificar as condições necessárias à adoção de uma abordagem sistémica na gestão do desempenho ético das empresas procurámos a resposta a cinco perguntas:

1. Que características deve ter um sistema para gerir o desempenho ético?
2. Quais as características de uma empresa orientada para a ética?
3. Qual a abordagem das empresas à ética?
4. Que características deve ter um código de ética para que possa ser aceite em diferentes países e culturas?
5. Será a ética completamente dependente dos líderes?

Para responder a cada uma destas perguntas adotámos diferentes estratégias e abordagens metodológicas, podendo no entanto dizer-se que, de uma forma geral, a nossa abordagem nos diferentes artigos foi qualitativa, uma vez que o se pretendia era descobrir, através dos sinais e da interpretação desses sinais, a forma como a ética é vivida nas organizações e não testar variáveis (Corbin & Strauss, 2008, p. 13).

As respostas às perguntas 2 e 3 (capítulo 2) deram origem ao artigo *What do we Talk about when we Talk about Ethics? A Research Journey through the World Most Ethical Companies* publicado no International Journal of Managerial Studies and Research (IJMSR) Volume 8, Issue 1, January 2020, PP 60-75.

A resposta à pergunta 3 (capítulo 4) deu origem ao artigo *Corporate Codes of Ethics — the How factor* que foi submetido para publicação no International Journal of Cross Cultural Management e aguarda decisão.

Finalmente a quinta pergunta (capítulo 5) corresponde ao artigo *Ethics Beyond Leadership — Can ethics Survive Bad Leadership?* Que foi aceite e aguarda publicação no Journal of Global Responsibility.

De seguida apresentamos a abordagem para cada uma das perguntas e as conclusões a que chegámos.

1. Que características deve ter um sistema de gestão do desempenho ético das empresas?

A primeira pergunta, fundamental para tentar clarificar o próprio objeto da tese, foi a única à qual não se tentou responder através da prática. Começámos por identificar o que diferencia um processo (o que a grande parte das empresas têm nomeadamente na gestão das reclamações) de um sistema, que tem por base a inter-relação, a necessidade do todo e a existência de um propósito.

Foi realizada uma pesquisa em publicações académicas e empresariais que teve uma especial dívida para com o trabalho desenvolvido sobre os sistemas complexos por Edgar Morin (2008) e por Kelly-Eve Mitleton (2003, 2016). De facto, um sistema para gerir uma área tão ampla como a ética, potencialmente aplicável a qualquer operação da empresa, dependente da cultura e até das características pessoais do próprio ator na sua atuação e que diz respeito a comportamentos, não pode ser desenhado como se fosse a gestão de um produto ou de um serviço. Um sistema para gerir uma área como a ética é necessariamente um sistema complexo e isso implica a impossibilidade do controlo total, a aceitação de que sistemas complexos não se baseiam no cumprimento de ordens e planos definidos, são do âmbito do desassossego, da procura constante, da autodescoberta, da insatisfação, da satisfação incompleta. Quanto mais exigentes formos em relação à ética mais complexos terão de ser os sistemas para a gerir.

2. Quais as características de uma empresa orientada para a ética?

Tomámos como referência o índice *World's Most Ethical Companies* do Ethisphere Institute que, desde 2007, todos os anos distingue cerca de 100 empresas em todo o mundo pelo seu desempenho na área da ética. Escolhemos este índice no enquadramento da prática, por ser assumido como a referência pelas grandes empresas mundiais, aquilo a que procuram responder. Fizemos uma análise das perguntas do questionário de candidatura e das hipóteses de resposta que lá são apresentadas e desenhámos (concebemos) o retrato de uma empresa com orientação ética, que assumimos para este trabalho como o paradigma do que é pedido às empresas.

De acordo com esse retrato, uma empresa orientada para a ética é: uma empresa que considera a ética como algo central, relativamente à qual o Conselho de Administração quer estar informado, e sobre cujo desempenho reflete para identificar novos desafios e novas formas de a fazer crescer dentro da organização; onde há uma pessoa com posicionamento de topo com a função de gerir a ética, que está exclusivamente dedicada a esta temática e que é convidada a apoiar a reflexão nas diferentes áreas da empresa, participando igualmente no desenvolvimento da estratégia geral e na análise de risco; uma empresa onde todos os colaboradores têm formação regular em ética, mas onde, para além dessa formação, a ética é um tema recorrente nas reuniões de trabalho das equipas; uma empresa onde a ética é um tema vivo, percecionado como um *must have* e que, como tal, faz parte das avaliações de desempenho e dos bónus dos gestores. Uma empresa onde o programa de gestão da ética é avaliado anualmente, bem como a cultura e o clima éticos sendo os resultados comunicados de forma adequada às partes interessadas.

3. Qual a abordagem das empresas à ética?

O índice *World's Most Ethical Companies* e as empresas distinguidas, serviram-nos também de base para a resposta à terceira pergunta.

A pesquisa foi feita através da *grounded theory*, uma metodologia onde se parte do nada para a construção da teoria, ou seja, é uma metodologia que implica uma abertura para identificar a teoria que possa emergir nos objetos de análise, a análise começa quando se começa a recolher a informação (Corbin & Strauss, 1990, p. 6). Os objetos de análise neste caso foram os relatórios (gestão, ética, sustentabilidade) das 18 empresas europeias distinguidas no índice.

A análise da informação foi feita com o apoio do software MAXQDA e mostrou inconsistências no uso da palavra ética e falta de clareza relativamente ao papel da ética nas organizações. Mostrou também que a maioria das empresas está no modo de *compliance*, sem uma incorporação real da ética na estratégia e nas questões *core*. O aspeto-chave para uma incorporação decisiva da ética parece ser a assunção de um propósito que encoraje a ação para além da existência ou não de exigências legais ou de regulação.

4. Que características deve ter um código de ética para que possa ser aceite em diferentes países e culturas?

A formulação desta pergunta teve como ponto de partida o facto de o código de ética ser o instrumento fundador da generalidade dos programas de ética nas empresas. É, contudo, um instrumento com palavras que podem ter diferentes interpretações, de cultura para cultura, o que pode afetar a sua credibilidade e aceitação por parte dos colaboradores (Talaucar, 2009).

Para responder a esta pergunta foi realizado um estudo de caso em profundidade da revisão de um código de ética por uma empresa transnacional utilizando uma estratégia investigação-ação. O caso é apresentado numa abordagem de *storytelling*. Documenta-se o processo de elaboração do código e da avaliação do resultado obtido em dois momentos: na altura e três anos depois. O estudo de caso foi antecedido de uma pesquisa de arquivo sobre a relevância dos códigos de ética para as organizações transnacionais e sobre o impacto do método utilizado no seu desenvolvimento para a aceitação e incorporação do código na organização.

Concluiu-se que uma metodologia participativa na conceção do código e uma abordagem mais axiológica do que normativa no conteúdo são aspetos críticos para a aceitação do código. O código deve ser concebido numa perspetiva de negociação e de abertura onde seja possível manter as diferenças que se justifiquem. Em termos de conteúdo é importante não colocar no código o que não pode ser conseguido e ter contenção no uso de palavras como “nunca” quando se assume que pode haver exceções.

A questão da tradução e da linguagem aparece como uma questão chave que merece mais atenção do que lhe tem sido dada. Palavras como respeito tem significados diferentes de país para país (materializam-se de forma diferente) e mesmo expressões como corrupção, podem ter traduções tecnicamente corretas com significados jurídicos distintos de país para país.

No desenvolvimento do código as características pessoais do líder, a energia que o move, são um aspeto fundamental para dar credibilidade ao processo e para os resultados que são conseguidos. É, naturalmente, o aspeto mais difícil de replicar e que pode fazer com que, seguindo os mesmos procedimentos, se chegue a resultados completamente diferentes.

5. Será a ética completamente dependente dos líderes?

Se a cultura ética de uma organização for totalmente dependente dos líderes então qualquer sistema que se desenvolva estará sempre dependente de cada mudança de líder. Nesse sentido, o objetivo da nossa investigação, mais do que responder à questão sobre a dependência, é tentar perceber o que pode tornar a cultura ética de uma organização mais resistente às mudanças de líder.

Foi realizado um estudo de caso onde se retrata o impacto em termos de clima e cultura éticos da mudança de liderança numa empresa multinacional — trata-se de uma narrativa construída a partir da entrevista ao CEO já afastado das suas funções e à responsável pelo *Compliance*.

O objetivo foi, a partir da análise da narrativa, a partir da revisão da literatura e da nossa experiência, tentar identificar as circunstâncias (instrumentos, processos, procedimentos) que teriam, por hipótese, dificultado a ocorrência do caso relatado ou, de forma mais abrangente, tornado esta ou outra qualquer empresa mais resiliente face a mudanças de liderança.

A estratégia metodológica adotada foi a *narrativa*, sendo construída através da reprodução do discurso oral dos narradores (*oral history*), seguida depois de uma análise crítica. Escolhemos esta metodologia porque acreditamos, tal como refere Hannah Arendt, que através dos discursos, das suas exatas palavras, as pessoas mostram quem são, revelam a sua identidade pessoal e as suas singularidades (Arendt, 2001). Esta abordagem permite mostrar os sentimentos que enquadram a ação, que são, de acordo com Scharmer (2015), um dos elementos menos estudados.

Concluimos que os aspetos que poderiam tornar a organização mais resiliente às mudanças de liderança seriam o tipo de formação que é dada aos colaboradores, que deve ser mais centrada nos valores, na responsabilidade individual e no desenvolvimento de *soft skills*. A preparação do processo de sucessão dos líderes também é um aspeto fundamental. A implementação de medidas de combate ao silêncio moral, tais como a explicitação da obrigação de falar (denunciar), criar espaços seguros para diálogo e desenvolver ferramentas que garantam que a empresa sabe o que se passa, como por exemplo entrevistas de saída, são aspetos relevantes tal como divulgar o resultado das denúncias que são feitas, para mostrar que vale a pena, que falar tem impacto.

Conclusões gerais

Mais do que a soma das conclusões de cada um dos artigos, apresentamos uma reflexão sobre os aspetos que encontramos transversalmente na resposta a cada uma das nossas perguntas de investigação. Concluimos que, para a maior parte das empresas analisadas, este é ainda o momento do *compliance*. Não há uma identificação clara do propósito da ética e não há, sobretudo, uma assunção da ética como fazendo parte do propósito da empresa e da missão dos líderes.

A questão da liderança, da falha, no ponto de vista ético da liderança, é também uma conclusão transversal. Há a percepção de que um sistema de gestão do desempenho ético dificilmente pode ter como motor, de uma forma ampla, os líderes. Os líderes empresariais, tal como são hoje na sua maioria, têm medo de gerir a complexidade, não acreditam suficientemente na ética ao ponto de a incluir na reflexão estratégica, sentem que, se forem pelo caminho da ética, não têm futuro e, enquanto líderes, têm muito a perder. Esta situação é fruto de um modelo vigente que qualquer sistema de gestão do desempenho ético seriamente assumido tem de ter como propósito mudar, empresa a empresa.

Surgem como condições fundamentais para a adoção de uma abordagem sistémica à gestão do desempenho ético nas empresas, a identificação do propósito por caminhos diferentes dos que têm até agora maioritariamente sido seguidos, a aceitação da complexidade, uma abordagem mais axiológica do que normativa, a aposta nas pessoas com liderança ética, independentemente de serem líderes formais ou informais, a percepção de que serão os 10% que procuram ter de modo constante uma conduta ética que farão a diferença e que é importante desenhar um sistema a pensar nessas pessoas e a apoiá-las.

Palavras-chave: *Sistema de gestão da ética; Desempenho ético das empresas; Códigos de ética globais; Liderança ética; Empresas com orientação ética.*

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List of Abbreviations and Acronyms

BU	Business Unities
CCO	Chief Compliance Officer
CEO	Chief Executive Officer
CFO	Chief Financial Officer
CSR	Corporate Social Responsibility
DJSI	Dow Jones Sustainability Index
EBITA	Earnings before interest, taxes, and amortization
ECO	Ethics and Compliance Officer
GRI	Global Reporting Initiative
HR	Human Resources
IBE	Institute of Business Ethics
IT	Information Technology
OU	Organisational Unities
UK	United Kingdom
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
US	United States
VUCA	Volatility, Uncertainty, Complexity and Ambiguity

PREFACE

We do not learn from experience we learn from reflecting on experience.

John Dewey

The idea of writing this thesis, or even to research and investigate its subject, came up as my own questions regarding ethics in companies were arising.

I started working in sustainability in 1993. I developed projects following the first corporate strategies in this field, participating in the preparation of many companies' first sustainability reports.

At first, I didn't want to hear about ethics, as I perceived it as subjective by nature. What interested me was the factual, the concrete and the measurable.

However, after a certain time, I began to realise the feet of clay, the absolute need for a change in values in companies and society in order to allow a sustainable development, based on so many facts, to be built in a consistent and determined way.

From then on, I started to dedicate my work to ethics. More than 10 years have passed since then.

I've chosen this theme, the contribution of practice to the design of an ethical performance management system, to fill a gap I felt existed in the academic literature regarding business ethics: documentation and reflection on practice. As an example, when I participated in the process of drafting the code of ethics that is the subject of one of the articles in this thesis, I sought support in scientific articles that documented processes and found very little or nothing with the level of detail that would allow me to understand the development of the project in all its complexity.

I missed in-depth qualitative studies that would tell me how things were felt, that would accompany ethics management programmes, placing them in their context, strategies, obstacles, and evaluation.

I felt that having closely followed the development of ethical performance management programmes and having documented the whole process was something worth sharing, thus deepening the reflection on my own experience and reframing it in the light of literature.

An important driver for the development of ethics in companies is benchmarking: a comparison with other companies (with all the good and evil it entails). In this context, for transnational companies, the Ethisphere index is an important reference. I also decided to take this index as part of the practical investigation, along with the companies that are part of it.

What is companies' attitude when they respond to indexes? Do they do it seriously, as a self-diagnosis, or do they do it just to promote themselves? To what extent do they incorporate the ethical component (Moreira & Alves, 2011)?

The entities that develop these indexes (in this case Ethisphere) have a wealth of information: they have internal reflection, they establish a paradigm of excellence for ethics management, they prepare an application questionnaire based on this paradigm, they receive responses from companies, and they even mention how many were accepted to be part of the index. Yet, they still return very little information about the whole process to civil society.

We don't know what the paradigm of excellence is. We don't know how many companies compete and how many are left out, we don't know how tight the filtering mesh is, and we don't know what it means to be one of the *World Most Ethical Companies*. It may even consist of simply paying a fee and being willing to complete the questionnaire without serious concerns. In fact, only about 10% of the questions require proof of the answer given.

It seemed interesting to me to try, through research, to get what I was not given and, to try to understand how ethics is lived in companies of excellence, by doing the reverse, starting from the questionnaire to try to envision a hypothesis of the original paradigm. And, with that paradigm in mind, to read companies' reports in order to find the reality behind them.

Somehow what I'm looking for is to know if my work makes sense or, in a more optimistic way, to find out how can I make more sense of my work and increase the impact it can have on civil society.

The leadership article corresponds to another key issue and another set of anxieties: anyone who works with companies or, more broadly, with organisations knows that leaders can often be an obstacle to the development of projects in the ethics and sustainability areas. And even when they don't, there is always the shadow that others can. The assertion that leadership is a necessary condition for an ethical culture is said in unanimous by both Academia and the business world. But, as we all know, in Academia and in the business world, leaders tend not to be ethical, and the economic model in which business leaders have been trained and which has formatted their mindset is not compatible with ethics, or at least does not consider it a priority (Stormer, 2003).

So why do we continue to insist on leaders to move forward in this rhetoric?

It is not possible to solve something that is not faced. This is a valid statement here and throughout this thesis.

Who are the leaders? What do they feel? What difficulties do they have regarding ethics? How can we protect ourselves from leaders? How can we develop organisations that survive them and make the work we do sustainable? — those were the questions for the leadership article.

Finally, the idea of the system arose from the fact that companies started referring to what they do in ethics management as an ethical performance management system and I, despite not seeing any system, started to dream of a systemic approach to ethics.

What system would it have to be? What is critical for the system to function? It had to be designed taking into account the practice, without concealing anything, namely human fragility. And then the cycle closed, and it became clear that what I wanted to do with my thesis was a contribution to the construction of this system.

To sum up, this thesis is based on the concern and the hope that change in this systemic, cultural and sustainable sense is possible.

1 GENERAL INTRODUCTION

1.1 Overview

Science is not a collection of truths. It is a continuing exploration of mysteries.
(Dyson, 2011)

For good and for evil, business ethics is linked to sustainable development, both at the root of the problem — the world’s biggest disasters were the result of companies that did not follow acceptable standards (United Nations, 1987, p. 188) — and at the solution — in the belief that they can commit to be part of it.

As Wesarat *et al.* (2017) pointed out, an organisation’s performance, in terms of sustainability, is dependent on how the organisation emphasises ethics. Ethics is a necessary condition. Therefore, since the emergence of the sustainable development concept (United Nations, 1987) we talk about the role of companies in achieving it: “companies need to be called, from one-person companies, to large multinationals with an economic turnover greater than many countries”.

This need is especially clear when we talk about multinational companies — over the years, companies have gone from economic agents, suppliers of products and services, to, in a context of globalisation, unavoidable entities in our life and in our choices, shaping cultures and lifestyles and being even “the latest cause of many decisions we make throughout life”¹ (Fernandez, 2012, p. 16) such as where do we live, whether or not we have children, at what age, how many.

This enormous power that companies over decades have acquired implies new responsibilities and new challenges, and if we think about sustainable development, “we see that their importance is still more decisive” (Lozano & Boni, 2002, p. 169). Business engagement is a necessary condition for sustainable development to be possible.

¹ Translation provided by the author. In the original: “Causa última— de muchas de las decisiones que la gente toma a lo largo de su vida: la dedicación profesional; la decisión de crear o no una familia en una u otra edad; la de tener hijos y, en su caso, cuántos”.

What is intended is a change in companies' management that promotes a passage from a weak sustainable development, where there is a "Declaratory commitment to principles stronger than practice" (Baker, 2006, p. 30) to a strong sustainable development in which principles are taken into account in management decisions. It is imperative that we approach this model strongly linked to ethics, where "Principles take precedence over pragmatic considerations (participation; equity; gender equality; justice; common but differentiated responsibilities)" (Baker, 2006, p. 30).

Corporate ethics is not an easy subject. On the one hand ethics is potentially in all areas and in all company's actions; on the other hand, it depend on individual convictions and behaviours (from top to bottom) and all, including managers, "have received minimal, if any, instruction about the moral dimension of exercising their responsibilities" (O'Brien, 2019). In addition, the majority of managers operate in a system where ethical issues are not emphasised in comparison with technological, financial or communication skills (O'Brien, 2019).

For all these reasons, and although we see statements related to ethics made by most large companies, Business Ethics "as a movement and a practice has failed to deliver the expected results" (Boda & Zsolnai, 2016, p. 17). It would be fantastic to be able to say that business has become much more ethical since we started to talk about the concept with more insistence in the early 80s, but that is not the reality.

1.2 Problem identification and Research Relevance

For ethics to become a building block in organisations' governance, it is essential to move from a casuistic approach which often advances only due to awards and benchmarking (Moreira & Alves, 2011) to a systemic approach.

But what exactly is this systemic approach? There is still little reflection and there are practically non-existent publications from national-level bodies (from different countries) linked to standardisation in this area.

Ultimately, and since ethics applies to all company areas (of the individual and of society), it would have to be a system that would allow, as happened, for example, with quality, a transition, from the management of ethics to the incorporation of ethics into management, evolving the ethical culture itself as management evolves — a system that self-regulates and sustains, an autopoietic system (Varela *et al.*, 1974).

The system we believe is important to draw, should enhance a passage from the current approach to ethics that, in many cases, as presented in Table 1.1, is reactive and strongly dependent on the leader and circumstances, to a proactive and incorporated into the culture approach (table 1.1).

Table 1.1 - Management System Vision (How It Tends to Be and How It Should Be)

	As is	To be
Approach	Reactive	Proactive
Origin	Exogenous	Endogenous
Coverage	Partial and fragmented	Global and holistic
Scope	Generalist	Company-specific (materiality)
Motivation	Opportunistic and consequential	Coherent “meaningful”
Timing	Occasional	Continuous
Impact	Promoter of occasional changes	Structural change-generator
Robustness	Strongly dependent on leader and circumstances	Embedded in culture

We believe that the contribution of practice is very important for this system design: a system which design is based on what is, and how it is, in the business world. This was the starting point of our thesis, an investigation carried out in the business context and in the light of the difficulties experienced in that context.

From an academic standpoint, we believe that this approach will allow to reinforce the knowledge regarding business ethics practices, the processes used by companies to promote better ethical performance. This is a knowledge about the emotions involved, the way situations are lived, more than just about facts, an aspect that is important for future investigations and for the design (conception) of any system.

In addition to the Academia, we think that our thesis may also make a contribution to those who work in the field, namely the entities that develop references in the field of ethics. Identifying the difficulties companies may have to respond to what is requested and getting information and knowledge about how ethics is lived, can allow the design of operational mechanisms that can more appropriately encourage the development of a sustainable ethical management.

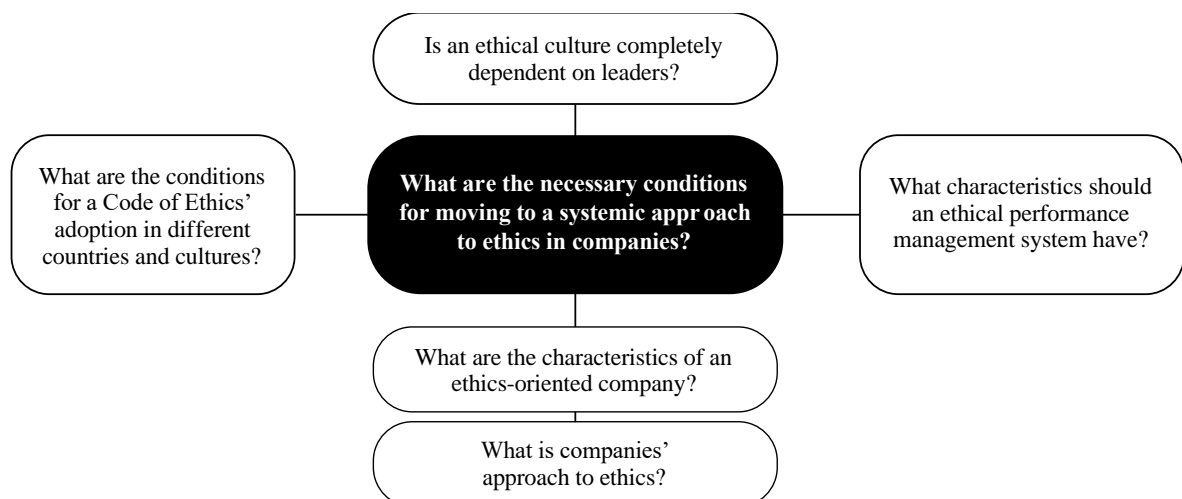
For companies, we believe that our work, through a narrative that is close to them and with which they can eventually identify themselves, provides the basis for reflection and even action in the field. More specifically, the portrait we present of an ethics-oriented company (chapter 2) may be a facilitating element in the diagnosis and definition of objectives.

1.3 Research Questions and Objectives

Our starting question was: what are the necessary conditions for moving to a systemic approach to ethics in companies?

This first question, the result of our own doubts in supporting companies in the development of ethics management programmes, was divided into 5 other questions (Figure 1.1), which represent aspects that seem especially critical and whose answers will be the contribution of practice to the system design.

Figure 1.1 - Research Questions Overview



- **What characteristics should an ethical performance management system have?**

This is the only question that was not answered through practice, but it was a fundamental question to clarify the very object of this thesis — to clarify our understanding of a system for managing a topic as broad as ethics, potentially applicable to any company's operation, so dependent on culture and even on the personal characteristics of the actors themselves in their performance, which concerns behaviour, something that is intricately complex.

- **What are the characteristics of an ethics-oriented company?**

To answer it, and since the object of our thesis is the practice, we did not want to start from any theoretical concept about business ethics. Our starting point was a reference frequently used by companies. We took as a reference the Ethisphere Institute's standards.

Since 2007, Ethisphere Institute has developed an index called *World's Most Ethical Companies* that every year distinguishes around 100 companies worldwide for their performance in the area of ethics.

We selected this index (although it is not consensual, several organisations report some lack of transparency and an economic interest behind the choices (Schwartz, 2016)) because it is mainly applied by large transnational companies and because companies' selection is done according to a wide-ranging survey on corporate ethics, updated annually in line with new trends in business ethics. Based on the content analysis of the survey questions and the hypotheses of answers that are presented there, we drew a portrait of an ethics-oriented company, which we assume, for this work, as the paradigm of what is asked of companies.

- **What is companies' approach to ethics?**

In order to design a useful ethical performance management system that companies can implement, we considered of utmost importance to identify the difficulties they feel in meeting their own goals, in this case, the Ethisphere standards of *World Most Ethical Companies*. Thus, starting from a portrait of an ethics-oriented company elaborated from the survey, we tried to understand, through the companies' communication, how they fulfil, or not, the different requirements and, more specifically, what were the companies' approach to ethics.

- **What are the conditions for a code of ethics adoption in different countries and cultures?**

The code of ethics is the founding instrument of most companies' ethics programmes, it is the formal explanation of companies' values, and therefore a must have of good practices related to programmes (Kaptein, 2004). However, it is an instrument with words that can have different interpretations across cultures, which can affect its credibility and acceptance by employees (Talaucar, 2009).

Given the relevance of this instrument and its complexity in the context of transnational companies, it seemed to us that trying to understand, in practice, what key problems companies face while preparing the codes and trying to find an approach that facilitates their incorporation, would be an important contribution to the construction of an ethical performance management system.

- **Is an ethical culture completely dependent on leaders?**

This question is ultimately based on the questioning about whether it is worth trying to build a management system for ethical performance.

Many authors and studies highlight the importance of leadership for a company's culture and ethical climate (Schwartz, 2013; Boddy *et al.* 2010; Kaptein, 2011) and even present leadership as a necessary condition. But if company ethics is completely dependent on leadership then any programme or system that is developed will always have their existence and robustness suspended at each leadership change.

This question is therefore almost a false one, since its approach only makes sense on a negative way. The real question is, how to develop organisations that resist bad leadership because the system will only be relevant if this is possible.

1.4 Methodological Approach and Research Design

This is a thesis on practice. Practice itself is this thesis' greatest contribution because "The philosopher (and the researcher in general) cannot reflect from an ideal man who does not

exist”² (Marzano, 2012, p. 21) and the real man, in the business context, is often not accessible to research. Therefore, in the methodological choices we made, those that allowed to present companies’ reality with a minimum of filters, were privileged.

In the investigation we follow a multimethodological approach with different methodologies and strategies: archive research, case studies, grounded theory, action-research, storytelling and oral history.

An archive search was carried out in academic and business publications as part of the reflection on the type of system suitable for the management of an organisation’s ethical performance. This research owed a special debt to the work developed on complex systems by Edgar Morin (2008) and by Kelly-Eve Mitleton (2003, 2016).

To frame the article *Corporate Codes of Ethics – The How Factor*, an archive search was also carried out on the relevance of codes of ethics for transnational organisations and on the impact of the method used in their development for the acceptance and incorporation of the code in the organisation. Regarding the articles *Ethics Beyond Leadership* and *What do We Talk About When We Talk About Ethics*, the research was carried out in the analysis and conclusion phases according to the research strategies followed (grounded theory and case study based on oral history).

In general, we can say that our approach in the different articles was qualitative, since what was intended was to perceive, discover through the signs and the interpretation of these signs, the way ethics was lived in organisations and not test variables (Corbin & Strauss, 2008, p. 13). We believe, as Treviño *et al.* (2014) have put it, that this approach “allows for more detailed, exploratory accounts of how individuals perceive and cope with the challenges they face” (Treviño *et al.*, 2014, p. 187). Despite this, according to these authors, this approach and sensibility rarely appears in top-tier journals. For example, in an analysis of 45 journals listed in the Financial Times, with no restriction of year of publication “qualitative techniques, archival, and experimental designs only make up 7,7%, and 2 %,

² Translation provided by the author. In the original: “Le philosophe ne peut réfléchir a partir d'un homme idéal qui n'existe pas.”

respectively” (McLeod *et al.*, 2016) of publications. In other words, we made this choice with the awareness that it was a difficult choice in terms of journals’ publications (and it was difficult) since “Verifiability is nowadays the only recognised reliability (...) without this criterion, there is no valid knowledge”³ (Dufourmantelle, 2011, p. 174)

In the first article, *What Do We Talk About When We Talk About Ethics*, in which it was intended to identify, in addition to theory, the current portrait of an ethics-oriented company and to understand through the companies’ discourse how they are materialising ethics’ management, the methodology used was the grounded theory, a specific methodology developed by Graser and Strauss (1967) “for the purpose of building Theory from data” (Glaser & Strauss, 1967, p. 31). According to this theory, the researcher himself is the starting point of the analysis through his initial idea and the choice of the material to be analysed: in this case, the material initially analysed was the Ethisphere Institute survey based on which are selected annually the companies that will be part of *The World’s Most Ethical Companies* index and the management, sustainability and ethics reports of the 18 European companies distinguished in the 2019 edition of this index.

In this approach, there is initially no literature review on the topic. What is intended is that the researcher proceeds as far as possible without contaminating his opinion, allowing the theory to emerge from the facts: “Only by comparing incidents and naming like phenomena with the same conceptual term can a theorist accumulate the basic units for theory. These concepts in the grounded theory approach become more numerous and more abstract as the analysis continues” (Corbin & Strauss, 1990, p. 420).

This was a methodological requirement of grounded theory that was used in order to build analytical categories that could give meaning to the concept of ethical performance management system and even to business ethics itself, as it is currently perceived.

³ Translation provided by the author. In the original: “La vérifiabilité aujourd’hui est la seule fiabilité reconnue (...) Sans ce critère, pas de connaissance valide”

The other two articles are case studies. The approach choice was the exploratory holistic single-case study justified, as mentioned by Yin (2001), by the type of research questions — “How”, “Why” — and by the moment the objects of study occur: contemporaneity.

In the case *Corporate Codes of Ethics – The How Factor*, the adopted strategy fits into action-research as the researcher participates in the action, accumulating her concern with the investigation. The first objective at the time the investigation was carried out was “to make that action more effective while simultaneously building up a body of scientific knowledge” (Coghlan & Brannick, 2005).

The case is presented in a storytelling approach, the narrative being a way of making sense of our experience (as actors and researchers) and reporting this experience to others (Poulton, 2005, p. 1). The process of preparing both the code and the evaluation of the obtained result are analysed and documented in two moments — at the time and three years later. The objective was to draw conclusions and corroborate the theory regarding the relevance of the adopted development methods.

The third article — *Ethics Beyond Leadership — Can Ethics Survive Bad Leadership* — portrays the impact of changes in leadership in culture and ethical culture, in a multinational company — it is a narrative based on the observation and contact with the company prior to change; on the interview to the CEO who was already removed from his duties; and on an interview to the person responsible for Compliance. Here and although it is not a “phenomenon previously inaccessible to scientific research” (Yin, 2001, p. 63), the case is justified by its uniqueness and rarity. For reasons of professional and personal modesty (often fear of reprisals), people involved are rarely willing to speak and, at the top level, it is still less usual for this to happen. On the other hand, it is justified by the pertinence of the theme: if companies’ ethics is completely conditioned by leadership, thinking about a management system might become senseless.

We document what happened through the interviewees’ narrative, in an approach that can be framed as oral history, an investigative method that is characterised by “the act of recording the speech of people with something interesting to say and then analysing their memories of the past” (Abrams, 2010, p. 1). In the used model, “text is likely to appear

dismembered from its context, as short, pithy extracts, chosen for their typicality or their ability to say something in a memorable way” (Abrams, 2010, p. 3).

This option aims to give the reader an access to the person who tells the story that goes beyond the facts, since, as Hannah Arendt says, through the "discourse, men show who they are, actively reveal their personal and singular identities” (Arendt, 2001, p. 228). This procedure allows the depiction of the emotional state and feeling from which the action develops; it is an element of complexity, to better understand the person involved, that is never standardised.

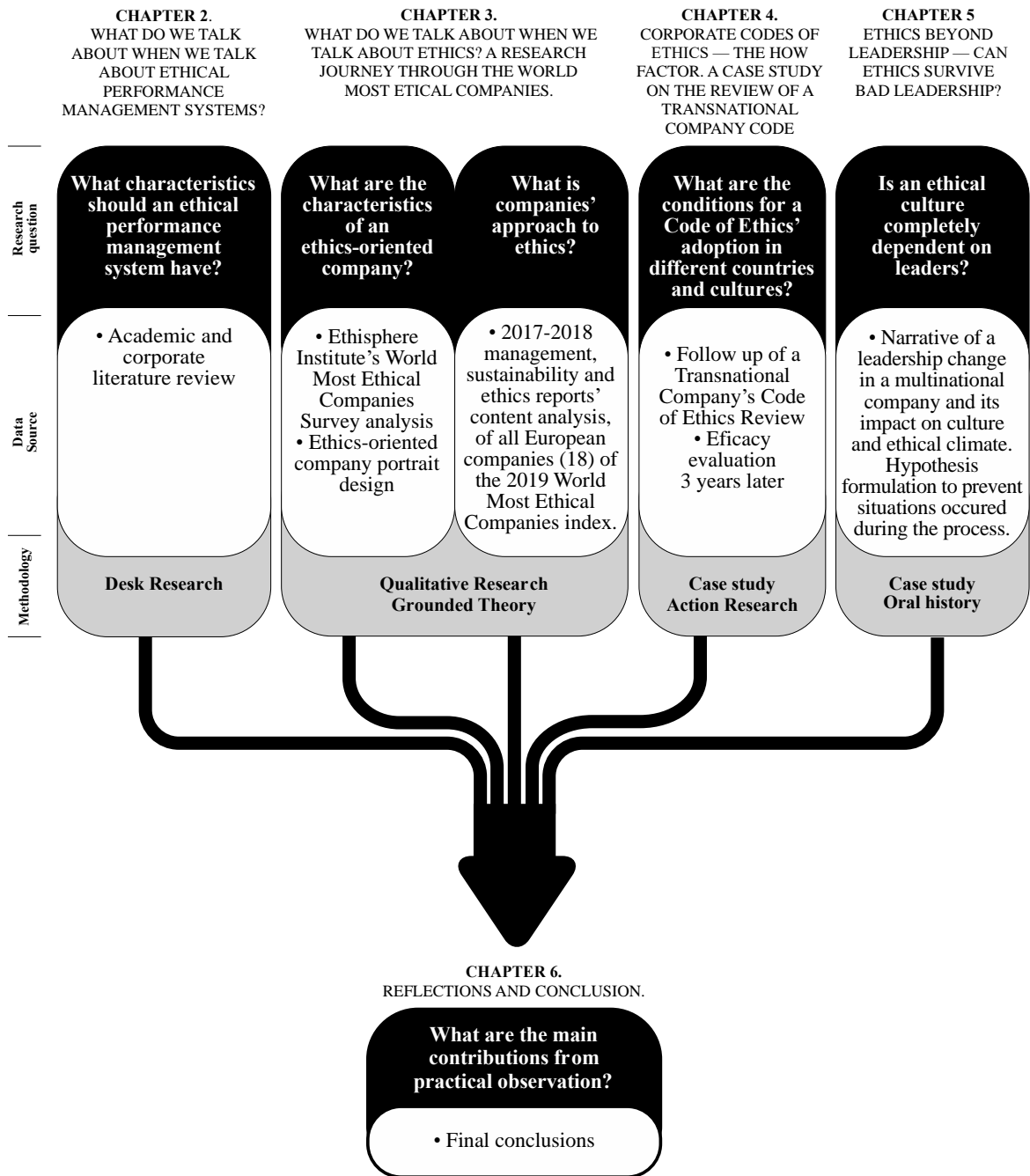
We believe this choice is an important element for the perception of the “concrete person”, which contradicts the view leaders often convey, who “often in a scenario worthy of Hollywood, appears as one who is endowed with a superior essence”⁴ (Marzano, 2010, p. 20). Leaders, as stated by Treviño and Brown (2004), in general and like most of us, have not reached “the principled level where thinking is more autonomous and principle-based” and are looking “to others for approval of their thinking and behavior” (Treviño & Brown, 2004, p. 71).

1.5 Thesis Structure

The thesis is organised in four chapters corresponding to the research questions. In figure 1.2 we present an overview of each chapter’s data source and methodological approach.

⁴ Translation provided by the author. In the original: “Souvent mis en scène dans un décor digne d'hollywood, apparaît désormais comme celui qui est doté d'une essence supérieure.”

Figure 1.2 - Thesis' Structure



Chapter 1: *What Do We Talk About When We Talk About Ethical Performance Management Systems?* is a reflection, based on the literature review, on the characteristics an ethical performance management system must have.

The following three chapters correspond to the three articles submitted for publication:

Chapter 2: *What Do We Talk About When We Talk About Ethics? A Research Journey Through the World Most Ethical Companies*

The paper presents a possible model for an ethics-oriented company designed according to the Ethisphere Institute selection survey for the *World Most Ethical Companies*. The paper also presents how ethics is internalised in companies considered excellent in this field, through the analysis of primary data like companies' activity reports (annual, sustainability, ethics).

The analysis shows inconsistencies in the use of the word ethics and lack of clarity about what is and what may be the role of ethics in organisations. It also shows that most companies are still in a “compliance mode”, with no real incorporation of ethics in their strategy and core issues. The key point for a decisive ethics incorporation seems to be the adoption of a purpose that encourages action, beyond profitability.

Chapter 3: *Corporate Codes of Ethics — The How Factor. A Case Study on The Review of a Transnational Company Code*

Developing a corporate ethical culture is an especially difficult aspect for transnational companies. It is nevertheless a fundamental aspect of risk management, namely the reputational risk that is now considered central to companies. This paper aims to contribute to the study of the adopted process for the development of global corporate codes of ethics by transnational companies, an aspect that, despite being recognised as a key factor for the effectiveness of the codes, is one of the least researched aspects by Academia.

We address the role of participation and debate within the alignment of the code in the different business units. We also proceed to evaluate the code effectiveness, three years later, trying to identify new problems and strategies. We believe this case, due to the detail and diversity of the documented aspects, may contribute to academic in-depth reflections as well as reflections at the industry level, to support the development of new codes of conduct. As the mother company is identified, we allow the traceability of our observations and conclusions, as well as the company performance in this aspect.

Chapter 4: *Ethics Beyond Leadership — Can Ethics Survive Bad Leadership?*

How to maintain an ethical culture beyond leadership? How can an organisation to protect itself against any adverse leadership changes, reduce the risk of adverse leadership from an ethical point of view? What must be done to develop ethical cultures that may be less permeable and more resilient to changes in leadership?

A CEO and a CCO narrate in the first person a case of perceived collapse of the ethical culture of a multinational company. From the analysis of this primary narrative, we tried to draw a scenario in which what happened might not have happened. The management of the succession process, the quality of the training on ethics, the mechanisms developed by the organisation to foment speak up and take notice of the situations, appear as critical factors. Moral blindness and the banality of evil that can also be observed in organisations appears as facilitating elements for collapse.

Chapter 5: *Reflections and Conclusions*

Finally, there is a last chapter dedicated to the general conclusions that, more than a summary of each article's conclusions, presents additional conclusions as the result of a joint reflection on them.

1.6 Notes

It is important to note that, as a result of the adopted approach in this thesis' articles, there may be some repetitions, between what is said in this general introduction and what is said in more detail in each of the articles.

As a result of the specificities of each publishing journal, the articles were subject to a different organisation and even content cuts in aspects that seem relevant to us, so we chose to present here the original versions, before any adaptation made due to publishing constraints.

**2 WHAT DO WE TALK ABOUT WHEN WE TALK ABOUT
ETHICAL PERFORMANCE MANAGEMENT SYSTEMS?**

*We can't control systems or figure them out. But we can dance with them!
I already knew that, in a way, before I began to study systems. I had learned about dancing
with great powers from white-water kayaking, from gardening, from playing music, from
skiing. All those endeavours require one to stay wide-awake, pay close attention,
participate flat out, and respond to feedback. It had never occurred to me that those same
requirements might apply to intellectual work, to management, to government, to getting
along with people.
Donella Meadows*

2.1 The Difference Between a Process and a System

Many companies talk about an ethical performance management system but, in most cases, they refer to either the complaints management process or the ethics programme, not a system:

This focus on ethics also led to the creation of the ethics management system (...) In addition, business ethics training has been set up for all managers.
(SPIE, 2019)

This code is therefore not an isolated feature, it belongs to an ethics management system that includes functional units, especial regulation, monitoring and accountability for our ethical performance along with training.
(EDP, 2013, p. 4)

Companies usually describe what they call the system as a set of elements that, in most cases, especially when we talk about multinational companies that compete for indexes like Ethisphere's *World Most Ethical Companies*, follow all the good practices concerning what should be part of an ethics management programme: a code of ethics, an ethics officer, a formal ethics training programme and other types of information and communications, a dedicated telephone system to raise ethical issues, policies to hold management and employees accountable for unethical behaviour, policies on investigating allegations of unethical behaviour, policies that create incentives and rewards for ethical behaviour, internal monitoring systems and ethics audits, and pre-employment screenings of the ethics and integrity of applicants (Kaptein, 2011, p. 854).

A programme or a process can be defined as “a series of actions or steps taken in order to achieve a particular end” (Treviño *et al.* 2014, p. 123), for example, in order to manage ethics, but are not *per se* a system.

The existence of all these elements tells us that we are in presence of a carefully designed programme or process (possibly by an experienced consultant), but it tells us nothing about efficiency (which will depend on the content and quality of each of the instruments and, above all, on how they have been “developed, implemented, and embedded” (Kaptein, 2011, p. 858).

A system may be defined as “a group or combination of things or parts forming a complex or unitary whole” (Planplus online, 2019). Those parts have to be interrelated and interdependent. “Without such interdependencies, we have just a collection of parts, not a system” (Kim, 2019). But we can have a process or a programme (Figure 2.1).

Table 2.1 - Difference Between a Process and a System

Process	System
Sequence of activities producing outputs	The buildings, the people, the relationships, the activities and the interactions
Produces results through work being done in the process.	Produces results through the interaction of elements
Processes produce outputs	Systems create outcomes
Process owners manage process outputs	Systems’ managers manage outcomes

adapted (Transition support, 2020)

Another important aspect that characterises a system is the purpose:⁵ “A system is a set of elements organized according to a purpose that only acquire their full meaning in relation to the whole” (Brabandere, 2012, p. 15), without the purpose we will have a set of instruments and actions that can be performed mechanically as if completing a check list without having a real resonance in the organisation, an apprehension of meaning that allows the necessary embodiment.

⁵ Translation provided by the author. In the original: “Un système est un ensemble d'éléments organisés en fonction d' un but qui ne prennent toute leur signification que par rapport à un tout.”

A good example of a system can be mass transit:

It has a purpose — to efficiently move or transport you from one location in a city to another location. (...) also creates value — such as providing a source of economical transportation and reducing pollution by reducing the number of vehicles on the road. But if you don't have all the parts, or some of the parts aren't working correctly, a system can come to a standstill. Those moving parts are called processes.

(Planplus online, 2019)

An example of a process could be the LRN's "five integrated process in building a lawful ethical culture" (LRN, 2007), a set of five steps — prevent, detect, respond, evaluate, define — that are repeated and that are improving. Here, despite of including a purpose, "building a lawful ethical culture", the title is presented in an instrumental way, as a goal and not as something that is communicated and that gives meaning to the company as a community.

There are many types of systems, a system to manage ethics, because it involves people, is necessarily complex — "we can never know for sure what their purpose or design is" (Kim, 2019).

2.2 Ethics' Complexity

Complicated problems can be hard to solve, but they are addressable with rules and recipes, like the algorithms that place ads on your Twitter feed. They also can be resolved with systems and processes, like the hierarchical structure that most companies use to command and control employees.

(Kinni, 2017)

Ethical problems are not complicated, they are complex, if only because we are talking about people and "The human being can betray, but it is precisely because he is human and because

he is alive, because he cannot renounce the complexity of his desire”⁶ (Marzano, 2012, p. 22).

A good example of what an ethical system would be if ethics was simple appears in “Verhoeven’s 1987 film *Robocop*, where the choices of a cyborg police officer are guided by three ‘prime directives’: 1. Serve the public trust; 2. Protect the innocent; 3. Uphold the law” (Verheij, 2016, p. 388). In fact, ethics would be simple if following rules was enough, and many companies still seem to believe so: most codes of ethics end with a kind of check list whose negative or positive response according to rules should suffice to make the right decision. Some companies, however, begin to assume complexity with their workers and include in the check list, for example, reflection and personal values (DELL, 2019, p. 56) (Microsoft, 2019, p. 9), take the person into account, not least because “We have moved on to an individualistic model according to which no one better than the individual himself determines his conception of good and evil and then what he wants to do or not to do”⁷ (Marzano, 2010, p. 13).

Ethics is complex, and rules are not enough for several reasons:

1 - Managing ethics means managing an organisation’s culture and ethical climate. Culture is understood as the conditions that can encourage or discourage bad ethical practices and by ethical climate the perception of what is and is not acceptable, what is or is not ethical behaviour on the part of managers and workers. That is, “ethical climate is substantive in that it pertains to the content of ethical and unethical behavior, whereas ethical culture is procedural in that it pertains to the conditions for ethical and unethical behavior (see Heugens *et al.*, 2008)” in (Kaptein, 2011, p. 846). The two dynamically interrelate in a process that we could consider of co-evolution — “co-evolution takes place when related entities change at the same time” (Mitleton-Kelly, 2003, p. 29); and, in organisations, each action tends to participate in the process of changing the ethical climate, participate in what

⁶ Translation provided by the author. In the original: “L’être humain peut trahir, mais c’ est justement parce qu’ il est humain et qu’ il est vivant, car il n’ a pas renoncé à la complexité de son désir”.

⁷ Translation provided by the author. In the original: “Nous sommes passés à un modèle «individualiste», selon lequel personne peut mieux que l’ individu lui-même déterminer sa conception du Bien, et donc ce qu’ il veut ou veut pas faire”.

is considered acceptable, and each action also changes the person who practices it. For example, leadership (an element of culture) affects what is considered acceptable in the organisation (climate) and what is considered acceptable in the organisation can favour or limit the capability to behave ethically, again an element of culture (Kaptein, 2011, p. 858).

2 - Most of our decisions are context dependent, “What counts as a good decision in one situation, may not be good in another similar situation. Similarities and differences between the circumstances of situations can determine what counts as a good decision” (Verheij, 2016, p. 388). And it is not possible to predict all circumstances.

3 - New ethical questions arise for which we do not know what values or rules to apply. We must not forget that in the volatility, uncertainty, complexity and ambiguity of general conditions and situations (VUCA) world we live in, there are increasing new aspects of ethics that defy companies: the future of work, the use of artificial intelligence, the company’s position on political and social issues, the conscientious objection by the company or its workers — those are potentially dilemmatic aspects.

4 - In the case of transnational companies, it must be borne in mind that the same value can have different interpretations in the light of different cultures. For example, in the case of Respect, present in many companies’ values and codes of ethics, the associated behaviour “will be very different in Europe, North America, Japan or Saudi Arabia. It might be quite acceptable to call your boss Bob in the United States (US) or the United Kingdom (UK), but in Japan he would be *Yamamoto-san* and in Germany probably *Herr Doktor Schmidt*” (Moody-Stuart, 2014, p. 268). The same in gender issues — treating women with respect will be very different in the various contexts presented.

5 - Values can be conflicting. Continuing with the case of respect, an action can have an impact on different stakeholders, and it is sometimes difficult to respect everyone’s sensibilities simultaneously. For example, “Steve Jobs was clearly a brilliant man (...) but he had a darker side and could be tough on individuals, to say the least (...) would it have been right to fire a genius for behavior?” (Moody-Stuart, 2014, p. 268). In other words, what is the interest that we must respect, the shareholders’, who look at profit, or the workers’, who may eventually feel harassed?

It can be said that it is an ambiguous situation, in fact, in the case of ethics, ambiguity is not an exception to the rule. But it is not the ambiguity of situations, it is the ambiguity in which we feel when we are unable to choose between a series of equable mental frames that can help us understand reality (Brabandere, 2013).

To overcome this ambiguity, we need, more than ever, flexibility and openness. To train our reasoning, prone to dualistic thinking, to find new solutions, capable of countering rules, even those that seem to us more unshakable, as “principle of excluded middle”, one of the fundamental principles of Greek thought according to which if two propositions say the opposite of each other, one is true and the other is false. In fact, as Bertrand Russel managed to prove: “‘This sentence contains five words’ is true, but its opposite, ‘This sentence does not contain five words’, is also true. Caramba! It exits the excluded middle!”⁸ (Brabandere, 2012, p. 59).

Complexity is effectively the backdrop for ethics and “actions, which make up our phenomenal world”⁹ (Morin, 2008b, p. 21) and, given all that, what characteristic should a system for managing ethics have, bearing in mind that “a mutilating thought necessarily leads to mutilating actions”¹⁰ (Morin, 2008, p. 32)?

2.3 Implications of Ethics’ Complexity for the Systems’ Design

If ethics is fundamentally related to human behaviour and is therefore complex, then a system to manage ethical performance must also be complex and should begin with the company’s acceptance of the impossibility to predict and control everything. “Complicated systems are machine-type systems that can be designed and whose behaviour can be predicted and controlled” (Mitleton-Kelly, 2016, p. 143). Contrary to that, in human systems,

⁸ Translation provided by the author. In the original: “Cette phrase contient cinq mots’ est vrai mais son contraire ‘Cette phrase ne contient pas cinq mots’ est vrai également. Caramba! Exit le tiers exclu!”.

⁹ Translation provided by the author. In the original: “A complexidade é efectivamente o tecido de acontecimentos, acções, que constituem o nosso mundo fenomenal”.

¹⁰ Translation provided by the author. In the original: “Um pensamento mutilador conduz necessariamente a acções mutiladoras”.

connectivity between individuals or groups is not constant or uniform, but varies over time, in aspects such as diversity, density, or the quality of interactions between human agents (Mitleton-Kelly, 2016).

This endless number of variables and spontaneous movements leads to a key feature of complex systems that cannot be ignored called “self-organization” (Mitleton-Kelly, 2003, p. 32) and which results in the impossibility of total control: “The idea of making a complex system do just what you want it to do can be achieved only temporarily, at best” (Meadows, 2019).

This impossibility of total control is something that organisations are not yet used to dealing with or even conceive. Organisations are accustomed to rigid systems made up of policies, procedures and defined hierarchies. “The new ways of thinking based on complexity, the new relationships, procedures, processes, structures, etc. need to become embedded in the business culture if they are to be sustainable. Ideally, the organisation will build the capacity to continue the process of co-evolutionary sustainability” (Mitleton-Kelly, 2016, p. 143).

If organisations were managed as complex evolutionary systems, as entities capable of creating a new order and recreating themselves, “management would focus on the creation of conditions that facilitate constant co-evolution within a changing environment, and would encourage the co-creation of new organisational form with those directly affected” (Mitleton-Kelly 2003, p. 44).

Organisations are afraid of complexity, they want everything, globalisation and simplicity. Complex systems do not give us an order, they are in the realm of unrest, the constant search for self-discovery, dissatisfaction, incomplete satisfaction. The more demanding we are about ethics, the more complex the systems to manage it will have to be. For all these reasons, a system for ethics cannot be designed in the same way and with the same security and rigidity as a product is designed, “it must face confusion (the infinite game of inter-

feedback), the solidarity of the phenomena between them, the mist, the uncertainty, the contradiction”¹¹ (Morin, 2008b, p. 22).

Anyway, in order to have an ethical performance management system, complex or not, we have to build on an embedded ethical model. “Such a model allows a system to make autonomous judgments it can justify, in the face of conflicting ethical considerations” (Verheij, 2016, p. 388). We understand by model “A mental construction in which reality is greatly simplified in order to be apprehended in a useful way”¹² (Brabandere, 2012, p. 29). And we must have a purpose that we have already seen is a necessary condition of any system.

This purpose, the purpose of ethics in general and in each company in particular, should probably be the starting point for building the system. We believe that identifying it is difficult. Ethics is apparently so consensual that it seems unnecessary or obvious to find a purpose but, in practice, a purpose for ethics is rarely expressed, what is expressed are goals, necessary steps in a process such as the construction of an ethical culture. The ultimate end, the purpose is not there, and it must be. Further reflection is needed.

¹¹ Translation provided by the author. In the original: “deve enfrentar a confusão (o jogo infinito das inter-retroacções), a solidariedade dos fenómenos entre eles, a bruma, a incerteza, a contradição”.

¹² Translation provided by the author. In the original: “une construction mentale dans laquelle la réalité est fortement simplifiée en vue d' être appréhendée de manière utile”.

**3 WHAT DO WE TALK ABOUT WHEN WE TALK ABOUT
ETHICS? A RESEARCH JOURNEY THROUGH THE WORLD
MOST ETHICAL COMPANIES**

Reference: Roque, A., Moreira, J. M., Figueiredo, J. D. e Albuquerque, R. (2020) What do we Talk about when we Talk about Ethics? A Research Journey through the World Most Ethical Companies, *International Journal of Managerial Studies and Research (IJMSR)* Volume 8, Issue 1, January 2020, PP 60-75 available in <https://www.arcjournals.org/pdfs/ijmsr/v8-i1/7.pdf> ¹³

Abstract

How can an ethics-oriented company be defined?

This paper presents a possible portrait of an ethics-oriented company designed according to the Ethisphere Institute selection survey for the *World Most Ethical Companies*.

The paper also presents how ethics is internalised in companies considered excellent in this field, through the analysis of primary data like companies' activity reports (annual, sustainability, ethics).

We use a qualitative approach since what is intended is not to know what the companies do but how they do it. The research method was the grounded theory and the content analysis was done using MAXQDA software.

The analysis shows inconsistencies in the use of the word ethics and lack of clarity about what is and what may be the role of ethics in organisations. It also shows that most companies are still in a “compliance mode”, with no real incorporation of ethics in their strategy and core issues. The key point for a decisive ethics incorporation seems to be the adoption of a purpose that encourages action, beyond profitability.

Keywords: *Compliance, Ethics, ethics-oriented companies, grounded theory, world most ethical companies*

¹³ There are differences between the chapter and the paper published due to corrections in English and additional data that we found relevant to include, as explained in General Introduction.

3.1 Introduction

Managing a company's ethical performance is always complex because we are talking about behaviours, and "although patterns of behavior may be predictable, individual behavior at a specific time is not predictable" (Mitleton-Kelly, 2016, p. 143). So how should the design of an ethical company progress? We would say, as the cat replied to Alice in Lewis Carroll novel¹⁴, "that depends a good deal on where you want to get to", and we want to go for a sustainable development.

According to Wesarat *et al.* "The effectiveness of implementing sustainable development programs may depend on the degree to which companies emphasise organisational ethics" (Wesarat *et al.*, 2017, p. 68). This of course implies much more than compliance, since "compliance is something that the government requires you to do. Ethics, on the other hand, is something you choose to consider when taking action (Watson, 2014). It implies "Commitment to behave ethically" as Kaptein (2011, p. 849) stated in his Ethical Virtues Model. And how are the companies that assume this commitment? How is ethics reflected in each of the company's operations in the light of this commitment?

This study intends to contribute to the clarification of the state of the art regarding organisational ethics, and to the development of ethics in the business world. We do this by presenting a possible portrait of an ethics-oriented company. We present what can be considered as a mandatory passage point for ethics to be effectively lived in a company and what we perceive as barriers to the development and implementation of ethics in companies or organisations.

Our starting point was Ethisphere Institute's *World Most Ethical Companies*. Firstly, we analysed the selection survey to reach a portrait of an ethics-oriented company in terms of ethics' relevance. Then, through the analysis of distinguished companies' corporate communications, we tried to understand the state of the art in corporate ethics.

¹⁴ Alice's Adventures in Wonderland

The purpose was not to identify a possible gap because, as MacLean *et al.* (2015) pointed, organisations “not always talk their walk” and thus we would have to admit that they can do more than what is presented in reports. The aim of this study is to identify what is the paradigm in terms of business ethics management through Ethisphere Institute’s vision and understand how ethics is lived in the companies considered to be excellent in the field.

First of all, it is important to clarify the expectations concerning this introduction: as we are using grounded theory as methodology, literature review will not be made at the beginning. What is instead intended is to start the research open minded with minimum outside influences. A review will be made in the findings and discussion sections. In terms of the article’s structure, we were inspired by Treviño *et al.*’s *Legitimizing the legitimate: A grounded theory study of legitimacy work among Ethics and Compliance Officers* (Treviño *et al.*, 2014) where, as mentioned in the title, the same methodology is used.

A little warning: as Aristotle pointed out, at the Olympics “the most admirable and the strongest are not the ones who are crowned, but those who compete for victory”¹⁵ (Aristóteles, 2004, p. 32), also here the fact that a company is part of the *World Most Ethical Companies* does not mean that it is the most ethical, but that it has applied and met the criteria, which, nonetheless, should not be overlooked.

3.1.1 Ethics and Compliance

The junction of ethics and compliance is the most common in companies, in fact “In practice, many, if not most, practitioners have both Compliance and Ethics Responsibilities” (Treviño *et al.*, 2014, p. 187). Therefore, in many studies, the term is used interchangeably to denote who cares for one or the other area or both.

And indeed, ethics and compliance officers, together or separately, have common challenges, and one of those challenges in many companies is fighting the lack of legitimacy,

¹⁵ Translation provided by the author. In the original: “O mesmo acontece nas Olimpíadas. Não são coroados os mais admiráveis nem os mais fortes, mas os que disputam a vitória (é entre esses que se contam os que obtêm a vitória)”.

and the perceived lack of relevance to business: “because Ethics and Compliance are often seen as clashing with dominant business imperatives” (Treviño *et al.*, 2014, p. 189).

For all these reasons, “drawing a distinction between the two concepts may seem unimportant. (...) Indeed, the conscious choices that companies make about these concepts often define their business” (Watson, 2014). This is also our understanding, and since Ethisphere itself refers to the function as the “person assigned overall responsibility for ethics and compliance”(Ethisphere Institute, 2019a, p. 24), we thought it would be important to distinguish the two here so that it is clear which one is our object of study.

This need to clarify the words also arises in other studies where the relevance of ethics is mentioned: Weller (2017) pointed out that the conflation between business ethics, ethics and compliance needs to be addressed, by Academia and by companies. “While compliance managers and their related professional organizations have claimed the ‘ethics’ nomenclature, CSR managers described practices informed by ethical aspirations beyond legal requirements” (Weller, 2017, p. 21).

According to the Ethics Institute and the Institute of Business Ethics (Groenewald & Dondé, 2017, p. 10), ethics and compliance have distinguished, but yet parallel, functions (Table 3.1).

Table 3.1 - Difference Between Ethics and Compliance

Ethics	Compliance
Application of values	Respect of the law
How and why you do business	What you must do
Individual judgement inspired by values	Rules to follow for each situation
Grey areas	Black and white
Promote ethical conduct	Punish misconduct

Groenewald & Dondé, 2017, p. 10

In other words, “If the definition of compliance is focused on laws and rules, the key element of business ethics is values” (Groenewald & Dondé, 2017, p. 11) and thus “we are in the presence of an ethical issue when a moral value or principle are challenged in a particular

question or situation”¹⁶ (Commission de l'éthique en science et en technologie du Québec, 2019).

In this context, the role of an ethics officer and the role of a compliance officer in an organisation or company are completely different (albeit complementary). In the case of the compliance officers, their mission is to ensure and promote that everything is in accordance with applicable rules and regulations wherever the company operates. The ethics officers “Provide guidance to the governing body, senior management and employees on ethics-related issues. [And what are these ethic related issues? It can be everything, innovation, salaries, layoffs, relocations, strategy]. (...) identifies trends in unethical behavior (...) ensures organisational integrity of policies, procedures and practices” (Groenewald & Dondé, 2017, p. 18).

To put it in practical terms, when a company enters a new country, the role of the compliance officer is to ensure the compliance with all local laws and rules. The role of the ethics officer is to promote a discussion of how, although there are no laws related to the issue, the company will maintain its purpose of, for example, protecting the environment.

And that is why ethics is so important for sustainable development, because it is the search for an ideal, the reflection on the possibility of a new path according an ideal, the pursuit of a purpose: “Business ethics seeks to understand the ethical contours and devise principles of right action for, business activity” (Moriarty, 2017).

In the VUCA world we live in there are increasing aspects of ethics that deserves companies' reflection: the future of work, the use of artificial intelligence, the company's position on political and social issues, the conscientious objection by the company or its workers.

On a traditional company's scale of needs, compliance tends to be high up while ethics tends to be an extra asset rather than a “must have”. However, for those who are more sceptical and are looking for a more tangible reason to join ethics, we could assert that ethics is what creates a genuine supportive climate for compliance — that is, if compliance does not oppose

¹⁶ Translation provided by the author. In the original: “On est en présence d'un enjeu éthique lorsqu'une valeur ou un principe moral est mis en jeu dans une question ou une situation”.

ethics, or vice versa. Furthermore “one of the more unsettling and unintended consequences of a singular focus on ethics-as-compliance is a checkbox mentality that gives the illusion of reducing risk without really doing so” (Rea *et al.*, 2016).

For the purpose of this investigation we will thus focus on ethics, and when in certain citations or references the word “compliance” appears along with “ethics”, that is because in practice and within the literature, both concepts often appear together. Nonetheless, what we seek is the evidence of ethics.

Since we are talking about companies to which ethics is a relevant matter, it is important to mention that the definition of relevance that we have adopted is the one of the Cambridge Dictionary, which reads as following: “the degree to which something is related or useful to what is happening or being talked about” (Cambridge Dictionary, 2019). In this case, the way a company takes into account and considers ethics in its strategy and operations.

3.1.2 Methods Used

Our approach is qualitative since what is intended here is not to know what, but essentially how, to perceive through the signs and the interpretation of these signs, the way ethics is lived within these organisations and the relevance given to it. To put in other words, our purpose is “to discover rather than test variables” (Corbin & Strauss, 2008, p. 13).

We believe, as Treviño *et al.* (2014) have put it, that this approach “allows for more detailed, exploratory accounts of how individuals perceive and cope with the challenges they face” (Treviño *et al.*, 2014, p. 187). Despite this, according to these authors, this approach and sensibility rarely appears in top-tier journals. To make matters worse “The cross-disciplinary nature of business ethics yields a limited list of recognized top-tier journals” (Beets *et al.*, 2017, p. 189).

Another study developed by McLeod *et al.* (2016) confirmed the same lack of qualitative and empirical studies in the field of business ethics. The study, which includes an analysis of 45 journals listed in the Financial Times, with no restriction of year of publication, allowed the conclusion that “87 % of all studies on the ethical climate construct utilized

survey methods whereas qualitative techniques, archival, and experimental designs only make up 7,7%, and 2 %, respectively” (McLeod *et al.*, 2016).

The methodology used is grounded theory, a specific methodology developed by Graser and Strauss (1967) “for the purpose of building Theory from data” (Glaser & Strauss, 1967, p. 31). According to this theory, the researcher himself is the starting point of the analysis through his initial idea and the choice of the material to be analysed: “In grounded theory, the analysis begins as soon as the first bit of data is collected” (Corbin & Strauss, 1990, p. 6). Finally, the researcher’s mission is to have openness so that the theory can thus emerge.

For this reason, a literature review is not initially carried out in grounded theory, although it can be used to clarify research questions as it was done here, but “After the first interview(s) or observation(s), the researcher will turn to questions and concepts derived from the analysis of the data” (Corbin & Strauss, 2008, p. 38). At the end we return to the literature review to see how the conclusions reached are referred to by other researchers.

So, in terms of analysis, we first analysed the Ethisphere Ethics Quotient 2019, searching for a starting point, a paradigm of what an organisation that has embedded ethics should be, looking for a paradigm of excellence in managing ethics. Then using this pattern to define the initial criteria we started comparing and analysing the reports of the World Most Ethic Companies and codifying the information of our theoretical sampling which was being supplemented with other information until we reached a “saturation point”.

It is important to mention that the used methodology, influenced the article’s structure, resulting on the joint appearance of the findings and conclusions of each analysed subject. Then there will be a section of general conclusions and discussion.

3.1.3 The Sample and the Elements of Analysis — Methodological Approach by Steps

We take as a reference the European companies that were included in the 2019 *World Most Ethical Companies*’ list from the Ethisphere Institute, which distinguishes “companies that exemplify and advance corporate citizenship, transparency, and the standards of integrity” (Ethisphere Institute, 2019).

To be part of *The World Most Ethical Companies*' list, companies have first to apply, answering a questionnaire which includes aspects such as Governance; Ethics programme — Structure, Oversight, Responsibility, and Resources; Due Care; Written Standards — Policies and Procedures; Compliance; Training; Awareness and Communication; Detection, Monitoring, and Auditing; Enforcement, Discipline, and Incentives; Measurement of Ethical Culture; Third Party Management; Citizenship, Sustainability, and Corporate Responsibility and Leadership and Reputation.

Since this questionnaire aims to verify if the applicant company fits to be a part of the list, we considered that there would be an underlined paradigm of excellence in the management and incorporation of ethics in the company. We analysed the questionnaire looking for this paradigm, looking for patterns and we drew a portrait of the standard company from it.

This constructed portrait was used as a comparative point for the institutional discourse analysis on the theme, used in the management and sustainability reports of the distinguished companies, to find practical examples of ethics incorporation and to identify problems. We later felt the need to complement the conclusions we reached, and we included other documentation such as the ethics' pages of the corporate websites. Note that this is another of the grounded theory's characteristics: the sample should not be completely closed and defined beforehand, and throughout the analysis the researcher "decides what data to collect next and where to find them, in order to develop theory as it emerges" (Glaser & Strauss, 1967, p. 45).

All of the Ethisphere 2019 index's European companies (18) were selected with the following distribution of countries of origin (Figure 3.1) and sectors (Figure 3.2).

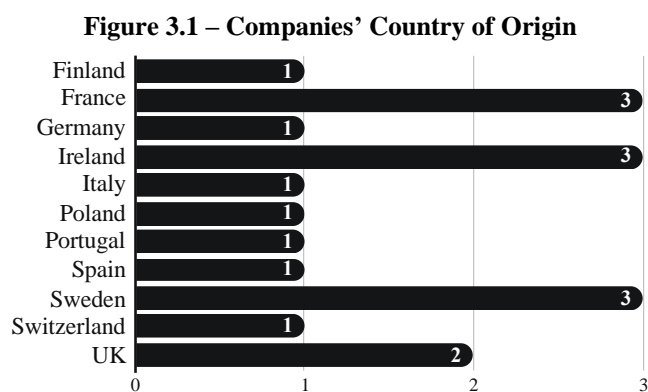
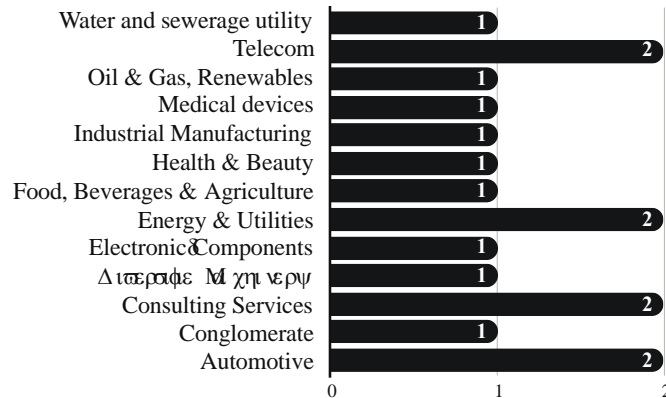


Figure 3.2 - Companies' Sector



Regarding the sources, we analysed each company's Annual Report, preferably from 2018 or, when not yet available, from 2017. It is worth noting that the name of the companies' report was not always the same. Some companies call it Management Report, others Report and Accounts, and in other cases, Integrated Report.

Sustainability Reports were also analysed (whenever there was an integrated report, including data on non-financial information, there was generally no sustainability report). The ethics ombudsman report or the chief ethics or compliance officer report were also analysed (although companies that publish such reports are rare).

These sources were chosen because they are companies' official communication tools to some of their most relevant stakeholders, such as shareholders and investors. That is, we considered that, since ethics is relevant to these companies, the approach taken to it should be included in these reports. On the other hand, regarding the management report, this is something all companies are obliged to have and that, at least in European companies, must also include non-financial information covering aspects such as human rights and corruption (Parlamento Europeu, 2014). The sustainability report by definition covers the economic, environmental and social impacts of the company's business and "also presents the organization's values and governance model, and demonstrates the link between its strategy and its commitment to a sustainable global economy" (GRI, 2019).

It should be noted that we omit the companies' names from the reports' excerpts presented in the findings, because these are only illustrative examples, and companies' names could divert us from our focus. For that reason, companies appear only identified by a number.

The first object of analysis was, as mentioned, the Ethics Coefficient Survey (Ethisphere Institute, 2019b) which consists of about 200 questions that have been screened to result in a set of questions focused on the relevance of ethics, and that could be used to draw up the portrait of an ethics-oriented company — a company, not only with excellent management, but that also assumes as their mission to seek an ethical conduct.

Questions that have been withdrawn:

- Those with an open response, for which we had no data to know which answer would correspond to the Ethisphere model of excellence.
- Questions whose answer depended on Company's characteristics, such as the number of workers or the countries where they operate.
- Those with a scope that went beyond the experience and management of ethics in the company and involved aspects such as sustainability strategy, or some corporate governance questions such as the number of independent directors.

After this screening we came to a set of about 130 questions, which were divided into themes in order to find a connection with ethics relevance.

We favoured life-related questions, for example Q4A12: “Select the types of interactions the ethics and compliance function has with other functional groups in your company. Please select all that apply”, minus questions related to the existence of instruments such as policies or codes. We made this choice because the existence of these elements and even an ethics programme “does not imply that it is effective (Mitchell *et al.*, 1996). Effectiveness is determined by the manner in which it is developed, implemented, and embedded” (Kaptein, 2011, p. 858). That means how it is lived.

The analysis of the questions and answers that resulted from this focused-on-ethics selection, gave rise to the portrait that is first in the findings, and ultimately it also gave rise to the reports' first coding.

3.1.4 The Coding

The definition of the first codes came from Ethisphere questionnaire's analysis and our ethics-oriented company portrait.

The reports analysis was made using the MAXQDA program, a content analysis software that allowed us to more systematically grab information, make links between codes and do lexical searches within documents allowing to see and analyse blocks of text. The lexical analysis that included words like ethics or integrity was carried out, not to verify the frequency, since we are in the scope of the qualitative analysis, but to be able to analyse more accurately, and in detail, the company's approach regarding aspects that we considered relevant.

To define the reports' analysis indicators, a mixed approach was used: first, a closed, deductive approach, with a priori definition of codes based on the company portrait, and the identification, in that portrait, of aspects that could be clear, objective and valid signs of the relevance given to ethics; secondly, and throughout the reports' analysis, we used an open and inductive approach, with a posteriori definition of codes based on the data uniqueness, and the relationships between indicators, as predicted in the grounded theory.

In addition to these indicators and considering that we were analysing reports, the Global Reporting Initiative (GRI) (Global reporting Initiative, 2015) principles concerning the quality of the information — Accuracy, Balance and Clarity — were also taken into account. The principles concerning the definition of content were not taken into account as we were analysing concrete and previously defined aspects.

3.1.5 The Reliability of Information

Given the approach and methodology followed, it is especially relevant to ensure the information's credibility.

Firstly, it is important to mention the choice of sources. We have already argued about the relevance of management and sustainability reports as an official and privileged source for some of companies' most relevant stakeholders. However, after reviewing the reports, we were still unsure about companies' approach to ethics and felt a need to find other sources of information. This search and the sources identified as a result of the assumed strategy are what Charmaz calls theoretical sampling, "a strategy for seeking and collecting pertinent data to elaborate and refine categories in your emerging theory" (Charmaz, 2006, p. 98).

And when should we consider that this search for new information should stop? Exactly when there is no new information, when the sources consulted to validate data, only brings us to information that we essentially had already found. This is called theoretical saturation: “the point at which gathering more data about a theoretical category reveals no new properties nor yields any further theoretical insights about the emerging grounded theory” (Charmaz, 2006, p. 189). For us, this point was reached in the companies’ websites when nothing new was found that had not already been identified in the reports.

We also followed Lincoln and Guba’s recommendations (1985, p. 301) regarding the three activities capable of increasing the probability that credible findings would be produced: “prolonged engagement, persistent observation, and triangulation”.

By prolonged engagement is meant “the investment of sufficient time to achieve certain purposes: learning the ‘culture’, testing for misinformation introduced by distortions either of the self or of the respondents, and building trust” (Lincoln & Guba, 1985, p. 301). In other words, it is intended to ensure that the researchers know the context, a fundamental aspect for the content analysis to be performed: “Is not possible to understand any phenomenon without reference to the context in which it is embedded” (Lincoln & Guba, 1985, p. 302).

Indeed, analysing business discourses on ethics, perceiving inconsistencies and identifying value aspects could hardly be done without a good knowledge of ethics in the business context. In this sense, it should be noted that one of the researchers supported several companies in the development of ethics programmes over 10 years and followed the activities and challenges of various people responsible for managing ethics closely. Additionally, researchers have extensive experience in reading and analysing sustainability reports and are well aware of the specifics of this type of communication.

This proximity that allows us to know the context, frame and interpret the information that is transmitted, also has a danger for which we need to be aware: The danger of “going native” (Lincoln & Guba, 1985, p. 301).

The possibility of “going native”, proximity bias, was especially clear to us at the time all the coded elements had been seen, and it was detected that one of the companies, the best known of the investigator responsible for this task, had a clearly higher number of coded

segments. Under this light and to verify the objectivity of coding, lexical analysis was also used, as well as self-coding (coding done automatically by MAXQDA) of all segments with the word ethics. In each of the companies the proportion remained the same. Automatic coding and lexical searching were then also used as a means of verifying coding exemption in this and other situations.

The second activity proposed by Lincoln and Guba is “persistent observation”, whose purpose is “to identify those characteristics and elements in the situation that are most relevant to the problem (...) That focusing also implies sorting out irrelevancies — the things that do not count” (Lincoln & Guba, 1985, p. 304). This activity was carried out, first in the questionnaire’s analysis and identification of the issues to be considered for the ethics-oriented company portrait and was also taken into account throughout reports’ analysis.

The last activity is triangulation, that must be done “using different sources, different methods, and sometimes, multiple investigators” (Lincoln & Guba, 1985, p. 306). Regarding sources, in addition to the management and sustainability reports, we studied other companies’ information, such as websites and, later, we crossed that information with other researchers’ work and conclusions. There were also different methods in terms of information gathering, coding (using self-coding as “contradictory”) and even in terms of information analysis where, at times, quantitative information processing to validate perceptions in terms of content analysis, was used.

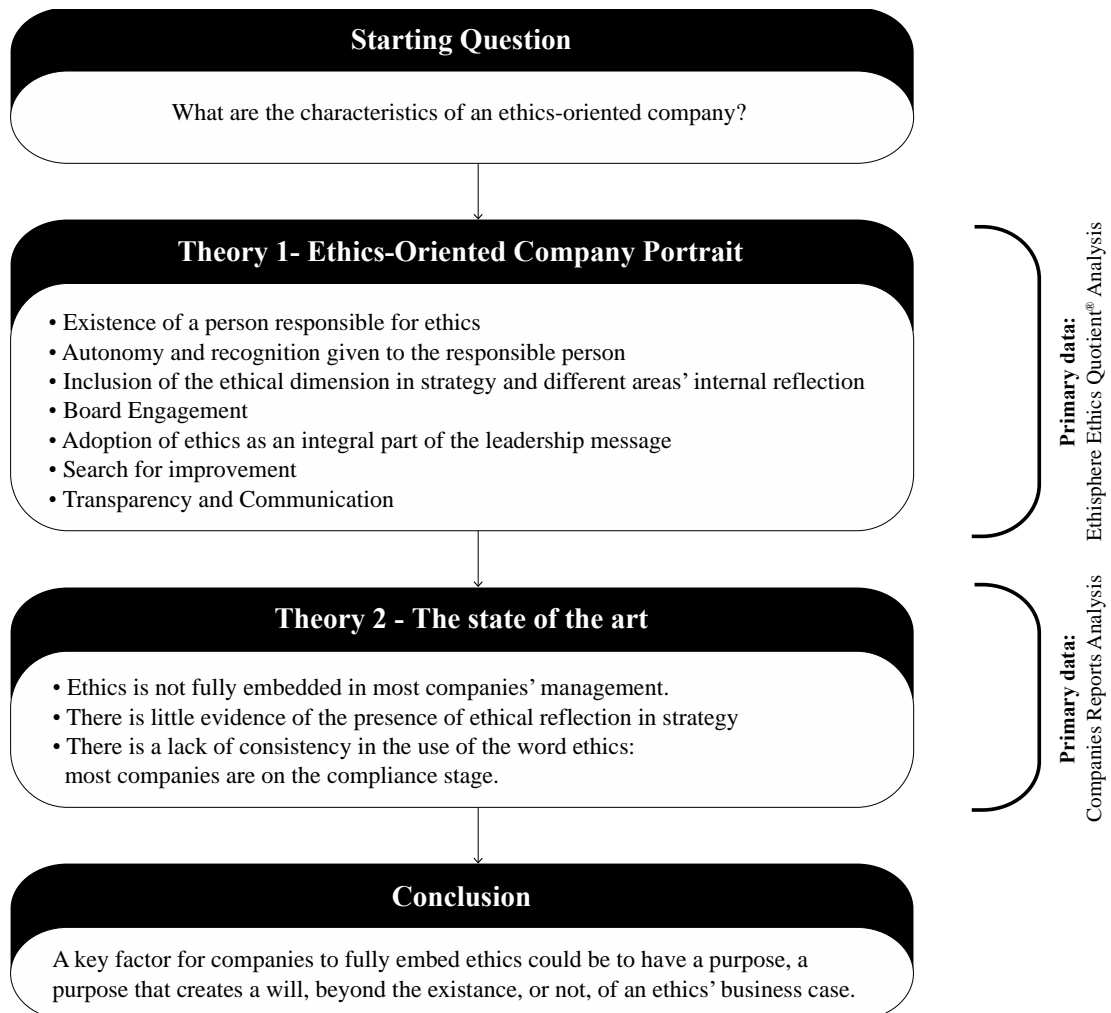
Finally, the fact that we are four researchers with different backgrounds (engineering, philosophy, economics and sociology), and we all have reviewed the information, reinforces the credibility of the analysis.

3.2 Findings

The first finding (Theory 1) is the ethics-oriented company portrait drawn from the 2019 Ethisphere Institute questionnaire’s analysis. Indicators built from the portrait are the starting point for analysing the reports, the following findings, and the conclusion regarding the

relevance of ethics to companies (Theory 2). Finally, we present what seems to be for us the key factor in promoting true ethical relevance in companies (Figure 3.3).

Figure 3.3 – Findings’ Structure



3.2.1 Ethics-oriented Company Portrait

The paradigm company has one person in charge of ethics management (Q4A.2) who may have several denominations, for example: Ethics Officer, Ethics and Compliance Officer, Ombudsman. This person may eventually accumulate the function with other functions (Q4A.3), but, if this happens, it is important that the company assumes that there is another person which ensures the operational management, and which will also be heard by the top. (Q4A.4 and 5).

The person responsible for ethics management reports to the Chairman or the CEO, and has the power and independence necessary to recruit, propose new conduct policies, make the budget (a budget that allows to effectively develop the different programme dimensions) (Q4A.11). Due to the relevance of his role the ethics officer is invited to various company's management committees, namely, to give input on the development of products and services, as well as to comment on corporate strategy. He or she has formal interactions with different areas (Q4A. 11 and 12).

The board follows the culture issues in the company. This is done through different sources. The person in charge of ethics makes regular presentations to the board and the ethics committee that meets regularly to discuss different aspects of the ethics programme. (Q4A.15 to 24). An ethical risk analysis following the usual protocols for risk analysis is part of the ethical programme (Q4E.7 to 11).

The company provides ethics training to all employees (Q4D.1 to 7) according to a previously defined plan for several years and according to specific themes and targets. In addition to this planned training, there is also extraordinary training in response to identified misconduct or at management request.

There is special training for managers (Q4D.10 to 13) to support them in the task of encouraging and promoting ethical conduct. This training is given to new managers and periodically to existing managers, being a significant part in face-to-face mode. Training is mandatory for all managers and includes topics such as incorporating ethics in decision making, handling complaints reporting, how and when to talk ethics with the team, identifying and preventing retaliation, and even conducting evaluation interviews (Q4D.7).

Board members also receive training on their specific code (Q3.14 to 17) or at least on the company's code of ethics. This training takes place regularly, at least every two years. Training topics are varied, but necessarily include the company's ethical risks and trends from the industry and law standpoint.

In addition to training there is also an ethics communication plan (Q4D.15 to 19). The plan is multiyear and is made with different departments' collaboration. There is a definition of media and topics for each audience, in particular, work area, functional level and geography

are taken into account. The company uses several communication modalities in order to communicate ethics messages, such as: company e-bulletin or newsletter emails, intranet portal dedicated to ethics, podcasts, company-wide initiatives or programmes, blogs, posters or videos (Q4D.18).

In addition to general communication for all workers, proximity communication is developed by managers. To support managers in the development of this communication, the company provides them with tools such as question and answer kits, previously prepared discussions, mail templates or suggestion of communication moments (Q4D.19).

The ethics communication plan includes communication from the CEO and other company officers (Q4D.20). Top management communication can be materialised in testimonials at the opening of the training, a welcome email, code opening and less formal interventions such as testimonials for blogs, or articles in the company magazine, and includes examples of situations they have experienced (Q4D.22). Also, the person responsible for ethics, includes examples of real world ethical or compliance dilemmas or issues in his or her communications (Q4D.23).

To encourage good practice, the company includes ethical conduct in employee performance appraisal and makes it a bonus component for managers. A peer recognition system (Q4F.7) is also developed.

The company has a reporting system that ensures anonymity if desired, in countries where permitted (Q4E.1 and 2). The system follows each report made to the investigation phase (Q4E.3, 4, 5). The company has written procedures for investigating and provides specific training for the people conducting those investigations. At the end of each investigation, feedback is gathered from the people involved (Q4F.1 to 3).

Regarding detected bad practices, the company always makes an analysis of the aspects that were in its origin. This analysis is done using a specific methodology (Q4F.4 and 5).

To detect any potential retaliation for reporting misconduct, the company monitors different aspects such as changes in satisfaction, increased days off, substantial changes in performance appraisal, changes in company function or status, and dismissals. (Q4F.6).

Regarding the reporting of bad practices (Q4E.6), in addition to reports made to the board informing on the origin of the complaint, theme and outcome, a communication is also made to the entire C suite, employees and even, appropriately, to the general public.

The company regularly establishes an evaluation of its ethical programme (Q4E.7 to 11). This evaluation includes aspects such as ethical risk assessment, culture, employee awareness of rules and regulations or the complaint management system, the relationship between ethics and other functions, training, communication, the complaint handling system, the processes to encourage ethical performance, and the processes to prevent retaliation.

Culture evaluation is done through surveys, interviews, focus groups or other means including the visit by the person responsible for ethics to the different geographies. Survey themes include knowledge of grievance channels, opinion on ethical leadership, facility / confidence to file a complaint, observation of bad practices, pressure to compromise ethics (Q4G.3) (Q4G.12).

As a way to promote continuous improvement of the programme and identify bad practices that might not have been reported, the company also conducts exit interviews (Q4F.8).

Company leadership and reputation are also assessed using different methodologies (Q7.2) and company leaders are recognised as promoters of ethics and integrity within and outside the industry (Q7.6 and 7).

In short, we came to a broad-spectrum model in terms of business areas covered but focused on the specific application of ethical standards. A model very much in line with Schwartz's definition of business ethics: "Business ethics involves any formal (i.e., identifiable) activity taking place among individuals, organizations, or other entities operating within or related to a business context that involves the explicit interaction and/or application of ethical (i.e., moral) standards" (Schwartz & Weber, 2006, p. 336).

Obligatory passage points of an ethics-oriented company

After the ethics-oriented company portrait definition, we tried to summarise the signs of ethical relevance in topics that were observable in corporate communications through

reports' analysis. Inspired by the Actor Network Theory (Callon, 1986), we name these topics obligatory passage points. The topics are the following ones:

- Existence of a person responsible for ethics;
- Autonomy and recognition given to the responsible person;
- Inclusion of the ethical dimension in strategy and in different areas' internal reflection;
- Board engagement;
- Adoption of ethics as an integral part of the leadership message;
- Search for improvement;
- Transparency and communication about complaints and about performance.

Based on these topics, the first codes were defined and divided in two areas: Relevance and Transparency related to ethics management.

Relevance

- Function name: although Ethisphere has several designations as a possibility, we considered that the choice of name is not innocuous and somehow gave us a sign about the relevance given to ethics;
- Relevance given to the function: position autonomy and participation of the person responsible for ethics in the strategy, management committees and interaction with different areas;
- Formal relevance: relevance of ethics to the company according to official discourse;
- Board and top engagement: participation in communication and training;
- Management engagement: training and support tools that enable managers to discuss ethical issues with employees;
- Search for improvement: whether or not a programme evaluation is made and what aspects are evaluated.

Transparency

- Existence of a Report on Complaints — reported aspects;

- How the report is made — we felt that the very form of reporting is a choice in some way related to the relevance given to ethics and the visibility of that relevance in different acts of the company.

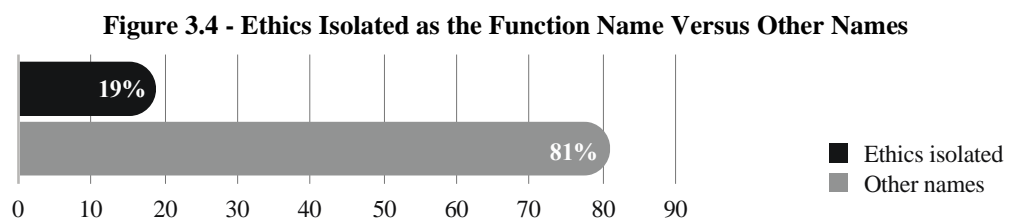
3.2.2 Companies' Analysis

Who manages ethics?

According to Ethisphere's global analysis (Ethisphere Institute, 2018a) most companies, about 80%, have the word Ethics, or Compliance, in the function name, but there are many other designations.

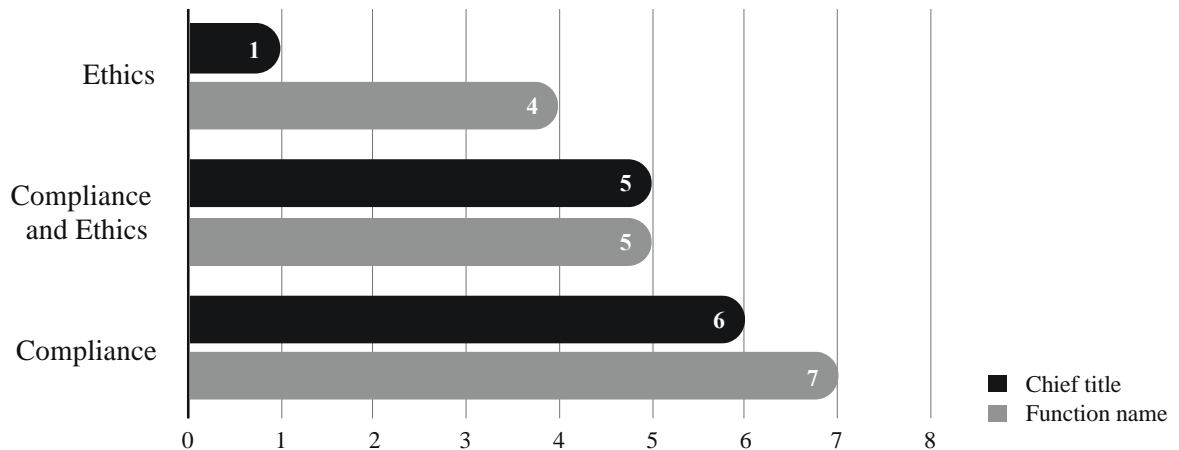
The results we have reached for Europe are similar: a wide range of designations, as well as the persistence of cases in which ethics accumulates with other functions, which happens in two situations in our sample and which can be a sign of a “non-recognition that running an ethics and compliance program is a full-time job and one that is worthy of the appropriate title” (Ethisphere Institute, 2018, p. 3).

In any case, what prevails is a function that results from the combination of the name ethics with compliance. The use of the word ethics in an isolated way is much rarer (Figure 3.4).



The compliance function associated with ethics seems to value it, as it has a much higher percentage of “Chief” title than ethics alone (Figure 3.5). When the person is solely responsible for ethics, the position name is more inaccurate such as the Office of the Ethics Ombudsman [as if the department itself was the decision maker], Ethics Delegates or Ethics Officer, without the word Chief.

Figure 3.5 - Chief Title Versus Function Name



In other words, there seems to be a devaluation of ethics and perhaps also a difficulty in understanding what the role and relevance of the ethics officer may be.

Another fact that seems to corroborate this idea is that, even though most companies have ethical codes or guides, when it comes to the function, only 8 have the name ethics even in conjunction with compliance. This means that in half of the cases the company has a code of ethics that is managed by a compliance officer.

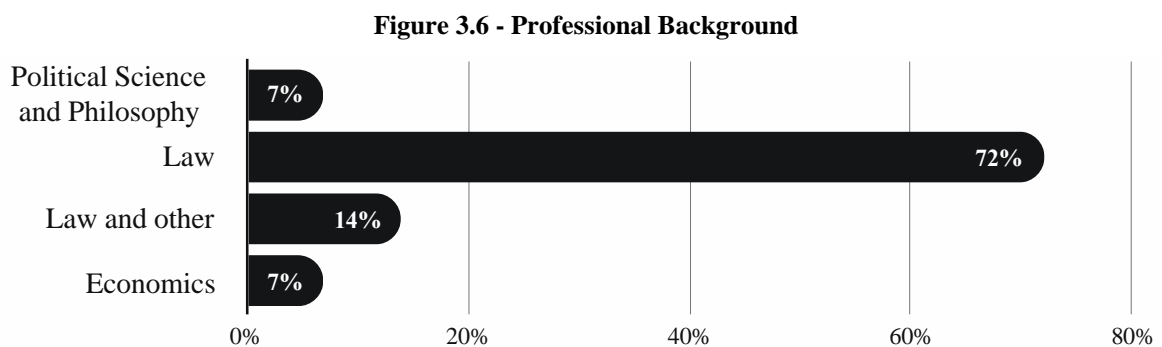
Of course, a compliance officer can verify compliance with code of ethics commitments as if it were a regulation: “measures for compliance with the Code of Ethics, which includes (...) actions to ensure compliance with the rules on market abuse and separation of activities, and (...) management of the ethics mailboxes” (Company 8), but a code of ethics should not have a verification of its application in the same way as a regulation does.

There is a place for ethics that implies a reflection at all levels of the company that goes beyond compliance. This difference is rarely highlighted, although it was often said that the goal is beyond compliance:

The key message of the Group compliance programme is that directors, managers and employees across the Group should be “Doing the Right Thing” at all times. This means not merely following the laws and policies that apply to their work, but also exercising good judgement to ensure that their actions are seen as fair and ethical.

(Company 4)

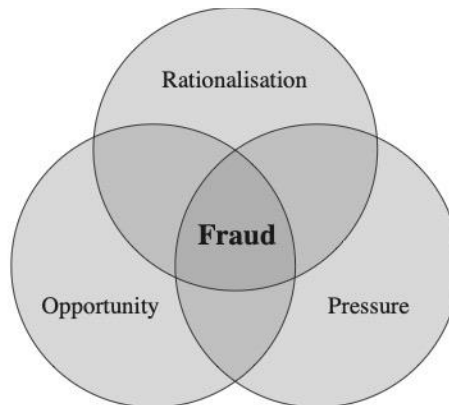
Another sign of the focus on compliance, may be the background of the one who's responsible for that function (figure 3.6), most of the times, a legal one. This can be seen as normal if you think of the function as having the responsibility to verify compliance with laws and regulations, but not if you think of the function as having the responsibility to support reflection and decision-making in the company according to a particular purpose and set of values, “the key element of business ethics” (Groenewald & Dondé, 2017, p. 11).



This prevalence of legal education (almost 90% in total) can also lead to the feeling of unpreparedness that Treviño has referred to: “ECOs [Ethics and Compliance Officers] often don’t see themselves as subject-matter experts in the areas in which ethical or compliance issues are typically raised” (Treviño *et al.*, 2014, p. 191), potentially all areas. Additionally, ethics and compliance require different knowledge and skills and “it is difficult to find an individual that can successfully lead both ethics and compliance” (Groenewald & Dondé, 2017, p. 19).

Neff and Gresham (2016), both compliance officers in large companies, state that ethics and compliance are two areas with different missions that should coexist in the company in an articulated manner. To explain it, the authors start from the fraud triangle (Cressey, 1953) presented here in circles (figure 3.7) where the area of interception is where fraud is most likely to occur.

Figure 3.7 - Drivers of Fraud Based on the Fraud Triangle



adapted from Neff & Gresham (2016, p. 3)

According to the authors, in order to avoid this interception, there are three functions involved: compliance, ethics and leadership as a whole: “(a) Ethics should focus on reducing an employee’s ability to rationalise misconduct; (b) compliance should focus on shrinking the opportunity for misconduct; and (c) leadership should focus on reducing unhealthy pressure to perform or meet certain targets” (Neff & Gresham, 2016, p. 4).

Once again we have ethics linked to reflection, promoting workers’ ability to reflect and take responsibility, and in this sense, more than the legal area per se, could be an area like philosophy (a very minority among those responsible for ethics in our sample) the most appropriate to promote reflection on potential ethical issues in different areas.

Relevance given to function

According to our ethics-oriented company portrait the ethics and compliance function is invited to participate in the reflection of different areas including corporate strategy. This is the paradigm and, according to Ethisphere, this also seems to be the reality: “in 91 % of honoree companies, the function is included in sales and marketing meetings outside of purely deploying training, and in 89% they have formal input into corporate business strategy” (Ethisphere Institute, 2018b, p. 6).

In our sample we rarely found examples of this relevance:

The Senior Vice President Chief Compliance and Integrity Officer is responsible for developing the company’s corporate responsibility program. (...) Goal setting is carried out in close

collaboration with business operations based on identified corporate responsibility aspects. (...) In 2018 the Senior Vice President Chief Compliance and Integrity Officer also became part of the Executive Management team.

(Company 6)

What we saw in the reports, in most cases, especially when we are talking about a person responsible for ethics only, is a narrower field of action: “[the ECO] Provides training and supports employees in making decisions that are ethical, legal, and consistent with our values. Investigates any concerns about potential breaches of our Code of Conduct” (Company 12). A function distant from business and sometimes conflicting with it “and facing internal legitimacy challenges — great numbers of employees and leaders are ‘non-believers’ in part because Ethics and Compliance are often seen as clashing with dominant business imperatives” (Treviño *et al.*, 2014, p. 189).

Additionally, in some cases, a devaluation is visible regarding the autonomy agreed upon when compared to other functions:

The Ethics Ombudsman’s Office is responsible for supporting the General and Supervisory Board and the Executive Board of Directors regarding the definition, communication, implementation and assessment of objectives, policies and management instruments of corporate ethics. (...) The Sustainability Department’s mission is to analyse, propose and guarantee the Group’s sustainability strategy.

(Company 5)

This means that the person responsible for ethics does not define, but rather supports the definition of strategy and instruments, while those responsible for other areas — in this case, sustainability — propose a strategy and instruments.

This devaluation arises in relation to other areas and not only sustainability:

Appointment of the Ethics Officer for reporting breaches of the Core Values and Standards of Conduct (...). Appointment of the Human Capital Committee to give opinions, approve/submit for approval by the (company name) Management Board and monitor the observance of the Core Values and Standards of Conduct of (company name), and in particular to examine material breaches, take corrective actions, issue guidelines and consider important ethics-related issues.

(Company 14)

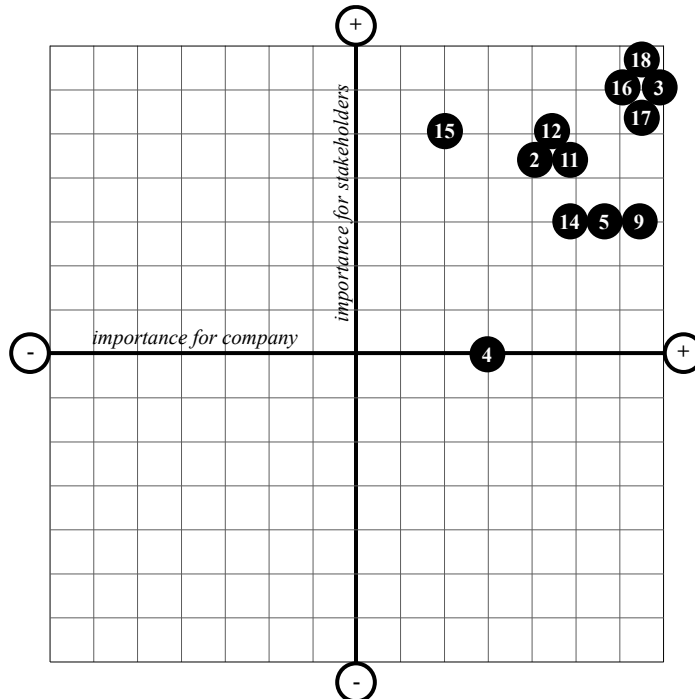
And perhaps the most striking case of lack of relevance is the almost widespread absence of the ethics officer in the management committees where the most relevant company’s topics are discussed, an absence that was not guessed by companies that are part of an index called

the *World Most Ethical Companies* and has, in its matrix, ethics as one of the most relevant issues.

Ethics formal relevance

According to the relevant matrices of the studied companies (Figure 3.8), ethics tops concerns of both companies and stakeholders.

Figure 3.8 - Position of Ethics in the Materiality Matrix in Different Companies

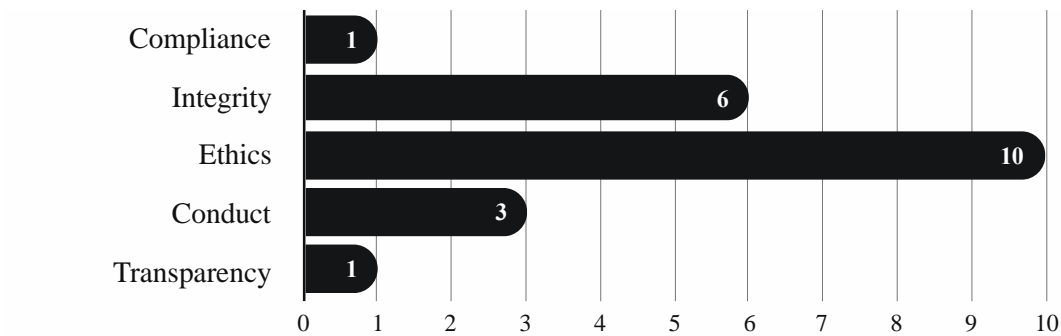


To notice that, in the matrices, companies mostly use the word ethics alone or in combination with integrity, and sometimes in combination with other concepts. In other words, we have companies that mostly have codes of ethics that are managed by compliance directors and that refer, in terms of relevance, not compliance but ethics (Figure 3.9) — compliance is only referred to as relevant by a company, despite the fact that in companies’ discourse compliance has an obvious relevance:

Violations of these laws or regulations, by us, our employees or any of these third parties, could subject us to criminal or civil enforcement actions (whether or not we participated or knew about the actions leading to the violations), including fines or penalties, disgorgement of profits and suspension or disqualification from work.

(Company 1)

Figure 3.9 - Words Used in Materiality Matrix



It is important to highlight that, since the matrix is built with stakeholders’ input, the question of the word used acquires a different relevance; it can no longer be viewed merely as a possible arbitrary companies’ choice — it is completely different to have stakeholders requiring companies to comply with the law than to have stakeholders demanding more ethical behaviour. For some stakeholders, compliance may even be taken for granted, while ethics is the goal.

Ethics also emerges in all companies’ values, although mostly translated in the word integrity, appearing either as a value name or as an explanation in 12 of 18 companies. Integrity often appears defined as honesty and fulfilment of promises, and it arises linked to a need: to earn customers’ trust. Only one company presents ethics as a transversal subject, present in all values, and highlights the complexity and the need for questioning:

Integrity — Because acting with integrity is vital to building and maintaining trust and good relationships. Respect — Because what we do has an impact on many different stakeholders. Courage — Because ethical questions are rarely simple but must be addressed; Transparency — Because we must always be sincere and able to justify our actions and decisions.
 (Company 11)

The same company gives us another sign of relevance which is consistency, the continuity of concern with the theme and level of people involved in it:

Each year, Ethics Day has enabled the Group to explore its key ethical principles. (...) In 2018, all members of the Executive Committee also took part in the same exercise. Since the first-ever Ethics Day was held in 2009, the participation rate has more than tripled worldwide, with thousands of questions being asked each year.
 (Company 11)

The formal relevance given to ethics arises in different ways in corporate discourse, such as in priorities' presentation: "Six challenges have been defined as crucial: human rights and duty of vigilance, data security and privacy, business integrity, workplace safety and access to health care, and carbon neutrality" (Company 15); or as a need for business continuity: "If we do not continue to develop and implement the right processes and tools to manage our enterprise and instil our culture and core values into all of our employees, our ability to compete successfully and achieve our business objectives could be impaired" (Company 1).

It also emerges as an imperative and a last resort when there is no law:

Under Irish law, the duties of directors and officers of a company are generally owed to the company only. Shareholders of Irish companies do not generally have rights to take action against directors or officers of the company (...). Directors of an Irish company must, in exercising their powers and performing their duties, act with due care and skill, honestly and in good faith with a view to the best interests of the company.

(Company 1)

Of course, we also find signs of the relevance given to ethics without using the word. We find essentially these "evidences" in sustainability discourses, in fact sustainability often appears as something bigger, an umbrella under which ethics is placed: "To be a responsible company, all aspects of sustainability must be respected. Business ethics and integrity, tax and legal compliance, human rights and environmental care are therefore integral components in driving prosperity" (Company 18).

But the truth is that without ethical reflection, without purpose and the development of moral reasoning, sustainability runs the risk of a case-by-case approach, a checklist that meets the recommendations of the sector, rather than an index.

But even taking into account the indirect approach of sustainability, we would say that in general and in big business issues ethics is kind of forgotten, it does not come up regularly when talking about core themes such as product development: "Product development is influenced by customers' needs, legislation, changes in society and new technologies" (Company 18); or competition, even though all companies have fair trade issues in their codes: "Our future performance is largely dependent on our ability to compete successfully in the markets we currently serve, while expanding into additional markets. If we are unable

to compete successfully, we could lose market share and clients to competitors” (Company 1).

Board and top management engagement

A clear sign of ethics’ relevance to the organisation is the board involvement, and one of the ways to show this involvement is the reports’ opening messages:

Ethics is at the heart of (company name)’s governance and commitments. The Board of Directors places great importance on respecting (company name)’s ethical principles – Integrity, Respect, Courage and Transparency – and more generally its Code of Ethics. In 2018, the Senior Vice-President and Chief Ethics Officer presented the ethics policy and the initiatives taken in this field, as well as their results. The Board considers the policy to be an integral part of (company name)’s growth model, supports its implementation and regularly measures the progress made.
(Company 11)

But rarely, in these opening messages, does reference to problems and less successful aspects appear, which would be a sign of balance and also of transparency. However, we find notes regarding a reflection at the highest level on aspects with an ethical dimension, such as a company that characterises its Board as: “The Board devotes most of its time to strategic issues to foster and accelerate the Group’s transformation into a more universal, more digital and more sustainable (company name)” (Company 11); or reference to how the top follows ethics issues: “Senior Vice President Chief Compliance and Integrity Officer, reporting to the Board at least four times a year” (Company 6).

From a communication point of view, we have also not found many signs of board or direction involvement. However, some references appear:

Our Country Managing Director Advisory Council, comprising leadership representation from across the globe, participates in quarterly Conduct Counts calls to provide perspective, offer guidance on local needs, create geographic synergy and serve as a sounding board for priorities and new initiatives.
(Company 1)

Regarding ethics training at the top-level, references are also rare and “there was a training initiative in 2018 directed to the Board of Directors regarding the Compliance System and the structure, bodies and tasks thereof” (Company 8); or “Anti-Corruption and Bribery training was provided to the Board of Directors and parts of the executive management team” (Company 6).

Management engagement

According to our ethics-oriented company portrait, training is mandatory for all managers and includes topics such as, incorporating ethics in decision making, dealing with complaints, reporting how and when to talk about ethics with the team, identifying and preventing retaliation, and even conducting evaluation interviews. We found several signs of that, more with managers than with the board or top management, as if there was somehow a delegation of the role of inspiring ethics and creating an ethical climate. The question that remains in the air is whether managers feel inspired without top management's influence.

Signs of further training for managers: in addition, all managers are assigned a quarterly "Values in Action" training, which requires them to hold a discussion session with their team based on prescribed scenarios that pose a variety of ethical dilemmas. All scenarios are based on cases from the (company name)'s Integrity Helpline or risks identified through internal audit or management review (Company10). This means a specific training to the context of the company, reinforcing its relevance.

This additional training is referred to by several companies, and there is an assumption that managers have a role as multipliers, to further raise awareness of compliance. Their feedback is analysed carefully and used to initiate additional training sessions or other measures, if necessary (Company 16).

Managers' involvement can also be seen in the level of demand that is required of them while interacting with teams:

Some employees felt they were listened to but were not kept informed of what happened to their suggestion or feedback (...) In response to the findings, the Ethics and Compliance team is working with leaders across the company to address areas for continuous improvement and maintain commitment to the highest ethical standards.

(Company 13)

Ethics programme evaluation

According to our model, the company is expected to evaluate its ethics programme, including aspects such as the ethical risk assessment, culture, the employees' knowledge on compliance aspects or the complaint management system, the relationship between ethics

and others functions within the company, training, communication, the complaint handling system, processes to encourage ethical performance, and processes to prevent retaliation.

We only found evidence of such coverage and even greater coverage in one company. In this company, the following aspects are evaluated: complaint management, ethical risk management, ethical leadership, work environment, knowledge and trust in management tools, trust, transparency, integrity, diversity and non-discrimination and external evaluation through ratters like Ethisphere itself (Company 5). The breadth of this evaluation also represents a holistic view of ethics.

This does not mean that other companies do not have a holistic view of ethics, it just means that they do not want or do not consider those additional aspects relevant to report.

One aspect most companies report about is “ethical culture” evaluation. They mostly use the word ethics, although in some cases, in alignment with the company focus, they refer “a culture of compliance”.

The assessment of ethical culture is often referred to within risk management as a sign of relevance, a conscious or unconscious assumption that if you want to mitigate risk you need to go beyond compliance: “Understanding the underlying factors that influence employees to behave ethically or unethically is essential to efficiently prevent unethical conduct” (Company 6). “An ethics survey was sent out to all employees to measure employee perception of tone at the top and culture of compliance and integrity” (Company 6).

In the evaluation results, however, one continues to feel, just as in the complaint report, a lack of accuracy: “Our people are really clear about our vision, our values and our way — everything we think, feel, say and do” (Company 13). “An analysis of the survey results leads to a number of specific measures to improve situations or problems that have been detected” (Company 8).

There are however exceptions, companies that show signs of balance: “in some teams there was feedback about managing pressure and work-life balance” (Company13); and companies reporting more than requested and framing that report in a sense of purpose and enhancement of transparency: “We believe these real case examples support greater

transparency and help to drive the dialogue and narrative further, rather than simply reporting numbers of cases” (Company 12).

Communication and transparency

The transparency issue fits into the company’s ethical conduct on two levels. On the one hand, a company that does not account for what legitimately matters to its stakeholders is in some way not acting ethically (unless it has specific reasons justifying it); on the other hand, the aspects that the company considers important to report, and the rigour with which it does so, are also a sign, namely in compliance, with the GRI principles regarding information quality.

One of the principles is balance: to talk about what went well and what went wrong. We have already mentioned that in reports’ opening messages there are few CEOs or Chairmen who report less successful aspects, but in the reports’ body text we find some failure examples: “Despite the best preventative measures, we are not always able to prevent breaches of law or violations of regulations at the Company” (Company 16). “In 2018, as a result of our audits, we encountered seven cases where we saw potential risk of forced labor” (Company 12).

Some companies admit having a difficulty in ensuring compliance within its commitments:

Our size and scale present significant management and organizational challenges. It might become increasingly difficult to maintain effective standards across a large enterprise (...) For example, employee misconduct could involve the improper use of our clients’ sensitive or confidential information or the failure to comply with legislation or regulations regarding the protection of sensitive or confidential information.

(Company 1)

This balance can also be a defence by the company that clarifies the limits of its liability. As for the other principles, clarity and accuracy, we found many opportunities for improvement, starting with the complaints report.

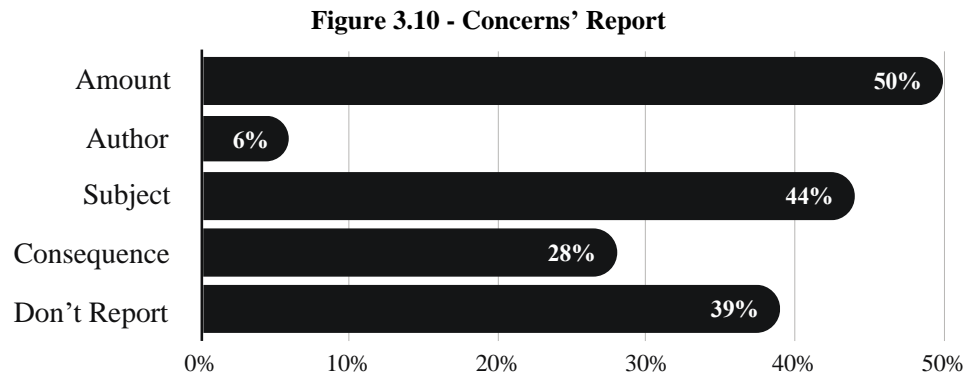
Complaints report

Regarding reporting, and in addition to what emerges in our standard company portrait — informing about the source of the complaint, theme and outcome — one must also mention the requirements of the GRI guidelines on this specific subject:

The description of internal and external mechanisms for reporting concerns about unethical or unlawful behavior (...) The total number of concerns expressed during the reporting period, including the percentage that were addressed, resolved and found to be unsubstantiated during the reporting period, and the types of misconduct reported The level of satisfaction of those that used the reporting mechanisms.

(Global Reporting Initiative, 2014, p. 61)

Most companies are far from this standard, perhaps along with the presence of the head of ethics on management committees, this is where the gap between reality and the portrait is the most visible. According to Ethisphere, there are only 28% of companies that make aspects related to the reported concerns available to the public, and even less have a report exclusively dedicated to ethics — 6% (Ethisphere Institute, 2018a, p. 3). In our sample, only one company has a specific report and 39% percent do not report (Figure 3.10).



Only one company gives examples, explaining the reflection process to arrive at the determination of consequences; and only 2 companies present the number, theme and consequences with multi-year data. Note that, despite the reports made by about 60% of companies, one can notice some lack of accuracy materialised in the use of words like: “The majority of cases reported” (Company 6); “The most commonly reported categories” (Company 18); or even “proportional”, which does not let us understand which sanctions are imposed: “In confirmed cases, we impose systematic sanctions that are proportionate to the act and the guilt of the perpetrator and are in line with applicable legal provisions” (Company 16).

3.3 Conclusion and Discussion

To sum up, from the ethics management model advanced by Rossouw and Van Vuuren (2017) (Table 3.2), the perception that emerges from our analysis is that most companies are still in a “compliance mode”, with an approach centred in risk management and avoidance of penalties. Few are in an “integrity mode”, promoting ethical behaviour; and only one shows signs of a “totally-aligned mode”, where ethics is part of the company’s purpose and reflection on strategy in different business areas.

Table 3.2 - The Modes of Ethics Management Model

	Amoral Mode	Survival Mode	Reactive Mode	Compliance Mode	Integrity mode	Totally aligned mode
Nature	Ethics does not belong in business	Unethical conduct is required to survive	Token gestures of ethical intent	Commitment to prevent unethical behaviour	Promotion of responsible ethical behaviour	Ethics is ingrained in corporate purpose and identity
Purpose	Exclusion of ethical considerations from business	Endorsing unethical behaviour as what is required for survival	Protecting against risk of unethical behaviour	Preventing unethical behaviour	Raising level of corporate ethical performance	Ethics is crucial for strategy implementation
Ethics Management Approach	Exclusion of ethical considerations in decisions and operations	Unethical practices are condoned and even rewarded.	Ethical standards without any enforcement	Unethical behaviour is detected and transgressors are penalised	Ethical behaviour is detected and recognised	Ethical business entrenched as a norm (ethics is a way of life)

Source: Ethics Institute and Ethics Practitioners’ Association, 2018, p. 3

It is true that all companies have, somehow, almost all the mechanisms referred to in the Ethisphere index. Our concern is exactly around this “somehow”. For example, training: with what content? In person or online? How regularly, and how long ago? With or without evaluation?

In most cases, this seems to be a time of compliance, and of the usefulness of ethics as a guarantee of trust, as well as a time of lack of coherence. Companies have highly developed formal system, perhaps even excellent ones, with all the instruments, including someone responsible for the area and an evaluation of the programme with accountability, and they still do not have a presence of ethics in strategic matters, nor in the reflection on the different company areas. The person responsible for ethics is not invited for management committees and is not given the title of chief. It is as if excellence was achieved despite top management:

top management authorises the work of the person in charge but does not include it in the discussion of major issues. This non-inclusion can have a huge impact on the person's legitimacy vis-à-vis the other workers of the company. We say this based on our personal experience of following up on ethics management in companies, and we say this based on the "prolonged engagement" that Lincoln and Guba (1985) refer to as fundamental for analysing information. This perception is in line with the findings of Treviño *et al.* (2014), who reports that ethics officers develop their work with a perception of challenge and a need for support.

In risk matters, this inconsistency is also visible and starts from the fact that in most of the companies the risk and its relevance continue to be measured in a strictly financial logic. This approach is not unique to companies: in formal documents on ethical risk, such as the Ethics Risk Handbook, ethical risk is presented primarily with a focus on financial impact:

Ethics risk is a dimension of risk in the same way that legal, operational, IT, finance and HR risks are. While the non-management of ethics risks could give rise to as many, if not more, reputational and financial costs for a company as any other type of risk, it warrants equal attention. As such, ethics risk is a component of the broader organisational risk framework.

(Van Vuuren, 2016, p. 19)

This means that it is on the financial consequence that the impact is measured, and not, for example, on the consequence for society or the environment, in a logic of purpose.

In this line of reasoning, although companies present ethics as being at the centre of their concerns, in practice, there is little room for ethical risk other than compliance, whenever things don't result in fines or penalties.

A feeling that also prevails from reading the reports is inconsistency in the use of the word ethics; the perception of lack of clarity about what is and what may be the role of ethics. The use of the word ethics also seems sometimes to have the intent to take weight off and put things at a certain level of ambiguity. Even in the index name, the *World Most Ethical Companies*, looking at the questionnaire content might refer compliance, but it would be a big responsibility to list *World's Most Compliant Companies* or even *World Most Integral Companies*.

It is as if companies do not know what ethics is, nor what to do with it, and use the words according to the public, and thus, according to the analysed discourse, being compliance the one that is truly relevant. Companies seem to forget that ethics is often their only resource and the basis of security in the context in which we live, characterised by volatility, where laws and rules become obsolete or change from country to country in a global market, with increasing uncertainty, complexity and conflicting values and heterogeneity of stakeholders. In fact, and as Treviño and Brown (2004) pointed out, being ethical is not easy. This is one of the myths surrounding ethics that eventually gives rise to the low relevance given to it by comparison to compliance. The complexity of ethics begins with the difficulty of seeing ethical issues: “Rarely do decisions come with waving red flags that say, ‘Hey, I’m in an ethical issue!’” (Treviño & Brown, 2004, p. 70) and seeing it is a necessary precondition for action.

For all this, and because “most adults [including senior executives] in industrialised societies are at the ‘conventional’ level of cognitive moral development, and less than twenty percent of adults ever reach the ‘principled’ level (...) that most adults are looking outside themselves for guidance in ethical dilemma situations” (Treviño & Brown, 2004, p. 71), it is essential to convey a clear sign of ethics’ relevance for the company, and to have someone, or a group of people, that can support decision making and help create an ethical climate.

Perhaps the difficulty in finding a place for ethics has to do with a lack of purpose that acts as a compass for ethical reflection: “For the will to exist, a system of motives must be formed” (Coimbra, 2004, p. 228). This idea of purpose is now beginning to reach companies. In one of the companies analysed there is even a document about the purpose and, in it, the changes that are intended from this reflection are evident: “Being aware of this, we wish to continue advancing and extending this business philosophy, which is why we have engaged in a process of reflection to define a clear and long-term corporate purpose” (Company 8).

The need for a purpose is also pointed out by Weller:

Without this explicit intention, it can be easy to understand how compliance practices focused on regulatory risk management and CSR practices focused on value creation may result in a company not accounting for some of the ethical middle ground that falls outside of their siloed interpretations of ethics in practice and lead to managers missing important ethical considerations in their companies.

(Weller, 2017, p. 21)

But in many cases it seems to us that the purpose is still developed from an utilitarian and risk management perspective and that it emerges as a necessity, as we can guess in the words of Larry Fink, president of one of the biggest investment firms: “Purpose guides culture, provides a framework for consistent decision-making, and, ultimately, helps sustain long-term financial returns for the shareholders of your company” (Flink, 2019). Ultimately, this is still the main reason: purpose is not yet a driver for internal reflection to be enforced in each act.

In any case, this purpose could be the materialisation of the values that all companies claim to have and that may be the starting point for a cross-sectional reflection.

Luc de Brabandere defines values with the following characteristics: something we defend even if the market sanctions it; something we want to convey to our children; something that goes through the test of time, that makes us get up in the morning and whose absence causes us indignation (Brabandere, 2012).

When something is felt like that in a company, naturally everything has to be questioned in the face of those values, and ethics becomes naturally present.

This conviction-driven approach is the only one that allows ethics to naturally enter into the operations and day-to-day business development, because, let’s face it: there is no business case for ethics in this holistic way from a company point of view. We lose time, money, freedom... There is only a business case for ethics in a society point of view. And that is what makes this such a difficult issue, it seems the opposite of what a manager was “programmed” for, we get used to accepting that “ethics must be left at the door of the company” (Cortina, 1994, p. 76). We live fascinated by wealth which “is ultimately the great and universal cause of the corruption of our moral feelings” (Moreira, 2002, p. 40).

The question of ethics can only be assumed in the business world if it is believed, as Adam Smith argued in his Theory of Moral Sentiments, that “the economy must be at the service of the good and the people” (Cortina, 1994, p. 52) and that “the basis of moral laws does not consist of any simple and mechanical utilitarian ethics” (Moreira, 2002, p. 39).

For companies, ethics must not be a question of business case but one of purpose, of will and faith. And faith is a risk, as it is something that somehow goes beyond the scope of reason. When we are within reason, we do not believe, we know. We know what is the most efficient, what increases profitability and what shareholders want. Purpose, values, and ethics as a way of achieving them, are not within the scope of reason, they are within the scope of belief, and “there is no rational continuity possible. Because what is believing, if not being faced with what cannot be believed? It is in this sense only, absolutely paradoxical, that the risk can be taken, by making a leap that the reason refuses to do”¹⁷ (Dufourmantelle, 2011, p.173).

And eventually we have to assume that from a company standpoint, considering how we are used to understand companies, there are no rational arguments that fully justify the inclusion of ethical reflection in the strategy and in all areas. It is necessary for managers to believe, against all evidence, that it must be possible to make a company flourish by following the path of ethics irreducibly, and this is a dissent from the current standard, but “belief is a dissidence”¹⁸ (Dufourmantelle, 2011, p. 175).

3.4 Limitations

In order to confirm our perception about ethics’ state of the art, as well the criticality of having a purpose to successfully position ethics as truly relevant to companies, it is necessary to deepen this study by conducting interviews.

We consider it would be important to interview the people responsible for ethics, especially those whose function name is solely ethics — which correspond to the companies that give the most and the least relevance to ethics. Such a study could focus on the existing obstacles to reach a full ethics embodiment in companies’ culture, as well as the critical factors to achieve it.

¹⁷ Translation provided by the author. In the original: “Il n’y a pas de continuité rationnelle possible. Car qu’est-ce que croire, si ce n’est être face à ce qui ne peut être cru ? C’est en ce sens seulement, absolument paradoxale, que le risque peut être pris, en faisant un saut que la raison se refuse à faire”.

¹⁸ Translation provided by the author. In the original: “Croire est une dissidence”.

**4 CORPORATE CODES OF ETHICS — THE HOW FACTOR. A
CASE STUDY ON THE REVIEW OF A TRANSNATIONAL
COMPANY CODE**

Reference: Roque, A., Albuquerque, R. Moreira, J. M. and Figueiredo, J. D. Submitted to: International Journal of Cross Cultural Management in April 24, 2019¹⁹

Abstract

Although recognised as a key factor for its effectiveness, the adopted process for the development of a global corporate code of ethics, is one of the least documented aspects by Academia.

The code is often created at central level and then sent for adoption and implementation to the different branches within the organisation, and the fact that they are not involved in the development process, frequently elicits resistance.

This was initially the case with the company subject of this study, where it was found that business units from different geographical locations had gradually made adaptations to the original code of the Group, which no longer remained the same across countries, neither in text nor in form, which led to the code review.

Developed through an action-research methodology, this case study describes the review process which included 30 people from all the Group companies. All defined goals have been achieved. The different companies' representatives consider that the participatory methodology was a key-factor to the general acceptance of the produced document. Three years after the code release, its efficacy was also evaluated with the Ethics Ombudsman who presented possible success indicators.

Keywords: *global corporate codes of ethics; Globalisation; development process; ethics in transnational companies; participatory method; action research;*

¹⁹ As explained in General Introduction, there are differences between this chapter and the published paper, due to corrections in English and additional data that we found relevant to include.

4.1 Introduction

4.1.1 Global Corporate Codes of Ethics and Relevance of The Development Process

A corporate code of ethics is a formal document developed by a company to express its commitments and the commitments of its employees “at least its managers and employees towards one another, the company, external stakeholders and / or society in general” (Kaptein & Schwartz, 2008, p. 113). It clarifies the objectives of the company, its standards and aspects related to ethical behaviour; it regards the company’s ethical responsibility in any part of the world it operates, even if it operates in a large number of countries. Take the case of Volvo — documented by Helin and Babri (2015) — which has production in 19 countries, employs more than 100 thousand people, operates in more than 190 markets and has a unique code of ethics, valid anywhere.

In fact, most companies operating in different markets develop a global code or “At least some standards of ethics that are binding on all employees worldwide” (Talaular, 2009, p. 349) because it is viewed as “A much recommended management instrument” (Kaptein, 2004, p. 13) to ensure or show that an attempt is being made to guarantee that the company assumes its responsibilities wherever it operates. Moreover, since companies use the same management model for their operations wherever they may be present, having the same universal approach to ethics would seem to make sense. “A global approach seems to fit the strategy of global firms because they expand internationally using a specific business model as a proven standard format” (Talaular, 2009, p. 350).

We use the expression *code of ethics* here, although many companies use the word ethics and conduct for the same type of document. In any case, there is formally a difference between the two concepts that, as we shall see later, may have an influence on its acceptance by employees in different countries. The codes of ethics tend to be more inspiring, axiological, more focused on principles, whereas codes of conduct are essentially a set of rules to be followed, in other words, they refer to obligations “whereas principles obligate to approximate ideals. More specifically, rules tend to be more concrete because they explicitly define which conduct the norm addressees have to apply. In contrast, principles remain more general” (Talaular, 2009, p. 356).

These global codes of ethics generally address a range of issues that do not seem to vary greatly depending on the company or its location (Kaptein, 2004), for example: relationship with stakeholders, transparency, honesty, justice, discrimination, or fraud; appear in almost all codes but, in reality, they subtly vary according to the nationality of the head office (Scholtens & Dam, 2007, p. 274). This variation may be the source of some of the implementation problems, how the code is accepted and how it is adopted by employees from different geographical locations.

Let us begin with the content, what is explicitly written:

Innovation and creativity, for example, are respectively mentioned 73% and 46% more in Asian codes than in American and European codes. By contrast, the value responsibility / conscientiousness can be found just as often in American (30%) as in Asian (35%) and European codes (33%).

(Kaptein, 2004, p. 27)

These are perhaps subtle differences, but they have been pointed out in a study that analysed the codes of the 200 largest companies worldwide. Naturally, culture differs from country to country, and certainly from continent to continent, and the same applies to codes. This corresponds to a need to show a global “voice” for the companies, rather than a true reflection of a unique way of feeling and being.

As for the way in which it is expressed, there are differences in many cases that may have an impact on the code acceptance. A good example is the case described by Helin and Sandstrom (2008) regarding the code of ethics implementation of a US company in a branch in Sweden. According to the mentioned authors, the code arrived in Sweden accompanied by an order to: “implement it and make everybody sign it” (Helin & Sandström, 2008, p. 283). This message, which certainly does not differ from the messages sent by many other parent companies to their different subsidiaries, may in itself give rise to a non-acceptance and even a total rejection of the code: “The receivers resisted the code by amplifying the importance of national identity. Rather than stimulating a discussion on ethics that might have strengthened the ties between the parent and the subsidiary, the outcome of the code implementation had the opposite effect” (Helin & Sandström, 2008, p. 281).

In the previous example, the front reaction of the Swedish subsidiary's CEO helps us clarify the issue. He refers to the code as follows: "The rules presuppose that people are stupid. They treat people as less intelligent. Then people become pissed-off and then it can have a reverse effect" (Helin & Sandström, 2008, p. 285). And he is not the only one expressing disagreement, the production director accuses the strangeness of it, and in other words, says that the content does not truly reflect him as "It felt as if I was not at home when I read the rules. It was all about the US" (Helin & Sandström, 2008, p. 285).

These reactions corroborate the thesis that business ethics must be approached in context, because it does not arise in an isolated and unconstrained way: "It takes place in a social and cultural environment that is being governed by a complex set of laws, rules and regulations, formal values and norms, codes of conduct, policies" (Scholtens & Dam, 2007, p. 273). This influences the way content, form, and even tone can be interpreted: "For example, in an Asian country, a typically American code of conduct could be regarded as too comprehensive and forceful while the business principles of an European company could be viewed as too ambitious and abstract" (Kaptein, 2004, p. 27). That is why many schools of thought emphasise "the necessity to take culture into account when dealing with ethics in business" (Helin & Sandström, 2008, p. 281) .

That is, as Kaptein and Schwartz (2008) point out, the word code has at least two meanings: the set of rules to which we normally associate the word, but before that, code refers to something that can be deciphered in different ways in different cultures. The code can be seen as a "system that gives meaning to a series of symbols, signs, or signals such as Morse code, the binary code, and bar codes" (Kaptein & Schwartz, 2008, p. 112).

It is a paradox. On the one hand, uniformity is not necessarily an added value. As (Kaptein, 2004, p. 24) says, the diversity in the content of corporate codes (also within countries) is not necessarily a negative sign. To have a different code of ethics from country to country, or from culture to culture, could even make sense: "When firms go global, they face ethical complexities as they operate in different legal and cultural environments that may impact the admissibility and appropriateness of their approach to institutionalize and implement corporate ethics" (Talaular, 2009, p. 349). On the other hand, as Moreira (2002) points out, local culture does not have to determine a code, because that culture may contain abuses and

a code must be deduced from “normative principles that do not say how the majority acts — that would be sociology — but how we should act” (Moreira, 2002, p. 73).

But the truth is that, for the sake of security, or apparent ease of management or even obligation, most transnational companies choose to have a single global code of ethics in all their places of operation, and those that did not adopt this solution yet, are getting there (Kaptein & Schwartz, 2008, p. 111), by their stakeholders or forced by law. The challenge is to make a single code, but one with which the stakeholders of the different cultures where the company operates feel comfortable.

Taking culture into account can begin at a very early stage of the code creation process, including reflection and dialogue with stakeholders. This can have significant benefits, especially in the acceptance of the created code, which will be less likely to be rejected in the subsidiaries. This is especially important if the goal of the code development is to promote change in the organisation. The necessary dialogue for participation may already be part of the intended change and alignment. “Ethical leadership and open discussions of ethics in the organization contributed to increased ethical behavior” (Stevens, 2008, p. 604).

The relationship between the code of ethics development process and its impact is recognised. Kaptein and Schwartz (2008) pointed out the importance of creating code supporters. This creates awareness and appropriation by employees, which in turn makes the code real.

4.1.2 Relevance of This Study

Most studies on corporate codes of ethics have focused on content and effectiveness, while disregarding the employed process for its creation (Kaptein, 2008); “(e.g., Cleek & Leonard, 1998; Davis, 2000; Frankel, 1989; Kaptein, 2004; Verbos *et al.*, 2007)” in (Messikomer & Cirka, 2010, p. 55). The aforementioned process is not something that should be disregarded, or which has no influence on content. In fact, Erwin (2011) stated that the adoption of the development process has a direct implication on the adequacy of the code content (Erwin, 2011, p. 537).

Identical vision is advocated by Kaptein and Schwartz (2008), who stated that similar codes may have different results, depending on how they were developed and, as a result, “the effectiveness of a code can diverge even if two companies have an identical code implemented in an identical way” (Kaptein & Schwartz, 2008, p. 119). Messikomer and Cirka (2010) even argue that it is difficult to establish a boundary between what constitutes the code-making process and the product itself, i.e., the code resulting from it.

The process has a direct influence, for example, on the identification of relevant issues, which would be difficult to achieve without a participatory method (Messikomer & Cirka, 2010, p. 59). In this regard, the same authors who developed a case study on the process of elaborating a code in a professional organisation, concluded that the process is the area which has been less studied. They say that virtually no empirical work on this topic exists, aside from a few limited cases (Farrell *et al.*, 2002a; Frankel, 1989; Gotterbarn, 1999; Kaptein & Schwartz, 2008; Kaptein & Wempe, 1998; Nijhof *et al.*, 2003; Sinclair, 1998) in (Messikomer & Cirka, 2010, p. 58).

Thus, this article aims to create awareness in the aforementioned understudied critical area, through the dissemination of the code of ethics review process of a transnational company, where we played the role of actor and researcher. That is, one of the authors was part of the committee, and also a researcher on the subject.

The process documentation and narrative of this case study aims to show and validate the relevance of the participatory method in constructing the code, its acceptance and, ultimately, its adoption, i.e., being incorporated by the organisation.

It refers to a qualitative, exploratory and descriptive case, in which the purpose is not only to document the process, the methods used, the doubts and emotions felt by the team during the process, but also to propose generalisations based on literature lessons and on the obtained experience and reflection.

The relevance of our case, a single case, is, as Yin (2001) pointed out, the fact that it can be “used to determine if the propositions of a theory are correct” (Yin, 2001, p. 62). Therefore, the thesis is that the participation on the development process not only facilitates the

processes of codes of ethics appropriation in different branches of transnational organisations but is also crucial for the quality of the document produced.

Currently, more and more companies are acting on a global scale and are concerned about the standardisation of values and practices. Therefore, testing methodologies that allow for a change from imposed codes, possibly only elements of a formal ethics, to codes adopted by employees, with the potential of actually becoming part of the day-to-day within businesses, takes on special importance. To have people convinced about the code is fundamental for its existence, because the diffusion of the ideas contained in it is not done *per se*, “it is people who pass them on to each other, each one translating them according to their own frames of reference” (Czarniawska, 1997, p. 95). In other words, individuals ultimately are the ones who truly make the code alive and a relevant element for the organisation, a true contribution to a change in behaviour and to the ethical climate.

4.1.3 Methodology

The structure of our case involved a storytelling approach, centred on the ethics ombudsman and the code-development team. This approach aims to generate a narrative that helps to understand the process, challenges, solutions, obtained results, and the way that the process was felt, lived and reflected by those who participated in it: “The narrative is a way for us to make sense of our experiences to ourselves and relate those experiences to others” (Poulton, 2005, p. 1). In summary, we were interested in studying the impact of the process on the product.

The company’s narrative follows a chronological sequence: beginning with the background and environment, it presents the process and the evaluation developed by the participants of the various geographies upon launching the code; and concludes with the vision of the process, and the evaluation of the code effectiveness, by the company’s ethics ombudsman, three years after its initial disclosure.

This code was this company’s second code of ethics, and we use excerpts from an interview conducted to the only element present in the team that developed both versions of the code — the original 2005 code and the revised one. Different business units (BU) team members’

testimonials of the review, extracted from the ethics ombudsman's report, were also used, as well as an interview with the company's ethics ombudsman which, although carried out retrospectively (three years after the code review process), will have excerpts included in the narrative of the case itself. The quotes obtained from the interview with the company ethics ombudsman, José Figueiredo Soares (JFS), are identified.

The interview with the ethics ombudsman represents the company's current view of the code and what has happened since 2014, the time it was released, until 2017, when this study was initiated. This evaluation, made by the company after the test of time, is very relevant, because it allows us to identify gaps and success indicators, for which there was no clear perception at the time.

Some excerpts from the interview are also included in the discussion, since part of this final interview dealt also with concerns and relevant aspects for which we still do not know the answer to and believe it is important to delve deeper.

Also noteworthy is the fact that the company had let us explicitly use its name. Therefore, this is not a case made with an anonymous company. This fact is an important contribution to the Academia because it opens doors in terms of traceability with respect to what will happen to the company in the future, allowing for richer analyses.

The case study was created based on an action research strategy with one author participating (as an academic and as a consultant) in the process. The first objective of this participation was to support the development of the code itself: "to make action more effective while simultaneously building up a body of scientific knowledge" (Coghlan & Brannick, 2005, p. 4).

The fact of having integrated the entire process allows us to develop this narrative. The researcher supported the search with external information to the company, facilitated debate and recorded the contents of the internal meetings, collected all the documentation produced and participated in the final writing of the code.

The objectiveness about the results and about the way in which the process was carried out is ensured by the statements from other participants about the process and, above all, by the

final texts of the codes of each company of the Group. Available on their corresponding sites, these texts may be compared and are fundamentally the same at the time this study was developed. However, in the course of this narrative, references to the researcher's feelings often arise, which are, some of them, corroborated by the words of the ethics ombudsman, in the excerpts of the interview.

4.1.4 Company Presentation

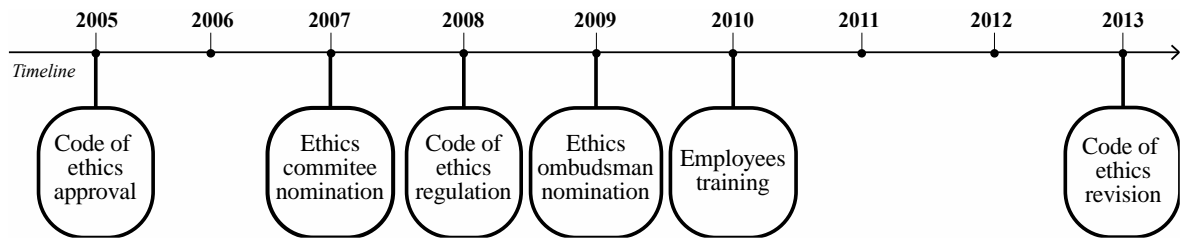
The EDP Group (EDP, Company, Group) is a global economic Group that acts in the production, distribution and commercialisation of energy, and is currently present in 14 countries, employing roughly around 12 thousand people.

EDP is the world third largest operator in wind energy, with wind farms in the Iberian Peninsula, US, Brazil, France, Belgium, Poland, Romania, Italy, UK and Canada. It is recognised worldwide in the field of sustainability as one of the reference companies. In 2010, it achieved the first place in the sector of electric utilities, in the Dow Jones Sustainability World Index (DJSI); in 2012 it was recognised as the world leader in the Utilities Super sector; and has obtained, in 2017, the year that marks tenth consecutive presences in the index, the best score ever.

In addition to being evaluated annually by the SAM methodology of the DJSI indexes, it is worth highlighting, within the field of ethics, its presence in the FTSE4Good index since 2011, and in the *World's Most Ethical Companies* ranking of the Ethisphere Institute since 2012.

In 2005, the Company launched its first code of ethics (Code). In 2009, after the Regulation of the Code of Ethics' publication (Regulation), an ethics ombudsman was appointed, and employees underwent a broad training (Figure 4.1). The company was aware that "when the implementation of a code is not supported by other instruments, it has negative effect on employee's perceptions of ethical behavior in the workplace" (Kaptein & Schwartz, 2008, p. 119). So, updates of the code were planned from the beginning, as part of the company's "ethics programme".

Figure 4.1 - Chronological Evolution of Company Ethics Programme



Source: EDP

The code was revised in 2013 — a process documented herein — and released in 2014. After that, and until the moment this case was elaborated, ethical performance management mechanisms were developed and strengthened through the creation of a corporate index of ethical performance. The inclusion of ethics in performance assessment and in welcome training, the ethical risk analysis and the development of a code of conduct for senior management based on the revised code of ethics, were examples of support instruments.

4.2 The Code of Ethics Revision

4.2.1 Background

The process leading to the code revision in 2013 was triggered in 2009, when preparing the first training sessions on the code of ethics for the employees.

At that time, it was identified that, although the code had been sent for implementation in the different BU, it had not been adopted uniformly in all of them, namely in Brazil and Spain and, to some extent, minor changes had been made to the text so that it would fit in and respond to what were considered, by each geography, to be real needs. As a result, according to the ethics ombudsman, the situation was:

Codes differed in what they did and did not state; there were codes that did not mention certain topics, without being known the reasons for that fact. This was not compatible with what was intended, that is, the code was to be used as a reference, namely within the ethical performance management system – a document to be seen as a company commitment, facilitating internal and external scrutiny of company's actions.

(JFS)

The search for tuning was then one of the starting points for the code future review.

Another starting point was the change in context. Since the launch of the first code in 2005, there had been major changes in the Company's business context: market liberalisation, business diversification, increased involvement of suppliers as a result of increased services outsourcing and, above all, a change in the geographic scope of the company.

Although in 2005, the company already operated in Spain and Brazil, most of the results came from Portugal. At the time of the review the company had activity in 13 countries, which was reflected in a profound way in the Group's business. As an example (see table 4.1), in 2005, operations in Portugal accounted for 64 % of the Group's EBITDA and, in 2013, 37%. In summary, the positions had been reversed and this new context brought the need for a re-reading of the code in order to validate its adequacy, with the certainty that there were aspects to be changed.

Table 4.1 - Changes in Group's EBITDA Provenance

	2005	2013
EBITDA Portugal	64%	37%
EBITDA Outside Portugal	36%	63%

Source: EDP

4.2.2 The Review Process

Table 4.2 - Synthesis and Comparison of the Two Codes's Processes of Elaboration

	2005	2013
Participants number	2	26 internal plus 2 external
Who	General secretary and sustainability director	<ul style="list-style-type: none"> • the ethics Ombudsman (responsible for the project); • Elements of all Business Units (BU), in particular from different geographies; • elements of Organizational Units (OU) considered to be especially relevant (sustainability, auditing or human resources); • external elements of the academy, performing consulting and facilitation functions.
Level of participants	Board of Directors	Diverse: <ul style="list-style-type: none"> • board members; • elements whose functions are related to ethics management in BU; • elements assigned to follow the process by BU and OU directors; • elements of the academy
Goals	Elaboration of a Code of conduct for the Group to meet legal and regulatory requirements, namely SOX law.	Two levels of objectives: <ul style="list-style-type: none"> • first moment: to comply with what was foreseen in the internal regulation (periodic review) and to standardize codes, keeping the original code recognizable. • second moment (after first meeting and start of reflection): clarify, unify and update the code by making a revision that could give rise to a new code.
Method	Research and reflection and writing in restricted group.	Participative: all the business units presented the aspects in relation to which they considered important to produce changes and followed the whole code revision process, approving the structure and the content.
Process duration	?	9 months
Immediate results	Single code for the whole group.	Single code adopted by the whole group with the possibility of small changes depending on the context defined at the start.
Results 3 years later	Codes with significant variations of content according to geography.	Equal code in all geographies. The code serves as the basis for the creation of other documents, namely, codes of conduct. Complaints and denounce are framed in the code.

The code review began in February 2013, and it was decided that it would be carried out with the support of a group of about two dozen people, from Business and Organizational Units (OU), created to support the ethics management (Ethics Focal points). The involvement of this group was, as Martens (2005) considered, the first step in building a global code. The members of the group “are responsible for providing input on content, ensuring that the document addresses relevant issues in each of the major geographical areas

where the company operates, and discusses the standards in a way that is meaningful in each culture” (Martens, 2005, p. 1). That was exactly what was expected from the group.

In addition, to support the Ethical focal points’ group in the reflection and approval of contents, a restricted team was set up with a more operational function, such as carrying out searches, analysing internal documentation or writing the code itself. The team was composed by the ethics ombudsman, an element of the Sustainability and Environment corporate office, which had participated in the writing of the previous code, and two external elements from the Academia, as consultants, where we were included.

The involvement of those groups, the focal points and the restricted team, makes a difference in relation to the code-making process in 2005, in which only a small number of people were involved: only the general secretariat and the sustainability director. In this update, more than 20 people participated in the aforementioned review, with a total of about 100 hours of meetings between the two teams.

The focal points group met three times during the code-making process (from February to November) with an average of 17 participants per session, an aspect to be highlighted given that each session lasted 4 hours and the participants had, in general, high seniority in the company.

How was that possible? According to the Ethics Ombudsman, because: “A climate of construction and trust was created, a climate in which it was shown that the participation of people was important, that they were heard, not as a proforma, to say that they had been consulted” (JFS).

That is, there was the conviction that “Employees should be involved in the process, not necessarily in order to gain their ‘buy-in’ or sense of ownership, but to help ensure a relevant and realistic document is produced” (Schwartz, 2004, p. 339) — a document that met the real needs of the Group.

Concerning the generated dynamics, it is also important to mention how the project was led, by the ethics ombudsman, regarding the restricted team. Despite the fact that two consultants were part of the team, there was really the idea of building a team and not the usual

delegation, which is common and, as Scharmer (2015) argues, should be avoided: “the greater the complexity of a situation, the more important it is not to outsource: one must stay in touch with the issue as it evolves” (Scharmer, 2015, p. 125) and this is what happened. There was an assumption of the topic complexity and an enthusiastic embrace of the project by the entire team that worked together — internal and external elements, sharing knowledge and doubts throughout the process.

The project began with a plenary session of the focal points group, in which the review guidelines were discussed. The intention was not to make a new code, but a revision, in which the original code would be identifiable.

The mission presented to the group was to make a code that corresponded to a level of group commitment to be respected anywhere in the world: “a code of minimums, in the sense that we all agreed that it could not be diminished. A consensual code, a code more axiological than deontological” (JFS).

However the code would have to respond to the needs felt by all the Group’s BUs. At that kick-off session, content proposals were already presented at the outset, by some business and organisational units.

After this meeting, and already within the scope of the restricted team, a hermeneutic work was done regarding the 2005 code. The purpose was to know the true meaning of the words and what they implied, that is, a work was done to decode the code, in the perspective mentioned by Kaptein and Schwartz (2008).

This work involved:

- Identifying, in the 2005 code, references like “an obligation of the company”, “the company and its employees” or only “the employees” and the meaning in terms of commitment of each one of the references;
- Analysing, one by one, each of the topics, in a perspective of clarity of the language which, in some cases, originated a new draft, though maintaining the original meaning;

- Identifying repeated aspects throughout the code and the interest of grouping some of the topics.

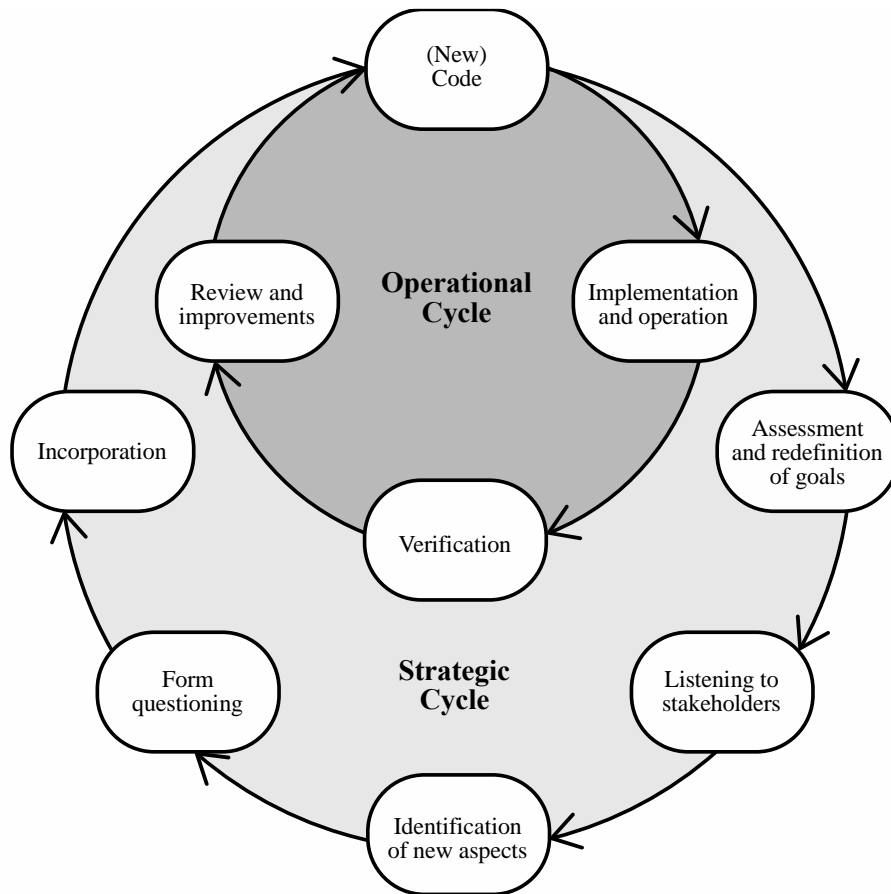
A cross-check was made between the codes of the different BUs, identifying and systematising differences, as well as a benchmarking of codes of the main energy companies, to identify new issues, new concerns and aspects to which the code should respond. The extent of this analysis and, above all, the depth of the reflection that emerged from it, was not something predicted from the outset. The research work, analysis and needs assessment led to the questioning of the code structure itself.

This questioning was not easy to accept, especially for those who had been involved in the development of the prior version. There was a kind of resistance, a modesty in touching the text that, in 2005, had been the fruit of much debate and reflection even if only a very restricted team was then involved. This resistance was only surpassed when the objectives of revising the code were defined and explained in a clear and formal way, even if they were already implicit before. The objectives were:

1. Clarify aspects that had been identified as less clear from a language point of view;
2. Promote uniformity among BUs — obtain consensus on the fundamental standards, without prejudice to adjustments to adapt to the cultural and business specificities of different BUs;
3. Refresh the previous version — following the changes of internal and external context that needed to be taken into account;

It was this explanation that, in some way, makes the resistances disappear and allows the shifting, from an operational cycle, in which the change is done surgically and reactively, in response mostly to occurrences and new regulation; to a strategic cycle, which starts with an assessment and definition of goals. This strategic cycle starts with stakeholders interviews (in this case, the various business and organisational units, utilities sector companies, and international organisations), identifies new aspects, accepts questioning the type of code and creates a new code derived from the incorporation of all inputs (Figure 4.2).

Figure 4.2 - Synthesis and Comparison of the Two Codes' Elaboration Process



However, throughout the entire process, there was somehow a spirit of restraint, which was no longer in fidelity to the previous code, but resulted, we believe, from a respect for diversity, and an awareness that this restraint was the safest way to make a code that could serve the Group: “The challenge was asking ourselves: what do we consider to be the least affirmation we can have as a group, and that may work, in the individual circumstances of the various BUs, and throughout the various geographies in which we are present?” (JFS).

The objectives were formally presented at the second plenary session of the focal points group, where the proposal for a new structure was presented. That new structure retained two topics from the previous code: the “Scope” and the topic related to “Legislation”, although moving to a completely different organisation, divided in “Principles of action” and “Commitments to stakeholders”.

The new structure was approved in plenary. The Group was also presented with a proposal for a reformulated code index, containing a comparison with the previous code divided into three categories of topics: “equal”, “reformulated” and “new” — having, for each of the amended points, justifications for the change and possible sources. There has always been a concern for transparency in each change, providing these visible registers, which allowed identifying each amendment’s context.

In the restricted team, and in the focal point sessions, there was a point-to-point debate, already supported by benchmarking summaries, recommendations and suggestions from organisation’s various members.

It should be noted that, beside the discussions that took place in the formal sessions with the *focal* points group, additional contributions from various BUs and OUs came to the team, as a result of their reviews and concerns. Moreover, the very divergences between the codes themselves, the changes that the different geographies created, were seen as contributions to the reformulation. The intention was: “to recognise, not only the differences, but also the reflections made in the different geographies, that gave rise to these differences and that could be useful for the Group. And in recognising this, somehow it increased the involvement of the people” (JFS).

It was a question of attitude, a stance of openness and willingness to consider every doubt, every new idea, to try to understand why, and put oneself in others’ shoes. That is, the methodology adopted in the development of the code, along with the openness to the contributions of the different BUs, followed, in an empirical way, what is proposed in the U Theory: a listener of the different actors in which, the voice of judgment, the voice of cynicism and the voice of fear can be silenced, to move forward in an open mind, open heart, and the open will posture (Scharmer, 2018), essential to the ability to prototype a solution to a certain problem; in this case, to achieve a common understanding, a consensual design, of what the ethical principles of this business group should be.

In addition, it was also made clear that the intended text, this growing consensual text, would not have to be exactly the same in all countries. It was a basis on which changes could be made — however never reducing obligations and commitments. It was a take on diversity:

“When you have a unique instrument for a series of different realities that are cultural realities, business realities and even stakeholders’ (in some cases we have shareholders, in other cases not), we have to give these degrees of freedom” (JFS).

As an example, the reflection made by the company’s branch in Brazil, which resulted in a specific code for that BU at the time, was the basis for the future construction of a new Company Code, which adopted some of the differences. Separation of customers and suppliers; inclusion of a specific topic for community relations; and the inclusion of a topic on complaint channels; were adopted in the new company code.

Regarding the Spanish branch, the questions presented and the requests for code amendments went towards greater protection and safeguard of the legal responsibility of the company in relation to acts committed by employees. This claim arose following an amendment to the Spanish Penal Code which introduced the criminalisation of legal entities.

Regarding the company’s branch dedicated to the renewable energies, which had significant operations in the US, the main issue was the donations to political parties, prohibited in Portugal, in several European countries and in the Group’s own code of ethics, but which, in the legal context of the US, were allowed, to the point of considering that companies should provide mechanisms so that employees could make financial donations to entities of this nature.

It was decided to maintain, in the “Integrity” topic, the prohibition of the financing political parties by the Company in any part of the world, and to include in the topic “commitment with employees” the possibility for the company to support them in the collection of donations from personal order to political parties: “whenever permitted by law, to provide properly regulated mechanisms for employees’ participation in political processes, which may include voluntary personal monetary contributions” (EDP, 2013, p. 15).

From an internal point of view, regardless of the comparison of codes, there were some topics on which a need for formal explicitness in the code to be developed had been identified. One of them was the role of hierarchies which, in the 2005 code was not explicit, and that, in 2013, is unequivocally mentioned: “The company considers that managers, by

their exemplary action, have a special responsibility in achieving these goals” (EDP, 2013, p. 6).

The objectives of ethics management in the company were also explained in the code: “a) to ensure high individual ethical awareness and standards; b) to minimize the risk of unethical practices; and c) to maintain a culture that is consistent with our values and generates transparency, trust and responsibility for the consequences of decisions and actions” (EDP, 2013, p. 6).

This inclusion is proving to be of great importance because it allows building a strategy in a more structured way, to define contents for the training of employees and even, later, to define indicators for the evaluation of the ethical performance of the company.

In the new code, a distinction was made between “suppliers” and “service providers that are empowered in any way to act on EDP’s behalf”, the latter being now subject to the same standards of conduct as company employees. The distinction was made because, for the external public, in many situations, it is not possible to distinguish between those who are company employees and those who are employees of companies that acted on their behalf and which, in many cases, provided services even at customers’ homes. This situation, with the increasing externalisation of services, is common to many companies.

Also included was the Precautionary Principle, already enshrined in constitutions of some European countries and, although rarely found in benchmarking, had been studied in the company on the scope of the sustainability values. This corresponded in some way to a personal conviction of the ethics ombudsman.

Once the code was written and the text stabilised and validated by the focal points, an attempt was made to make it clearer, to rewrite it so that it had a language that any employee could understand. In fact, in addition to concepts that may differ from company to company and can be clarified in a document such as an “explanatory guide” — for example, the concept of family — there are words corresponding to legal concepts, such as nepotism or money laundering, which meaning may be unknown to some employees and need to be explained.

As was already done in Portugal and other European countries, in the drafting of public laws and regulations, the use of a simplified language was tried, using a specialised company. The process, however, proved to be too complex and it was not possible to arrive at a satisfactory compromise text. Alternatively, although it did not meet the same objectives, a code mini guide was made, containing a summary of the principles, commitments, and complaints management process.

In November 2013, at the last plenary session of the focal points group dedicated to the code, it was announced the sending of the code for approval to the Executive Board of Directors and the implementation plans were drawn up with all the BUs.

The Code was approved by the end of 2013 and was transposed to the different BUs in early 2014, with almost no changes made by the respective Board.

The differences observed were mainly in the communication plans, namely in Brazil and renewables subsidiaries, which, being present in 12 countries, and despite having English as an official language, translated the Code into the languages of the countries where it had a more significant presence.

4.2.3 Process Internal Evaluation at The Time of The Code Disclosure

At the time of the code disclosure, in the context of the preparation of the ethics ombudsman annual report, an evaluation was carried out with the participants on how the review process had taken place.

An interview was also carried out with the elements that had been involved in the drafting of the code's first version comparing the two cases, stating that [the 2013 review] "was a very intense and participated process, with a great deal of participation from the team. They had many hours of meetings, deep discussions (...) there was interaction, there was a mental picture in which people participated." This aspect is also referred by the representatives in the group of focal points of the BU present in the different geographies: the focal points from renewables subsidiary (present in Europe, US and Latin America) states that "the drafting process of the new Code of Ethics, with the brainstorming that took place in all Group BUs,

resulted in a consensual document in which his company (...) identifies itself completely, therefore making its adaptation occur with virtually no changes” (EDP, 2014, p. 8).

The two representatives of the Brazilian branch, refer the reflection and the opportunity to look again (with contradictory, we would say) at the choices in terms of business ethics: “The revision of the Code of Ethics in Brazil was the reaffirmation of the practice already established and a new look at ethical issues, bringing them in line with the Group’s guidelines and maturing the method of application of the Code to the Company’s routines” (EDP, 2014, p. 8).

Another valued aspect is the enthusiasm and commitment shown by everyone, in the work with the members from the BUs in Spain referring that “it was especially rewarding to actively participate in the process of revising the Group’s Code of Ethics to achieve a single, consensual text among all Group Companies” (EDP, 2014, p. 8).

From the testimonies expressed, one may conclude that, the participative way adopted for the code, was a key factor to obtain a single text adopted by all. In fact, throughout the entire process, there was no imposition and, on the contrary, closeness and openness were shown by the Corporate Centre, to include what each geography considered relevant, to become part of the principles and commitments of the entire Group.

In introducing the new code, the company’s CEO also highlighted how the process was experienced: “This revision is a proof of vitality and results from reflection, shared by all our business units, on the ethics of the company, the changes in the world and the role we want to play, now that we are operating in four continents” (EDP, 2013, p. 3).

4.2.4 Internal Evaluation of the Code’s Effectiveness and Quality, Three Years Later

Three years after the release of the new code, we interviewed the ethics ombudsman to revisit the review process, to know what had been done since then, to understand how the document is now evaluated and about the perception of its effectiveness.

In the three years that followed the entry into force of the Code, all employees were trained online, not only to make it known, but also to disseminate the entire ethics management

process in the company. With minor adaptations, this training was the same in all geographies.

A series of awareness workshops on corporate culture and ethical risks were also organised, involving all senior management in Portugal and Spain. Workshops for middle management were also put in place in the same geographies, essentially reflecting on ethical culture and on the managers' role — now spelled out in the code — in reinforcing this culture.

These sessions, both for the upper management and for the middle management, were not replicated in the other BUs. This difference, according to the ethics ombudsman, relates to:

The margin [of autonomy] that has to be given to each BU, trusting that the people who run them, better than anyone else, will be able to set priorities and find the most appropriate ways to achieve the objectives. Nevertheless, even for reasons of communication, and internal and external perception of coherence, the company would like to be able to say that the same had been done in all geographies.

(JFS)

Another initiative was the training of the service providers' employees acting on behalf of the company or working on its premises and who, in this version of the code, are equivalent to company's employees. This training was designed with the support of the suppliers themselves which, in some way, complements the fact that, in the drafting of the code, they were not consulted:

We asked them to send new cases or adapt existing ones in order to assure that the training is adapted to their needs and context. This is not to make them participate in the writing of the code, but it is rather to help the interpretation of the code so that it could be made in their circumstances and open the company's willingness to listen to them, to speak to them on an equal basis about these subjects.

(JFS)

According to the ethics ombudsman, the effectiveness of the code can be measured by the degree of its incorporation in documents, in different parts of the world and in different areas: "the codes of conduct that were developed thereafter, used this code as a base and a reference, and this is an evidence of its effectiveness. The code is a normalizer" (JFS).

Perhaps the top exponent is the fact that it served as inspiration for the Top Management and Senior Financial Officers' Code of Conduct: "This code of conduct does not replace the

EDP Code of Ethics, but rather strengthens and complements it, using as a lens the responsibility and the power of the person who was called to assume the duties of Supervision, Administration and Top Management in the EDP Group” (EDP, 2017, p. 1).

Another sign of the effectiveness and level of incorporation of the code at the organisational level is the fact that, even though people did not feel the need for its review, they recognise that, even in a compliance perspective, it is very useful: “This is also a way to measure effectiveness. It is a formal effectiveness that goes further than strict compliance. Our code is viewed positively by national and international auditors” (JFS).

In addition, employees’ opinion in training evaluation questionnaires, often refer positively to the code and the complaints’ management process: “Most of the feedback we have (and there is many), although unstructured, it is positive. There are no negative comments referring the code” (JFS).

The code of ethics’ regulation states that it should be periodically revised or, at least, its adequacy confirmed. But what are the signs and mechanisms developed by the organisation to detect a lack of adequacy? According to the ethics ombudsman, a signal can be the existence of complaints that, despite being perceived as making sense, do not fall into any point of the code:

When we feel that a claimed subject makes sense, that there is reason on the part of the claimant and it does not fit in the code, one gets the idea that it might be good to add a new subject. On the other hand, when legislation comes out or when someone sees a need for a code of conduct, the adequacy of the code of ethics is analysed in order to respond.

(JFS)

At the moment (end of 2018) the Company is considering a new code revision, precisely by the emergence of new legislation on the prevention of harassment at work. This aspect was already conceptually incorporated, although not referring directly “harassment”, and the very inclusion of the word itself raises a problem that had not yet been discussed:

The English word harassment translates the Portuguese word *assédio*, but I do not know if it coincides with the Portuguese legal concept of *assédio*: when you translate a word, it can be translated correctly, but it may have another legal framework that influences its reading. For example, [the word] corruption may be well translated and have different meanings in different countries.

(JFS)

4.3 Discussion and Conclusions

We described the process of elaborating the code and its results in relation to the intended objectives. However, we did not want to stop there, and instead also highlight a factor we believe was decisive in achieving the obtained results. It is something that Otto Scharmer (2015) referred to as the blind spot. According to this author, much research has been done on the results and on the processes in general, but we know very little about the “invisible dimension” of leadership (Scharmer, 2015, p. 6) and that invisible dimension refers to the characteristics of the leader, the quality of attention and intention that he/she puts in the process, “the inner place or source at the origin of his actions” (Scharmer, 2015, p. 7) and here we believe that this fact had much influence in what was achieved.

And what has been achieved that has not yet been mentioned?

In the revision of 2013, there was an evolution in the sense of framing the problems of today’s world, which is reflected by the inclusion of “non-mandatory”, but necessary issues for society, such as the Precautionary Principle, the commitment to promote sustainable lifestyles, or the recognition of minority rights. The company went far beyond what it was “obliged” to do.

If we consider the three generations of codes defined by Stohl *et al.* (2009), there is a shift from an essentially first and second generation codes — compliance with law and regulation and concerns with internal stakeholders — to a code that (keeping the previous dimensions), clearly already addresses the third generation: “The third generation of codes is triggered by globalisation. This generation establishes standards of ethical performance in relation to global stakeholders and the larger world community, transcending traditional organisational boundaries and the limited view that ethical and legal are synonymous” (Calderón *et al.*, 2012, p. 6).

When we speak about leadership, we are referring to, not only the ethics ombudsman who was the formal process leader, but also the restricted team as a whole, who undertook the task of revising the code with a soulful attitude to which, somehow, the members of the extended group adhered to, with an always present will to reach beyond.

Perhaps the reference to this aspect may seem partial and “unscientific”, but it is not by chance that Otto Scharmer (2015) refers to it as the least studied part. In fact, apart from the statements already made and the participation rate at the meetings, there is little factual evidence. But the scarcity of evidence does not mean that a fact does not exist and should not be referred to.

The leadership, the person of the leader or the leaders, is, according to Scharmer, what makes that a process, even if rigorously repeated, may not have the same results: “Two leaders in the same circumstances doing the same thing can bring about completely different outcomes, depending on the inner place from which each operates. The nature of this inner place in leaders is something of a mystery to us” (Scharmer, 2018).

The characteristics of the leader, or leaders, are variables to consider and are limitations to the possibility of replication of this process with the same results.

Another aspect for discussion, given that this code also applies to suppliers, is the real effectiveness and legitimacy of codes for suppliers:

Suppliers, which are today often located in developing countries, are given the codes, told to comply with them and informed that they are subject to audits as a part of the contract. Suppliers generally have little power to negotiate how the audits are carried out and are expected to comply with different buyers’ demands; with each buyer carrying out their own auditing procedure.
(Spence & Bourlakis, 2009; Jiang, 2009) in (Helin & Babri, 2015, p. 41)

In fact, if transnational companies have branches in several countries, they certainly have suppliers in many others, and these suppliers usually have several client companies, each asking them to subscribe to their code.

Ensuring that what is written in the code makes sense in the suppliers’ country already poses a challenge:

We have a statement from the suppliers’ management on how it knows and complies with the code, and this is important as a formal act, but does not guarantee that any one of its employees, who goes to our client’s house or who is here at our premises knows about the code. And to think that these people are going to walk with the EDP code in their pockets, it’s a naive supposition because they simply will do not do so.

(JFS)

The issue for legal and cultural differences between countries is a subject to be explored and to be seen on a case-by-case basis. In this company's code, and in what respects to the differences between European and US laws regarding donations to political parties, the fact that the issue was openly dealt and discussed with representatives of the BUs in Europe and the US, allowed a satisfactory and consensual solution. This kind of practices can avoid situations like the entrance of ethics in Germany, in which a code of ethics imposed without a prior presentation and discussion with the workers' committee, caused a lot of problems (prohibition of love affairs between employees). That was seen as an interference in their personal life: "the Court asserted that (...) banning such relationships in general violated the personal rights of these individuals to freely develop their personalities and to update their lives according to their own preferences" (Talaucar, 2009, p. 353).

The aspect of adapting to the culture and law of different countries is one of the most important points of reflection in the elaboration of codes by transnational corporations, which can, as Tan and Wang (2011) refer, adopt one of four strategies: a strategy of "Defiance", ignoring the laws of the host country, which safeguards its reputation in the country of origin but may damage the local reputation; a strategy of "Camouflage", yielding to the laws of "host", as in the case of Google in China: "Google.cn, was blamed for kowtowing to the Chinese government and self-censoring what the government deems inappropriate" (Tan & Wang, 2011, p. 381); a strategy of "Compliance", fully complying with local laws, which is often the case with companies from developing countries operating in developed countries; or a strategy of "Negotiation", which is not limited to accepting or denying law and regulations of the sites of operation, but advances to a "dialectical process, in which distinctive logic components are translated and interpreted, and become integral parts of a new hybrid institutional logic" (Tan & Wang, 2011, p. 383), which was the case of the strategy adopted by the Company in the referred case in the US.

Also, the question of translation did not deserve the attention on the part of the companies and even the Academia. By visiting different companies' websites, often with codes translated into dozens of languages, there is a widespread sensitivity to the fact that a word such as corruption, although well translated, may mean different things under the laws of different countries. In fact, "translation could be more than simply dressing the code in new

linguistic attire, it could contribute significantly in embedding the code in the local culture and favor implementation of its guidelines” (Tréguer-Felten, 2017, p. 138).

In this case it is only now, 3 years after the code comes into force, that the Company truly notices this dimension’s relevance and risk. Part of the solution may be, again, the axiological approach:

Today, we are in 13 countries, tomorrow we can be in 17, and unless we are always analysing word by word with each country’s experts, we will risk having multiple interpretations. The best and safest approach is the axiological. For example, rather than talking about harassment would be to say something like “acts of psychological violence and moral coercion”, explaining later, as it is in our code, with examples, such as insults, threats, isolation, invasion of privacy or limitation...

(JFS)

This perception of greater security in the axiological approach is also defended by authors like Talaulicar (2009): “one may conclude that global ethics strategies tend to be more consistent, if they rather use principle based approaches for coding ethical conduct” (Talaulicar, 2009, p. 357). “Too specific codes may evoke conflicts because universalising specific requirements faces greater difficulties and barriers. In contrast to more general principles, specific rules tend to clash with more pronounced local customs, cultural, as well as legal norms” (Talaulicar, 2009, p. 358).

In addition to the security given by the axiological approach, there is also the matter of the level of requirement: when a more normative option is made, the level of commitment may be reduced, for instance:

A code that allows accepting or making offers up to €100 is more or less demanding than the code that places in one’s conscience the criterion for acceptance? It is possible to advocate that it is for less because this approach reduces personal responsibility. It is debatable. The same problem applies when we state, in the Company, that the changes to the code, made by the BUs, cannot be “for less”. In fact, in some cases we do not know exactly what it is to reduce the commitment.

(JFS)

These are questions which answers are not self-evident.

Language is another aspect that presents clear opportunities for improvement in the codes of transnational corporations. It is a difficult consensus between the tone of the rule and that of the principle, between the legal text and colloquial language. It is fundamental to

guarantee the means so that, at least the employees (and the suppliers when applicable), have a clear understanding of the code: “Provide Clear Guidance (through examples, questions and answers, bullet points, or other techniques) so that employees understand their responsibilities” (Martens, 2005, p. 11).

The evaluating of the effectiveness of codes is directly related to its objectives. In our company it is made clear what the code should be “the document that establishes the ethical principles and limits on EDP’s actions in any part of the world as well as the commitments to its stakeholders” (EDP, 2013, p. 6). But how do you assess whether it is fulfilling that purpose? The implementation of the principles and the respect for the limits will be easier to measure for some themes and countries, but it is a shifting ground, according to Kaptein and Schwartz (2008) in 79 empirical studies on the subject. They reached conclusions in all directions: “35% of the studies have found that codes are effective, 16% have found that the relationship is weak, 33% have found that there is no significant relationship, and 14% have presented mixed results” (Kaptein & Schwartz, 2008, p. 113).

In any case, two factors influence the evaluation: the ambition of the objectives and the language used, especially as referred by (Martens, 2005): “Companies should avoid (...) ‘never’, ‘at any time’, or ‘under any circumstances’ in code standards, except where the company truly means this. In many of the cases, the company may make exceptions and employees will be quick to note inconsistency” (Martens, 2005, p. 11).

An interesting approach that allows an evaluation of authenticity is the one proposed by Kaptein (2015):

To present three anonymous codes to a group and to have them guess which belongs to your organization. As an organization, you have a problem if your code is not selected more often than is statistically possible. The problem is even greater if people think that your code is that of a company in a wholly different industry or that they think that the code is a multinational whilst you have a national company (or the opposite). Or if the code of the multinational is selected whilst you have less than hundred people employed.

(Kaptein, 2015, p. 58)

We believe that a code made in a participatory manner has a better opportunity of being considered authentic.

Finally, we know that the existence of a code of ethics, despite how good the process for its development, and despite how good the opinion of the parties involved in the process and even the stakeholders, does not guarantee per se an ethical action on the part of the company but it is certainly an important tool to support the development and reinforcement of an ethical culture for companies that want to implement it.

**5 ETHICS BEYOND LEADERSHIP — CAN ETHICS SURVIVE
BAD LEADERSHIP?**

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Abstract

The role of leaders and their influence on organisational ethics is recognised and there are even those who consider that it is not possible to maintain an ethical culture when leaders are not engaged. But, if this theory is true, all business ethics programmes that can be created, and the cultures that can gradually be developed in organisations, will always have their existence and robustness suspended at each leadership change.

How to maintain an ethical culture beyond leadership? How is it possible for an organisation to protect itself against any adverse leadership changes, reduce the risk of adverse leadership from an ethical point of view? What must be done to develop ethical cultures that may be less permeable and more resilient to changes in leadership?

As a strategy, we used the case study with an oral history methodology, in which a Chief Executive Officer (CEO) and a Chief Compliance Officer (CCO) narrate in the first person a case of perceived collapse of the ethical culture of a multinational company. From the analysis of this primary narrative, we realised the challenges of ethical leadership and we tried to draw a scenario in which what happened might not have happened.

The management of the succession process, the quality of the training on ethics, and the mechanisms developed by the organisation to foment speak up and take notice of the situations, appear as key factors. Moral blindness and the banality of evil, that can also be observed in organisations, appear as facilitating elements for collapse.

Keywords: *Ethics in transnational companies, Adverse leadership; Leadership succession; CEO Narrative; Resilient ethical culture;*

²⁰ There are differences between the chapter and the paper submitted, due additional data that we found relevant to include, as explained in General Introduction.

5.1 Introduction

The influence of leadership in organisation's ethical culture is commonly recognised and even considered as a necessary condition for the existence of this culture: "Without ethical leadership across the organisation, including at the board of directors level, there is little chance of establishing and sustaining an ethical corporate culture" (Schwartz, 2013, p. 46). Moreover, several authors present the ethical orientation of the leaders as "a key factor in promoting ethical behaviour in an organisation (Carlson & Perrewe, 1995; Posner and Schmidt, 1992) and to create an ethical organisational culture (Trevino, 1986, 1990)" in (Hood, 2003, p. 264).

Leaders have an enormous influence in the creation and support of an ethical culture and intrinsically also in its destruction: "A single change in top management can also have a significant negative impact on ethical corporate cultures" (Schwartz, 2013, p. 47). More than that, in some cases, "it only takes one bad leader to bring down an organization" (Boddy *et al.*, 2010, p. 125).

In fact, "top management set rules, standards and codes of conduct, which provide guidelines for ethical behavior (Beu & Buckley, 2001) and leaders can raise subordinates' awareness of such guidelines" (Kalshoven *et al.*, 2011, p. 53). That is, the leaders are a key element in culture creation and also in the ethical climate lived in the organisation.

Here, by ethical climate, we understand "the perceptions of managers and employees about what constitutes unethical and ethical behavior in the organization" (Kaptein, 2011, p. 846), that is, "a perceptual lens through which workers diagnose and assess situations" (Cullen, Parboteeah & Victor, 2003, p. 129), that serves to resolve dilemmas and to identify ethical aspects in an organisation, making bad practices more or less visible (Cullen, Parboteeah & Victor, 2003).

By ethical culture we understand "the conditions that are in place in the organization to comply or not comply with what constitutes unethical and ethical behavior" (Kaptein, 2011, p. 846). And, for the reasons we have already presented, leadership is always present as a fundamental part of culture. But if the leaders are not always ethical, all business ethics programmes that can be created and the cultures that can gradually be developed in

organisations will always have their existence and robustness suspended at each leadership change.

In fact, ethical leadership cannot be taken for granted. Craig and Scott in a Harvard Business Review article suggest that, despite the interest in purposeful leadership, few leaders have a strong sense of their own purpose and even fewer are able to distil this down into a specific statement of purpose or an action plan (Craig & Scott, 2014). So, we deal with leadership, with leaders, but they rarely are the heroes we created in our minds. CPID (2017) developed a definition of purposeful leadership with three main dimensions: moral-self (leaders that are strong and see themselves as having adequate moral qualities); vision (leaders with an inspiring vision for their team and their purposes); and commitment to stakeholders (environmentally responsible, supporting good causes); and, in fact, most leaders have a feeling about all these dimensions but they are unable to integrate action in all the dimensions. In terms of ethical behaviour (including listening to employees, being trustworthy, setting a good example, discussing ethics and values with employees and deciding in sustainable ways) Brown *et al.* (2005) presents the same results: leaders very rarely can be considered consistent in these different behavioural indicators. Even more, CPID analysis shows that there is a link between purposeful leadership, as reported by leaders, and ethical leadership as reported by employees. So, we are in trouble: “Le philosophe ne peut pas réfléchir à partir d’un homme idéal qui n’existe pas” (Marzano, 2010, p. 21). This simple statement represents the perfect metaphor for our case, we cannot address what it could be, instead we can only understand reality and attempt to communicate at that level with the existent leader.

5.2 Methodological Approach and Relevance of the Case

This paper has “two” main methodologic pillars, one is narrative design, the structural pillar for the paper, and the other is case study, used as a strategy to situate action.

The case study was elaborated through the testimonies of a CEO and a CCO of a multinational company. The case shows the degradation of the climate and ethical culture in an organisation after a change in leadership. Our purpose is to understand what has to be

done in order to develop ethical cultures that can be less permeable and more resilient towards leadership changes. That's in fact, ultimately, our research question.

This strategy of single case design can provide a rigorous experimental evaluation of situated and evolving organisational phenomena (Kratochwill & Levin, 1992; (Shadish, Cook and Campbell, 2002); Yin, 1994). This approach can provide a strong basis for causal inference and abduction, two of the reasoning strategies that we use in our research. As Yin opportunely said (Yin, 1994) case studies can be exploratory, descriptive, and explanatory. Our case explores the three roles. There are many case studies that perform all three roles and use multiple sources of data (primary and secondary) which means they combine direct discourse with literature review and contextual data. Thus, it becomes apparent that cases can explore or be inscribed in more than one research paradigm, our is basically qualitative and interpretive. As to the reason why we explore a single case study, this particular approach has been identified as advantageous in addressing the complexity of path-dependent explanations, particularly in critical and crisis settings.

The natural use of inductive and abductive processes has advantages in the flow of research, namely in the eventual generation of new concerns that drive new exploratory procedures, eventually new theories. Single case usually provides some nuanced, empirically rich, holistic and systemic account, situating phenomena in a set of crucial parameters. When constructing a solution to our research question, the qualitative single case study raised the following specific framing topics (Eckstein, 1975): what was the initial perception (before the crisis) of the company's ethical culture and climate, how could it be generally defined; what were the changes (triggers for change) leading up to the crisis; characterisation of the crisis itself; why the narrator didn't report; and finally, the resulting image they had about the company. Based on the above framing topics, the research objectives were formulated and discussed in a situated manner. In fact, the use of case methods is becoming richer and more diverse with both more sophisticated research designs (Eisenhardt K.M., 2020).

Some characteristics of our case study make it particularly relevant: action occurs in a multinational company, a context with thousands of employees scattered around the world with different ethical perspectives and cultures, a context where, by size and complexity,

achieving uniformity in culture becomes particularly relevant, especially in the risk management perspective.

It is also relevant because action happens in the context of a CEO succession process, something that may occur in any company and which is often a trigger for ethical misconducts: “The results, based on an aggregation of studies, strongly highlight the importance of CEO succession as a disruptive event given its often negative consequences” (Schepker *et al.*, 2017, p. 718).

Additionally our case is narrated by a CEO and a CCO which makes it rare since it is especially difficult to have access to these executives, especially the CEO (Treviño *et al.*, 2003, p. 12).

For the case study the two narrators were interviewed individually. Both interviews were semi-structured and covered the topics already mentioned. The interviews were recorded, transcribed, narrated, inserted in the company context as in a situational flow and subsequently sent to the interviewees for validation. No triangulation was made. The hypothesis of contacting other elements of the company and confirm the facts presented has been placed. However, knowing that the story being told was a risk for these CEO and CCO, we considered that the story as counted and from whom, had already a significant leverage, both for the Academia and for organisations.

The narrative design results from a fluid, informal collaboration between researcher and participants and uses storytelling and oral history to situate meanings as they emerge. As a qualitative approach, it follows an interpretive paradigm and a bottom-up approach. The researcher questions and dialogues with the participants usually with an open-minded attitude, ready to inscribe action in the actual environment, considering climate and the underlying culture. Storytelling tries to convert the observation and permanent reflexive analysis produced into clear and sensemaking descriptions. Narrative needs to be fluid and clear in order to attain an ontological mainstream. The basic concerns of narrative research design are about following individuals, situate space, respect the collection of individual stories, give plausible context for all settings, and retelling (reveal reflection about what happened and about what was told in a chronological sequence) (Squire, Andrews & Tamboukou,

2008). These concerns have a common operational characteristic that is the narrow collaboration between the researcher and the participant. In our case, we used situated stories of ethical problems and report decisions related to them and mainly related to a disruptive organisational crisis. It was important because we could render subjective and complex facts into a clear flow of action.

Within the narrative design we used also oral history, because, as Federer (2015) argues it is one of the best methods to use if one wants to incorporate human experience into the broader historical scale. Thus, the narrative of the case relays almost exclusively in the chain of excerpts of the performed interviews. Combining these facts with literature, to better understand the context or what is reported, was the researchers craft. This option aims to give the reader an access to the person who tells the story, as Hannah Arendt says, through the “discourse, men show who they are, actively reveal their personal and singular identities” (Arendt, 2001, p. 228). This procedure allows us to show the state and feeling from which action develops, it unveils an element of complexity, to better understand the person involved, that is never standardized.

This approach, on the other hand, must take into account that “stories are essentially individual constructs of human experience, and have limitations that may affect objectivity in presentation” (Mitchell & Egudo, 2003, p. 5). Moreover, “the ‘same’ story may be told quite differently from one instance to another, even by the same teller, challenging the notion of stories as stable data points” (Moezzi *et al.*, 2017, p. 3). This subjectivity requires the inclusion, in a complementary way, of other approaches. In this context, we have introduced a point, in the end, to proceed to the critical analysis of the narrative. This analysis offers a more objective view of the facts, supported in the literature.

Also, based on the literature and in our experience, in the conclusions we draw hypothesis of elements and approaches which, if they were part of a business ethics programme, could have possibly boosted a different end. These hypotheses can be taken as our answer to the research question: what must be done to develop ethical cultures that may be less permeable and more resilient to changes in leadership.

What we are proposing — which is this investigation’s greater contribution for Academia and for companies — is the assumption that, in the current leadership context already presented, ethical performance programmes should not be anchored in leadership but instead in more preventive approach, as little dependent as possible on the different leaders, as they arise in organisations. Our case, the critical analysis and the conclusions we present, can help to design ethical programmes that more effectively safeguard organisations’ culture and ethical climate.

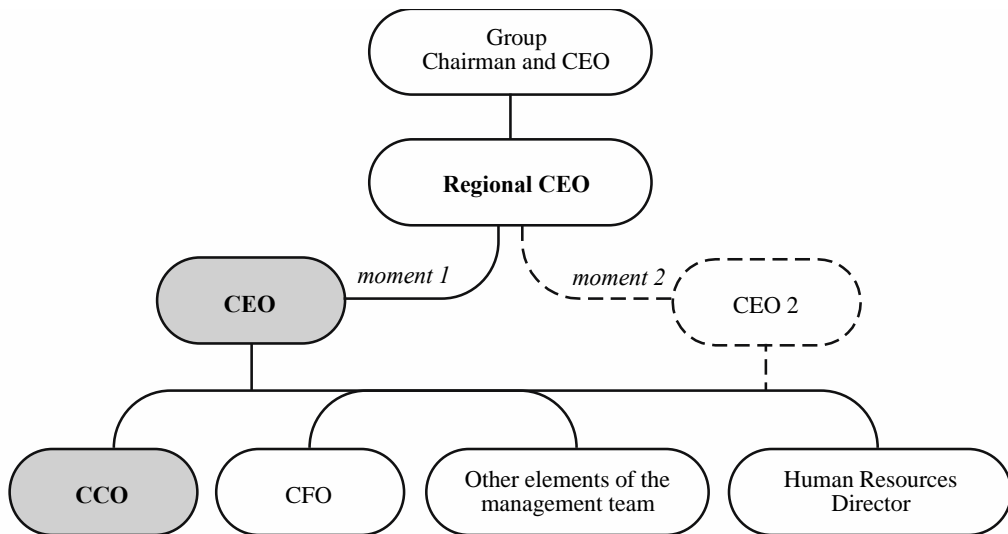
5.3 The Case

5.3.1 Company and Narrators’ Presentation / Situated Environment

The facts occurred over four years in a branch of a multinational (Group), present in more than 50 countries, with about 170,000 employees and 70 million customers. The “observed” branch was, in its country, the first company in the sector to have a sustainability report and had been distinguished by public and private organisations with prizes relating to the nice work environmental conditions provided to workers. The branch was well positioned among the different branches of the group: it had been considered the most innovative in corporate social responsibility policies, had good results, and was considered a solid company before the crisis that is reported here. At the end of the crisis, it was considered an unprofitable company, a company that the group eventually discarded and sold.

For confidentiality reasons, the name of the company, the business area or the country are not referred, neither are the names of interviewees — their testimonies appear in italics, marked with their function initials and will be identified as participant narrators. Throughout the narrative, other elements are mentioned by the CEO and the CCO. The relationship between narrators and their insertion in the company is presented in figure 5.1. The Regional CEO who have been at the origin of the crisis is presented in bold and the participant narrators, CEO and CCO of the branch, in grey.

Figure 5.1 - Positions of the people referred to in the case and relations between them



5.3.2 Ethics in the Company Before the Crisis

It was a very dynamic company with a set of very clear values.
(CEO)

This perception was so strong that in the end, as we shall see, the narrators continue to label the company, globally, as ethical. An ethical company that had a detour, fruit of people who passed through it and that conditioned the whole context.

It was a culture that made me say with some pride: the ethical principles of the Group are my principles. And I believed that for most of the time.
(CEO)

This ethical character recognised to the company does not mean, as with people, that everything was good, and both had a clear perception that there were some aspects where the behaviour of the company was less correct from an ethical point of view:

The Group is not perfect and never was. Who knows the history of the group at the highest level knows that, when it was necessary to choose between economic and moral issues, the group was always in favour of the economic, and this is a posture of the group with which I never identified myself? But I believe that things change from within and, therefore, in what I could influence, I did.
(CCO)

This Group's posture naturally implied actions made by those who worked there and concretely choices and less ethical decisions by those who were in decision-making positions as was the narrators' case.

Every person in front of a company has been faced with dilemmas and has had to make choices, and these choices are not easy and if you want to know, rarely the choices are rosy (...) It is necessary to know that these decisions, and I watched many, were sometimes taken in five minutes in a meeting?

(CEO)

If you ask me if it was possible for a CEO to say: we cannot do this business because this business is against our values? Yes, it would be possible, but he would be doomed.

(CEO)

These aspects in which the company eventually did not correspond to ethical standards were seen as an inevitability of business that did not destroy the good image of the company. This good image was essentially made of the visible care with which people were treated and many contributions to society through its strong social responsibility policy which was, as already mentioned, recognised overtly and awarded.

Regarding the ethical culture that the company had developed at the Group level, and which procedures and instruments were implemented in each branch, it allow us, according to Kaptein (2011), to say that we are in the presence of a business ethics programme: a code of ethics; a compliance office (which is incidentally represented by one of the narrators of our case); formal ethics training and other types of information and communications; policies to hold management and employees accountable for unethical behaviour and policies on investigating allegations of unethical behaviour (Kaptein, 2011, p. 854).

It should be noted however that the different elements of the "Programme" could vary qualitatively from country to country: in the code, it was stated that sometimes the rules could differ according to local regulations and legislation, which should tend to branch out to rules of the Group, but it was not stated which was the boundary line. In addition to the compliance officer in each branch (responsible for receiving the complaint), the document also presented the possibility of contacting the group's compliance officer directly, however, there was no reference to the process of handling the complaints.

Regarding ethics training, and according to CCO, it seems it was developed essentially to ensure legal compliance and not to develop ethical competences and critical reasoning among employees.

5.3.3 The Changes that Preceded the Crisis

Crises are not events, but processes extended in time and place.

(Shrivastava, 1995, p. 2) in (Jaques, 2012, p. 2)

The background is the moment the succession of the CEO/Chair of the Group began to be prepared at central level:

In reality, the business world is also made up of different worlds in parallel, and at that moment, the Group was discussing the process of replacing the CEO / Chair, and this process took place over two or three years.

(CEO)

There were many candidates for the position and the person who was leader in the region of which the branch was part [Regional CEO] had as great ambition to become President of the Group. (...) There was a change in his behaviour, although he was in that positions for some years; at the moment when the succession race opens, he become a leader with a hidden agenda, with power and “doing whatever he wanted.

(CCO)

5.3.4 The Crisis

It was a real witch-hunt; it was a conspiracy! For the first time in my life I have seen literally building a cabal.

(CCO)

This crisis began in year 1 and ended formally in the year 5 (table 5.1). However, the last process that was pending, has just been solved at the time this case was written: year 7.

Table 5.1 - Chronology of the Crisis

<i>Timeline</i>	
Year 1 2012	<ul style="list-style-type: none"> • Beginning of the succession process the first moment
Year 2 2013	<ul style="list-style-type: none"> • Degradation of relations between branch and region
Year 3 2014	<ul style="list-style-type: none"> • CEO transfer to another Branch of the Group • Appointment of CEO2 the second moment • New appointment for Director Human Resources • CFO dismissal and other members of the Branch's CEO management team
Year 4 2015	<ul style="list-style-type: none"> • Dismissal proposal presentation to the CCO. • Collective dismissal with inclusion of CCO • CEO leaves the Group • Opinion of the Court about the inclusion of the CCO in collective redundancies. • Formal announcement of the Group decision to sell the Branch.
Year 5 2016	<ul style="list-style-type: none"> • Effective sale of the Branch • Completion of the CEO / Chairman Group 's succession process
Year 6 2017	<ul style="list-style-type: none"> • CCO stays in the new company without being given work
Year 7 2018	<ul style="list-style-type: none"> • Case of CCO is resolved

↓

The crisis has a smooth start. The CEO (of the branch) knew the Regional CEO with whom he had developed a close relationship during a strategic Group meeting that brought together all CEOs. This meeting took a few days in a place surrounded by nature where they were housed in pairs in rudimentary houses and he had split the room with the Regional CEO. In this strange environment, isolated from the world, they ended up making confidences to one another and developing, or he thought they had developed, a great empathy:

When he [the Regional CEO] was appointed, to me he was the guy I knew, who meant something to me and to whom I meant something. This circumstance put in me some inappropriate glasses, and I took some time to realise that he was not the one who I shared a room with and with whom I had talked about the Group and about so much stuff.

(CEO)

As a result of these “inappropriate glasses”, the CEO of the branch (the narrator) accepts and responds to the requests and demands of the Regional CEO team, which gradually installs itself in the branch with negative effects on its performance:

I have always seen myself as an element of the Group, playing only a role and therefore I have always been a facilitator, to the point that there was a kind of invasion of the territory by people without ethical principles.

(CEO)

And when this invasion occurs, the CEO of the Branch is already without any possibility of defence. He is not even able to defend his points of view to the one [Regional CEO] who is seen by his colleagues as “the origin of evil” an origin in which he still does not believe.

He [Regional CEO] had around him a web of “Yes Men”, people he trusted and the interlocution with him was difficult, and it was difficult, not because he prevented the interlocution, but because these layers of people were with him every day and I only was there every two months. So, when I could finally talk to him seriously, in reality he already had an opinion formed, had already heard the layers, had already built his own opinion and the dialogue was a futile dialogue, almost useless.

(CEO)

And slowly, he stopped fighting, dropped his arms and silenced. This process lasted two years, during which the branch lost strength, started to produce according to the region and not the country and the Group as it had been until then.

In those two years I have done everything that is against my nature. I never sold myself, but I silenced, I let pass over things that I did not think were correct. Because, at a certain point, it was very difficult, it was too much complicated!

I never transgressed, never stepped on a line that I had fixed for myself. There have been only two years when I gave up on myself and I deeply regret it. It does not mean that I would fight windmills because I would not win this battle, but I should have dismissed. I did not, for a set of reasons, from the most selfish ones to the most altruistic: on the one hand, a good salary and, on the other, the vision of something that I had helped build that had cost a lot, that had given me much and that was part of me.

(CEO)

And when suddenly there came a proposal to leave the branch, a transfer to another country, to start a new project within the same Group, he accepted without hesitation, as a lifeline, without thinking about (or not wanting to) what this proposal could conceal:

There were people who said, “They invited you to go to another country to break up your team and that is that”. It’s a hypothesis. But I have been in that country with full satisfaction and with the sense of fulfilling duty.

(CEO)

At the end of year 3, our CEO leaves and, to replace him, CEO 2 enters, someone from the Regional CEO trust, coming from another branch of the Group. It was a change seen as the result of an operational need.

Initially, everything seemed to be going well, but shortly thereafter, the Human Resources Director (HR) is invited to leave and a new person comes, with a very different profile from what was usual in the Group. It is from then on, that things begin to change drastically. It is the second moment of the crisis. With this new HR director:

Things began to be managed in a completely different way. Human Resources had always been a very careful and cherished area, (...) this somehow disappeared because the mood was different. Measurements were still there on paper, but from there to practice ... and feelings ... there were small things, comments, a strange mood ...

(CCO)

And the HR Director begins to behave contrary to what was in use, and contrary to the organisational Code.

She threatened the people of procurement so that the contracts were assigned to whom she very well understood, aside from everything stipulated. She specifically put her husband's company providing the meals of the two canteens and the company's vending machines. (...) And that is when everything falls apart, when people start to understand that the person who is supposed to be the ultimate example of people management was trying to manipulate them all.

(CCO)

It is at this moment that there is a change in terms of ethical climate, what people perceive as expected in the organization. A perception that is confirmed:

Later, an internal audit was carried out and it was proved that she had been provided access to competitors' prices before her husband's company submitted his proposal. The audit did not produce any results. The HR director apologized to CEO 2, she said she did not know the procedures (when I personally had presented her the Code of ethics and she had signed the annual commitment).

(CCO)

People started to realise that it was not only the HR director, it was also CO 2 — how can you justify a training in English on selling techniques for commercial teams who do not speak the language? And it turns out that it was a personal contact of the CEO 2 who provided the training. It was a favour to an English friend, going against every procurement rule for contracting services (...) The perception was that there are no rules, only their own interests.

(CCO)

At the same time the previous CEO management team started to be contested:

These people came with very defined business objectives and could not reach them. They blame the previous administrations because they would never admit that they were responsible for their own errors.

(CCO)

One of the cases that seems to have had more impact in the declining of the ethical climate was the departure of the CFO:

The Financial Director was invited to a meeting with the CEO 2 having thought it would be to discuss something about work. When she arrives, the HR Director was there also and said: "The company no longer wants your services, here is a letter to sign your dismissal. If you do not sign and you do not leave, we will proceed with a disciplinary process. You have until tomorrow to think". And the CFO said: "I do not need to think, I will not sign any letter to give up anything to which I am entitled."

The RH director asked a human resources person to go with the CFO to her office. (...) the cabinet was all glazed and the tones of voice began to rise. This was witnessed by her entire team. This was what created the climate of fear.

(CCO)

In addition to the CFO, the same was proposed to other elements of the previous CEO management team, to rescind their contracts:

These cases [CFO and other elements of the previous administration] did not even go to trial because the judge in the pre-trial session said: "The company should decide if it wants to move forward because, given the responsibilities that these people had, what is happening is pure bad faith". Obviously, soon an agreement was made paying them all they wanted.

(CCO)

In this process of dismantling the previous CEO (narrator) management team, the new power also tried to accuse and made an exit proposal to the CCO. At that time, she was at the beginning of a pregnancy that would prove to be at risk.

When they asked me out, they said to me, "We will not say anything. This is for you to think about." They told me this on a Friday afternoon and on Monday morning I was receiving calls from colleagues asking, "Are you not coming?" So, they spread it like fire. In fact, the campaign against me was strong and well-articulated. I obviously came back to the company.

(CCO)

Apart from these facts and due to poor results, the company entered a process of enormous restructuring, which included a collective dismissal. By the middle of year 4 they decided to include the CCO in this collective dismissal. She appealed to the court which considered

that, in face of her pregnancy, her inclusion in a dismissal was not possible and would be completely discriminatory. The company insisted and so did she, successively. The case was only settled in court the last quarter of year 7.

In the months following the collective dismissal and while court proceedings were in progress, the CCO (narrator) was in sick leave due to pregnancy complications.

When I returned, I noticed that everything was changed, my own team hardly looked at me because they had been instructed that they could not talk to me, could not share anything with me. They managed to destroy my relationship with my team, (...) with measures such as telling people how much I earned (...) We are talking about saying my salary to people who won a fifth or a sixth of what I earned. They didn't even imagine that anyone in the company could have that salary.

The salary issue seems to have worked as a tipping point that has broken the trust built up over time. The isolation of the CCO from its return from the maternity leave was complete, not only at the team level, but also at the Group level, with their peers at the compliance function to whom she seems no longer count:

During this process there was a global Compliance meeting in our country and my colleagues (CCOs) from other countries did not even contact me "we are here, can we talk?". I have had a very hard time to accept that, that hurt me a lot.

(CCO)

There seems to have been no interest in knowing what had happened, from the point of view of these leaders. Or was it just afraid to contact a pariah?

Meantime the former CEO (narrator), who had been sent to another country, was called to the headquarters of the Group for a conversation with the Group President and the Regional CEO.

Of course, there was one thing I was aware of, it was that those gentlemen had already pushed out all my team, some kicking back, others invited out. They called me to that meeting and did not have the courage to tell what they wanted from me. So, I asked, "What are you trying to tell me? That you do not want me?" And I left!

(CEO)

The CCO, as mentioned, remained in the branch and in the company until the end of the year 7, and no longer attended as a member of the company at the end of the process of succession that occurred in year 5.

And that's when I heard about his [Regional CEO] departure that I made peace with the Group.
(CCO)

In other words, with the departure of the Regional CEO there is a revival of CCO's commitment to the Group, to which she was no longer part.

5.3.5 Failures in Reporting

When people do not speak up, risks to the business occur and dissatisfaction possibly results in a status quo that cannot be challenged. Ethics cannot survive unless people speak their conscience.”
(Verhezen, 2010, p. 191)

Approaching the end of this narrative case, one question may be asked: why none of the narrators reported what had happened to someone at the top of the Group?

I thought I'd write to the highest Compliance Officer who was a person I really enjoyed working with ... I thought about it and I tried writing the letter several times and then I just gave up. (...) Since I had the link to the central Compliance, I think they had an obligation to, once knowing that they wanted to leave me, interview me and try to understand what was happening. And they never did.
(CCO)

That is, implicitly, there is the feeling that the CCO(s) (regional or global) did not want to know or, in any way, as the CEO says, they are even accomplice in some way:

Making a little more of why I did not go to the Group President: I did not go because I was sure that if the President objected to what the Regional CEO was doing, he would not do it. So, I knew that somehow by not defending me he had betrayed me. And so, it made no sense for me to go there.
(CEO)

On the other hand, there is a sense of responsibility of those in top positions that makes reporting to “third parties” even more difficult. It’s like a betrayal.

When I say that in the last two years I have suffered, I am referring to this struggle that I have waged within myself, alone. Why? Because I understood that talking about it to third parties (people not directly involved in the situation) was to betray the Group.

(CEO)

5.3.6 The Final Relationship with The Company

The two narrators refer various situations of unethical behaviour carried out by different elements of the company, including those who represent it at the highest level. And how is the relationship with the company itself? Are we talking about bad apples or bad barrels?

People do not feel that the Company is betraying them because they do not feel this as the Company. I speak for myself; I had this dilemma; I had this dilemma until recently. I thought, “This is not the company I knew and where I worked for so many years” and then I managed to compartmentalise things and think that companies are made of people.

(CCO)

This “loyalty” to the company seems to be somehow grounded in the need to maintain the meaning of a personal narrative:

I believe in the Group itself. Because otherwise it is the same as saying that in all my working life, I had been under something that was not valid, under something that did not exist.

(CCO)

They say that, but at the same time, in the discourse, there are expressions of disbelief regarding the company. Not to this particular company, which has a name and that is part of their history, but to the companies in general, a disbelief regarding the power and effectiveness of the ethical programmes that are created:

How do you sustain a culture? How do you get things to be not so volatile? It is not from policies nor structures. I think that the culture of a group facing a new leadership is worthless. I would not like to think this way, but that’s what I think. All is based on a management team that remains united around values and policies and knows how to articulate those policies with others, with other company structures that can be the unions, ethics committees...

(CEO)

There is also the perception that ethical culture is truly volatile, for the CEO (narrator) that could almost be the conclusion:

The company is not ethical, it is ethical at this moment, at most! We cannot guarantee it will remain ethical. Ethics is in this being, it is dependent on a set of circumstances of which the existence of a group of people who are or are not able to interpret the values.

(CEO)

5.4 Critical Analysis

We now proceed to a critical analysis highlighting the aspects that seemed the most relevant to the occurrence of described situation. We start with the context (the barrel), the culture of the organisation.

5.4.1 Weak Organisational Culture

How does an ethical culture survive in a situation like the one reported here? In the first place, it survives poorly, whatever culture it is, but it can eventually survive if it is a strong culture.

Treviño and Nelson (2014) present an example of strong culture. It is the case of an international Group Citicorps where the answer given anonymously by the managers in Japan to the question “what do you do if you have raised an important ethical issue with your manager and nothing is done?” (Treviño & Nelson, 2014), was, despite the country being known for its hierarchical culture, the one that meets the Group’s culture: going over the manager, climbing. That is, the culture of the Group was so strong, that it led managers to say that they considered themselves more as members of the company than as Japanese.

At the antipodes of this setting we have a weekly organisational culture, where “strong subcultures exist and behavior differs from one subculture to another” (Treviño & Nelson, 2014, p 152). We believe that, what was happening in the observed company, was, from the beginning, a weak organisational culture, visible both in formal aspects such as the code of ethics, and informal ones as the different profiles of the managers who were being nominated.

5.4.2 Failures in The Management of The Succession Process

Succession is potentially a critical moment in any company, especially when we are talking about the succession of a CEO “The results, based on an aggregation of studies, strongly highlight the importance of CEO succession as a disruptive event given its often-negative consequences, and suggest that a stronger understanding of the conditions under which new CEOs can be successful is needed.” (Schepker *et al.*, 2017, p. 718).

The observation moment was the succession process. The story told does not allow us to know how the process of succession was organised at the Group level, but it doesn't seem that mechanisms capable of detecting possible excesses and outrages to ethics (motivated by ambition) were used.

5.4.3 Issues Related to Ethical Leadership

Throughout the narrative we saw leaders with hidden agendas, leaders in situations of conflict of interests, leaders without power and without capacity to act.

That is, there is a leadership failure in its role model function: CEO 2 overcomes procurement standards; the HR Director assaults and favours a relative; the Regional CEO, in the perception of the narrators, puts his personal career goals ahead of everything; and, even at the central level, the CEO and Chairman of the Group (also in the perception of the narrator CEO) is aware of everything that goes on, but does not say anything.

This lack of ethical leadership has consequences. According to the study *The State of Moral Leadership*, “when CEOs do not consistently behave as moral leaders, 89% of managers under them fail to lead with moral authority” (LRN, 2019, p. 5), that is, there is a cascade break.

Also, regarding the narrators, there was a failure in their ethical leadership. They both were pressured, and in the case of the CEO, there is a clear assumption that he silenced.

But ethical leadership is by no means the standard of business leaders. In fact: “many top managers are not strong leaders either ethically or unethically (...) They simply don't provide explicit leadership in crucial areas of ethics” (Treviño & Nelson, 2014, p. 161).

Going further we could say that business leaders who consistently manage to convey the image of ethical leadership may be a minority. LRN's study mentions that "only 7% of survey respondents said their managers consistently exhibit the behaviors of moral leadership" (LRN, 2019, p. 4).

5.4.4 Moral Blindness and Banality of Evil

Another important aspect to emphasize in this narrative is the presence of moral blindness.

We do not mean moral blindness in the sense of not seeing bad practices. Both narrators were aware of the bad practices in the Group and express dislike about them. They both were powerless about their ability to change the situation — "We change within what we can; what we cannot, we must conform to a greater good" (CCO) —, but both also continue, despite everything, to classify the Group as ethical and say that they share the same values with it. That means that the unethical actions were an inevitability that should not be taken into account in the moral judgment of the group.

That is to say, there is a moral blindness with respect to these acts that allows their practice in the Group without question, that even "legitimises" them and places them in the category of "banal" order fulfilment. This is a transposition to the business community of the "banality of evil", proposed by Hannah Arendt, and which is not so uncommon in organisations (Rendtorff, 2014, p. 46).

This banality can contaminate the design of the company's ethics management system.

5.4.5 Moral Mutism and Organisational Deafness

According to the narrative, there seems to be no consequences or at least there is no evidence of consequences for the bad practices observed. Concerning the HR director, for example, the case was reported to the regional level and was devalued.

This situation has an implication, a perceptive conclusion that it is not worth reporting, which leads to moral mutism that, according to Verhezen (2010, p.188), often happens in multinationals.

And why does this happen? We found moral silence throughout the narrative by executives and team members. In the CEO's case, the reasons given for not reporting the behaviour of peers (notably the Regional CEO) were very much in line with the results of the IBE's Ethics at Work Survey (Dondé, 2018), not believing that the complaint will have any effect.

In the CCO case there is also a perception of organisational deafness, a lack of willingness to hear or to know what is happening in the organisation regarding ethics and compliance, not only by the top but also by the central bodies. This seems clear in two situations: in the absence of contact by the Global Compliance Officer and in the deterrence made to the new Local Compliance Officer when she intended to report.

Another aspect that appears in the narrative as an obstacle to denunciation is the feeling of betraying its peers. Peer evaluation also appears as a result of the study developed by Treviño and Victor (1992, p. 39), which refers that two reasons strongly influence whether or not someone reports: the inclination to report and the perception of judgment that the group will make of the person for having reported the behaviour of a peer.

5.4.6 Perception of Iniquity

As a milestone of change, the CCO presents the moment when team members became aware of her salary. It is somehow the tipping point of the relationship, since until then, and against all pressures, they continued to support her.

This situation, the impact it had on the team and the way it somehow surprises the CCO reveals some similarities with what Stinglitz (2013) refers as a discrepancy in the perception of the salary differences between executives and the basic worker, who sees and has the feeling of iniquity: "If people believe that the political and economic system is unfair, the glue does not work and societies do not work well" (Stinglitz, 2013, p. 195). We believe that the same thing happens in organisations or even goes beyond organisations to society.

Besides, we have to note that the disclosure of the CCO salary to subordinates was part of a strategy by the "new" top management to deliberately prejudice her. A strategy based on the idea of a lack of organisational justice that had a particularly strong impact because "under

a state of uncertainty (...) people react more strongly to variations of justice (Lind & Van den Bos, 2002).” in (Strom *et al.*, 2014, p. 72).

5.5 Conclusions

The research question we have put forward was: what must be done to develop ethical cultures that may be less permeable and more resilient to changes in leadership?

Through the development of our narrative, we always questioned ourselves in a critical way. We always tried to identify what allowed the occurrence of the reported facts. We always questioned ourselves to understand what happened in terms of collapse of the ethical culture and climate.

This analysis, in addition to confirming the relevance of culture’s strength on transnational organisations, has allowed us to arrive to a set of problems for which we present our recommendations below. These recommendations propose instruments, procedures, mechanisms and policies that, if they had been adopted by this company, could have provided a different end to this story. All the recommendations (Table 5.2 outlines these recommendations / conclusions) are suitable for generalisation in any transnational company and most of them in any big company.

Table 5.2 - Proposals for Measures to Respond to the Identified Problems

Problems identified	Proposal for measures
Failures in succession process management	Inclusion of succession issue in ethical programs and development of mechanisms to identify potential corporate psychopaths.
Ethical leadership issues	Fighting isolation and development of support networks. Empower communication.
Moral blindness	Training with development of individual responsibility and cooperation components
Moral mutism	Make reporting mandatory and explain that it can have consequences. Create protection mechanisms
Organisational deafness	Prove the desire to know, promote exit interviews
Perception of wage inequality	Greater transparency

5.5.1 Reduce Risk in the Succession Process

The description that is made of the Regional CEO resembles what Boddy *et al.* (2010) refer as Corporate Psychopaths “a type of psychopath exists who is not prone to violent, criminal behavior and who operates relatively undetected and successfully in society” (Levenson, 1993; Paul Babiak, 1995; Cooke *et al.*, 2004b; Board & Fritzon, 2005) in (Boddy, Ladyssherwsky & Galvin, 2010, p. 122).

People with this pathology, “merely 1% or so of people who work in corporations” (Boddy, Ladyssherwsky & Galvin, 2010, p. 122) have rapid progression (that’s why there’s a highest percentage at more senior levels), are easy to relate to and they are strongly manipulative.

Several cases linked to recent scandals fit this description, such as the case of de Carly Fiorina former CEO of HP, as described by Johnson (2008). She had a “meteoric rise”, and before reaching the top was known for her empathy, co-workers described her as a “passionate leader” (Johnson, 2008, p. 192) and suddenly she begins to take on absolutely despotic behaviour “sacrificing others to cover for her mistakes” (Johnson, 2008, p. 191) taking the company in 5 years to the public discredit, loss of market and workers’ unhappiness.

The company’s protection against these potentially harmful profiles is now being made using methodologies similar to those used to identify other types of psychopaths (Boddy Ladyssherwsky & Galvin, 2010, p. 134).

In the context of the observed company, and regardless of what was already in place for the preparation of succession processes, we believe that the adoption of screening means of this type of profile could have influenced, reducing the risk.

Generalising, we believe that, to develop ethical cultures that may be less permeable and more resilient to changes in leadership, companies’ ethical programmes should include a reflection on the succession and on procedures design, that allow to reduce this ethical risk. It is something that has not been given the necessary attention because it is an area that, although it is considered important, because of the low frequency with which it occurs, is not seen as urgent, but “In order to attenuate the negative consequences of succession events,

it is essential to recognize the strategic importance of this issue and invest resources in a systematic succession planning” (Elosge *et al.*, 2017, p. 377).

5.5.2 Fighting the Isolation of Leaders

Concerning the top positions, as mentioned in the CEO’s interview, there are many dilemmatic decisions and CEOs feel sometimes isolated and lost. The development of a support network can be a key element in decision making: “If you have developed these, you should be able to address the issue before it becomes a whistleblowing possibility” (Treviño & Nelson, 2014, p. 137).

Encouraged by organisations, these networks can be seen as small informal groups of executives where one can discuss, informally and in a safe environment, dilemmatic issues when necessary. Besides, as Robb (2000, p. 31) argues, “The creation of profound safety, room for genuine expression of differences and emotion, and room for experimentation and learning (‘mistakes’)” can be a relevant condition in the development of resilient organisations.

Empowering communication is a good organisational habit. Communicate often, in very simple terms, short messages, encouraging participation. A bit of group facilitation and an organisational digital forum can provide a good setting for this purpose.

5.5.3 Combat Moral Blindness

As we have seen, moral blindness and the banality of evil nourish each other. How do we create the conditions for one to give oneself the right to think and apply what Ogien (2011, p. 283) presents as the first rule of moral reasoning: “from what it is one should not derive what it should be”. From what is the habit in the business world one should not induce what should be the practice? How do we encourage people to think like this and do this reasoning?

Training certainly has a role, but not exclusively compliance-oriented training: “defining ethics in terms of legal compliance only rather than in ethical aspirations, would imply a ‘code of moral mediocrity’ (Trevino *et al.*, 1999, p. 136)” in (Verhezen, 2010, p. 193).

In addition to more normative or more axiological training content, another aspect that could have an impact on the reinforcement of the ethical culture is the inclusion of soft skills in training programmes' design, namely aspects related to individual responsibility and collaboration. Carsten and Uhl-Bien (2013, p. 50) point out that “individuals with a stronger belief in the coproduction of leadership are more likely (...) to find an ethical solution in the face of an unethical request by a leader and less likely to see themselves as powerless to a leader's directive”. That is, they are less prone to crimes of obedience, crimes that “occur when subordinates willingly follow an unethical or illegal directive of a superior” (Carsten & Uhl-Bien, 2013, p. 50).

The promotion of individual responsibility then seems to us as a key point in promoting a culture that can be resilient to unethical leaderships and should therefore be included in the objectives and contents of companies' ethical trainings.

5.5.4 Combat Moral Mutism

One aspect that seems to make a difference in breaking the moral silence and the fear of judgment of others by those who could possibly report, is the clear explanation of the obligation to report in the codes of ethics and conduct: “When an established code made peer reporting the responsibility of group members, people they were more inclined to engage in that behavior” (Trevino & Victor, 1992, p. 56) and, more than that, prepared to perceive the act of reporting as part of their function.

Another aspect that may encourage the reporting of bad practices is the fighting against what appears in the IBE study as the first reason for not reporting: the perception that nothing will happen. One way to change this perception is to show that there are consequences, including through a report on the ethical complaints received. This was missing in this company at least until year 6, and there is no reference to it in the sustainability reports.

5.5.5 Combat Organisational Deafness

In addition to encouraging and promoting spontaneous reporting, organisations can have a more proactive stance, asking questions and seeking to know. Not doing it may even be

considered as poor risk management. We saw in this story that there is a CEO of a multinational's branch and a director of compliance who leave the company in a clearly non-peaceful process, without anyone at the Group level asking them to tell their story. That is, there is a knowledge about the crisis that the organisation lets out, a lost knowledge, and this could easily be identified and compiled with exit interviews.

Exit interviews are lessons learned, an excellent opportunity to gather specific data regarding individual instances of ethical (and possibly legal) transgressions (Giacalone *et al.*, 2003, p. 398). We would say that it is an excellent opportunity, especially interviews with executives in non-natural exits, since they are in positions with access to significant information, and usually have experience and visibility over the organisation.

In addition, obligation of the exit interview, or a similar procedure would be a signal for all those involved: for the "victims", a sign that there was a last possibility to tell the story and not least relieve the pain, to process a personal "catharsis" (Giacalone *et al.*, 2003, p. 399); for the eventual aggressors, the sign that the story would eventually be known.

For the CCO, narrator of this story, the exit interview would be the measure that would have made the difference: "If I had to make a recommendation, it would be that, regardless of the circumstances, the local Compliance Officer should always be interviewed before leaving to understand the framework" (CCO).

5.5.6 Improve Transparency

According to Magnan and Martin (2018), the ethical dimension of remuneration at the top continues to be one of the least studied areas and we would say even less formally spoken in organisations. In this concrete case, two questions arise. The salary difference and lack of knowledge on the part of the team regarding this difference.

Concerning wage awareness, there have been positions taken by leading organisations such as the GRI to require organisations to disclose the ratio between the organisation's highest and lowest wage and even in the US the Consumer Protection Act require the "disclosure of the pay ratio between the firm's CEO and its average employee" (Magnan & Martin, 2018, p. 5).

This disclosure, if made only in a report, is unlikely to come to the attention of the workers, but at least it is public and may eliminate the surprise effect as justification for the breach of trust between the executive and the team.

5.5.7 Synthesis

We presented some aspects that could have made it more difficult for the reported situation to occur or, generalising, that may have helped to develop ethical cultures less permeable and more resilient to changes in leadership: workers' training that promotes personal responsibility and focused not only on compliance but also on values; a preparation of the succession process taking into account since the beginning the detection of corporate psychopaths; the implementation of measures to combat moral silence, such as the explicit explanation of the obligation to speak up; disclosure of the complaints' outcome; the development of spaces conducive to dialogue; and the development of tools, such as exit interviews, that actively enable the organisation to access information.

We propose also a better preparation of top executives to address ethical dilemmas. A preparation which may include the design or use of a network of contacts, secure and including mechanisms to support decision making. Of course, the creation of such a network implies the organisation to have a clear and unequivocal desire to ensure ethical conduct.

5.6 Limitations

We do not really know what causes resilience or how it is achieved. Is it the result of designed processes or perhaps the outcome of improvisation and luck?
(Boin & van Eeten, 2013, p. 430)

The measures we propose would make it harder for cases such as those documented to occur but would not naturally preclude their occurrence. Regardless of the aspects presented, the question remains: "How can the organization create the kind of culture that will help it to survive and thrive? Or what are the conditions that will help it co-create a sustainable social ecosystem?" (Mitleton-Kelly, 2003, p. 31).

This is an issue that increases its relevance in global markets:

developing and sustaining an ethical corporate culture becomes exceptionally difficult for large multinational organizations with tens if not hundreds of thousands of employees around the world, each with his/her own distinct ethical perspective and culture. As such, a general or overarching corporate culture does not exist or would at least be extremely difficult to identify in any large multinational organization.

(Schwartz, 2013, p. 47)

It is a question of achieving to build resilient organisations and cultures that, even though, shaken by crises, get by themselves to “restore order” (Boin & van Eeten, 2013, p. 431), which, according to Robb, implies the conscious and active creation of two subsystems: “The Performance System and the Adaptation System, both linked together” (Robb, 2000, p. 29).

This is also the vision of Edgar Morin: two systems; one that builds, knowing that all organisations degenerate; and another that is always ready to recreate: “There is no recipe for equilibrium. The only way to fight against degeneration is permanent regeneration, in other words, the aptitude of the whole organization to regenerate, and to organize itself by facing all disintegrating processes” (Morin, 2008, p. 63).

Ultimately, the main value of the measures that we can list depends on the persistence and consistency with which they are put into practice because “The permanent disposition of the character results, rather, from a process of habituation, from where it has even received its name, ‘habit’”²¹ (Aristóteles, 2004, p. 43). In this way, the permanence of character in people is acquired and this will probably be the way for organisations.

²¹ Translation provided by the author. In the original: “A disposição permanente do carácter resulta, antes, de um processo de habituação, de onde até terá recebido o seu nome, ‘hábito’”.

**6 REFLECTION AND CONCLUSIONS — A SYSTEM BY THE
PEOPLE, FOR THE PEOPLE**

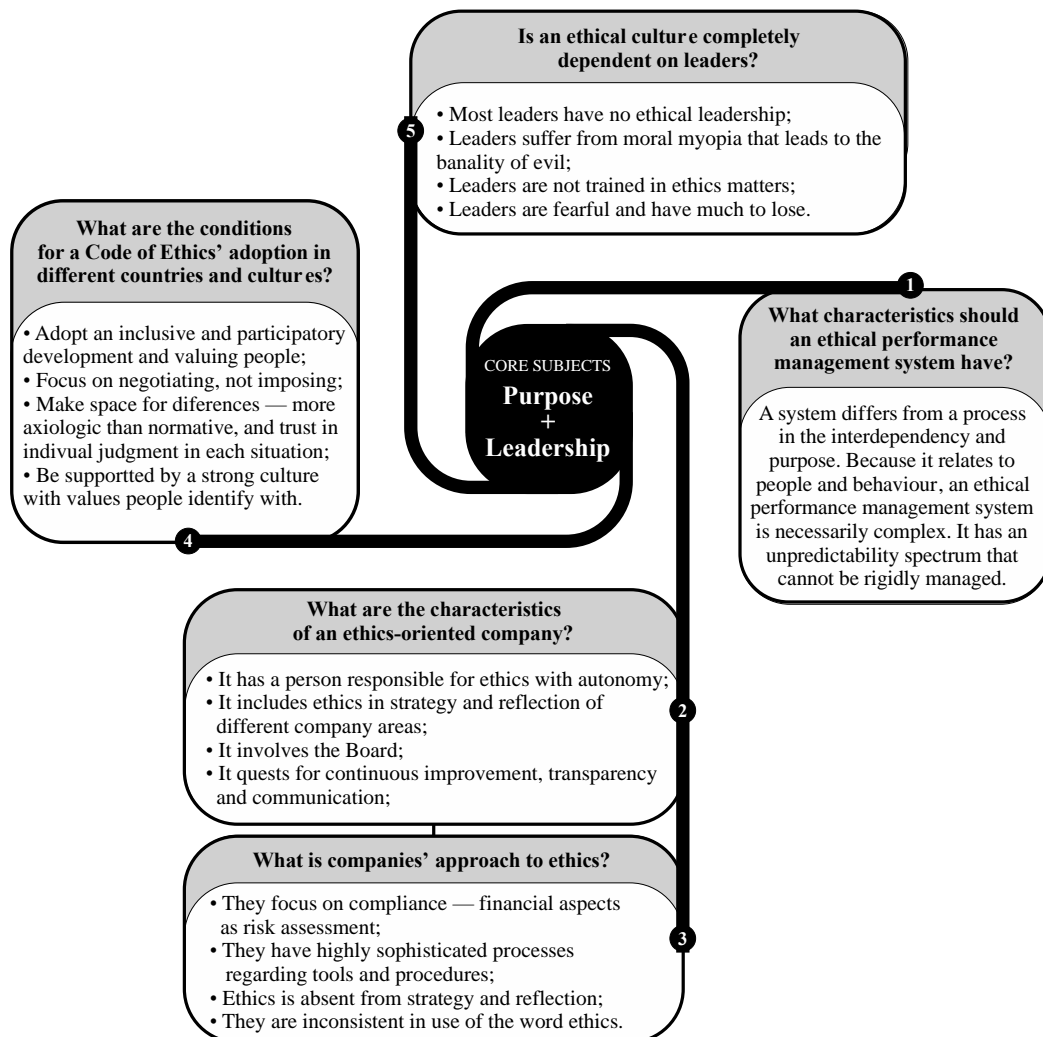
Not everything that is faced can be changed, but nothing can be changed until it is faced.

James Baldwin

6.1 Overview

Any ethical performance management system must take reality as its starting point. Our conclusions (figure 6.1) refer to the reality that we identified in our investigation and the clues to overcome some of the identified obstacles. They are what we consider to be key factors for the design of an ethical performance management system from the practice's point of view.

Figure 6.1 - Main Conclusions



More than the sum of each article's conclusions, we present a reflection on the aspects that emerged as a common denominator of the answers to each of our research questions. These aspects essentially concern purpose and leadership.

There is a perception that an ethical performance management system can hardly have leaders as boosters in a broad way. Most business leaders, as they are today, are afraid to manage complexity, they do not believe in ethics enough to include it in strategic reflection, they feel that, if they follow the path of ethics, they have no future and, as leaders, they feel they have a lot to lose. This situation is the result of an existing model that any seriously assumed ethical performance management system must aim to change, company by company.

The relevance of issues as individuality; the leaders' personal characteristics and what moves them; and the need for a new non-hierarchical leadership style, emerged in the research.

Purpose is also a cross-sectional issue. In companies, there is no clear identification of a purpose for ethics and neither there is an assumption of ethics as part of companies' purpose and the leaders' mission. Purpose, from an ethical point of view, appears as necessary in the development of the system, as a catalyst for action in the management of companies, as a unifier of different instruments (such as the code), as a provider of meaning that allows ethics incorporation.

For the changeover to a new and systemic approach to ethics in companies, a clear purpose identification emerges as a key enabling factor. It emerges as a fundamental axe, along with the acceptance of complexity; a more axiological than normative approach; the bet on people with ethical leadership, regardless of whether they are formal or informal leaders.

It also emerges as a result of this research the perception that it is not yet time to speak of ethical performance management but rather of promoting ethical performance, and that the 10% that constantly seek to have an ethical conduct will be the ones to enable ethics' incorporation in organisational culture.

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6.2 A Majority of Companies in Compliance Mode

Even those companies that claim to be committed to ethics and apply for indexes such as the *World Most Ethical Companies*, seem to be mostly in a phase of compliance, and only use ethics as a guarantee of trust. This conclusion is in line with our initial perception. There is a wide spread of reactive ethics management (responding to what is asked for, that is compliance). It is an exogenous origin symptom, a partial and fragmented approach, opportunistic and consequentialist (fear of penalties), which promotes temporary and narrow changes and is highly dependent on leaders.

Companies developed formal systems, perhaps some excellent ones, with all the recommended instruments and procedures, but usually they still do not have a presence of ethics in strategic matters, nor in the reflection on the different company areas — the person responsible for ethics is not invited for management committees and, in some cases, is not even given the title of chief. In most companies, the risk and its relevance continue to be measured in a strictly financial logic. This means that it is on the financial consequence that ethic impact is measured, and not, for example, on the consequence for society or the environment, in a logic of purpose.

In other words, companies have not yet reached the paradigm that seems to be underlying the construction of the Ethisphere's *World Most Ethical Companies*, which, according to our analysis, is represented by: a company that considers ethics as something central, about which the board wants to be informed and about the performance of which it reflects to identify new challenges and new ways to make it grow within the organisation; a company where there is a person with top position whose function is to manage ethics, who is exclusively dedicated to this theme and who is invited to support reflection in different areas of the company, also participating in the development of the general strategy and risk analysis; a company where all employees have regular training in ethics, but where, in addition to this training, ethics is a recurring theme in teamwork meetings; a company where ethics is a living theme, perceived as a must have, and that, as such, is part of the performance evaluations and of managers' bonuses. A company where the ethics management programme is evaluated annually, as well as the ethical culture and climate, with the results communicated in an appropriate manner to interested parties.

To assume this gap, to assume that, from companies' point of view, there is not, at this moment, and based on the context in which managers were trained (O'Brien, 2019), a rational reasoning for ethics, seems to us to be of the utmost importance.

Companies are in compliance mode because they eventually don't see a rational argument for being in "Totally aligned mode" (Ethics Institute & Ethics Practitioners' Association, 2018, p. 14) and they don't see it because, from a company's point of view, probably there is no business case for ethics in this holistic way. We lose time, money, freedom... There is only a business case for ethics in a society perspective. And that is what makes this such a difficult issue, it seems the opposite of what a manager was "programmed" for, we get used to accepting that "ethics must be left at the door of the company" (Cortina, 1994, p. 76).

This unpreparedness puts executives, like most adults in industrialised societies, "at the 'conventional' level of cognitive moral development (...) looking outside themselves for guidance in ethical dilemma situations" (Treviño & Brown, 2004, p. 71). That is, they are not, in many cases, able to recognise by themselves a bad practice when they see it or when they practice it.

This issue is especially relevant since most of the descriptions of ethical programmes include leadership and consider it as an integral part of the ethical culture and, more than that, a necessary condition for its existence, with a change of a leader being enough for collapse culture and ethical climate (Boddy *et al.* 2010, p. 125). However, leaders with ethical leadership are a minority and even if a leader is a good ethical leader, every time there is a change, the chances of being replaced by another leader with equal commitment are not very high: ethical leadership is by no means the standard of business leaders. In fact: "many top managers are not strong leaders either ethically or unethically (...) They simply don't provide explicit leadership in crucial areas of ethics" (Treviño & Nelson, 2014, p. 161).

Going further we could say that business leaders who consistently manage to convey the image of ethical leadership may be a minority. In the study, *The State of Moral Leadership in Business*, "only 7% of survey respondents said their managers consistently exhibit the behaviors of moral leadership" (LRN, 2019, p. 4). In addition to this, we have the corporate psychopaths that constitute 1% of companies' population and that have a higher prevalence

at the top: they “have rapid progression (that’s why there’s a highest percentage at more senior levels), are easy to relate to, are manipulative” (Boddy *et al.*, 2010, p. 122) and, of course, they do not look at the means to achieve the ends, the opposite of ethical behaviour, because reflection in this area does not interest them.

The weak conviction / awareness / preparation of leaders means that ethics is not part of the corporate reflection itself, nor is it called for reflection on topics that the company considers strategic, such as product development, fiscal policy or relocation. This indicates a potential moral blindness (of managers and workers) in which these questions are placed in the strict technical scope, devaluing consequences other than the direct and immediate ones for the company.

Moral blindness in relation to these areas allows for the practice of acts that are possibly unethical, without questioning, legitimises them and places them within the scope of a “banal” order fulfilment. With moral blindness we have a transposition into the business world of the banality of evil, defended by Hannah Arendt, which is not uncommon: “there are in fact many cases of evil, harm, and moral blindness in organisations for which Arendt’s analysis serves as an excellent illustrative metaphor or analogy” (Bercowitz *et al.*, 2010) in (Rendtorff, 2014, p. 46). An example could be the spill in a river seen as a technical failure, a failure to comply with procedures and laws that can be considered an environmental crime and that will have financial consequences for the company, but not an ethical issue with consequences for society.

This banality can contaminate the company’s own design of its ethical performance management system since it has an influence on the valuation of risk. With this blindness, we remain focused on the economic and compliance dimension, ignoring, or not giving relevance to the level of “moral dimension of risk as based on concern for human beings and ethics” (Rendtorff, 2014, p 50). Perhaps that is why we see so many programmes include all instruments and procedures and such lack of reflection at a strategic level.

Companies seem to be in a transition phase. There is none that does not speak about ethics, but they seem to do it more to impress others than out of conviction. On the one hand, we see a recognition of the importance of ethics or of saying that ethics is considered important, materialised in the prominent place given to it in the relevant matrices, but then, the person

responsible for its management is called compliance officer and ethics does not appear in strategic reflection.

6.3 An Adverse Context

In the current model, the assessment measure is financial, everything has to be measured to be tangible, and the damage caused to society and the environment is in many cases seen only as collateral or unperceived damage, being framed in a banal and inevitable evil.

Changing this implies a cultural change, a paradigm shift, implies dropping the elaborate speeches of proof of the existence of a business case for ethics and accepting that ethics' risks and benefits "will be expressed in both economic and noneconomic terms, without attempting to justify non-economic elements in terms of economics. What cannot be measured does exist; moreover, the intangible has a significant impact on the tangible" (Stormer, 2003, p. 285).

It also implies the acceptance of a prevalence of society and nature's interests over those of companies, when these are not compatible because, contrary to what many companies insist on saying in their reports, that "the basic interests of business and society are entirely compatible — that there does not have to be a choice between profits and principles" (Shell report, cited in Kok, Vanderwiele *et al.*, 2001) in (Stormer, 2003, p. 282), this compatibility sometimes does not exist.

We need an ethics that can only be assumed in the business world if it is believed, as Adam Smith argued in his Theory of Moral Sentiments, that "the economy must be at the service of the good and the people" in (Cortina, 1994, p. 52). "The good of all must be considered. The key to responding positively to this moral requirement is to develop a mechanism for assuming moral responsibility. Business must find structures for doing so" (Stormer, 2003, p. 280).

This naturally implies a change in leaders, an internalisation that "businesses are profit-motivated. However, fiduciary duties can change over time" (Stormer, 2003, p. 282). It also

implies accepting that “Although shareholders want results, stakeholders now want results as well, and those results are not necessarily measured financially” (Stormer, 2003, p. 281) and they are as much or more important than those of the shareholders, in some cases, such as environmental aspects of damage to the common good, a priority — as stated by Henry Thoreau: “What is the use of a house if we do not have a planet to put it on?”²².

From a practical point of view, this paradigm shift implies taking ethics into account in the design of each of the company’s operations because that is where the most important decisions are made, “those that mostly determine the final cost of the products and also the ethical costs” (Devon & Van De Poel, 2004, p. 461).

6.4 Difficulties Assuming the Subject Complexity

The intended change also implies recognising, accepting and understanding the complexity of the world in which we live, the global environment, the interaction of systems, and the interdependence between social, technological, and economic factors. “CSR becomes the foundation out of which all strategy for the business system develops” (Stormer, 2003, p. 287). In other words, and contrary to what happens now, ethics will have to be part of all strategies and all management committees because the common good is something that truly cannot be overlooked.

To assume complexity is to assume that the system that one can design to manage ethical performance is not the same as the system that one can design for a product or for an aspect such as quality or safety. We are talking about something much more comprehensive, with an almost universal scope, which implies a permanent state of individual alertness, an acceptance of imperfection and an assumption that not everything will be under control.

This acceptance of the impossibility of total control, is contrary to everything that managers were programmed to have as a pattern, an old pattern, inspired by “Roman army ideas about control, technological innovations aimed at maximizing efficiency, scientific principles

²² Translation provided by the author. In the original: “A quoi bon avoir une maison si l'on n'a pas de planète acceptable où la mettre?”

about measurements (...). Few corporations have actually made a systematic effort to design their methods of governance in congruence with how human nature has evolved and is evolving” (O’Brien, 2019).

Not understanding complexity, insisting on the existence of a right and unambiguous answer, wanting to follow rules strictly and controlling everything, think linear, all this is mutilating the knowledge that the organisation may have (Morin, 2008) and leads to organisational deafness.

Accepting complexity and the impossibility of controlling is, on the other hand, accepting a never ending job; as if there were two systems, one that builds knowing that everything that is built will at some point degenerate, and other that is always ready to recreate (Morin, 2008, p. 63). It demands resilience and a permanent alert state. Complexity requires being in readiness.

6.5 A Purpose to Be Identified

“Jacques Berques wrote: ‘The question that will be asked to our societies no longer concerns the famous what to do? But what to be? Much more radical.’”²³ in (Marzano, 2010, p. 13). And, for companies too, the question is no longer what your activity is, but what type of company you are, or what company do you want to be.

We have already mentioned that one of the distinguishing elements of a system is the existence of a purpose. “Purpose acts as the predominant organizing force in any system. If you want to understand why a system is organized in a particular way, find out the system's purpose” (Kim, 2019, p. 2). In today’s companies there seems to be no purpose for ethics.

To be effective, an ethical performance management system must be an inevitability for the company, something that is built with rigor and with the concern that we have when

²³ Translation provided by the author. In the original: “Jacques Berques écrivait: La question qui va se poser à nos sociétés ne porte plus sur le fameux que faire? mais sur un quoi être? bien plus radical.”

protecting something precious. It is not necessary, in any company, to explain that finances and assets must be protected, this is visible every day, in every gesture, in each standard, in each rule in the reports, in the balance sheets. It must be so for ethics as well. Only making ethics visible we can create a credible system.

The starting point for ethics should be the company's values and purpose.

Luc de Brabandere defines values with the following characteristics: "Something we defend even if the market sanctions it; something we want to convey to our children; something that goes through the test of time, that makes us get up in the morning and whose absence causes us indignation" (Brabandere, 2012, p.58). When something is felt like that in a company, naturally everything has to be questioned in the face of those values, and ethics becomes naturally present.

This conviction-driven approach is the only one that allows ethics to naturally enter into the operations and day-to-day business development.

Finding a purpose is a necessary condition to involve the other. It is a problem of ethics and also of sustainability, the words we use do not reflect the emotion we feel with the important things in life "if someone asks you how your marriage was and you said, 'It's sustainable', this would not be a good thing" (Senge, 2014, p. ix). What appears to be missing is to create a "sustained emotional connection to the sustainability activities and goals undertaken. As a result of the lack of purpose, enthusiasm often fades after a brief experience with environmental and social action. It's that waning enthusiasm that we aim to turn around" (Laszlo & Brown, 2014, p. 125).

And maybe that's why there is this inconsistency in the use of the word ethics in companies; the perception of lack of clarity about what is and what may be the role of ethics. It is as if companies do not know what ethics is, nor what to do with it. It is an inconsistency and discomfort with the word that leads respondents in a Treviño *et al.* (2014) study to refer the need to replace the word arguing that ethics loaded from a legitimacy perspective "because people think of it as personal, bordering on questioning their personal ethics and morality" (Treviño *et al.*, 2014, p. 197).

In other words, here arises a necessary reflection for the definition of a purpose, to know which spontaneous associations are made with this “product” that we can call ethics. We believe this reflection has not yet been done in an organised and structured way by most companies, and we would even dare to say, by organisations related to ethics. Different authors have mentioned (referring to sustainability, but we think that the same reasoning applies to ethics) that it is important to have this reflection, to look at ethics using the same tools as brands and looking for the same emotional connection (Futerra, 2010).

Ethics, whether we like it or not, is a brand, insofar as the reference to the word ethics, such as the vision of a logo or the name of a country triggers in our brain concepts and images that in many cases are positive, such as respect, loyalty or trust, but in others not so much: prohibition, rules. Gaining awareness of negative/positive associations conveyed by ethics, and accepting the fact that this is not a blank page and that there are conceptual obstacles to overcome, is an important part of the process (Gonçalves & Roque, 2019).

It is also important in the reflection, following this same brand logic, to understand the competition of ethics. In the investigation we did, we saw a clear competition made to ethics by compliance, which clearly deals with more visible and concrete consequences for companies and which, in this way, meets a consequentialist perspective centred on the financial impact.

With this reflection it is important to understand what distinguishes ethics and what is its relevance because, being different, naturally, is not enough.

Only by making this journey it will be possible to identify the purpose of ethics and create the link that allows its incorporation (internalisation) in the organisational framework.

6.6 A System Developed by People (Formal Leaders or Not)

As a result of everything we have said, it seems to us that a key aspect for the design of an ethical performance management system (or perhaps we should change the name depending on the stage we are in and say a system that promotes corporate ethics) is to assume at first that it does not have to be implemented by those who have formal leadership in the company.

The idea of a system that takes these aspects into account and, above all, has ethics as its purpose, can only be put into practice by someone who is part of that 10% “who would always act ethically” (Schwartz, 2013, p. 41) whether being a formal or informal leader. In the first case, the system will be designed in a formal and explicit way; in the second, it will be more discreet and eventually it will be more difficult to work on aspects such as the company’s purpose. In other words, the conception, the design, does not have to be top down and, even if it is, it must be thought out as not to having to continue like this.

It may be something conceived almost as guerrilla ethics, planting the seeds underhand.

It must be a system designed by and for the 10% who can keep the boat in case of turbulence and make the project grow — 10% as transmitters and receivers. This implies some changes to our initial idea expressed in table 1.1. It is the difference between what we said at the time that we wanted from a system, and what we now think is possible and plausible to happen. (Table 6.1).

Table 6.1 - Management System Vision (How it Tends to Be and How it Should Be)

	As is	As expected to be	To be
Approach	Reactive	Proactive	Proactive
Origin	Exogenous	Endogenous	Endogenous
Coverage	Partial and fragmented	Global and holistic	Partial, growing by contagion
Scope	Generalist	Customised (materiality)	Customised (materiality)
Motivation	Opportunistic and consequential	Coherent “meaningful”	Coherent “meaningful”
Timing	Occasional	Continuous	Continuous but slower, subjected to blockages and deviations design.
Impact	Promoter of occasional changes	Generating structural change	Generating change that becomes even more structural over time.
Robustness	Strongly dependent on leader and circumstances	Embedded in culture	Independent of leaders, although leaders can be the promoters. A process of culture incorporation.

However strange — we are accustomed to the discourse of the inevitability of the Top Down approach — these design changes meet the idea of complex systems less prone to formal hierarchies, to straight lines, to closed plans. “The difficulty of complex thinking is that it

must face confusion (the endless game of inter-feedback), the solidarity of the phenomena between them, the mist, the uncertainty, the contradiction”²⁴ (Morin, 2008b, p. 22).

It has implications in terms of time, fluidity, and constancy cannot be guaranteed — it will have all the constraints of complex systems and human systems too:

In human systems, connectivity between individuals or groups is not a constant or uniform relationship, but varies over time, and with the diversity, density, intensity, and quality of interactions between human agents. Connectivity may also be formal or informal, designed or undesigned, implicit with tacit connections or explicit

(Mitleton-Kelly, 2003, p. 28)

A system created this way is something new, but if we believe is possible if the right tools are created and people are supported. People supported by people (Academia can play an important role there).

It seems utopian but most revolutions in the world, especially those that were made peacefully, were made with few people. Robson (2019) states that “Once around 3.5% of the whole population has begun to participate actively, success appears to be inevitable”; Philips (2011) talks about 10% (those who are strongly determined to ethical conduct) “Once 10% of a population is committed to an idea, it’s inevitable that it will eventually become the prevailing opinion of the entire group”; and others mention 25% (Houser, 2018).

Moreover, if we follow the same reasoning adopted by companies when launching new products or when they innovate, we see that 2.5% are enough, it’s the innovators “eager to try new ideas, to the point where their ‘venturesomeness’ almost becomes an obsession” (University of Oklahoma, 2019), the rest of the 10% will already be in the early adopters, opinion makers able to disseminate an idea. Then others will come because, as we have seen, most people need guidance.

It is a system whose design also implies recognising the importance of individuality, of each person, leader or not, because two people “in the same circumstances doing the same thing

²⁴ Translation provided by the author. In the original: “A dificuldade do pensamento complexo é que deve enfrentar a confusão (o jogo infinito das inter-retroações), a solidariedade dos fenómenos entre eles, a bruma, a incerteza, a contradição.”

can bring about completely different outcomes, depending on the inner place from which each operates” (Scharmer, 2018).

It will be a system initiated by those who feel it as a necessity, by those who do not accept that the situation remains this way, people that takes the lead because, as defended by Satish Kumar, founder of Schumacher College, “A leader is not a special kind of person, but every person is a special kind of leader”.

6.7 The Need to Support People’s Development

How do we create the conditions for one to give oneself the right to think, and apply what Ogien (2011, p. 283) presents as the first rule of moral reasoning: “from what it is, one should not derive what it should be”²⁵; or, from what is the habit in the business world, one does not induce what should be the practice. How do we develop, within companies, people who can think and do this reasoning? How can we promote that this (new) way of acting, as Hannah Arendt points out, might arise “in the absence of the overwhelming force of statistical laws and its probability?” (Arendt, 2001, p. 226).

One way is training, but not in the conventional approach “Conventional training has limited effects. What is needed is training that involves a lot of free-flowing discussion and relating to personal experiences — what are sometimes referred to as ‘war stories’” (Moody-Stuart, 2014, p. 267). This free discussion of real company stories and problems is fundamental for the incorporation of values and for people to feel “that is not a confession of weakness or failure to discuss a dilemma” (Moody-Stuart, 2014, p. 263).

The inclusion of soft skills in training, namely aspects related to individual responsibility is also a very relevant aspect, not only to promote action but also to resist bad practices even when they come from a chief’s order, the so-called obedience crimes (Carsten & Uhl-Bien, 2013, p. 50). It helps to develop people who feel more secure and able to actively participate in building an ethical culture.

²⁵ Translation provided by the author. In the original: “De ce qui est, on ne peut pas dériver ce qui doit être”.

Raelin (2019) gives a good example of this participation:

A team is just about to launch an advertising campaign (...) At seemingly the last moment, a member chimes in with the comment: "It appears as if we have made our decision. But even though it feels right to me, I still have a nagging reservation that the scene may come across as offensive. What would you say to our taking one more look at it? I'm afraid we may have overlooked something". This "reflection-in-action" can help a group reframe standard ways of operating so as to see experience in a different light.

(Raelin 2019, p. 265)

In addition to training, another fundamental aspect is communication of achievements to show that it is possible. People need to believe that it is possible in order to remain committed (Philips, 2011).

Hans Rostin (2019) in his book *Factfulness*, states that we tend to give and read information in a negative way and that, in some way, it blocks or reduces our ability to act. This approach transmits a feeling of unattainable impossibility to everything that needs to be done.

As an example, he refers to information given by UNESCO: "On current trends the target of universal primary education will be missed. The number of out-of-school children of primary school age fell from 108 million in 1999 to 61 million in 2010" (UNESCO, 2012, p. 58). This same information would have a different impact if it were stated in a different way: in twenty years we managed to bring the number of children out of school to almost half (from 108 to 61 million).

The author continues to cite data from the United Nations (UN) and the World Bank: in 20 years the proportion of the world's population living in extreme poverty has dropped by half (Rostin, 2019, p. 115); legal slavery, in about 50 years, went down from 150 countries to 3 (p. 130); oil spills in the sea, which in 1979 was 636 thousand tons, today are in the order of 6 thousand tons a year (p. 131). Until the beginning of the last century, 44% of children died until the age of 5, today they are 4% (p. 134). This probably means that families are able to take better care of children, that there is better health care, that there is greater access to clean water, that mothers are better educated.

These are brutal changes that seem almost impossible and this way of presenting, showing what has been achieved, somehow opens the door to the possibility of achieving more.

We believe that in ethics a similar strategy is needed: there are so many news of scandals, injustices and corruption in business, that it seems impossible to be otherwise, it seems an inevitability of business, something that even if you want it, you cannot do it any other way. It is no coincidence that the CEO, in the case we present about leadership (Chapter 5), says that he could put ethics ahead of financial issues but he would be doomed as a CEO; in fact “most managers operate in a system where morality is underdeveloped in relation to professional skills in technology, finance, communications, etc.” (O’Brien, 2019), and it is essential to prove that it is possible to manage taking ethics into account.

We found very few stories of good practices in our research. In one of the exceptions “7 business leaders share how they solved the biggest moral dilemmas of their careers” (GIANG, 2015), giving a sign that another kind of leadership is possible. In this article there is a story about a bank manager who, upon realising that there had been an error in the management of the fund and taking into account the hypotheses on the table to resolve the situation: “one of which was to say tough luck to the Walmart employees who owned the Stable Value Fund”; the other was to put money in, in order to increase the [fund’s] value” (Giang, 2015); she decided to propose the second one to the CEO ... and it was accepted.

It is important to sow the seeds for this necessary new leadership. It is important to disclose, in the company, stories of decisions and bottom-up leaders that made a difference, for example the Microsoft workers who launched the *Microsoft Workers 4 Good* initiative and who protested what they called “Army Contract With Tech ‘Designed To Help People Kill’” (Sydell, 2019). To summarise, it is important to show that, although it can be difficult, people can in fact make a difference.

It is also important to encourage and support the establishment of networks, as we mentioned in Chapter 5. Allow people not to feel hopeless and always have someone they can trust. It does not necessarily have to be an institutional figure, someone with whom they can talk about issues related to ethics, to reflect together on aspects before deciding; to gain strength. Open debate and discussion forums.

We are talking about a revolution, to try to develop a new mindset in each organisation. It will not be an easy battle, as Machiavelli referred 500 years ago:

There is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success, than to take the lead in the introduction of a new order of things. Because the innovator has for enemies all those who have done well under the old conditions, and lukewarm defenders in those who may do well under the new.

in (Stormer, 2003, p. 288)

But is it not so in all revolutions?

It takes two to tango, it is often said when talking about corruption. We say that It takes 10% for ethics, and we got what it takes.

6.8 Synthesis

Throughout the thesis and even in the conclusions, we referred to several aspects to be part of an ethical performance management system, or an ethical performance promotion system that, as we have seen, in many companies, will have to happen in the first place.

In figure 6.2 we present these different aspects, systematised in interdependences that characterises complex systems. Some of those aspects refer to the system itself, but also to the people who make it possible, the ethics-driven people, the 10% that we consider should be at the basis. An example of this is purpose, context-oriented or even self-organised — characteristics shared by people and the system.

We zoom in on the aspects to be taken into account regarding the design of instruments and processes, as mentioned in the article *Corporate Codes of Ethics — the How factor* (Chapter 4). In this article we referred to a code, but the same reasoning, it seems to us, can be applied to other elements that are usually part of corporate ethical programmes.

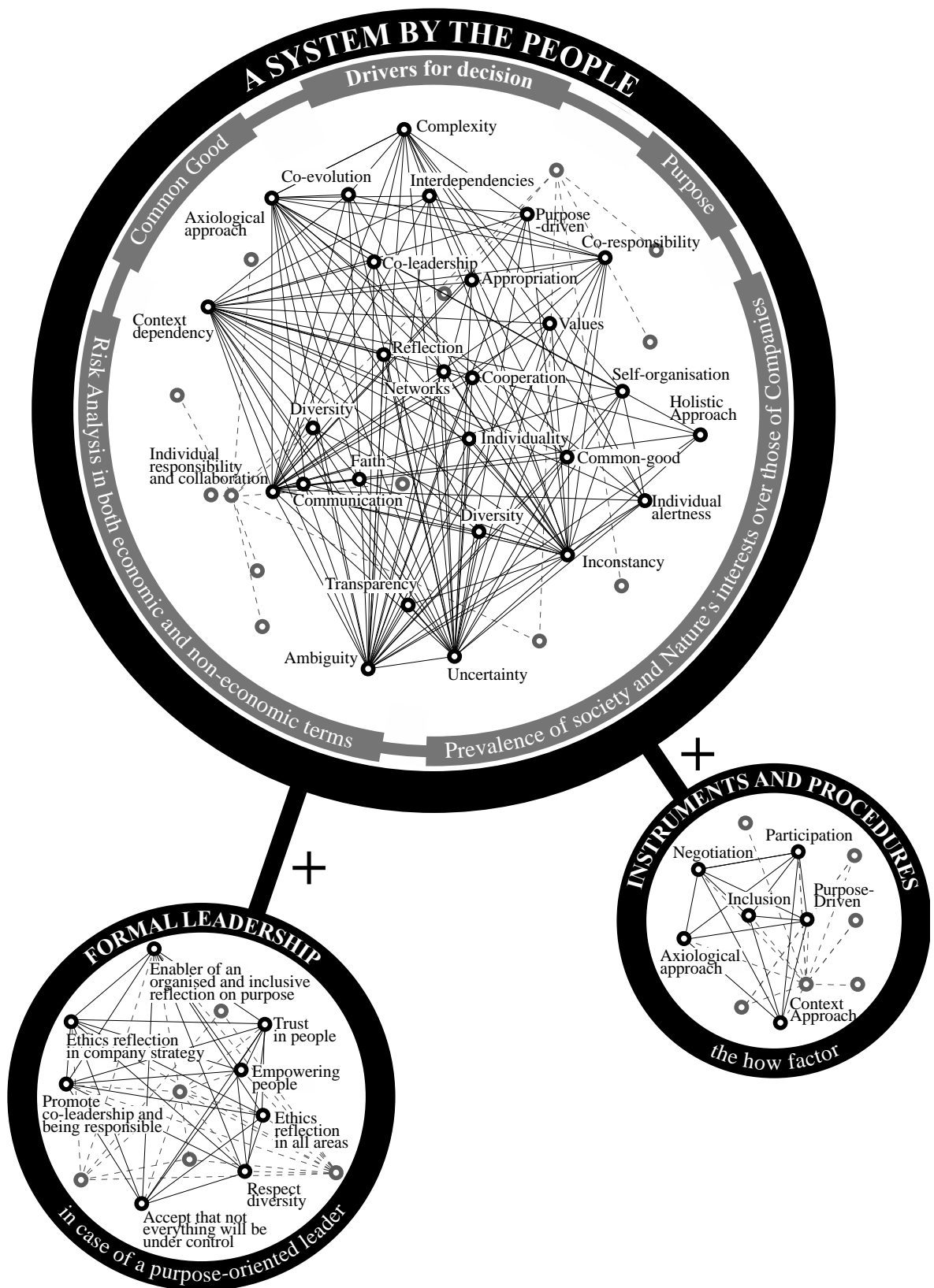
We also zoom in on formal leadership because, although we consider that, as a rule, the system will have to be based on informal leadership, or at least not top management leadership, the truth is that there are things, such as enabling a company global reflection about the purpose, which can only be done this way, if there is an involvement of the top. Naturally, a top that will also have to be part of the 10%, and that must manage being aware

that, the work he or she does, will possibly be continued by the base, always and if there is a change of leadership.

Finally, we present the guidelines for decision making, which bypass the system itself. It is these drivers that allow us to move towards sustainable development and that are in some way the result of the existence of a systemic approach to ethics.

It should be noted that not all points in the system are fulfilled, either in the global approach or in the parts related to instruments and leadership. They are open spaces for future research because, as expressed in this thesis' title, what we intend to do is only to contribute to the development of the system and not to design the system itself.

Figure 6.2 - Contributions to the Design of an Ethical Performance Management System



6.9 Limitations

In addition to the limitations that we presented after each case's conclusions; we believe that it is also worth adding some limitations to the general conclusions.

At the beginning of this thesis we presented, as our purpose, to contribute to the development of an ethical performance management system for companies, with a special focus on transnational and multinational companies with a turnover greater than many countries (United Nations, 1987) and without which it does not seem possible to achieve sustainable development.

However, looking at our conclusions and what seems to us the only path for the development of ethics-oriented companies, we wonder if this path will be valid for a multinational. To what extent will any 10% movement not be crushed in a multinational company?

We have recently had examples of workers' movements against the decisions of multinational companies which, in their opinion, represented violations of ethics. An example the *Microsoft Workers 4 good*: "We did not sign up to develop weapons, and we demand a say in how our work is used" (Ghaffary, 2019), a case that is not, by the way, unique; other companies' workers, like Google's or Amazon's, protested for similar reasons.

However, one aspect that seems to be worth noting is that, a large part of movements in the context of multinational companies (such as those already mentioned), take place in the location of the headquarters. Would such a movement be possible at a distance, without eye contact, without promoters and managers knowing each other?

Ethics implies trust and it is very difficult to trust those we do not know, those who are far away and that is what is happening with multinationals.

We have already said that ethics is context-oriented and, in many cases, this flexibility to adapt to the context is precisely what is not considered in multinationals.

Telling people they cannot accept a gift from a supplier when they know it is merely a simple gesture of affection; telling people that they cannot go over a procedure when they consider that they should, that it is the right thing to do; is to assume the company doesn't trust its

people. Companies want a one-sided ethics and that is amputating ethics, and making it an empty, dry, purposeless, with a “follow-my-leader” role.

A blind replication of standards — that is what happens in many multinationals. In this context there is no room for purpose.

Some companies have already foreseen in their codes of ethics the exception and the justification for the exception (Pepsico, 2009; Aptiv, 2018; Volvo, 2008; Deutsche Bank, 2012) especially for top management: “Only the Board of Directors may waive a provision” (Microsoft, 2019, p. 56). Predicting the exception, admitting it as necessary (not only at the top) seems to us to be a fundamental procedure if we want to talk about ethics seriously. And if you want to make space for complete people.

The exception, the doubt, are a result of ethical reflection on the problems of life and the world (and the company is part of life and the world) and represent the search to achieve what has not yet been achieved.

The question is whether it is a possible step to be taken in a multinational; the question is, ultimately, whether ethics is possible in a multinational; the question is whether it is possible to incorporate the necessary values for sustainable development in multinational structures; the question is if sustainable development should not be local.

We believe that, if possible, it will be in an informal way, as we advocated earlier, and with strong leverage from people, in their individual strength, in their purpose.

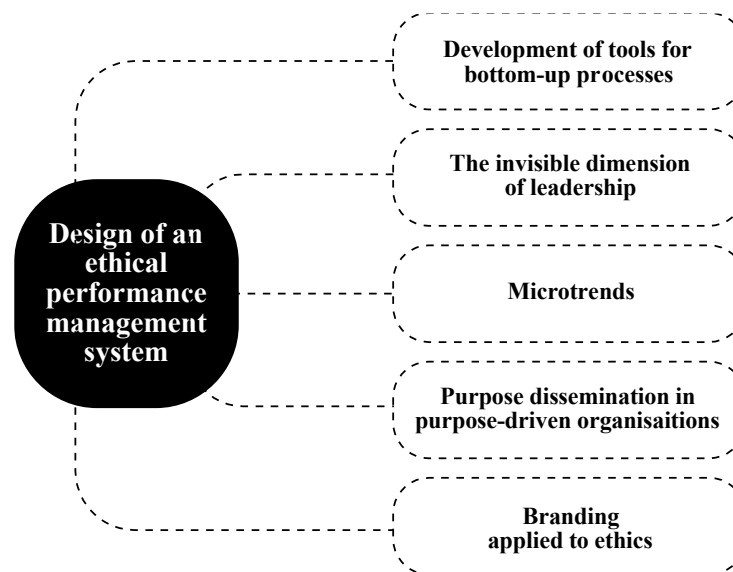
Naturally we are not the only ones to have these concerns and to consider this limitation, Schwartz (2013) has the same doubts regarding the possibility of developing or maintaining an ethical culture in multinationals, with their thousands of workers with different nationalities and cultures, and he even goes further and stands that “a general or overarching corporate culture does not exist or would at least be extremely difficult to identify in any large multinational organization” (Schwartz, 2013, p. 47).

We have these concerns, but we have faith that it is possible and that faith (not our faith, but that of the 10% of each company) is an important element to making it possible.

6.10 Future Research

In order to reinforce the possibility of designing a system for management (as we have already mentioned, this is more of a promotion phase) of ethics supported on people, we consider of utmost importance some lines of investigation (figure 6.3).

Figure 6.3 - Future Research Overview



Development of tools for bottom-up processes: what kind of instruments can support those who want to develop a system to promote ethics? Mechanisms that help promote co-leadership and cooperation seem to us fundamental.

The invisible dimension of leadership: The invisible dimension of leadership is the less studied, unlike results and processes (Scharmer, 2015, p. 6). It is the impact of particularities, of each person’s individuality for the result, the characteristics of the leader, the quality of attention and intention that he/she puts in the process, the inner place “the origin of his actions” (Scharmer, 2015, p. 7).

Research in this area is especially relevant, not necessarily about formal leaders, but on informal ones.

Microtrends: what makes those very few people who can make the change, move — “It takes only 1% of people making a dedicated choice — contrary to the mainstream’s choice — to create a movement that can change the world” (Penn & Zalesne, 2007, p. 14). What gives rise to this small movement, capable of creating a big wave? One needs to study the triggers, the tipping point, the turning point that drove many pioneers, and then early adopters, to action.

Still in the context of microtrends, and given that most people do not have a convinced ethical conduct and are very susceptible to the pressures of the environment, particularly the requests of their superiors, it would be interesting to study those who resist to pressures, on whom, according to Carsten and Uhl-Bien (2013, p. 51), very few studies have been carried out.

And naturally, a fundamental question is: how can we identify people that belong to the ethical driven 10%?

Purpose-driven organisations: How do purpose-driven organisations, such as many third sector organisations, religious or not, spread this purpose and promote its incorporation worldwide? Regarding purpose, these organisations may be an inspiration for Corporate Ethics.

Branding applied to ethics: some existing investigation on the subject, such as Epley and Tannenbaum (2017) refers the need to think about ethics as a design problem. UNEP (UNEP & Futerra, 2005) has been underlining, regarding sustainability, the need to adopt branding methodologies.

Thinking about ethics in the same terms as one would think of experience design, considering all touchpoints, all the experience of an ethics performance management system, including how people live that system, could be an investigation line.

Likewise, one should investigate how branding can contribute to companies’ ethical performance, by the same reasoning of building a brand, and by applying the branding principles to ethics. How to make ethics a super brand.

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8 APPENDIXES CHAPTER 1

8.1 COMPANIES' LIST

Company	Assigned Number
Accenture	1
Aptiv	2
Capgemini	3
DCC	4
EDP	5
Elekta	6
H&M	7
Iberdrola	8
Illy	9
Johnson Controls	10
L'oreal	11
Nokia	12
NWG living water	13
Orlen	14
Schneider electric	15
T	16
Te Connectivity	17
Volvo	18

9 APPENDIXES CHAPTER 3

9.1 EDP Authorization



Doutoramento 25 de julho de 2018, 16:30
[Detalhes](#)

☆ Soares José RE: Estudo de caso "Corporate codes of ethics – The how factor - A case study on the review of a transnational compa...
Para: Ana Roque

Senhora Dr.ª Ana Roque

Em satisfação do solicitado, comunicamos a autorização para utilizar no estudo de caso: "*Corporate codes of ethics – The how factor - A case study on the review of a transnational company code*" a informação relativa à revisão do código de ética da EDP, podendo o mesmo ser publicado nas revistas que considerem relevantes para o tema da ética empresarial.

Agradecendo o interesse, com os melhores cumprimentos
José Figueiredo Soares



José Figueiredo Soares
Provedor de Ética
EDP - ENERGIAS DE PORTUGAL SA
Gabinete do Provedor de Ética
Av. José Malhoa, 25
LISBOA, PT
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De: Roque Ana [<mailto:ana.roque@yahoo.fr>]
Enviada: 20 de julho de 2018 18:35
Para: José Figueiredo Soares <jose.figueiredosoares@edp.pt>
Assunto: Estudo de caso Código de ética EDP

Caro Eng Figueiredo Soares,

Tal como acordado junto envio o estudo de caso sobre o processo de elaboração do código de ética EDP desenvolvido por mim, pela Professora Rosana Albuquerque, Professor José Manuel Moreira e pelo Professor José Figueiredo.

Uma vez que o artigo é para publicação numa revista científica internacional, sujeita a peer review, não posso garantir que esta seja a versão final, mas não haverá alterações em tudo o que se refira a dados da EDP.

Assim pedia-lhe que confirmasse a correção dos dados apresentados, bem como a autorização concedida pela EDP para a sua divulgação.

Cordialmente,

Ana Roque

9.2 Code of Ethic's Text — Approved version





It is my conviction that EDP's success is founded on the relationship of trust that we have been able to build up with all our stakeholders. Today it is most certainly an important part of our heritage.

EDP is a ground-breaking company when it comes to sustainability. We believe that this is the only way to create economic and social value continuously and over the long run. This is why we consider that ethics and business go hand in hand not only in our work but also in our entire supply chain, particularly for entities acting in our name.

In 2005, EDP published its first code of ethics. This revision is a proof of vitality and results from a reflection, shared by all our business units, on the company's ethics, the changes in the world and the role we want to play, now that we are operating in four continents.

In order to be a useful and living instrument, it is not enough for a code to merely exist. This code is therefore not an isolated feature. It belongs to an ethics management system that includes functional units, specific regulations, monitoring and accountability for our ethical performance, along with training, awareness-raising and capacity building for employees and some other stakeholders.

A code cannot, nor should it anticipate everything. Decisions are made in context, in each new situation that comes up, and are therefore a responsibility and a challenge that every one of us has to be prepared to face at all times. It is a matter of consistency. "We are what we do" and EDP will be what each one of us will be able to do every moment.

The publication of this code, which has been approved by the Executive Board of Directors and General and Supervisory Board, asserts the commitment of each EDP Group employee and supplier to the principles of action that it makes explicit.

That is my commitment too.

António Mexia
CEO

November, 2013



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1. Object, scope and definitions

Object

EDP's management goals for business ethics are:

- a) to ensure high individual ethical awareness and standards;
- b) to minimise the risk of unethical practices; and
- c) to maintain a culture that is consistent with our values and generates transparency, trust and responsibility for the consequences of decisions and actions.

EDP considers that managers, by their exemplary action, have a special responsibility in achieving these goals.

The Code of Ethics lays down the ethical principles and limits on EDP's actions in any part of the world as well as the commitments to its stakeholders.

Scope

The Code of Ethics applies to all employees of the EDP Group companies, hereunder referred to also as "EDP" or "the company", and all employees of Fundação EDP, Fundación EDP and Instituto EDP.

The obligations of employees set out in this code are also applicable, with the necessary adaptations, to proxies, representatives and service providers that are empowered in any way to act on EDP's behalf.

Other service providers and suppliers are expressly required to respect or subscribe to the principles laid down in this code, in accordance with obligations arising from existing contracts or qualification procedures.

Due to a legal or regulatory imperative or the circumstances of an operation, the existence of specific codes of ethics or conduct as well as regulations, procedures or guidance documents on ethical issues may be justified in the different EDP Group organisational units. In such cases, the principles of this Code of Ethics will be respected in all matters other than those deriving from applicable official rules.





Definitions

"EDP Group" means the companies that are in control relationship with EDP, regardless of the respective headquarters are in Portugal or elsewhere.

"Employees" are all members of the corporate bodies, directors and employees of the EDP Group companies in any capacity and under any form of contract.

"Suppliers" and "service providers" are natural or legal persons supplying products or services to EDP.

"Clients" are natural or legal persons to whom EDP provides or sells products, in both regulated and liberalised markets.

"Stakeholders" are persons, entities or groups that can affect or be affected by EDP's activities, products or services and the performance associated with them, including, without limitation, employees, shareholders, clients, suppliers, counterparties, business partners, competitors, public and regulatory authorities and local communities.





2. Principles of action

EDP and its employees shall guide their decisions and actions on the principles set out in this code and other voluntary commitments by fulfilling their obligations in a professional, responsible and diligent manner, while striving for excellent performance, whatever the circumstances.

2.1 - Compliance with legislation

EDP undertakes to comply in full with the legislation and regulations in effect in the regions in which it operates and to offer the authorities all possible cooperation.

The employees undertake:

- to respect the laws and regulations governing their activity or from which liability may result for the company;
- to comply with legitimate requests from the authorities and do nothing to prevent the exercise of their powers, in harmony with established procedures.

Competition

EDP undertakes to abide by legislation on competition, especially with regard to the prohibition of restrictive practices and discipline applying to concentration of companies.

The employees undertake to respect competitors and their representatives, avoiding any situations that may be or appear to be unlawful competition and, in particular, not negotiating or entering into agreements on prices or market or customer sharing.

Regulation

EDP undertakes to ensure strict compliance of its regulatory obligations, including those related to: the universal public service; economically vulnerable clients; unbundling of activities; impartiality; and diligence and transparency in providing information.

The employees undertake to ensure strict compliance of their duties of impartiality and refrain from any act of preference, privilege or influence and any other form of discrimination of companies or clients in the liberalised sector.





2.2 - Integrity

EDP undertakes to ensure that its conduct is honourable and to maintain appropriate internal controls for the prevention and detection of fraud or irregularities, such as in financial matters, bribery and corruption, conflict of interests and use of information and assets.

Financial matters

EDP undertakes to have in place procedures for the prevention and detection of unlawful practices in financial and accounting matters, including money laundering by employees or third parties.

The employees undertake to strictly follow the established procedures, to promote the improvement of their effectiveness and report any noncompliances.

Bribery and corruption

EDP does not allow active or passive bribery or corruption, including facilitating payments or creation, maintenance or promise of irregular or favour situations.

The employees undertake:

- to refuse to take and not to make offers that may be construed as an attempt to influence in order to obtain an unlawful advantage. If in doubt, they must report the situation in writing to their superiors;
- in their dealings with civil servants and managers of public bodies, to respect their obligation of impartiality and refrain from giving or promising them any type of benefit to which they are not entitled;
- not to make, on behalf of the company, monetary or other contributions to political parties.

Conflict of Interests

EDP undertakes to adopt measures to ensure impartiality in its actions and decision-making processes in situations of potential conflict of interests involving the company or its employees.





The employees undertake:

- not to involve the company in their personal actions;
- to inform their superiors and refuse themselves from decision-making processes in all situations that may generate conflicts between their personal interests and their duty of loyalty to the company, such as: family or equivalent relationships in direct hierarchical or functional dependence; an external occupation that interferes with their duties or the company's activities; and legal, ownership or family positions that may interfere with the company's interests or activities.

Use of Information

EDP undertakes to manage information in order to ensure the protection of its integrity and the confidentiality of the affairs of company, employees, clients or suppliers.

The employees undertake:

- whenever they have knowledge of facts that may substantially influence share prices, and until they are officially disclosed:
 - a) to keep this information secret; and
 - b) not to trade securities in EDP Group companies, strategic partners or companies involved in transactions or relations with the EDP Group;
- to use information to which they have access only for the purpose for which it was obtained, respecting the interests of the company or third parties to which it belongs.

Use of assets

EDP undertakes to manage its own assets and those of others entrusted to it to preserve their value.

The employees undertake:

- to care for the tangible and intangible assets of EDP or third parties that are entrusted to them, including computer systems or intellectual and industrial property, even if they have produced it themselves, to use it only for business processes and ensure its efficient use;
- not to distribute computer programmes or any other content that may adversely affect the assets of the company or third parties.



2.3 - Respect for Human and Labour Rights

EDP respects and undertakes to promote human rights and fair labour practices, particularly in its supply chain.

EDP undertakes:

- to respect the Universal Declaration of Human Rights and international conventions, treaties and initiatives, such as the International Labour Organization Conventions, the United Nations Global Compact and the Guiding Principles on Business and Human Rights of the Human Rights Council. In particular, EDP opposes to arbitrary detention, torture or execution being in favour of freedom of conscience, religion, organisation, association, opinion and speech;
- not to employ child or forced labour or to condone such practices by third parties providing it with products or services;
- to respect freedom of trade union association and recognise the right to collective bargaining;
- to respect and foster due respect for employees and fulfil their right to dignified working conditions. In particular, EDP seeks to protect its employees and will not tolerate acts of psychological aggression or moral coercion, such as insults, threats, isolation, invasion of privacy or professional limitation aimed at constraining the person, affecting their dignity or creating an intimidating, hostile, degrading, humiliating or disruptive environment;
- to ensure that its labour policies and procedures prevent unjustified discrimination and different treatment on the basis of ethnic or social origin, gender, sexual orientation, age, creed, marital status, disability, political orientation, opinion, birthplace or trade union membership;
- to give priority to employees' safety, health and wellbeing and ensure the development of appropriate occupational health and safety management systems.

The employees undertake:

- to work and act in accordance with the company's commitments in terms of human and labour rights;
- to know, comply with and enforce rules on occupational health and safety and report any nonconformities.





2.4 - Transparency

EDP undertakes to report its performance transparently, while taking into account its legal obligations and the needs of stakeholders.

The employees undertake:

- to report and explain their professional decisions and behaviours and abide by their obligations to confidentiality;
- to report the existence of any circumstance regarding the company that, if disclosed, might interfere with its economic, environmental or social standing.

2.5 - Corporate social responsibility

EDP assumes its contribution to sustainable development and its responsibility for the economic, environmental and social impacts of its decisions and activities.

EDP undertakes to include sustainability in its decision-making process in harmony with the EDP Group's Principles of Sustainable Development.

The employees undertake to fulfil and act in accordance with company's social responsibility commitments.



3. Commitments to stakeholders

EDP undertakes to involve its stakeholders and include their concerns in decision making and management practices. To do so it maintains appropriate channels of consultation and report accurately and objectively on its economic, environmental and social performance.

3.1 - Employees

EDP undertakes:

- to foster employees' personal and professional advancement. Managers play a particularly responsible role in identifying and promoting development opportunities;
- to invest in employees' work-life balance by promoting conciliation programmes for the purpose;
- to value volunteering and encouraging employees' civic participation;
- whenever permitted by law, to provide properly regulated mechanisms for employees' participation in political processes, which may include voluntary personal monetary contributions;
- to promote the correction, affability and professional pride in the relations among employees, as well as respect for their rights, sensibilities and diversity and provide an inclusive work environment, free of prejudice and unjustified discrimination;
- to strive to provide employees with high levels of job satisfaction and professional fulfilment by paying fair salaries and ensuring a safe and healthy work environment;
- to foster respect for equal opportunities for all actual and potential employees.

The employees undertake to pursue their professional advancement with a view to continuous improvement in their knowledge and skills and make the best use of and achieve the best benefits and results in vocational training provided by the company.





3.2 - Shareholders

EDP undertakes:

- to create sustained value, in a long-term perspective, based on its commitments to ethics and excellence of performance;
- to respect the principle of equal treatment of shareholders, taking into account the proportion of their share capital, providing timely the necessary information in a appropriate, truthful, transparent, and accurate way;
- to include in the information provided qualitative and quantitative elements identifying economic, financial, social, environmental and reputational risks;
- to lay down policies and procedures to ensure separation of the EDP Group's interests and those of its shareholders.

3.3 - Clients

EDP undertakes:

- to respect clients' rights and its contractual commitments to them, fostering, with sense of service, to meet and exceed their expectations;
- to provide relevant, truthful and accurate information in accessible language suited to their needs and respond to requests, queries and complaints within a reasonable time;
- to continuously improve performance and the quality of its products and services;
- to submit honest transparent and suited to clients' needs commercial proposals.

The employees undertake to act with correction, affability and professional pride in their relations with clients respecting their rights, sensitivities and diversity.





3.4 - Suppliers

EDP undertakes:

- to maintain clear, impartial and predefined ethical, technical and economic selection criteria;
- to refrain from abuse of dominant position in the negotiation and management of contracts and abide by the agreed terms;
- to foster compliance with safety standards and practices and labour legislation;
- to monitor the ethical conduct of suppliers and take immediate and strict measures in cases where this may be questionable;
- to refrain from any encouragement of unfair competition and, in particular, to respect the confidentiality of suppliers' information and intellectual property.

The employees undertake not to recommend to clients, even if requested, certain suppliers or service providers if this recommendation is not framed in company procedures and can be seen as a limitation of competition.

3.5 - Community

EDP undertakes:

- to maintain a relationship of proximity with the communities in the regions where it operates, engaging in regular, open and frank dialogue, seeking to know their needs, respecting their cultural integrity and looking to contribute to improving the living conditions of local population; in particular, EDP recognises the rights of ethnic minorities and indigenous peoples;
- to foster efficient use of energy and the adoption of more sustainable lifestyles;
- to maintain appropriate communication channels to inform the public of the risks and dangers of energy, whether resulting from its normal or misuse or the operation of facilities and equipment under its responsibility;
- to act respecting the precautionary principle when its activities may result in serious and irreversible damage to human life or health or to the environment, which although uncertain are scientifically plausible, taking measures to avoid or mitigate these effects.





4. Process management

EDP takes this code as the privileged tool in solving ethical issues and makes it available to all employees and other stakeholders, that can and should report any conduct that may be in conflict with it.

EDP undertakes not to retaliate against complainants and to give to those that are targeted, fair treatment, based on the presumption of innocence, and access to information concerning them, if not undermine the truth-seeking.

4.1 - Queries and complaints

EDP maintains appropriate channels for ethical complaints, whistleblowing and queries.

In the management of these channels EDP guarantees confidentiality as to the identity of the person who uses them.

Contact details of EDP Ethics Ombudsman:

Praça Marquês de Pombal, 15 - 7.º

1250-162 Lisboa, Portugal

provedoretica@edp.pt

Find out more in

www.edp.pt > About EDP > Corporate Governance > Ethics > Ethics Ombudsman

Other contact details and channels are available on the websites of the EDP Group companies.

4.2 - Noncompliance

Employees who do not abide by this code are subject to disciplinary action in accordance with the regulations applicable to the infractions committed.

Suppliers and service providers to whom the code applies are subject to the measures or penalties set in their contracts or arising from the EDP Group's assessment and qualification procedures.

4.3 - Monitoring and reporting

EDP undertakes to review, monitor and periodically publish its business ethics performance as set out in the EDP Code of Ethics Regulations.





4.4 - Additional information

Additional information on attributions and responsibilities in managing the ethical process at EDP are available in the EDP Code of Ethics Regulations at www.edp.pt

IF YOU DO NOT FEEL CONFIDENT ABOUT A DECISION,
SEE IT FROM THREE PERSPECTIVES:

who does this decision affects?

would I be comfortable if it was made public?

would I agree that someone else did the same thing
to me?

IN CASE YOU STILL HAVE DOUBTS, ASK FOR HELP.





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EDP's Ethics Ombudsman Office
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